

TESTIMONY

TAKEN BY

THE JOINT SELECT COMMITTEE

TO INQUIRE INTO

THE CONDITION OF AFFAIRS

IN

THE LATE INSURRECTIONARY STATES.

SOUTH CAROLINA.

VOLUME III.

WASHINGTON:
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THE KU-KLUX CONSPIRACY.

This report consists of thirteen volumes.

Volume I contains the report of the committee and the views of the minority.

Volume II contains the testimony taken by the committee in relation to North Carolina, and the report of the trials in the United States circuit court held at Raleigh, North Carolina.

Volumes III, IV, and V contain testimony taken by the committee in relation to South Carolina, and the report of the trials in the United States circuit court held at Columbia, South Carolina. Index to the three volumes is contained in volume III.

Volumes VI and VII contain testimony taken by the committee in relation to Georgia. Index is contained in volume VI.

Volumes VIII, IX, and X contain testimony taken by the committee in relation to Alabama. Index is contained in volume VIII.

Volumes XI and XII contain testimony taken by the committee in relation to Mississippi. Index is contained in volume XI.

Volume XIII contains miscellaneous testimony taken by the committee, testimony in relation to Florida, and miscellaneous documents.

CONDITION OF AFFAIRS IN THE SOUTHERN STATES.

SOUTH CAROLINA—Continued.

YORKVILLE, SOUTH CAROLINA, July 24, 1871.

JAMES ROLAND WILLIAMS sworn and examined.

By the CHAIRMAN :

Question. Do you live in this town ?

Answer. I live here right below the depot about two hundred yards.

Question. How long have you lived here ?

Answer. For the last fifteen years the 25th of last December.

Question. What is your occupation ?

Answer. I am a striker in the blacksmith shop here ; in Kerr & Roach's shop.

Question. Are you a native of this State ?

Answer. Yes, sir ; born and raised in Winnsboro, fifty miles from this place. I was partly raised there and partly here.

Question. Have you been approached at any time here with a request that you would become a member of a secret organization ?

Answer. I have not, sir.

Question. Commonly known as the Ku-Klux ?

Answer. No, sir ; I do not know anything more than what I have heard. It is just all over the country just as anything should happen, I would probably get hold of it.

Question. I am not asking about the things that have happened over the country. The point of my question is, whether any one has either requested or required you to become a member of any organization of that kind ?

Answer. No, sir, they have not.

Question. I do not propose to show that you know anything about what has been done in the county at present, but to know whether you have any knowledge of the existence of a secret society into which you have been initiated, either by request or by any degree of force that was used to get you in.

Answer. No, sir ; I have not known anything of that kind.

Question. Do you know of the existence of the Ku-Klux organization, as it is commonly called, in this county ?

Answer. I do not.

Question. Do you know of an organization called the "Invisible Circle" ?

Answer. I do not.

Question. Have you any knowledge of such an organization in this county ?

Answer. I know nothing more than I have heard. I have heard of such being in the county, but I do not know anything about it.

Question. Is there any other man of your name living here ?

Answer. I have a brother, Samuel Henry Williams, living thirteen miles from here in this county.

Question. How long has he lived here ?

Answer. Ever since we have been here. He left Winsborough a few months after I did.

Question. Has there ever been administered to you, or have you ever heard administered to anybody else, an oath similar in terms to this :

"I do solemnly swear that I will support and defend the 'Invisible Circle;' that I will defend our families, our wives, our children, and brothers; that I will assist a brother in distress; that I will never reveal the secrets of this order, or anything in regard to it that may come to my knowledge; and if I do, may I meet a traitor's doom, which is death, death, death: So help me God, and so punish me my brethren."

Answer. I did not, sir.

Question. You never have heard it administered to anybody else ?

Answer. No, sir.

Question. Nor taken it yourself ?

Answer. No, sir. I am a man that attends to my own business. I work every day; that is the way I get my living—just to work for it. I work from daylight until dark, from sometimes before the stars quit shining, and go to bed by the time it is dark, and get up in the morning by break of day; that is the way I make my living. I am only a striker in a shop.

YORKVILLE, SOUTH CAROLINA, July 24, 1871.

JOHN J. HUNTER sworn and examined.

By the CHAIRMAN:

Question. Do you reside in this place?*Answer.* Yes, sir.*Question.* How long have you resided here?*Answer.* I have been here about eighteen months.*Question.* Are you a native of the State?*Answer.* Yes, sir.*Question.* What is your occupation?*Answer.* I am a clerk in a dry-goods store.*Question.* Have you any knowledge of the existence of an organization in this county or State known as the "Invisible Circle?"*Answer.* I have not, sir.*Question.* Have you ever taken yourself, or administered to any one else, or heard administered, an oath similar to this:

"I do solemnly swear that I will support and defend the 'Invisible Circle;' that I will defend our families, our wives, our children, and brothers; that I will assist a brother in distress; that I will never reveal the secrets of this order, or anything in regard to it that may come to my knowledge; and if I do, may I meet a traitor's doom, which is death, death, death: So help me God, and so punish me my brothers."

Answer. No, sir, I never have.*Question.* Have you never heard one similar to that?*Answer.* No, sir.*Question.* Or one that imports the same thing with any other name than the "Invisible Circle?"*Answer.* I never have.*Question.* Are you a member of any organization in this State or county, whose hailing sign is three taps on the left ear with the left hand?*Answer.* No, sir.*Question.* The reply to which is, the right hand in the pocket, thrust out, with the left foot advanced?*Answer.* No, sir.*Question.* Are you a member of any organization whose grip is the little finger interlaced with the fore-finger on the wrist?*Answer.* No, sir.*Question.* Or any organization whose hailing word is: "S-a-y," and the reply is "N-o-t-h-i-n-g?"*Answer.* No, sir.*Question.* Either pronounced by single words, or by letter or spelling?*Answer.* No, sir.*Question.* Whose word of distress is "Avalanche?"*Answer.* No, sir.*Question.* And the answer three whistles?*Answer.* No, sir.*Question.* Do you know anything of an organization to which the name commonly given is Ku-Klux?*Answer.* No, sir, I do not.*Question.* Do you know anything of the murder of a man in this county named Anderson Brown?*Answer.* I do not.*Question.* Have you heard of it?*Answer.* Yes, sir.*Question.* Can you tell when he was murdered?*Answer.* I do not remember the date. It was Saturday night.*Question.* What month was it?*Answer.* I declare I do not know the month. I think in February, probably.*Question.* Were you in this place that night?*Answer.* Yes, sir.*Question.* Were you any place else?*Answer.* No, sir, I was in my room that night.*Question.* The whole of the night?*Answer.* The whole of the night.*Question.* Did you, on the morning succeeding that, come into this town in company with Tomlinson and Colcock?*Answer.* No, sir.*Question.* Were you in company with them that night?*Answer.* I was before bed-time. Mr. Colcock and myself clerk in the same house together.

Question. Where were you after closing business?

Answer. I went to bed in the room over the store.

Question. Did he sleep there also?

Answer. Yes, sir.

Question. Did you sleep together?

Answer. Yes, sir, in the same bed.

Question. Do you know anything of the circumstances attending the murder of Anderson Brown?

Answer. No, sir; I heard it on the street next morning. Mr. Dobson, with whom I work, went on the jury of inquest.

Question. Was there another man in the county named Addison Brown, as well as Anderson Brown?

Answer. I do not know.

Question. You only heard of one Anderson Brown?

Answer. Yes, sir, only the one.

Question. Were you here the night the county treasurer's office was broken into?

Answer. Yes, sir.

Question. How far is your store from here?

Answer. Two or three hundred yards; first door this side of the hotel.

Question. What was the first information you had of that?

Answer. I heard it first right here at the corner. A crowd was gathered there.

Question. What time of night was that?

Answer. I do not know. It was the after-part of the night, I think.

Question. Had you been aroused by the crowd coming in, or had you been to bed?

Answer. I had been to bed. I had been to bed after church.

Question. Was that Sunday night?

Answer. Yes, sir.

Question. Had you any knowledge or apprehension beforehand that this was to take place?

Answer. No, sir.

Question. Had you no intimidation of it from any quarter?

Answer. No, sir.

Question. Is there any understanding about this organization that requires its members to deny their membership and conceal its operations?

Answer. I do not know about that.

Question. Is that the popular understanding?

Answer. I do not know that.

Question. You never heard that?

Answer. No, sir.

Question. Is there any doubt here about the existence of this organization?

Answer. I do not know. I do not know a thing about it.

Question. Have you any doubt about it? Do you know whether it exists in the county or not?

Answer. There is something; I do not know what it is, though I suppose—

Question. To what do you attribute that raid on the county treasury?

Answer. I have no idea what it was; not the least. I never heard.

Question. Have you no idea who the men were that composed that company?

Answer. No, sir.

Question. How many were there?

Answer. I have no idea; it was dark.

Question. Which way did they come into the town?

Answer. I do not know.

Question. Did you hear?

Answer. I heard they came from the jail.

Question. From what direction?

Answer. From this direction, [west.]

Question. From what portion of the county?

Answer. The western portion.

Question. That would be in the neighborhood of Spartanburgh or Union Counties?

Answer. It is both; they are in a west course. I never was at Spartanburgh or Union.

Question. Do you not know the location of the counties?

Answer. No, sir; not exactly. It is rather west.

Question. If they came in on this [west] road, would it indicate that they came from that direction?

Answer. Yes, sir; they came by the jail.

Question. When you saw this number of men, did you go among them?

Answer. No, sir.

Question. Why?

Answer. I did not think I had any business among them. I did not know what might be the consequence.

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Question. What was the idea of so many men riding into town?

Answer. They were not riding there; they were on foot.

Question. Did they ride in?

Answer. No, sir; they were not on horseback in town, as I saw. I went to the window, and some one struck a light, and they damned me to put out the light, and it was done.

Question. Who damned you to put out the light?

Answer. The party on the street. Some one in the room struck a light.

Question. Is it your information that the people who were here did not come on horseback.

Answer. They may have come to town on horseback, but not in the town.

Question. Did you never hear?

Answer. I never heard about it to know.

Question. You never made any inquiry?

Answer. Of course I inquired, but could not ascertain.

Question. Did anybody know?

Answer. Nobody knew.

Question. Was this an event of such utter insignificance that nobody inquired?

Answer. There was much inquiry, but nothing found out.

Question. Not even whether the men came on horseback or on foot.

Answer. I did not ascertain. I saw them in the streets on foot.

Question. Did you go out?

Answer. No, sir; I did not go on the street at all. I did not go down from my room.

Question. You did not know their purpose?

Answer. No, sir; not until next morning.

Question. Did you go back to bed?

Answer. Yes, sir.

Question. How long did these men remain in town?

Answer. I declare I do not know. They went up the street and passed back again in about an hour.

Question. What time in the morning was it?

Answer. I think it was about 2 o'clock. It was the after-part of the night.

Question. After they left you did not go out and inquire?

Answer. No, sir.

Question. Was that the case of the citizens generally?

Answer. Some of the citizens came out, I think; came out at the time, I think.

Question. You, then, say you have no knowledge whatever of this organization, let its name be what it may, to which is attributed the outrages that have occurred in this county?

Answer. I have no knowledge of it.

Question. None whatever?

Answer. No, sir.

Question. Were you present at or did you overhear a colloquy in your store or Mr. Dobson's store

Answer. That is the store I am doing business in.

Question. Were you there on Thursday night last?

Answer. Yes, sir.

Question. Was there a man named in that party "Number Five"?

Answer. Not that I heard, sir.

Question. Did you hear any colloquy about the desirability or expediency of a man named "Number Five" undertaking to, and being a good man for the purpose of, capturing the evidence taken by this committee?

Answer. I did not, most assuredly.

Question. Do you know of any man in this community, or any of that organization, known as "Number Five"?

Answer. I do not.

Question. Have you had no conversation with Mr. Tomlinson on the subject of these raids that have occurred here?

Answer. We have probably talked about it.

Question. Never talked about who were present?

Answer. No, sir; we did not know, I suppose.

Question. You say you do not know anybody who was present here at the raid on the county treasury?

Answer. I do.

Question. Were you in town when the ammunition was taken from the probate judge's office?

Answer. Yes, sir.

Question. Did you witness any part of that?

Answer. No, sir.

Question. Where were you?

Answer. In my room, in bed.

Question. When did you learn it?

Answer. Next morning.

Question. What has been your sentiment with reference to that occurrence, the breaking into the probate judge's office, and taking the ammunition?

Answer. I had no sentiment about it. It did not concern me at all.

Question. Are you interested in the store in which you are engaged?

Answer. No, sir; a clerk.

Question. You have lived here how long?

Answer. About eighteen months.

Question. You have no opinion about whether these two acts should be approved or condemned?

Answer. Of course they oughtn't to be approved, I guess.

Question. Which did you do?

Answer. I did not do either.

Question. Was that the general course of your people here?

Answer. Some condemned them here. I did not suppose any one approved of such as that, at least I never heard of any man who did.

Question. Were any measures taken to arrest anybody?

Answer. No, sir; we did not know who to arrest.

Question. Were any measures taken to find out who they were?

Answer. Some men inquired around, I think.

Question. Did the public officers institute any inquiry?

Answer. I do not know that the public officers did.

Question. Has anybody been arrested for either of these acts?

Answer. No, sir.

Question. Do you know of anybody having been arrested for any whippings or murders in this county?

Answer. No, sir; there have been some men tried here in courts.

Question. For what?

Answer. Being Ku-Klux here in the western part of the district. There were none punished.

Question. Were they acquitted or convicted?

Answer. They were acquitted.

Question. On what grounds?

Answer. That they were not there.

Question. On the ground that they were some place else?

Answer. I can't tell.

Question. What case do you refer to?

Answer. There was some negroes killed above there; some of the Seapaughs were brought down here and tried.

Question. Who were the witnesses?

Answer. I do not know the men at all.

Question. Whose murder were they charged with?

Answer. A negro, Roundtree.

Question. They were acquitted?

Answer. Yes, sir. I do not remember the man's name.

By Mr. VAN TRUMP:

Question. Is there not a black man in jail in Chester County now charged with the murder of Roundtree?

Answer. I have heard so.

Question. You say you do not know of anybody being convicted of these offenses. Is there any chance, or prospect, or mode, Mr. Hunter, to find out these men in disguise?

Answer. None that I know of.

By Mr. STEVENSON:

Question. You are a clerk in a dry-goods store?

Answer. Yes, sir.

Question. Which store?

Answer. T. M. Dobson & Co.

Question. How do these men go disguised?

Answer. I can't tell you about that.

Question. Did you not see a band of them?

Answer. I did, but I could not tell their disguise; I could not see what kind of disguise it was; it was dark; I was not very close.

Question. Did you not see the form of the disguise?

Answer. It was something like a gown; some one color and some another.

Question. Have you no information on the subject of how they were disguised?

Answer. No, sir.

Question. How does it happen you know so little about it?

Answer. I do not know. I have had nothing to do with it.

Question. You made no inquiries?

Answer. I suppose if I had inquired of one of them I could not have found out.

Question. Have you never made any inquiries about them?

Answer. I have made some inquiries.

Question. You have not been able to learn how they disguised themselves?

Answer. No, sir.

Question. Is it not a common talk among the young men of this town, Ku-Klux?

Answer. I do not know it is the common talk.

Question. Is it not a frequent subject of conversation?

Answer. Not with me.

Question. Have you ever sold any goods or gowns to make disguises?

Answer. I have not that I knew it.

Question. Have you ever sold to any one an unusual quantity of such goods as are generally worn by them?

Answer. Not that I know.

Question. White or black?

Answer. No, sir; not that I know.

Question. I do not mean to persons known to you to buy them for that purpose, but have you sold no unusual quantity of such goods?

Answer. No, sir, I have not; but I do not know what such goods would be, in the first place.

Question. Do you mean to say you have no idea what they use for their disguises?

Answer. I do.

Question. Have you ever worn a disguise yourself?

Answer. I have not, sir.

YORKVILLE, SOUTH CAROLINA, July 24, 1871.

DAVID S. RUSSELL sworn and examined.

By the CHAIRMAN:

Question. Do you reside in this place?

Answer. Yes, sir.

Question. How long have you lived here?

Answer. I was born and raised within a mile of here. My family is within a mile of here. I do business in this house.

Question. How old are you?

Answer. I am near thirty-seven years old.

Question. Have you any knowledge, Mr. Russell, of the whippings or killings that have been going on in the county for the last six or eight months?

Answer. I have none, sir; no knowledge of facts.

Question. Have you examined into any of them far enough to know the extent to which they have been carried?

Answer. There has been a great deal of it done, sir.

Question. Have you lived in the town here during all this time?

Answer. Yes, sir; I have been doing business here going on three years. I live within a mile and a half of this place—my family does—but I do business here.

Question. Please state whether you were here at the time the raid on the county treasurer occurred.

Answer. I was here.

Question. Will you go on and tell us, as far as you know, how that occurred? And if you know any of the persons engaged in it, tell who they were.

Answer. I could tell a good deal, likely, that would not amount to very much. We had an immense excitement here for some time previous to the raid on this building, but I will drop off all of that and come to Sunday. I think it was the 26th.

Question. Make it as brief as you can.

Answer. I think it was the 26th of February. There was an excitement here on Saturday and Friday; and the Monday before that there was a band of men, said to be two hundred and seventy-five, came here from North Carolina. I saw the men, but never counted them at all.

Question. Were they on horseback?

Answer. Yes, sir; armed. They rode the streets and hallooed, "Here's your Ku-Klux;" but there was an excitement, expecting a fuss between the whites and blacks, as I suppose.

Question. Were they disguised at that time?

Answer. No, sir.

Question. Did you know any of them at all?

Answer. I knew the faces of some of the men I had seen in North Carolina, but I do not remember their names now.

Question. That was on the Monday preceding?

Answer. Yes, sir.

Question. You say they were expecting some collision between the whites and blacks?

Answer. Yes, sir.

Question. Had there been any excitement before that?

Answer. Yes, sir, some little.

Question. Go on and tell the story in your own way.

Answer. On Saturday Ed. Rose, a friend of mine, (the county treasurer,) told me he had obtained some pamphlets of the "Council of Safety," and asked me to read them. I went in and read them. He copied them, and sent some copies off. I had three in my stand-drawers down in the bar-room. On Saturday evening I heard it rumored all over town that they were going to attack this house at 10 o'clock.

Question. What had the pamphlet to do with that?

Answer. Stating the different councils, and so on. It was laid off in councils not exceeding ten or twelve men.

Question. What was laid off?

Answer. This Ku-Klux organization. They called it councils; "Councils of Safety."

Question. Who told you that?

Answer. I read it; I saw it.

Question. I am speaking about the raid on the treasury.

Answer. Springs Withers brought the document into the county treasury.

Question. Who is he?

Answer. A son of Doctor Withers. Ed. Rose asked me what to do with them. I told him, you had better keep them dark. He had said he was going to show them. I said, you may be hurt here. Springs notified Rose that on Saturday night, about 10 o'clock, he was going to be attacked. He did that in my presence, and the presence of two others.

Question. Go on.

Answer. The thing passed off, and there was no attack made on the house Saturday night. I goes to Mr. Rose myself and asked him to take the money out of the treasury, and go and make a deposit in the bank. He told me he would not do it, and I asked why. He said the bank was not worth more than \$20,000. I said, "Give it to some trustworthy citizen." He said, "You need not give yourself any alarm. I am all right." On Sunday evening I came to church, and came up here after dinner. It was raining. I saw groups standing all over town, (ten, fifteen, or twenty,) many amongst whom I considered my friends, and I mingled with them and talked with them, and I could see there was a heavy excitement up, and I learned in conversation that Rose was to be attacked that night. I got two men to come down here to take the faucets out of my barrels and peg them up, but did not do it. Ed. Rose came in and asked to stay in my room. I told him he could not do it. He allowed it was hard he could not stay in his own house. I told him this half of the building was mine, and I said, "Ned, I have offered you everything fair. I have offered to take you. Clear away; you had better not stay here." He says, "You can't well throw me out of the house." I says, "I could not well do that." The man was frightened. Talking to him, I mentioned the money again. He says, "The money is all right here," [slapping his breast.] Then I asked him, "Ned, as a friend of mine and a fair man, I have nearly two thousand stuck in here, and if they raid in here after you they may destroy everything I have." He says, "They will not harm you a bit." I says, "I don't know that. If you will go to your room I will go and sleep with you. He said he would rather not; he was going to stay and watch." I had a man tending bar. I had two bars in this place then. I asked him off and talked to him. He said, "We will stay awake to-night, and when they come, unlock the door and let them right in, and we will both meet them at the door." Ed. Rose and this man Withers I mentioned that I supposed was his friend were in my room. By this time he was intoxicated—this Withers was. Rose would keep looking out of the front door and going out, and he says, "There is a guard over here; somebody is watching Bob Kerr, Bill Greer, and others." I never went out of the house, but shamed him to go back to bed to his own room, and at last told him he must go to bed, or go out of the house. He said he would. I went to bed, and I think between 12 and 1 o'clock he wakened me—pulling at me. I got up and struck a light—a candle—and by that time there was knocking at the door. "God damn you, give me that Rose." I had my boots to put on, and then I run to the door. The keys were gone. I run to my clerk, and found him going up with a pistol. I said put that away, and he laid that away. I went for my money-drawer and it was locked. I went to him, and he said it was all right. I went to the back door to see if that was right. I stepped on the stone step, and just then three men collared me and dragged me out,

and he put up a pistol and said, shut that door. I said, "That's one man's trouble; shut it yourself." One of them said, "That is Russell." Then another said, "Damn you, go away; we don't want you." The cry then was, "Save the back doors." Then they came around, some twenty-five or thirty. I staid in the lot until they ordered me away some three times with threats; that if I did not go they would shoot me. That is about all I know about it. Ed. Rose had taken the key himself and gone with it, which he gave to me two days afterwards.

Question. He had gone away?

Answer. Yes, sir.

Question. Do you know what they destroyed in the room?

Answer. Yes, sir; they destroyed about \$1,100 worth of property, of whisky and wines and cigars, and carried off blankets and buggy-harness in the room, and other articles of value. They broke every door nearly that was fastened. My clerk, J. B. Porter, they took down with them to the treasurer's office. They struck on top of the safe several licks, but I do not think they got into it. They carried off his ammunition.

Question. Did they say what their purpose was?

Answer. It was "Ed. Rose. Give me Ed. Rose." That was all I heard.

Question. Was he the county treasurer?

Answer. Yes, sir.

Question. Did they say what they wanted to do with him?

Answer. No, sir.

Question. Did they get him?

Answer. No, sir.

Question. He fled?

Answer. Yes, sir. They abused my clerk, Porter, a great deal.

Question. Had you been trying to protect Rose?

Answer. Yes, sir; that is, I have been giving him advice. I saw the whole county was down on him, and asked him to go down to Columbia to his pa and stay there.

Question. Does his father stay in Columbia?

Answer. Yes, sir.

Question. What was the cause of the excitement against him?

Answer. They charged him with knowing something of the burnings.

Question. Where? In this county?

Answer. I did not think the man knew anything about it. I do not pretend to know.

Question. That charge was made against him in the county?

Answer. Yes, sir.

Question. And then this occurrence took place?

Answer. Yes, sir.

Question. How many men were there here?

Answer. I could not tell. I did not see what was in the front part of the house, but in the house and back I would guess there were seventy-five.

Question. How were they dressed?

Answer. Different ways.

Question. Were they disguised?

Answer. Yes, sir; all but one.

Question. Did they come on horseback?

Answer. They came afoot here.

Question. On the street?

Answer. Yes, sir; and they staid here until nearly daybreak—that is, in this village.

Question. Do you know whether they came to the town on horseback?

Answer. My information is that a party of forty, or such a matter, came out here to Herndon's Mill on horseback about 11 o'clock that night.

Question. Did they leave their horses there?

Answer. No, sir; they came on. This is what the miller says—a man named Culp.

Question. Of those who were here, did you recognize anybody?

Answer. No, sir; I could not.

Question. You are sure you did not recognize anybody?

Answer. No, sir; I could not.

Question. You say one man was not disguised?

Answer. Yes, sir; I did not know him.

Question. Was he a stranger to you?

Answer. Yes, sir.

Question. Are you pretty well acquainted in this county?

Answer. Yes, sir; I have been all over it.

Question. What opportunities have you had to know it?

Answer. I have canvassed the county all over.

Question. Have you held any public office?

Answer. I have been trial justice for a long while, and I have electioneered all over the county.

Question. Have you been a candidate?

Answer. No, sir, but I have worked for my friends.

Question. And electioneered for others?

Answer. Yes, sir.

Question. Which party did you act with?

Answer. The republican party.

Question. Which party was Rose identified with?

Answer. The republican party.

Question. Was anything said on the night of the raid indicating any specific reason for wanting Rose?

Answer. Nothing that I remember, only they just wanted to have hold of him; that was the common talk here on the streets.

Question. You spoke of Rose procuring a pamphlet in regard to the "Council of Safety?"

Answer. Yes, sir.

Question. Was that on the Monday preceding this?

Answer. No, sir, it was before that. Withers came to me, and this thing occurred in my own bar-room, and he says, "Russell, you have been a friend to me,"—he claims to be a republican—"I have got up with a trick, and it is for your good and safety. I would like to let you see." I paid no attention to it. He told me this several times. Finally, I told my clerk to see what it was, and he got it, and I got it, and Ed. Rose.

Question. What did he tell you?

Answer. He told me he was one of the party. His life depended on me if I divulged a secret, but he did it to save me and Ed. Rose.

Question. Did he say this organization of the "Council of Safety" had any connection with these Ku-Klux operations?

Answer. Yes, sir.

Question. Where is he now?

Answer. He is right over the way there, sir.

Question. Is his name Springs Withers?

Answer. Yes, sir.

Question. Then on the Monday before this raid you say there were two hundred and sixty or two hundred and seventy-five men here?

Answer. Yes, sir, I think it was on Monday.

Question. Said to be from North Carolina?

Answer. Yes, sir.

Question. What were they here for?

Answer. Supposing there would be a row between the whites and blacks, Major Avery had them quartered with him up here.

Question. He is a North Carolinian?

Answer. Yes, sir.

Question. What ground was there for expecting a collision?

Answer. They were threatening on Chester below here.

Question. Was there one expected in this town?

Answer. Yes, sir.

Question. Had there been any armed collisions between the races here before that?

Answer. Yes, sir.

Question. In what manner?

Answer. We had colored militia here armed.

Question. Had there been any fight?

Answer. No, sir; there was perfect quiet.

Question. Had there been any fight between the militia and the citizens?

Answer. No, sir, none at all, not in this county, but they said they were in Chester.

Question. Did you understand that these men were here from North Carolina in anticipation of trouble here or in Chester?

Answer. Right here. I was summoned down with the sheriff to help arrest eighteen or nineteen colored men with arms, and brought them through Captain Christopher's camp to the jail and lodged them there.

Question. What time of the week was that?

Answer. It was some time after the raid that that happened. It was some time after the raid on this house.

Question. But before the raid?

Answer. Nothing at all happened before that. Everything was quiet.

Question. Those North Carolina men left without doing anything?

Answer. Yes, sir; nothing was done whatever.

Question. On Friday and Saturday before the raid, you spoke of there being an apprehension that Rose was to be attacked?

Answer. Yes, sir.

Question. Was that the time Withers came and told you?

Answer. No, sir; it was before that.

Question. He first gave you notice on Saturday night?

Answer. He first gave me the pamphlet and afterwards told me it was Saturday night, 10 o'clock.

Question. On Sunday you saw groups and heard conversation that Rose was to be attacked?

Answer. Yes, sir.

Question. Who said so?

Answer. I heard it in a room among many—I could say McCaffrey and Avery and many in this town—that they expected he would be attacked.

Question. Did they speak of it as absolute knowledge or what they expected?

Answer. No, sir, they said they expected it. A man asked me the question, if that house was attacked, would Ed. Rose shoot; and if so, how many shots he could shoot.

Question. Who asked you that?

Answer. H. F. Adickes.

Question. Did you tell him how many rounds Rose had?

Answer. No, sir; I could not do that. He asked me if I staid here every night, and if I roomed with Rose, or if I had my family here. I told him no. He said he understood I rented the whole house and had rooms here. I told him it was a mistake.

Question. Is that all you know about this affair?

Answer. I know a great many things that probably do not amount to much. I could talk to you for half a day, but it would not be worth much.

Question. Is that all you know about the operations of the Ku-Klux in this county?

Answer. That is all I know. A great many have been whipped and a great many killed—not a great many killed, either. Persons have lost a great deal on farms by the running off of the colored people, not being able to work them.

Question. How long has that been going on?

Answer. More or less since the war.

Question. Has that ever assumed the form of actual violence, killing and whipping?

Answer. Not until lately. Five or six or seven months ago—since the election.

Question. Since the election it has assumed that form?

Answer. Yes, sir.

Question. In what way was it done before that?

Answer. It was a mere matter of threat—electioneering scheme; putting coffins at men's doors, and pouring paint to represent blood, and many different things to frighten colored men.

Question. Are the persons who have been whipped and killed in this county all of one political party; and if so, which one?

Answer. Yes, sir; of the republican party.

Question. Have there been any persons convicted here for any of these crimes?

Answer. Not one. I have had, I do not know how many before me, but I could never convict one.

Question. You have had them before you as trial justice?

Answer. Yes, sir.

Question. What was the reason they were not convicted?

Answer. The evidence was too strong. They had all the evidence they wanted. They could prove by just as many men as they wanted that they were at some other place. I turned over many cases to the court which I could not act on, but they could not find the party guilty—a mere matter of circumstantial evidence and threats, &c. I do not see how I could use that here.

By Mr. VAN TRUMP:

Question. You can use enough. You will use all you have. Do you wish to volunteer anything further?

Answer. I do not wish to detain you, gentlemen. You have a good many to examine. It is a locked-up concern, but there is an organization of Ku-Klux in this county which has done a good deal of injury.

Question. Have you anything further?

Answer. I have heard threats upon myself in person, but that is a mere matter of information. Some time ago Major Briggs up here and a partner of mine and myself, were discussing matters, and I rather worried the other man, Dr. Lowry, in talking, and he jumped at me and pulled his pistol out. I was going to shoot him. As he went out of the door, Major Merrill was standing there, and I went out after him, and he says to me: "Russell, you are a damned bully man now. You don't forget the night you were pulled out of that back door." Says I, "I have not." My clerk said, "I suppose you saw it done."

Question. Who asked that question?

Answer. Mr. Porter asked Dr. Lowry, "I suppose you saw it done," and he says, "I did." That can be proven by seven or eight men, but it is a mere matter of inference whether he is a Ku-Klux, I do not know. He afterward threatened to have me bucked and whipped.

Question. Is that all you want to state on your own motion as a witness?

Answer. Yes, sir, that is all; and really, in myself, I do not know anything positive. I could go on and tell you rumors for a whole day that would not amount to anything, and it might be the bringing of somebody else into testimony, but you find enough of that.

Question. You did not object to bringing Dr. Lowry into testimony?

Answer. I did not.

Question. Is there anybody you want to bring in?

Answer. Porter can give you a better sketch, from the fact that they had him all night with them, from the time they came from half past 12, until nearly daylight.

Question. You say you are a republican, and have been ejectioneering largely in this county?

Answer. Yes, sir.

Question. You are doing business in this house?

Answer. Yes, sir.

Question. This house is the headquarters of Major Merrill?

Answer. Yes, sir.

Question. How are you doing business?

Answer. Selling liquors.

Question. Who has the supervision of this house?

Answer. I have one part of it and Major Merrill the other.

Question. Who else—any one besides you and Major Merrill?

Answer. No, sir; but W. E. Rose rents to me and Major Merrill also.

Question. Who is he.

Answer. The father of Ed. Rose.

Question. You spoke of Ed. Rose as your particular friend.

Answer. We were particular friends here.

Question. What has become of him?

Answer. I can't tell. Some say he has gone to Canada, but I do not know it to be so.

Question. Is not that the general impression?

Answer. Yes, sir.

Question. With a lot of money?

Answer. Yes, sir.

Question. This Ku-Klux that night did not get any money?

Answer. I do not think they got a dollar.

Question. You are selling liquor in this house, and this is the military headquarters?

Answer. Yes, sir.

Question. Do you sell to soldiers, or to whom?

Answer. To any one who behaves and takes it civilly and goes out.

Question. You spoke of two hundred and seventy-five who came from North Carolina; how did you get the number?

Answer. That is only rumor—what was said to me to be the number.

Question. Those men were not disguised?

Answer. Not a bit. I did not see the disguise.

Question. You say they were quartered with Major Avery?

Answer. Yes, sir; and with John Tomlinson and others.

Question. Several of them were here in front of the place?

Answer. Yes, sir.

Question. Mounted men, in arms and disguised?

Answer. Yes, sir.

Question. They came here because of a threatened collision of races?

Answer. Yes, sir.

Question. Was that after or before the Chester fight?

Answer. Before it.

Question. Finding there was no trouble, they went back quietly?

Answer. Yes, sir; with the threats that "Here's your Ku-Klux."

Question. Was that in a laughing sort of way?

Answer. Yes, sir; it was in a laughing sort of way. They surrounded me in the upper end of the town, and gave me three cheers and went away.

Question. Did they know you?

Answer. Yes, sir; I suppose so. I had been pointed out by some one.

Question. How surrounded?

Answer. With horses.

Question. And they gave you three cheers and went away?

Answer. Yes, sir.

Question. And that is the last you have seen of them?

Answer. Yes, sir.

Question. You say your friend Rose had a lot of pamphlets called the "Council of Safety?"

Answer. Yes, sir.

Question. They were Ku-Klux pamphlets?

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Answer. They are termed that. He says so.

Question. You say they were Ku-Klux?

Answer. I might have said it in that way. I do not know.

Question. Do you not know you said as a witness they were Ku-Klux pamphlets that you had read?

Answer. I said they were "Council of Safety" and said to be all the same.

Question. You said they were the Ku-Klux, you knew, because you had read them.

Answer. Yes, sir; I did, sir.

Question. When was that?

Answer. That was some time in the last of January or the first of February.

Question. Where did Rose get them?

Answer. From Withers; or my clerk did.

Question. You say Withers claimed to be a republican?

Answer. Yes, sir.

Question. Is he not known to be a republican?

Answer. No, sir; I think not.

Question. How old a man is he?

Answer. Some twenty-five or twenty-six.

Question. How do you know he is not a republican?

Answer. I did not say he is not.

Question. He has always claimed to be?

Answer. In certain parties he does and sometimes he don't.

Question. On both sides?

Answer. A milk and cider man.

Question. A drinking fellow, too?

Answer. Yes, sir.

Question. He got drunk the very night he gave you this information?

Answer. Yes, sir; on the night of the raid he was drunk. I do not know whether he was drunk on the night he gave the information.

Question. He told you they would come Saturday night at 10 o'clock precisely?

Answer. Yes, sir.

Question. And they did come?

Answer. No, sir.

Question. Then he told you they would come Sunday night. You say there was great excitement several days before that?

Answer. Yes, sir.

Question. Sunday morning was the morning before the night of the raid?

Answer. Yes, sir; the raid was on Sunday. I went to church on Sunday morning and it rained, and I came back here.

Question. You saw several groups of citizens on the streets?

Answer. Yes, sir; I mingled with them, and a great many of them came down here, and I opened the saloon, on the back side, and they went in and drank.

Question. And they were talking about a raid?

Answer. Yes, sir; expecting it.

Question. On what ground?

Answer. I do not know.

Question. Was it on Withers's report?

Answer. I do not know.

Question. Withers had reported to you some time before that?

Answer. Yes, sir; but I never said anything about it.

Question. But could not this intoxicated man have talked it about town?

Answer. I have not a bit of doubt that these parties who were here speaking of the raid knew all about it, that it was to come.

Question. Tell us who those parties were?

Answer. I could tell a good many.

Question. I want them.

Answer. Do you mean the persons who spoke to me?

Question. Yes, sir; the persons who spoke to you, or in your hearing, who expected a raid on the treasury. You say there were groups all over town, although it was raining?

Answer. Yes, sir.

Question. Had they umbrellas?

Answer. Yes, sir.

Question. How many groups did you visit?

Answer. I went to two.

Question. How many were there in each group?

Answer. I can't tell.

Question. Name them.

Answer. I can name several persons.

Question. You say all were talking about it?

Answer. No, sir; but in conversation this thing was mentioned.

Question. Those two groups were talking of it?

Answer. It was named in my presence.

Question. Give the names of the persons.

Answer. J. J. Hunter, Dr. Tomlinson, E. E. McCaffrey, William Snyder, William Colcock, Calvin Parish, and that old gentleman, Bloodworth—I do not know his initials.

Question. Go on.

Answer. I can't remember any more now.

Question. Was that one group?

Answer. That is a part. They were mixing backward and forward all day buzzing.

Question. It seemed a common apprehension of the people of the town here that that night there would be a raid?

Answer. Yes, sir.

Question. That you swear to-day in this place?

Answer. Yes, sir.

Question. And those are all the names you can give?

Answer. I do not remember the men I conversed with on that day—the number of them.

Question. All those seven individuals said there would be a raid?

Answer. They spoke of a raid. They did not say there would be.

Question. Did they expect it?

Answer. They let on as though they feared it. They did not say there was to be, or that they would have anything to do with it.

Question. Who were the two others besides yourself and your friend Rose, who were present when Spring Withers notified Rose of the raid Saturday night?

Answer. Myself and Porter and Horace Johnson. He was then doing some writing for me.

Question. Where does he live?

Answer. He is at the upper end of the town.

Question. Where is Porter?

Answer. He is doing business for me right below, sir.

Question. You say some of the people in this county charged Rose with being implicated with the burning of the gin-houses.

Answer. Yes, sir; that he was knowing of the fact; from what fact they suspected him I do not know.

Question. Can you recollect the night when six or eight gin-houses were discovered to be on fire?

Answer. I do not remember the night, but I remember the fact.

Question. There were six or seven gin-houses within sight of the town burning on one night.

Answer. No, sir; I do not remember but one in sight, but I might, if I had been up, have seen it.

Question. Was the night you saw one on fire and did not endeavor to see the balance the night of which you learned afterward that five or six had been burning?

Answer. I do not remember.

Question. Do you not remember of hearing of five or six gin-houses being burned near this town?

Answer. Yes, sir.

Question. Do you remember that that was the night you saw one burning?

Answer. No, sir. I saw a gin-house, said to be Mrs. Tomason's, burning five or six miles above.

Question. You did not see those five or six burning?

Answer. No, sir.

Question. Did you hear of it next day?

Answer. Yes, sir.

Question. You were in town that night?

Answer. Yes, sir; I staid in town every night.

Question. Did you hear a volley of musketry that night?

Answer. My clerk did. He was in the room when it was done.

Question. Where was it?

Answer. In the treasurer's office. Mr. Johnson was doing business for me.

Question. How many muskets were fired that night?

Answer. He says he thinks there were thirty rounds—a sixteen-shooter. That was in Rose's office, where the commissary's office is now. Johnson slept in the room with him that night.

Question. You say it was not only the common talk that there would be a raid on the treasurer's office on Sunday, but also common talk that they would have Rose?

Answer. That was the threat that night, and in talking I have heard them speak that, if Rose would leave, this thing would be quieted; that it seemed that he was

the cause of the trouble in the county. They claimed that. Whether it was so or not I can't say, but he was not liked in the county at all.

Question. You say there has been a great deal of whipping done in this county?

Answer. I do not know. I have heard of it.

Question. This thing has been transpiring since the close of the war?

Answer. No, sir.

Question. That is what you said.

Answer. I do not think so.

Question. Do you want to correct that statement?

Answer. If I said so, I want to correct it. I said there had been such a thing as Ku-Klux organization since the war, but never such whipping until recently.

Question. You said there had been a great deal of whipping, as you understood it, in this county, and it had been carried on ever since the close of the war. Did you not say that?

Answer. No, sir.

Question. If you did, you want to correct it?

Answer. Yes, sir.

Question. What you want to say now is, that ever since the war there has been more or less Ku-Kluxism?

Answer. They were said to be; I do not know it.

Question. Was not the first violence by a band of men called bush-whackers, instead of Ku-Klux?

Answer. I do not know.

Question. Do you say you heard of these men named Ku-Klux band immediately after the war in this county?

Answer. Not immediately after the war, but not very long—in a threatening way, but they did no harm.

Question. Did you hear of them as bands roaming the county?

Answer. Not over the county, but in the woods near the village.

Question. Did you hear them called Ku-Klux?

Answer. Yes, sir.

Question. How soon after the war did you hear them called Ku-Klux?

Answer. I can't say positively.

Question. Was it the same year—1865?

Answer. I can't say.

Question. In 1866?

Answer. I think so.

Question. As early as 1866 you heard of roaming bands here called Ku-Klux?

Answer. Yes, sir; I think so.

Question. You did not hear of bush-whackers immediately after the war?

Answer. I do not think I did. I may have heard many things, but I do not remember now.

By Mr. STEVENSON:

Question. What is the full name of Major Avery?

Answer. It is E. and another letter; I forget what. He is in Washington now, I think, sir.

Question. Is it J. W.?

Answer. Yes, sir; J. W. Avery.

By Mr. VAN TRUMP:

Question. You say you read those pamphlets Rose had called the "Council of Safety"?

Answer. Yes, sir.

Question. Was that the name of those papers?

Answer. Yes, sir.

Question. It was not Ku-Klux?

Answer. No, sir; it was "Council of Safety," but said to be something after the same.

Question. It was something after the same pattern, intended to be a secret organization?

Answer. Yes, sir.

Question. Do you know whether it ever went into existence?

Answer. No, sir; I have heard of bands of men here.

Question. Did you ever hear of a council called the "Council of Safety" organized in this county?

Answer. Not to my knowledge.

Question. But after reading this pamphlet you thought it was about the same thing as Ku-Klux?

Answer. Yes, sir; it was stated to me to be so, but I do not know.

By Mr. STEVENSON:

Question. Does this Major J. W. Avery live here?

Answer. Yes, sir. There is Dr. Avery and P. T. Avery.

Question. J. W. Avery was the one summoned some time ago to Washington to appear as a witness?

Answer. Yes, sir.

Question. Do you know where he is?

Answer. I do not. He is said to be in Washington or somewhere in Virginia with his uncle.

Question. He has not returned here?

Answer. No, sir; a man that went with him returned.

Question. Who was that?

Answer. Mr. Herndon.

Question. You say Major Avery quartered these North Carolinians?

Answer. A great many of them staid there.

Question. At his house?

Answer. No, sir; at his store that night. They staid here.

By Mr. VAN TRUMP:

Question. That was an open store for anybody to go in there?

Answer. Yes, sir.

By Mr. STEVENSON:

Question. Were their horses there?

Answer. I do not know that. I do not know where their horses were. The men were there.

Question. Were they lodged there?

Answer. Yes, sir, I suppose so.

Question. Was Major Avery there with the men?

Answer. Yes, sir; I noticed him there that evening.

Question. You say they proclaimed themselves as Ku-Klux?

Answer. They did the next morning as they started home. They would halloo on the streets, "Here's your Ku-Klux."

Question. They staid here all night?

Answer. Yes, sir.

Question. And went home next day?

Answer. Yes, sir.

Question. What county did they come from?

Answer. Mostly from Cleveland County, I think.

Question. Do you know how they happened to come here?

Answer. No, sir. I heard they were sent for, but how that was I do not know. They had to have some news, or they could not come. But I did not know anything about them until they were here.

Question. How did you hear they were sent for?

Answer. I heard it rumored about—I do not know just how—that they were notified in some way.

Question. Who is this Major Avery?

Answer. A merchant in this place.

Question. How does he get his title?

Answer. He was in the army.

Question. Rebel army?

Answer. Yes, sir.

Question. How old is he?

Answer. He is some forty years old, I suppose; an older man than I am. I have known him for years.

Question. To what party does he belong?

Answer. I could not tell you; the democratic party, he claims, or reform party, or something.

Question. They called themselves the reform party last year?

Answer. Yes, sir.

Question. That is, the democrats operated under that name, did they?

Answer. Yes, sir.

Question. He is a leading citizen here?

Answer. Yes, sir, to some extent. He is a man of great wealth, and so on. I have always considered him a very good citizen. I have never had any difficulty with him.

Question. He is considered a respectable citizen?

Answer. Yes, sir.

By the CHAIRMAN:

Question. You mentioned about the muskets which were shot off in this building; do you know why they were shot off?

Answer. No, sir; but I think this, from what I learned from my clerk at that time—

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By Mr. VAN TRUMP :

Question. Is he here ?

Answer. Yes, sir. He stated that he was drunk.

By Mr. STEVENSON :

Question. You did not hear the volley ?

Answer. No, sir ; I was in the country. I heard of it next morning. I did not know until I came in the next day, that it was shot off.

By the CHAIRMAN :

Question. How far off were you ?

Answer. A mile and a half.

Question. You say it could not be heard that far ?

Answer. It could be heard, but I did not hear that. They were shooting all around here.

Question. Did Johnson give you a reason why they were shot off ?

Answer. No. He only said that Rose got to drinking in the bar-room, and he went over with him to his own room, to get him out of here, and that night about ten o'clock he took his sixteen-shooter and poked it out of the window and shot the loads out of it, and loaded it again.

Question. That is all you know about it ?

Answer. Yes, sir. I was told that ; I was not here.

YORKVILLE, SOUTH CAROLINA, July 24, 1871.

JOHN A. BENFIELD sworn and examined.

— By the CHAIRMAN :

Question. Where do you reside ?

Answer. At Mr. Romulus Hopper's.

Question. Where is that ?

Answer. In this township, about six miles from here.

Question. How long have you lived in this county ?

Answer. About ten or twelve years, I suppose, since I came in this county.

Question. Are you a native of this State ?

Answer. I was born and raised in Catawba County, North Carolina.

Question. What business do you follow ?

Answer. Farming.

Question. Do you remember the night of the raid upon the county treasury here ?

Answer. No, sir ; I don't remember it.

Question. I mean hearing about it ; where did you hear first about it ?

Answer. The first I heard about it was, the old man Hopper's son, Romulus Hopper's brother, came to York the next day, and he came up that night and told us.

Question. It was the next day ?

Answer. Yes, sir.

Question. What day was that ?

Answer. I don't remember the day.

Question. Was it Sunday or Monday ?

Answer. I can't remember now what day it was.

Question. What day was it that you heard of it ?

Answer. It was on Monday, I believe, as well as I recollect ; I know I was at old man Hopper's that evening.

Question. Where were you the previous Sunday night ?

Answer. What Sunday night ?

Question. You heard of this Monday evening ; where were you the previous Sunday night ?

Answer. The Sunday night before that I was at Hopper's. I was at old man Hopper's that evening.

Question. Did you hear nothing of it until the next evening ?

Answer. No, sir, nothing at all ; never heard a thing. I was out in the field at work. I just came in from plowing.

Question. Sunday night before this where were you ?

Answer. At Hopper's.

Question. Were you there all the evening ?

Answer. No, sir ; I was here that day. I came in Saturday all day and staid with John Hunter here, and staid until next evening in the evening, and went home.

Question. Did you come in Sunday morning ?

Answer. No, sir, Saturday evening, and staid with John Hunter and Cal. Parish, Mr. Dobson's clerk, Saturday night.

Question. Did you sleep with them ?

Answer. They were in their bed-room.

Question. Are they relations of yours ?

Answer. No, sir, but I am well acquainted with them.

Question. What do you do on the farm ?

Answer. Anything, most.

Question. Are you employed there as a laborer ?

Answer. Yes, sir.

Question. At how much per month ?

Answer. Ten dollars a month.

Question. How long have you known Hunter ?

Answer. Ever since I been in the country. I lived close to him and his brother and knew them.

Question. Who else ?

Answer. Cal. Parish, and Nick Dobson, and John Colcock.

Question. Had you been in the habit of staying here at night with those men ?

Answer. Yes, sir ; I have been here a time or two before at Dobson's store.

Question. What time on Sunday did you leave ?

Answer. About the middle of the evening.

Question. What do you mean by that ?

Answer. The middle of the afternoon—Sunday afternoon.

Question. Where did you go to ?

Answer. Home—to old man Hopper's first, and then home. There I heard this man, Rom. Hopper's brother, say he was going to York next morning on business.

Question. You say you went to old man Hopper's ?

Answer. Yes, sir. They all live on Frank Brown's plantation.

Question. And then you went home ?

Answer. Yes, sir ; to Rom. Hopper's, on the same plantation.

Question. How long did you remain at old man Hopper's ?

Answer. I staid there along by times.

Question. But that night, how long did you remain there ?

Answer. Not more than half an hour, and went home.

Question. Was it before or after dark ?

Answer. It was about dark then at old man Hopper's.

Question. Then you went on to Romulus Hopper's ?

Answer. Yes, sir.

Question. Did you stay there that night ?

Answer. Yes, sir ; and went to work next morning.

Question. What time that evening did you meet Anderson McElwee ?

Answer. I don't remember of meeting him.

Question. Try to think, now.

Answer. I don't remember of meeting him.

Question. You are sure you did not meet Anderson McElwee that evening ?

Answer. No, sir.

Question. Did not he and you put in a part of that night on the same business ? Just think a moment.

Answer. No, sir ; I didn't see him.

Question. Do you know him ?

Answer. Yes, sir.

Question. Where does he live ?

Answer. He stays here at the hotel.

Question. Which hotel ?

Answer. Rawlinson's hotel.

Question. What is he doing there ?

Answer. Boarding.

Question. Did you see him that Sunday night ?

Answer. No, sir.

Question. Are you sure of that ?

Answer. I did not.

Question. That is all you can give of where you were the Sunday night the treasury was broken open ?

Answer. Yes, sir ; all I can tell is what I have told you.

Question. Has your attention been called before to where you were that night ?

Answer. No, sir.

Question. Do you recollect the night the rails were torn up on the road out here between this and Chester ?

Answer. No, sir ; I don't remember about it ; I heard of it afterward. I made a mistake in that to Major Merrill. He asked me about it. I heard of it next day. I told him I didn't hear of it until next day, and it was the ruid I heard the next day. I told him it was that I heard next day.

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Question. You told Major Merrill?

Answer. Yes, sir. He was asking me about it.

Question. When it was?

Answer. Yes, sir. He was asking me if I heard of it, and I made a mistake and said I heard of it next day; but you see I was here that day, and heard it that very day.

Question. You mean it was not the tearing up of the railroad that you heard next day?

Answer. No; it was this I heard of on Monday. The railroad business I heard next morning. I was right here in this place.

Question. When did you hear of the railroad being torn up?

Answer. On Sunday. I was here at the same time, and staid with these fellows that same night.

Question. Was it Saturday night it was torn up?

Answer. No, sir; it was the same time I was here.

Question. What do you mean by introducing what you said to Major Merrill?

Answer. I made a mistake, telling him I did not hear it until next day, while I was here on Sunday evening; that would be Monday. I really heard it on Sunday when I was here. He was asking me about this, and I told him I never heard it. He says, "You say you never heard of this railroad business until Monday?" and I said "Yes;" but that was a mistake. I heard it Sunday, for I was here Sunday.

Question. Were you in the store the whole Saturday night?

Answer. I was right there, and went to bed with those fellows at bed-time, and we were there all night.

Question. What time Sunday morning did you hear of the rails being torn up between this place and Chester?

Answer. It was up in the day a good while; I don't remember what time it was.

Question. What time in the day?

Answer. I don't remember now.

Question. Who told you about it first?

Answer. I can't tell you that; I don't mind. I just heard it, but that I can't remember.

Question. Had you heard anything before you came into town about the troops being expected here?

Answer. No, sir.

Question. Did you hear anything of it when you were here?

Answer. No, sir.

Question. Did you hear anything about the troops being expected here?

Answer. No, sir; I didn't hear it in no shape or form. I haven't been in town for a month or so.

Question. Did you hear the purpose for which the rails were torn up?

Answer. No, sir.

Question. Do you know whether the troops did get here the next day after the raid?

Answer. No, sir. I can't tell a thing, except by this man Hopper. He told us next day that the troops had come in that day.

Question. Had you no knowledge from anybody of the design of tearing up the railroad that night?

Answer. No, sir.

Question. Before you left Sunday night, did you hear of any trouble about the county treasurer?

Answer. No, sir.

Question. Have you at any time been asked to join any organization in this county called the Ku-Klux?

Answer. No, sir.

Question. Do you know anything about them?

Answer. No, sir; not a thing. I don't know anything only just the reports I have heard, and what little I have seen in the newspapers.

Question. Have you any knowledge of an organization here called the Invisible Circle?

Answer. No, sir.

Question. Were you ever sworn into any such organization?

Answer. No, sir.

Question. Do you know any of its pass-words?

Answer. No, sir.

Question. Or signs?

Answer. No, sir.

Question. Or grips?

Answer. No, sir.

Question. Do you know whether there is such an organization in this county?

Answer. No, sir. I couldn't tell you that more than I have expressed yet—what I have heard or read in the papers.

Question. Have you heard this oath administered to anybody, or taken an oath like this yourself—

Answer. No, sir; I never did.

Question. I have not yet read it to you.

Answer. Then I will take that back.

Question. [Reads.] "I do solemnly swear that I will support and defend the Invisible Circle; that I will defend our families, our wives, our children, and brothers; that I will assist a brother in distress; that I will never reveal the secrets of this order, or anything in regard to it that may come to my knowledge; and if I do, may I meet a traitor's doom, which is death, death, death. So help me God, and so punish me my brethren."

Have you ever heard that oath before?

Answer. I never did.

Question. Or any similar in terms to that?

Answer. No, sir; I never heard anything of any kind of oaths in no shape at all.

Question. Have you been back to North Carolina in the last year?

Answer. No, sir.

Question. Have you met anybody from North Carolina in the last year?

Answer. No, sir.

Question. Nobody?

Answer. Of course, I have seen North Carolina wagons pass.

Question. You say you came from Catawba County?

Answer. Yes, sir.

Question. You have met nobody from there?

Answer. No, sir.

Question. Were you in town on the Monday before this raid occurred?

Answer. No, sir. What raid?

Question. The raid on the county treasurer.

Answer. No, sir; I was not here.

Question. Had you no knowledge of a large number of men being here from North Carolina?

Answer. No, sir; I never heard of it.

Question. Have you never heard of some two hundred men having been here from North Carolina before this raid occurred?

Answer. No, sir. You ask me if I never heard of it. I have heard the reports, but I didn't hear of North Carolinians.

Question. You never heard here of their being North Carolinians?

Answer. No, sir.

Question. You are intimate with Hunter and Parish and Colcock?

Answer. Yes, sir.

Question. Hunter?

Answer. I know him.

Question. Tomlinson—was he in that room that Saturday where you staid all night?

Answer. No, sir.

Question. Was he there in the evening?

Answer. No, sir. I didn't come in until most night—sundown.

Question. After you came in, was he there at any time?

Answer. No, sir; I never saw him.

Question. You remained in the room?

Answer. Yes, sir. I walked down street and got a dram or two, and went back upstairs.

Question. They insisted upon you staying all night?

Answer. Yes, sir.

Question. Was anything said that night about tearing up the rails?

Answer. No, sir.

Question. Or the expectation of a raid on the county treasury?

Answer. No, sir.

Question. How long has this intimacy existed between you and the clerk in that store and Parish and Hunter?

Answer. What do you mean?

Question. Do you not understand what that means?

Answer. No, sir.

Question. How did Colonel Parish get his title?

Answer. Its Cal Parish, and not Colonel.

Question. Who is he?

Answer. He is The Parish's son. He is a clerk, and stays in a grocery—him and Nick Dobson's brother, and the man that has the store there; and Will Colcox and John Hunter stay in the drug-store.

Question. You say you don't know what "intimacy" means, and you are very intimate with this man Hunter?

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Answer. I know him; I am well acquainted with him.

Question. When I asked you how long since this intimacy existed you say you do not know what intimacy means?

Answer. What?

Question. What common bond of intimacy exists between you and Hunter? What common bond is there between you and Hunter that brings you in here to stay all night with him?

Answer. None at all, only I am well acquainted with him. He knew my father very well. My father worked for his brother, and John staid there at the same time.

Question. Have you any doubt about whether the Ku-Klux organization exists in this county or not?

Answer. No, sir.

Question. You have not? Do you mean now that you have no idea it does exist?

Answer. I can't tell you a thing about the Ku-Klux.

Question. Do you believe there is a Ku-Klux in this county?

Answer. I can't tell you that. I don't have any belief at all. I don't believe nothing about it. They say there is such things.

Question. You have no opinion about it?

Answer. Nothing more than what is in the papers.

Question. Is it true or false; have you an opinion?

Answer. No, sir.

Question. You have not an opinion whether it is true or false that there is a Ku-Klux in the county?

Answer. No, sir.

Question. Does your belief incline you to one side or the other, or are you perfectly non-committal?

Answer. Non-committal. I don't know a thing about it, nor wish to know a thing at all about them.

By Mr. STEVENSON:

Question. What do you think about it?

Answer. Which?

Question. About the Ku-Klux?

Answer. I don't know anything at all about it.

Question. You don't think about that; did you ever hear about them?

Answer. I hear just as I told you. I hear the clash and see it in the papers. I hear talk.

Question. Do you think there are any in this county?

Answer. I can't tell. I don't know.

Question. You have no opinion?

Answer. No, sir.

Question. Do you read and write?

Answer. No, sir.

Question. How did you see it in the papers?

Answer. The man I staid with reads it.

Question. Have you ever worn a disguise?

Answer. Disguise! What is disguise?

Question. Did you ever wear a mask?

Answer. No, sir; I don't know anything about that.

Question. Do you know what a mask is?

Answer. No, sir.

Question. Did you ever go about at night?

Answer. No, sir, I never did.

Question. Never whipped a negro?

Answer. No, sir, never did.

Question. Never helped whip one?

Answer. No, sir.

YORKVILLE, SOUTH CAROLINA, July 24, 1871.

WILLIAM D. SIMPSON sworn and examined.

By the CHAIRMAN:

Question. Where do you reside?

Answer. At Laurens Court-House.

Question. Are you a native of the State?

Answer. Yes, sir.

Question. How long have you lived in that county?

Answer. Ever since I was born, and I am about forty-five years old.

Question. What is your occupation?

Answer. I am a lawyer.

The CHAIRMAN. I will request Judge Van Trump to examine this witness.

By Mr. VAN TRUMP:

Question. Were you at Laurens on the day of the last election?

Answer. Yes, sir. The general election of October, 1870.

Question. I mean the election that took place on the day before the riot, known as the Laurens riot.

Answer. Yes, sir.

Question. Will you give us something of the general condition of the county for a short time before that general election, if there is anything particular to be mentioned?

Answer. We had a general canvass during that summer of 1870, and our district is composed of blacks and whites; the proportion being 1,900 white to 2,300 black voters. I suppose, without referring to the census, that there are 2,300 or 2,400 blacks. We had two parties in the district, nominally republicans and democrats, but really blacks and whites. The issue before the people was whether or not the representatives of the whites should be elected to the legislature and as county officers, or the representatives of the blacks. The district was divided almost upon the line of color. There were some whites who united themselves to the blacks.

Question. When you say "district" you mean county?

Answer. Yes, sir; that is the old name. The contest was a hot one, and during the summer, perhaps in May, I do not remember precisely, but pretty early in the canvass, to the surprise of the white people it was ascertained that some four or five companies had been organized, ostensibly as military companies, probably sixty to one hundred in each. They were composed entirely of blacks. When they were organized we did not know, but it became known to the county pretty soon that they had been organized, and they were composed of all ages. They were not organized in accordance with the militia law of South Carolina.

Question. What were the provisions of the militia law under which this organization was supposed to have been made?

Answer. I do not remember all its provisions, but one was: first, there should be a registry of all those liable to duty in the population between certain ages—I do not remember the precise ages; after that the military, the State militia, was to be organized out of the entire population, embracing both colors. But there was no registry that I ever heard of. The first thing the people of the county know, these companies had been organized.

Question. By whom were they organized?

Answer. It was understood that they were organized under the direction of a man named Joseph Crews, who had identified himself with that population early after the war. He was a citizen of that county for years before the war, and pretty soon after the war he had identified himself with that race and was elected by them to the State convention. He was a candidate for the legislature—the only white man a candidate—and three negroes were candidates with him. These companies were organized, and were composed generally of the most turbulent blacks in their respective neighborhoods, to some extent. After these companies were organized, very soon it was ascertained that a large quantity of arms had been shipped to the county. They came in boxes and were sent, as it was understood, to Joseph Crews. Pretty soon after these arms were shipped, a force of the State constabulary was sent into the county, composed entirely of strangers to the people, particularly from the Northern States, mostly, I think, from your State of Ohio. They came ostensibly as peace officers. They quartered themselves at Crews's house. They seemed to be under his control almost entirely.

Question. How many were there?

Answer. I think ten or a dozen. These when they came were first lodged in a house on the public square owned by Crews. He had a large wooden building there known as Tin Pot alley, which is somewhat famous in this State on account of that riot. He had been appointed trial justice in the mean time, too.

By the CHAIRMAN:

Question. Who had?

Answer. Crews. He was also chairman of the board of county canvassers, the officers who had charge of the election, and had his trial-justice office in a front room on a street immediately on the public square, and in rear of that office large numbers of these guns were stored. It was understood from subsequent developments that there were at least one thousand or one thousand two hundred stand of arms brought to the district. They were not all, however, stored there; a portion of them were stored in his barn. He lived about a quarter of a mile from the square. Our village is a large hollow square, with streets running off at the four angles. Two or three hundred of these guns, with cartridges and everything else, were stored there, and a portion at Clinton, a little village towards Newberry, on the railroad. After the guns and constabulary came the first thing the people knew meetings were called in behalf of that

party at different points in the district, usually on Saturdays; public meetings composed entirely of one party. Crews would start for one of his public meetings with one of these companies, sometimes two, armed and equipped, with bayonets on and cartridges around their bodies.

By Mr. VAN TRUMP :

Question. You mean one or two of this constabulary force, or negro companies ?

Answer. Negro companies, and the constabulary also; they always went with them. The impression made upon the people there by the conduct of this constabulary was that they were not peace officers, but partisans there to influence the election in this State. They went to all these public meetings and were followed by one or two companies of black militia. On the road to these meetings the white people were badgered considerably, it was so reported. For instance, they would shoot at dogs along the way, and it was reported at one place, as they passed down to a meeting fifteen or sixteen miles below the village, the people had assembled at the Methodist church for service, mostly women and children, and as they passed they were turbulent and fired around the building. I do not know that they fired over it. They insulted white people along the road, denouncing them occasionally as rebels, saying that they had guns and the white people did not have them; that Scott, the governor, did not allow them to have guns. When they assembled at the public meetings they usually stacked arms and were addressed or harangued generally by Crews. I never attended one of the meetings and do not know from my own knowledge what he said; but at one of these meetings, near Waterloo, some fifteen or twenty of the citizens did attend, and they published in the Herald, the county paper, an account of his speech over their signatures, certifying to its correctness. In that published statement it was said that he used language like this: He advised the negro women to dress as men and vote at the polls the coming election; that it would not do for the blacks to be defeated; that their freedom depended on that election; that the whites would reenslave them. He advised the negroes to vote as often as they pleased. He advised them to submit to no sort of outrage, but to resist under all circumstances. He advised them if they did not believe they were settled with fairly in their contracts, to go to the fields and take what they wanted. He said if they were convicted they would be pardoned; that he was a trial justice and that he was satisfied that Governor Scott would do anything he advised, as he had never failed to do so. He told the women if a difficulty took place they could assist with the torch. He said to the men that matches were cheap and did not cost more than ten cents a box. This is the substance of what those gentlemen said was a part of his harangue at Waterloo. This thing kept intensifying during the summer as that election approached. The negroes, of course, seeing the white people were not armed, and offering no resistance to insults along the highway, began to be pretty bold and defiant, until the impression prevailed almost entirely over the whole county, that it would be a miracle if the election passed off without a general conflict. The whites believing that, and being unarmed, a good many sent off and got arms, bought Winchester rifles on their own hook in New York and elsewhere. I don't know how many they brought into the county in that way; perhaps eighty or a hundred guns. Things were in this condition all the summer, Crews going from point to point every Saturday. About four weeks before the election a disturbance started in Newberry, forty-five miles away, which came near being a general conflict. I do not know how it originated. It spread into our county; I do not know how. The first thing we knew in the village there seemed to be a struggle about to ensue at Clinton, over the arms there. They were placed under the control of a man, an employé of Crews, there.

Question. Was there a military company there ?

Answer. Yes, sir; a negro company—one of those companies I spoke of in the beginning. This difficulty in Newberry widened into our county very strangely; I do not know how except from the general state of feeling between the two races over all the country; and the whites and blacks in Clinton for a day were standing on the eve of conflict; they were drawn up. Things were in this condition there. Our town is about eight miles from Clinton. Crews said to some of the citizens that he could stop that if he was down there, and they advised him to go down; but he did not go down. Instead of that he went out into the country, he said, as I understand, with a view of quieting the negroes out there; he was apprehensive that they might go to Clinton and precipitate a conflict there. He went to the country, and the next morning, in the village, to our surprise, there were about four hundred negroes. When I went down town—I live out about a mile—they were surrounding this armory of his on the public square.

By the CHAIRMAN :

Question. Have you mentioned what day that was ?

Answer. I do not know the date; it was perhaps a month before the election. I suppose about four hundred negroes were around this armory of his. They were not armed and were doing nothing. They staid a day and a night and were rationed by

Crews out of this Tin Pot Alley. They went down on the depot-lot and cooked their provisions. The people did not understand it at all; it excited them very much, and but for the forbearance and prudence of the more prudent citizens there would have been a conflict then certainly. The people in the country heard of it and began to come to town; they began to come in squads, considerable squads. Some of us, hearing of their coming and knowing that if they did come and see these negroes there some of them might get to drinking and we would have a general row, sent out messengers to prevail upon these gentlemen who were coming from different quarters not to come in. They did not come in, and the next morning the negroes all disappeared. This difficulty at Clinton was stopped in the same way. Some of the prudent citizens got committees from the whites and blacks to meet and talk the thing over. They came to the conclusion that they would not have a fight there because they had difficulties in Newberry, and the thing passed off. On the day of election we generally had in our county about fifteen or twenty boxes scattered all over the county, convenient to the different neighborhoods. Crews was chairman of the county canvassers, and under the act of the legislature he had the power, or so construed the act, to arrange the precincts as he thought proper.

By Mr. VAN TRUMP:

Question. Did he change them?

Answer. He changed them as he pleased, locating precincts, and he appointed the managers; he had that right. He concentrated four boxes at the village.

Question. How many had there been before?

Answer. Never but one, except in 1868, when he had the same power. He brought them all there.

Question. All in the county?

Answer. All but two. I believe he had two others in the county. On this day he brought four there, and he brought those four where the negro population, if they had voted at their own regular precincts, were largely in the majority. He kept two off in the county where the whites were in the majority. The result was, that there was a very large preponderance of blacks in the village on the day of election over the whites. I suppose they outnumbered us by, I don't know how many, but there was a very large preponderance of blacks in the village on the day of election. The thing went on pretty well; the whites were excited, and so were the blacks, but no serious matter occurred. There was a little row. We had to vote within certain hours on the same day, and it was with some difficulty that we could concentrate it into one day.

Question. So much concentration of population?

Answer. Yes, sir; the negroes surrounded the boxes in some places and kept the whites from coming in, and the whites surrounded one box, too. It was difficult to vote. They acted pretty much alike in that respect; but they got along better than I expected of them; but there was a little row, cursing, started at one box—there was no fighting, no blows. Shortly after that the news ran over the village that a considerable number of negroes had gone up to Crews's barn, where the negroes were, and were arming to come down and attack the citizens. It went like wild-fire over the town. I never saw people concentrate so quickly in my life. The white people were not armed, except that they had pistols. When the news began to spread—you know how such a thing will scatter over a crowd—they collected in one body at a certain point, looking towards this house where they expected the negroes to come down the road. Colonel Smith, who was in command of a federal company there, I believe it belonged to the eighth regiment, and who was a very prudent man, had his quarters over the branch, a quarter of a mile from the public square. He heard of it, and came over immediately to the whites, and said he had heard this report about the negroes arming, and said, "I will go up and see about it. Don't do anything at all. Be quiet. I will go up and stop it." He marched straight up the road to this house, and directly he came back. He reported that there were some thirty or forty who were arming. He did not say what they intended to do, but he said he had told them that if they undertook anything of that sort it would be the worst thing for the whole of them that they ever attempted, and directed them to put the guns down. They obeyed him promptly, and the thing hushed there for that day, and we had no further difficulty. That was the day of the election. The next day—it was during court-week, and a considerable body of men were at the court-house, in our county—in our State the whole population attends court—

Question. Was that the first day of court?

Answer. No, sir, it was not; it was Wednesday; that is the great court-day.

By the CHAIRMAN:

Question. Which day was the election held on?

Answer. On Tuesday. That is my recollection. On Wednesday there was a large collection of blacks and whites. The election was just over, and that probably brought a great many to court. During the day, while court was in session—I was in the court-house myself, engaged then in a case—I was examining a witness on the stand in a

riot case when this thing commenced. A man named Johnson, who belonged to the white party, and a white man, one of the State constabulary, who belonged to the negro party—I do not know his name—got into a row. I understood that it started from a private matter entirely. Johnson had heard that this constable had denounced him as a tallow-faced son-of-a-bitch, and he called upon him to know whether he had said so. This fellow denied it, and acted pretty boldly for a man under his circumstances. He asked who had told him so. Johnson said somebody, and he said he was a damned liar—so I understood—and conducted himself with a good deal of manhood, surrounded as he supposed himself, because at that time there were a good many standing around. Anyhow, while they were quarreling, a pistol went off. It was said it either fell from the breast of somebody and went off, or went off in a man's bosom. Nobody was shot or shot at. Nobody ever claimed to have been shot at. That attracted attention. The negroes, seeing this difficulty, and one of their party engaged, began to crowd up in one direction, and the citizens crowded up in another direction, precisely as a quarrel will do on any public day, even when people are not aroused by party feeling. Those two men finally got to blows. It occurred on the pavement about fifty yards from this armory of Crews, a place where the constabulary always staid, and the negroes always congregated when they came to town. The fight commenced, and the constable gave back in the fight towards this armory, and got to the door and rushed into it. In the mean time the negroes, some of them, had gone in ahead of him. When he rushed in the door was slammed to, as I have understood, and just as he got in the firing commenced from that building. A volley was discharged from an upper window and they fired through the plank. The house was weather-boarded but not ceiled inside. The firing came out through the planking, balls. The holes are there now, showing that some balls came through from the inner side. I remember Judge Moses and myself walked by there at the last court. I never had examined it; he pointed it out, and said those balls came from the inner side certainly. When that firing took place from the house the firing was upon the people of the square just in front of it, but nobody was hurt. One ball hit the court-house, and one passed through the crowd but missed everybody—I do not know how; it passed over their heads and hit Mr. Sullivan's office across the public square, a lawyer's office. The people rushed upon that concern with their pistols and they ran in. They broke the door down, and the negroes gave back and ran out of the back door. About that time, as I said, I was in the court-house. I heard considerable noise in the public square—all of us did. A constable ran out to see what was the matter. When he came back I asked him what was the matter. He said the negroes had commenced firing upon the whites. That emptied the court-house instantly; but there was very little shooting after I got there. I did not see anybody shot. The negroes had gone from this building, and the firing was about over. It was a very short thing. Two negroes were killed right there, and I think one wounded. Well, the people collected in bodies, all that were there nearly, and stood awaiting developments. It was supposed at first that the negroes who ran out of that building had started up to the other armory; but it turned out that they did not start there. During the evening Judge Vernon—who had adjourned court instantly, for everybody left, two or three negroes were on the jury, and they ran, and the court could not have gone on anyway—ordered the sheriff to raise a posse of one hundred men and take charge of these public arms. He did do so, and went up to Crews's house and hauled down all the arms from that place and from the other place, except those taken out by men who ran in, and he put them in the sheriff's office. It spread over the country worse than a prairie fire that the fight had commenced at the village between the whites and negroes; that the whites were in a minority and the negroes were getting the advantage; and they commenced coming in towards 5 o'clock in twos, threes, and tens on horseback.

Question. The white people?

Answer. Yes, sir; they came from every direction, and, I suppose, by midnight there must have been twenty-five hundred men. The news spread clear to Spartanburgh County that we had regular war down there; but, as I said, after the negroes ran out of there it soon quieted as far as the village was concerned. The negroes ran away and the constabulary ran away. As to Joe Crews, somebody had seen him in the morning, but he had run away. They all disappeared. There was a man in the constabulary from Napoleon, in your State, (Ohio,) named Volney Powell.

Question. Governor Scott's place?

Answer. Yes, sir. He had been there a short time. He was a candidate for probate judge. There was a negro, named Bill Riley, a prominent fellow in his party, who was a sort of custodian of these guns, and another negro named Wade Perrin, who was a candidate for the legislature there. He harangued the negroes in the style of Crews, about the white people putting them in slavery, it seemed with a view of consolidating them against the whites, to make them believe that if the whites elected officers they would be put back in slavery, and to sow seeds of bitterness in their minds towards us. He was one of that class. Next morning the news came that Volney Powell and Bill Riley were found dead on the public highway, about four miles below

the village, shot in several places. I think they had arms then. They were found lying with guns by them—a gun apiece. It was so reported in the paper. I did not see it myself. This fellow, Wade Perrin, was found about fifteen miles below the village, on the public highway towards Newberry—found dead; and two other negroes in another part of the district, some six or seven miles from the village, were found dead next morning. That was the extent of the killing that I know anything about. There were two negroes wounded that day when these two negroes spoken of as first killed in the fight were killed. One white man was wounded that I know of in the fight.

Question. Where?

Answer. In the fight on the public square. The ball hit him in the face, slightly wounding him. A little boy in a house was hit by a spent ball—a white boy. The ball went in at the window. Who it was shot by, I cannot tell. The negroes became very much alarmed, of course, and disappeared for a day or two. All these constabulary disappeared; Crews disappeared; but everything was quiet next day. None of this party has ever returned—neither the constabulary, Crews, nor any connected with him; not any of these leading men.

Question. Where does Crews keep himself?

Answer. In Columbia.

Question. What was the character of this man Crews we hear so much of; a quiet citizen or a disturber of the people?

Answer. Before the war he was a sort of merchant there. Some time before the war he failed in merchandise and became a negro-trader. There was no harm in him then, I suppose, so far as being a disturber of the peace was concerned. He was a quiet man in that respect. He was regarded as rather unscrupulous in pecuniary matters, and left a good many debts unpaid; but immediately after the war he became connected with the negro element. He claimed to be a republican, joined that party, and his purposes during every canvass we had seemed to be to instill hostility into the negro race towards the whites, and make them hate the whites. I suppose it was because he thought that one means of keeping them consolidated. He knew they were in a majority, and if they could be kept consolidated they could out-vote the whites and he could be elected.

Question. Did you ever see this publication of the card of those gentlemen who heard Crews's speech at Waterloo?

Answer. Yes, sir; shortly after this thing occurred the military was sent up there, and finally a regiment of troops—at least a brigadier general came out. He came all the way from Nashville, Tennessee—came under steam, rapidly. They seemed to be very much surprised when they got there. When they got to Newberry there was no railroad to our town. They were very cautious, expecting that they were to be attacked or ambushed, and came to town and found everything perfectly quiet. General Carlin, who was in command, told some of our oldest citizens that he was astonished to see our people so quiet. He had been impressed with the belief that they were a band of outlaws there, and would not allow any process to be executed. He came with considerable force, with a United States deputy marshal, and arrested about eleven of our citizens, among them the sheriff, and took them to Columbia, and lodged them in the jail, and we found great difficulty—I was employed as one of the counsel to defend them—we found great difficulty in having the writ of *habeas corpus* executed. Every obstacle was thrown in the way by the legislature, to the extent of vacating Judge Vernon's seat while he was hearing the case. While we were in that condition, our people, supposing from the fact that General Carlin had been sent all the way from Nashville, Tennessee, with all this military—we came to the conclusion that very exaggerated accounts of the difficulty, and the condition of the people of Laurens, had gone to Washington; and we held a public meeting and appointed a committee to go to Washington and make a statement to the President. I was chairman of the committee, which consisted of myself, Major Leland, and Robert Gojines. We went to Washington and made a statement to the President. We were introduced to him by Senator Robertson, of South Carolina. We made a statement of the affair there to the President—pretty much the same statement I make to you. I made it in writing, and in that was a copy of this speech—I cut it from the Herald—this certificate of these gentlemen near Waterloo of this harangue of Crews. The President heard us very patiently, and after we got through the papers were lying on his table. He said he had no power in the premises, but said that a committee had been just appointed—or would be, had been, I think—on southern outrages; and that he supposed that would be a proper paper for that committee, and he would send it for that purpose. That is the only copy I ever saw of that speech; it was in those papers. I thought while I was there that possibly it would be proper to make an application to go before the committee, and I made some inquiry, and heard that your committee was on North Carolina, and probably you would not change your line of investigation about a matter of that sort, and I made no application. However, one of the committee, Mr. Gojines, told me he had some conversation with you, Mr. Chairman; do you recollect it?

The CHAIRMAN. I do not. It is very probable, however.

By Mr. VAN TRUMP:

Question. That is all you know of that affair?

Answer. That is all the history.

Question. How has that county been since?

Answer. Entirely peaceable.

Question. Have you any military now?

Answer. No, sir; we had some military once since for a short while. I think there is a better feeling between the blacks and whites than before since the war.

Question. Have those negroes been disarmed?

Answer. Entirely disarmed. They were disarmed on that occasion; the whites disarmed them. Shortly after that, Governor Scott sent General Anderson of his staff up there, and he had an interview with the people. We appointed a committee to wait on Governor Scott, and they explained and had a general understanding, and proposed to have the guns withdrawn; and the military came up under his direction and undertook to get the guns. Several of us published a card calling upon the citizens who had gotten guns upon that occasion to return them.

Question. Were any returned?

Answer. Yes, sir, I do not know; I believe more than two hundred were returned. We never could get the balance back; they went all over the country to the surrounding counties.

Question. Has it been ascertained how many were lost?

Answer. I never ascertained. I think at least a thousand guns were found, though.

Question. I see by the adjutant general's report that Joseph Crews received six hundred and twenty guns himself?

Answer. Yes, sir.

Question. Also ten thousand rounds of fixed-ammunition?

Answer. They were most splendidly equipped with all the equipments—belts, cartridge-boxes, and everything of the sort as nice as you ever saw.

Question. Have the negroes drilled at all since that?

Answer. No, sir; they did not drill then. I never heard of their drilling. They may have drilled sometimes in the night.

Question. I have had an impression that they drilled the day before the election; is that so?

Answer. I never heard of it. I never heard of their going out regularly for muster and drill; they never had a field that I ever heard of. The impression on the public mind there was that the whole thing was an electioneering scheme on the part of those leading that party in that county, and that these military companies were organized to consolidate the negroes. The Union League operated finely during the canvass of 1866, but the Union League had been broken down to some extent before the election of 1870. In 1868 the Union League held them just as close as possible, but a good many had wandered away from it, got tired of it.

Question. Was Joseph Crews connected with the Union League?

Answer. Yes, sir; he was the president or prominent man in it.

Question. Was he the only one?

Answer. There was one other scalawag in our county by the name of Owens. He was elected senator. He and Crews were the only two men in the county that ever took any prominent part in combining the negroes in this way.

Question. Although you say you do not remember the special provisions of the militia law, yet do you recollect enough of it to know and say that an honest administration of it would have been a registry of all the people, white and black, and the organization of all, white and black?

Answer. That is my construction of the act, and I am satisfied if you have the act here you would give it the same construction.

Question. And the fact is that there was no public registry?

Answer. No, sir.

Question. No public organization?

Answer. No, sir; no public announcement.

Question. Yet the fact is that there were organized four or five companies in your county?

Answer. Yes, sir.

Question. And arms for four or five or six hundred sent there?

Answer. Yes, sir. Whether Governor Scott did or not mean so, but he must have known it. Those companies were organized, as far as the white people had any notice, in the night-time. We never heard of their organization until they were out in the street on public occasions.

Question. Was there any attempt to organize the whites themselves?

Answer. Yes, sir; when it was ascertained that these negro companies had been organized.

Question. But under the State law?

Answer. I was going to tell you. We supposed it was a voluntary arrangement;

but there was nothing in the law allowing volunteer companies. We supposed Governor Scott, by some power, could accept volunteers. One or two companies of whites were organized in the day-time, and Governor Scott was written to to accept them, and he declined to accept them.

Question. Did he give any reason ?

Answer. No, sir.

Question. How many companies of that sort were there in your county ?

Answer. I know of two, certainly. Colonel Bull, here, whom you have subpoenaed, was captain of one of them himself, and he had some correspondence with the adjutant general's office about accepting them ; but it went no further, after the department declined to accept them. They never appeared again as an organization of the militia.

Question. Has there been any lawlessness or violence by the Ku-Klux organization in your county ?

Answer. No, sir ; we have no Ku-Klux. I feel perfectly sure that there has not been a disguised band of men in Laurens County during the whole of this excitement. If so, I have never heard of it.

Question. You do not know of any murders or whippings of negroes by that organization in your county ?

Answer. No, sir, not one. I saw in "The Union," a week or two ago, that a negro had been whipped, or shot probably, but not killed, near Clinton, some time ago—but I never heard it there—by one or two disguised men. But I never heard of it, and I do not believe it. This is the only act of violence that has occurred since 1868. A week or two before the election of 1868, when Blair and Seymour were the candidates, we had a torchlight procession, or something of the sort, in the village, which attracted many people. In going home, three young men, three miles from the village, were fired upon in the highway within a hundred yards of the house of Mr. Shell, and one of them killed dead ; shot from his horse, a young doctor—a fine fellow, and an upright man ; the other was slightly wounded. That was supposed to be by negroes. These men who were wounded saw them running off through the fields, but were not able to identify anybody. The place was examined the next day and there was an appearance of a good many having been there. That went on some time. Finally, one negro in the county made some statement to another negro as to his connection with it, and he reported it. The one to whom the statements were made reported it to the friends of young Shell and they made some arrangement by which a conversation could be brought about between these two negroes at another time, within the hearing of some respectable gentlemen, and this negro gave a statement of the fact that he was present and shot the gun that killed Shell himself. He was arrested, tried, and convicted.

Question. These men in ambush heard it ?

Answer. Yes, sir.

Question. How many were there ?

Answer. Two.

Question. Did they attempt violence ?

Answer. No, sir.

Question. What was done ?

Answer. He was arrested, brought to jail, tried—counsel were appointed by the judge to defend him—upon the testimony of these two witnesses who heard it, and the negro to whom he had made this statement, and who induced the conversation that was heard by these other two gentlemen. He was convicted of murder and sentenced to be hung. He was pardoned, or rather his sentence was commuted by Governor Scott to the penitentiary ; I think twenty years' imprisonment. He is in the penitentiary now, I have understood, and I have not heard of his coming home yet.

Question. As I have had no conversation with you, and do not know anything except this riot upon which to ask you, I will inquire, generally, have you anything else that discloses the condition of your county ? If so, you can state it.

Answer. As I have mentioned the occurrence, it is fair to state that, before that occurrence, a negro man named Harry McDaniels, a member of the legislature, in his own house, ten miles above the village, was fired upon and wounded ; by whom it was done is not known. He charged it upon whites, but there was no judicial investigation, and there is no telling who did it ; I do not know. This comprises all the acts of violence I know anything of, or have heard anything of since 1867.

Question. What were the politics of those three young men ?

Answer. They were democrats. They were going home from a torchlight procession, and were suddenly fired upon. Dr. Shell, poor fellow, had just passed his father's house, where he staid, and rode up to the forks of the road, a hundred yards, to bid the young men good night, and separate from them and talk a little, and just as they got through, and were about to separate, this firing was made upon them. I do not know any other act of violence that I can now recall to mind during that time, except, recently, a man named Scott, a merchant about fifteen miles above the village, who was thought to have some money, went over to Abbeville, and left his family two or

three weeks ago. He left his wife and two or three little children, and at night some ten or fifteen persons came to his house, forced themselves in, and demanded the key of the money-drawer. She refused to tell anything about it, and the party—

Question. Were the party black or white?

Answer. They were black. They were disguised. Three negroes were arrested. She is able to identify two of the three, I understand—she and her little son. She knew who they were. They committed a good deal of violence; pulled her about the floor, and shot over her. Her little son raised up in the bed, and called out to one of them, "Squire, what are you doing there?" and he caught him by the hair and dragged him about until he told where the key was, and they got the money and left. That was a pure act of robbery, and had nothing whatever to do with politics, black or white.

Question. That has been in the newspapers, has it not?

Answer. Yes, sir.

By the CHAIRMAN:

Question. What was this difficulty in Newberry that originated a trouble which spread into your county?

Answer. I do not know how it started. All I heard of it was that there was a considerable body of whites and blacks on the eve of collision. It was arrested by the sheriff of Newberry taking the posse and going up and stopping it.

Question. You mean what spread into your county was a spirit of uneasiness, fearing a collision between the whites and blacks?

Answer. Yes, sir.

Question. Without knowing the real origin in Newberry?

Answer. Yes, sir; it started there and extended the very next day, and that night came there.

Question. You say the month before four hundred negroes were in your town not armed, and there was no disturbance?

Answer. Yes, sir.

Question. Their presence there gave rise to apprehensions throughout the country, and gentlemen were coming in from all quarters until you sent them word and they did not come?

Answer. Yes, sir.

Question. Was there any organized system by which intelligence was conveyed to the people to come in in case of necessity?

Answer. I do not know that there was any regularly organized system. It was very easy, you know, in case of any danger, just to send word out. There was no combination in the village, no society that I ever heard of, organized with a view of being prepared to meet an attack.

Question. What is the character of the population of your county? Is it a dense population?

Answer. It is pretty densely populated.

Question. For your State?

Answer. Yes, sir.

Question. What is the population of the whole county?

Answer. I do not know; I suppose twenty thousand.

Question. They are engaged chiefly in agriculture?

Answer. Yes, sir.

Question. And they were coming in that same night that these four hundred men were in your place?

Answer. It was in the day-time; they were coming in before night.

Question. No difficulty then really occurred until the day after the election?

Answer. No, sir.

Question. You say that on the day of the election the news again spread that the negroes were arming at Crews's house?

Answer. Yes, sir.

Question. And Colonel Smith, upon appealing to them, stopped it, and if they had arms they laid them down?

Answer. Yes, sir.

Question. Was there any actual collision on the day of the election?

Answer. No, sir; Colonel Smith prevented it.

Question. Then you trace this difficulty on the day after the election entirely to the fact that the private quarrel was between Johnson, who, you say, belonged to the white man's party, and one of the constabulary?

Answer. Yes, sir. The public mind, growing out of this state of things, during the whole canvass, was, on both sides, just like a powder magazine, and any little thing was like to precipitate a conflict.

Question. When these two men were engaged in their conflict, a pistol went off?

Answer. Yes, sir.

Question. Nobody could tell where it went off?

Answer. I understood it went off in the breast of a man named Baird. He did not shoot it; it was in his jacket somewhere.

Question. Was he a white man?

Answer. Yes, sir. There was no allegation, I ever heard, from either side, that that pistol was fired at anybody, or had anything to do with the fight.

Question. Up to that time the fight was individual between Johnson and the constable?

Answer. Yes, sir, entirely.

Question. After that time you say the allegation was that some negroes went to Crews's armory?

Answer. Yes, sir.

Question. And that then the white people followed them?

Answer. This constable retreated in this difficulty toward this armory, and ran into it, and the door was shut, and when the door was shut—just as the door was shut—a volley came from the window above and the room below, so it was stated, and the people then rushed on that building.

Question. How far was the point (where this contest between Johnson and the constable began) from the armory?

Answer. About thirty, forty, or fifty yards.

Question. The crowd ran toward that building?

Answer. They did not run toward it until the firing took place from the building.

Question. You used the word that the white people attacked it with pistols?

Answer. After the firing they did.

Question. Do you know whether the firing from it was directed at the crowd miscellaneously, or at the man who was pursuing this constable?

Answer. I do not know that.

Question. That started the difficulty, however?

Answer. Yes, sir.

Question. The negroes gave back, you say?

Answer. I understood the negroes, after the white people got in, retreated from the building.

Question. Were not the arms in the building taken possession of by the white people?

Answer. Yes, sir.

Question. How many of them?

Answer. I don't know—I am speculating—I suppose five or six hundred in all.

Question. According to your information, were there more than twenty or thirty negroes there, who had arms, in that building?

Answer. I don't know; I don't suppose there were more than that.

Question. At that point the negroes themselves retreated and ran away altogether?

Answer. They ran out of the back door, it was said, firing, and the whites fired too. They retreated; they found themselves overpowered; and the moment they retreated the thing stopped.

Question. Was there not an unusual number of white people in the town on that day?

Answer. No, sir; I suppose not more than a hundred.

Question. Were there any people there from the adjoining towns at that time?

Answer. No, sir.

Question. The negroes then felt so much alarmed that most of them left the town immediately?

Answer. Yes, sir.

Question. The only white persons who were identified with the republican party also left the town?

Answer. Yes, sir.

Question. And Crews and his son?

Answer. Yes, sir.

Question. And Powell?

Answer. Yes, sir.

Question. And the negroes generally?

Answer. Yes, sir.

Question. So that the town and the arms were left in the possession of the whites?

Answer. Yes, sir.

Question. Then, on that same day, did not a large number of whites come from the adjoining counties to Laurens?

Answer. A large number of people came during the night. They commenced coming in from the nearer points before night, and during after night a large number of citizens collected there, some from the adjoining counties. I suppose there must have been at least a thousand persons there before morning.

Question. Were there not persons there from Spartanburgh?

Answer. I think there were some from Spartanburgh.

Question. And Union?

Answer. I think some from Union.

Question. And some from Newberry ?

Answer. I do not know about Newberry.

Question. Twenty-five hundred you say were there; that is more than the whole white voting population of your county ?

Answer. Yes, sir.

Question. You have given nineteen hundred as the number of white votes in Laurens County ?

Answer. Yes, sir.

Question. You think by midnight there were twenty-five hundred ?

Answer. Yes, sir; two thousand to twenty-five hundred.

Question. Would it be possible that that number of persons could have come from those points upon the news of that occurrence going out, from the time it occurred in the day at Laurens, which was about noon, you say, was it not ?

Answer. Yes, sir; the difficulty took place about noon.

Question. And in twelve hours there were twenty-five hundred people in town ?

Answer. Yes, sir.

Question. Would it be possible that they could have been gathered, by the news simply spreading through the country, by 12 o'clock.

Answer. It did occur.

Question. Would it be possible that it could occur without preconcert ?

Answer. I am just as sure as I am looking you in the eye that there was no preconcert—none in the world. The white people had no more anticipation of the difficulty that day than I have now.

Question. Would it be possible, by couriers or otherwise, to send word to so many people in Laurens County as to have six hundred more than the whole voting population there within twelve hours ?

Answer. I say it would be possible, because it did occur. I do not want to argue it, but I am satisfied that there was no preconcert, because I think if there would have been preconcert, I positively would have known; not that they would have advised with me, supposing I would have participated in it, but I do not think anything would have originated, of that sort, without almost everybody knowing it.

Question. How far off was Powell found ?

Answer. About four miles.

Question. Was there any knowledge of how he was killed ?

Answer. No, sir; nobody ever acknowledged it. He was found dead, shot in several places.

Question. The other man, Riley, was killed also ?

Answer. Yes, sir.

Question. How far was he from Powell ?

Answer. They were found lying together.

Question. You say guns were by them ?

Answer. Yes, sir.

Question. Was there any evidence that Powell had left there with a gun ?

Answer. I never heard anybody say that he saw him leave, but that constabulary place was where Powell staid, and there were arms.

Question. Did you hear young Crews's account of how he and Powell traveled together and separated ?

Answer. I never had any conversation with young Crews himself. I have heard a floating account or rumors of what Crews said.

Question. Did you understand that Crews was taken and stood up to be shot at ?

Answer. I have heard he said so.

Question. And that Powell was found very close to where they separated ?

Answer. I have heard that that was his statement.

Question. If it was simply a contest growing out of the private quarrel between these two men, how do you account for the fact that Powell was killed, and Riley, who you say was a leading republican politician, and also Perrin, a candidate for the legislature ? How was it that the vengeance was visited all on one side ?

Answer. What induced these men to kill Powell and Riley and Wade Perrin, and the circumstances under which they were killed, I do not know. I have conjectured this, however : that they met with parties who were coming to the village that night and were known to be men who had stirred up the bad blood during the whole canvass. They were prominent in it.

Question. Whatever may have been the origin of that quarrel, did it not assume the form of a hunt after republicans when these men got out ?

Answer. No, sir; these men were not despised because they were republicans. The public indignation would have been just as strong if they had been democrats, had they conducted themselves in the manner in which they had. It was not a fight, as I told you before, in the county, in the beginning, between democracy and republicanism. The two parties assumed that shape, but it was more a contest for integrity or good government, good officers for the county and State. The people there have no confi-

dence in these men, and you would not, if you were here and knew the history of the men who had assumed the republican garb in South Carolina. They are a disgrace to the party, and I think all true republicans, if they were fully informed, or knew as much as we do, would say so. They have assumed that garb; they have taken it and told the negroes the republicans set them free. They have gone over to that party to get influence over the negro.

Question. That is the motive attributed here to every man who joins that party?

Answer. No, sir.

Question. Is there any exception?

Answer. I do not know that there is in South Carolina. In all probability, Governor Scott was a republican at the North like the republicans at the North, and, perhaps, Mr. Chamberlain. They did not join that other party down here, but were republicans before. I have no doubt they came here knowing that, being republicans, they could have influence with the voting population and get office in that way. That was their purpose in coming here. But we believe that most of those who have gone over to the republican party in South Carolina have gone over from the teeth out for the purpose of getting office.

Question. The consequence is a feeling against both classes, those who come as republicans to have influence over the negroes and native South Carolina republicans from the teeth. You have a very bitter feeling against all?

Answer. Yes, sir; not because they are republicans, but because they make use of republicanism to elevate ignorance. The cause of our hostility is because they use that for their personal aggrandizement.

Question. That being the case, did not this difficulty at Laurens assume the form of an actual hunt after the negroes themselves and those who acted with them politically—call them by what name you may? Did they not treat with violence every one they met that day at all obnoxious to the charge of being a republican?

Answer. The people did not pursue anybody. The fight in the town stopped the moment the negroes left, and it was quiet. These men killed on the highway were killed, no doubt, because they were prominent in that election.

Question. The men who were killed in the town were negroes also?

Answer. Yes, sir; they were killed right at this armory.

Question. There were two of them—what were their names?

Answer. One was named Bill Griffin; the other, Peter Fleming.

Question. Had they any prominence?

Answer. No, sir; none at all. They were there at the armory and ran out.

Question. One negro was wounded—what was his name?

Answer. He formerly belonged to Crews. I have forgotten his name.

Question. One white man was wounded in the town, you say—who was he?

Answer. He was a countryman—I do not remember his name. He lived in the lower part of the district.

Question. Was he taking part in the contest?

Answer. Yes, sir; he was about there.

Question. You say, also, one child?

Answer. Yes, sir; one child in some house was hit with a spent ball—a child of Dr. Black.

Question. Injured?

Answer. No, sir.

Question. Two negroes were killed and one wounded in the town?

Answer. Two were wounded, I think.

Question. And then in the country, Powell, a white man, and Riley and Perrin were killed?

Answer. Yes, sir; and two others in another part of the district.

Question. Making altogether, from your information, seven who were killed as the result of that riot?

Answer. Yes, sir; six negroes and one white man.

Question. Five of them the day after the riot occurred, outside of the town?

Answer. Yes, sir.

Question. The two others were also negroes?

Answer. Yes, sir.

Question. Do you know their names, or whether they had prominence?

Answer. Yes, sir; they had been pretty prominent. One of them was a boy named Young Fuller, who formerly belonged to my brother. The other was Abe Simmons. They had been somewhat prominent, I understood, in language, in threats. Such threats as these were frequently heard: that the whites had no arms and the negroes' day had come; and some said they didn't belong to the militia, but would be in at the fight; all this sort of things were heard, which did not produce any effect so far as any action was concerned, but they were like straws showing the way the wind blew, and produced an apprehension that the negroes were preparing in mind for a conflict.

Question. Now, take the negroes as they stood in that county, with, as I understood it, only two white men to lead them—Crews and Powell.

Answer. They had, also, all the constabulary force.

Question. You say they were strangers.

Answer. So was Powell.

Question. He was one of the constables?

Answer. Yes, sir.

Question. Had Powell behaved pretty well?

Answer. He went about with Crews to their musters and electioneered in that way.

Question. Was that all he did that was offensive?

Answer. I never heard of his talking or insulting anybody.

Question. What was his demeanor as a citizen?

Answer. The people had nothing to do with him or he with them; he staid with Crews and the negroes. They rode about. They were there on horseback armed, and Crews would issue a warrant as trial justice and they made the arrest.

Question. With the disposition the negroes have manifested, and only those two men to lead them, were you seriously under apprehension that the negroes intended war upon the whites there?

Answer. There was a good deal of apprehension that such would be the result after they got their arms. The negroes were under the impression that the whites had no arms, and we knew the character of these harangues that had been made to them.

Question. But the election had passed off and the arms had really not been distributed?

Answer. They were down there every Saturday, and brought back to the armory.

Question. They were there at that time?

Answer. Yes, sir.

Question. So that as far as using them against the white people was concerned, if there had been an intention to do that, the white people then had the force to prevent them from being taken out, as the result showed?

Answer. It so happened that the whites did succeed in getting them that day.

Question. Have there been any more than two hundred arms returned?

Answer. I think not more than that.

Question. Are not the balance in the hands of the white people?

Answer. They must be; they have not been returned. I do not know where they are.

Question. You have been asked the character of this man Crews. I have some curiosity to hear something about him myself. We have heard a great deal about him. You say he was a negro-trader?

Answer. Yes, sir; he came originally from North Carolina. When a boy he rode the mail between Greenville and Rutherford. Afterward he was clerk in a store in Greenville Court-House. He finally came to Laurens when well grown, and embarked in business about the time I was admitted. He is about my age. He commenced as a clerk. Finally he married within a few miles of our town, and got into considerable mercantile business.

Question. Married respectably?

Answer. Yes, sir; he married the daughter of a man named Dial, who had two or three hundred acres of land and fourteen slaves. Crews married his daughter and was merchandising until 1856, when he failed, and assigned, with very large debts due in New York and Philadelphia and Baltimore, and there were some accounts from Canada. He then commenced business in the name of his father-in-law, Lewis Dial, Joe Crews, agent, and carried on business awhile as a merchant still. He combined with that negro-trading; he bought all over the country in the name of Lewis Dial; he had *carte blanche* to sign his name, "Lewis Dial, per Joseph Crews." He carried on that up to the close of the war.

Question. Was he still considered a respectable man?

Answer. No, sir; not respectable. I do not say that people denounced him as a villain, but they had little confidence in his pecuniary integrity. Crews is a curious combination. He seems a good-hearted fellow, very accommodating, although people had not much confidence in his integrity, high integrity; yet he was kind to everybody and accommodating, and would do anything for anybody nearly that wanted anything done; he would send off and do it.

Question. Was he under the ban of society there at the commencement of the war?

Answer. Yes, sir; he did not associate except in business matters. Then, during the war, he kept out of the army. I think he was over age or something of the sort, or alleged to be. He was about being conscripted, when he made application before the enrolling officer, and had some proof about his age. It was generally believed that the proof was false. Anyhow he kept out of the war. He got some contract on a railroad and kept out of the war; but it was not understood that he was opposed in principle to the thing.

Question. That is, he was in heart with the fight, but did not want to go into it himself?

Answer. Yes, sir. He did not want to go in, but he was a secessionist.

Question. But he had no stomach for a fight?

Answer. None for a fight.

Question. After the war he turned up?

Answer. Yes, sir. The first I heard of him a convention was called and Joe Crews was going with the negroes. It was understood that he was about with the negroes talking a good deal, and finally it was announced that he would be a candidate for the convention. He has been with them ever since. It is understood that he has been perfectly unscrupulous as a legislator. He has very little ability, but some shrewdness.

Question. Did you ever understand that in his negro-trading he was connected with Forrest?

Answer. I think there was a man named Forrest—I do not know whether it was General Forrest—that he carried negroes to in the west, in Louisiana—New Orleans.

Question. You made the remark they had all left and none had returned. Did that apply to anybody else than Crews?

Answer. It applied to the constabulary, and Crews and Perrin.

Question. How many members of the legislature were there from that county?

Answer. Four—three of whom were negroes. They were Wade Perrin, Joe Crews, McDaniels, and Tom Johnson.

Question. What has become of McDaniels?

Answer. He went away soon after the row to the legislature, staid there during the legislature, and after the legislature adjourned he came back to the county and staid awhile, and I understood he got somewhat alarmed, but I do not know any reason for it, and went back to Columbia. I think he is now back again in the county. The last time I was in Columbia, at the appeal court, he called to see me, and asked if it would be safe for him to go home. He wanted to go home. I advised him to go. I said that I had never heard anything against him, no intimation of any injury to him; and I think he did go.

Question. What has become of Johnson?

Answer. He went back immediately after the legislature adjourned, and nobody has disturbed him. I have heard of his selling his cotton at Clinton recently.

Question. Is he farmer?

Answer. Yes, sir; working a plantation on shares.

Question. Is Senator Owens in the county?

Answer. No, sir; he has not come back. I have understood that he has been back once or twice, but I do not think he shows himself publicly.

Question. How about your county officers?

Answer. Well, Volney Powell, as I said before, was elected probate judge, or claimed it, but we do not know who was elected; the boxes in that row some way or other disappeared. We understood they were in Crews's house, and they were taken to Columbia. If they were ever counted, we never heard of it. The law required them to be counted at Laurens. They were declared elected, though, by the State canvassers, without any count that we ever heard of. Volney Powell was elected or claimed to be elected probate judge. He was killed. The other probate judge, an old officer, is holding over.

Question. What is his politics?

Answer. Democratic. The county commissioners belong to the democrats also. In that election, however, three radicals were elected—two negroes and a white man, a Yankee domesticated there a short time—but the negroes did not qualify, nor did the white man, and the old county commissioners are holding over. As to the school commissioners, a negro named Pratt Suber, as ignorant as any corn-field negro, holds an office in the village as school commissioner; you know all about the office.

Question. Is he in office there now?

Answer. He is—quiet and undisturbed—and has been so ever since the election.

Question. Have you no idea that the refusal of these men to return was influenced by a well-founded apprehension of violence after this violence on the day of the election?

Answer. I believe they remain away because they are apprehensive of personal injury. I think they feel conscious of deserving punishment. They know what they have done to the peace and good order and quiet of that country.

Question. Is there such a feeling in that county against the negro politically, not as a negro, as would lead to resistance against any result in that county brought about or maintained exclusively by a negro majority?

Answer. No, sir; I do not think it goes to the extent that would lead to anything like resistance, as this case of this school commissioner shows. There is no sort of disturbance toward him, although the people feel perfectly conscious that he knows no more about it than that inkstand. He has control of the whole educational interests of the community and the funds arising from it. I have no idea that there would be any sort of physical resistance to an election of the negroes to any office there. I think it would be idle and foolish for the people to undertake any such thing. We

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are opposed to anything of that sort. We think it is an outrage upon everything like free government.

Question. Is not that feeling inculcated to such an extent as almost to lead to violence?

Answer. No, sir; I do not believe it will lead to violence in that county.

Question. Is not the Government denounced at all times as a despotism for imposing negro suffrage upon the people at all?

Answer. The leading white men connected with that party are denounced, or were, as men who were ruining the country for their own personal benefit.

Question. You misapprehend me. I do not speak of the government here, but the Government at large. Is not that the language used against the Government at large?

Answer. No, sir; I cannot say it is exactly denounced. There is a very stern opposition to it. The people do not like it. We believe it is wholly unnatural and ruinous to the best interests of this country. We believe that.

Question. That is the very point. Is not that the tone of remark and complaint to such an extent as to produce discontent among those people who make material for riots?

Answer. There is nothing like fear or an opinion that there is any danger in the world of our people resisting the General Government. This thing was no attack on the General or State government. It was an open fight between two races. I believe myself that just as long as this thing remains, and as long as there is an effort to incorporate two races like the black and the white in the same political organization, based on a numerical majority, with a majority on the part of the ignorant class, you may pass as many laws as you will in Congress or anywhere else, and these riots will occasionally take place, precisely like that one took place in New York, not on account of republicanism, nor because the negro was emancipated, or that he was allowed to vote. The seat of the whole disease, in my opinion, is the incorporation of two races that cannot amalgamate, either physically or mentally, in the same government based upon numerical majority. If we had the principle in this State of concurrent majorities, where the senate was under the control of one race and the house under another, we might get along, perhaps.

Question. Your own idea is, that if the negro was ignorant and the whites were intelligent, the two races are incompatible in one government?

Answer. Yes, sir; I do honestly believe the solution of this difficulty is the separation of the two races. The two races ought to be separated; that is my view. Either one or the other ought to be colonized. I tell you, as a citizen of South Carolina, I would rather be moved to-day by the General Government beyond the Mississippi, if they would pay me for my house, make a new State, and let the negro take this, or move the negro—one or the other. I think it is a fallacy, this effort to carry on government by these two races so widely distinct. It is a fallacy, and the sooner the American people find it out the better.

By Mr. VAN TRUMP:

Question. Do you not think that the republicans all over the United States, and especially those in power at Washington, ought to have come to that conclusion, by this time?

Answer. Yes, sir. If these negroes were removed, it would create a vacuum and temporarily destroy our agriculture.

Question. How long has the experiment been tried?

Answer. Since 1868, and it grows worse from year to year.

Question. Anybody who will come down here and stay through one election, or visit the legislature, ought to be convinced that it is a total impossibility to carry on a government by the two races?

Answer. Yes, sir; totally.

By the CHAIRMAN:

Question. Do you not think that anybody coming here would be equally convinced that if the question were left to the white men, they would quickly disfranchise the negro and drive him out, and get rid of the General Government too?

Answer. I do not think there is any disposition to get rid of the General Government. We tried it once.

Question. But if the opportunity offered?

Answer. No, sir; we tried that once. We will go if they will let us go in peace. We believed, in the days of secession, that rather than have this constant collision at Washington between the two sections, we could get along better without it, and establish a government of our own. I believe that still, but I would not be willing to embark in another revolution. We have had enough of war. If they would give us justice at Washington, I am perfectly satisfied; if they remove our disabilities, and do not tax us to keep us in —

Question. You still put the "if" in ?

Answer. Well, I say I do not want to engage in another revolution ?

By Mr. VAN TRUMP :

Question. The chairman has asked you whether there was in your county any organization among the whites to give intelligence of this imminent danger of collision. Is there any more organization there than was on the frontiers among the whites to give intelligence to each other of attacks from the Indians ?

Answer. There was no organization among the whites that I know of.

Question. You know of no Ku-Klux organization ?

Answer. None in the world, nor no organization of any sort. I think it possible there was an understanding to this extent—being apprehensive of difficulty, we would have been a people devoid of sense not to think of the consequences and the mode of defense that should arise, and there was a general understanding that if anything took place among the young men, we would assemble at a certain point. The people had all been in the army ; there was no necessity of organization. There was no association for the purpose of spreading information ; nobody was pointed out as one who should be the messenger.

Question. If I understand the condition of South Carolina at present as to the feeling of these two races, you are standing on a volcano.

Answer. That is exactly it.

Question. And every person is alive to the danger, and if there is any immediately threatening danger, there is rapid communication ?

Answer. Yes, sir. I know several families in my neighborhood where whole families, for weeks before the election, did not go to bed ; the women and children just laid down on pallets, believing that perhaps that building might be torched that night ; that was our condition.

Question. Have there been any burnings in your county ?

Answer. No, sir, I do not think there have been.

By Mr. STEVENSON :

Question. You are very confident there is no Ku-Klux organization in that county ?

Answer. That is my belief.

Question. On what do you found it ?

Answer. On the fact that I have heard of no violence and no Ku-Klux.

Question. No violence ?

Answer. Not in that county, not by disguised men ; only the violence I have told you of.

Question. Is there any difference in violence by disguised and undisguised men ?

Answer. I suppose Ku-Kluxism has a technical meaning in South Carolina, and was so understood by this committee ; that these Ku-Klux were organizations combined together, and going out disguised to do violence.

Question. I do not understand it. If that is it, I am obliged to you for the definition.

Answer. I do not know any definition.

Question. I understand it is an organization combined together to commit violence.

Answer. I do not believe there is any such organization in Laurens County.

Question. Yet two thousand five hundred men appeared there in the town of Laurens and committed violence ?

Answer. I do not know that two thousand five hundred men committed violence. They assembled, as I told you.

Question. It was committed as they assembled and went back ?

Answer. I do not know how it was done. Those dead bodies were found next morning.

Question. Do you know where those men came from ?

Answer. The most of them came from the county. I was at home that night, and I went to bed as usual, within half a mile of the public square. I did not see anybody in the public square. I did not go down to the village. I understand there were some men from Spartanburgh County, adjoining our county. It is about sixteen miles to the Spartanburgh line, and sixteen to the Union line. I understood these were men from those counties.

Question. What is the township adjoining yours ?

Answer. There are no townships. There was an act passed dividing our State into townships. They were divided, but it fell still-born. They were named, I think, but nobody has ever treasured up their names. The act was repealed.

Question. Have you ever heard of Limestone Township, Spartanburgh County ?

Answer. No, sir. I know Limestone Springs.

Question. Is that where these men came from ?

Answer. No, sir, that is too far away ; they came from the borders of Enoree River.

Question. Your information was that they come from Spartanburgh County, and not from the county seat ?

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Answer. No, sir; that is forty miles away—the county seat.

Question. How far is it to the county?

Answer. To the nearest point, I suppose, twelve miles.

Question. Where else did they come from?

Answer. I suppose they came from Laurens County principally. I never heard of anybody except from Laurens, Spartanburgh, and Union.

Question. You have heard of some from Union?

Answer. Yes, sir.

Question. What part of Union?

Answer. Union adjoins Laurens, all on one side; the nearest point twelve, and the farthest point sixteen miles distant.

Question. Have you heard of the Ku-Klux organization in Spartanburgh?

Answer. The only thing I have heard with reference to the Ku-Klux organization in the State is what I have seen in the public prints, every now and then, that violence has been committed, alleged to have been by disguised men called Ku-Klux, sometimes in Spartanburgh, sometimes in Union, and in other points in the State.

Question. Have you no information upon which to form an opinion, whether that organization exists in Spartanburgh County?

Answer. No, sir, the only information I have at all is the fact I told you, that I have seen in the public prints occasionally an announcement that such a man was shot; for instance, Dr. Winsmith, and other parties.

Question. That is absolutely all the information you have from Spartanburgh?

Answer. Yes, sir, absolutely.

Question. How as to Union?

Answer. The same as to Union and every other portion of the State.

Question. You are a practicing lawyer?

Answer. Yes, sir.

Question. In the town of Laurens?

Answer. Yes, sir.

Question. Do you practice in that county and surrounding counties?

Answer. Yes, sir; I attend Spartanburgh court-house occasionally. I have an appointment now there for Wednesday morning. I attend Greenville also. I do not attend Union.

Question. Are you a member of any secret organization?

Answer. None but the Masons. I have been a Mason for years.

Question. Are you a member of the Council of Safety?

Answer. I never heard of it.

Question. You never heard of it?

Answer. I do not know that I have.

Question. Are you a member of the Pale Faces?

Answer. No, sir.

Question. Did you ever hear of them?

Answer. I think I have seen some mention in the public prints, probably, of them.

Question. Are you a member of the White Brotherhood?

Answer. No, sir; I never heard of the White Brotherhood—I do not think I have; I may have seen it in the papers.

Question. Are you a member of the Constitutional Union Guards?

Answer. No, sir.

Question. Did you ever hear of them?

Answer. I do not know that I did. I may have seen it—just passed my eyes over it in seeing papers.

Question. Are you a member of the Invisible Circle?

Answer. No, sir.

Question. Did you ever hear of that?

Answer. I do not know that I did, except I may have seen it in the papers.

Question. Are you a member of the Knights of the White Camella?

Answer. No, sir; I never heard of that association in my life.

Mr. STEVENSON. I must congratulate you upon knowing less of these things than any other witness we have had before us.

Mr. VAN TRUMP. I think, Mr. Chairman, that the mere appearance and character of this witness should protect him from questions carrying such imputations upon the record.

The WITNESS. I knew that these questions were not in accordance with the principles of law. I have a right to refuse to answer, according to legal principles, on the ground that a man cannot be asked a question that will criminate himself; but I never heard of half of these societies. You are much better informed than I am.

By Mr. STEVENSON:

Question. Have you put your answers on that ground?

Answer. I am connected with no secret organization; I would not do it. This diffi-

culty we had after election was an open fight between two parties. Some were killed in a riot. I have discountenanced and discouraged it; it is dishonorable to do these things; I did not think of it.

Question. You do not justify this proceeding?

Answer. No, sir. I have no sympathy for some white men that have been punished; I think they deserved it, but not in that way. I regret to see men taking the law into their own hands.

Question. You spoke of threats against whites by negroes. Did you ever hear of threats by whites against negroes?

Answer. No, sir. The people, although apprehensive of conflict, the white people, never had any apprehension as to the result. We have always known perfectly well that if a conflict took place, the negro would go under instantly.

Question. Why, then, so apprehensive?

Answer. Because we did not want to be forced to violence.

Question. On account of the negro?

Answer. We did not want violence, although I do feel much more sympathy for the negroes than for the white men who mislead them; but we did not want to have a fight. This thing of a man having pistols under his bed at night, expecting an attack—I would as lief live among the Comanches.

Question. Do you speak for the whole people?

Answer. I knew that if a conflict arose, it would involve the whole of us.

Question. You mean to express your own views?

Answer. Yes, sir, my own views.

Question. Do you think the white people of the county generally feel the same way?

Answer. Those with whom I associated, and with whom I had influence, if I had any at all, I think were so.

Question. Did you say an effort was made on the part of influential citizens to induce those who had State arms to give them up?

Answer. Yes, sir. After this difficulty, Lieutenant Estes, a very gentlemanly man, came over in command of a company.

Question. How do you account for the fact that they have not been recovered?

Answer. We published a card in the Herald, and got the sheriff to make a demand upon the people to bring them back, saying that we had assurance that Governor Scott would return them to the State armory. They declined to do it; I do not know why. I heard laughing remarks occasionally that they had been taxed to pay for them, and that they had as much right to them as the governor, or something of the sort. I think the reason was, that they did not know how soon another conflict might arise, and they had no arms among the people. We had no arms at all; the body of the people had no arms; and they did not know but what they might be needed some time in a conflict, and they held on to them.

Question. You are not aware of the fact that those arms are now held and used as arms of the Ku-Klux Klan?

Answer. No, sir; and I do not believe it, either, though I do not know where there is a single gun.

Question. Yet you are very confident that the Ku-Klux Klan have not them?

Answer. I think probably a good many of them are in Laurens, and I do not believe there are any Ku-Klux Klans there.

Question. Any in Union?

Answer. There were a good many Union men there that night, and they might have got some.

Question. Are you aware of the fact that the men who made that raid on the Union jail came from Laurens, some of them, and had those very guns?

Answer. No, sir, I am not aware of the fact. All I know of that is from the Columbia papers. I never talked with a man who knew about it.

Question. You say a thousand guns were brought to that county?

Answer. I do not say positively. I put it in bounds, I believe, at one thousand two hundred.

Question. About two hundred were recovered, you think?

Answer. Yes, sir, two hundred or two hundred and fifty.

Question. All the rest are out, then?

Answer. Yes, sir.

Question. Eight to ten hundred are out?

Answer. Yes, sir.

By Mr. VAN TRUMP:

Question. Were the Clinton guns taken, too?

Answer. Yes, sir, I think so; I embraced those in the thousand in the county. I think they were taken, too.

By Mr. STEVENSON:

Question. According to your view, then, of the state of feeling there, you think there was no organization, and none was necessary to produce the result you speak of?

Answer. Yes, sir; I think the thing was anticipated by both sides. I do not believe the negroes intended to kick up a row that day. I have no more idea that the constables, or Crews, or the negroes anticipated a row than we have of one here to-day.

Question. That is very clear on the part of the negroes, for the great majority had left the day before?

Answer. Yes, sir.

Question. Did they congregate there that day in large numbers?

Answer. Yes, sir, pretty large; but they had no idea of a fight.

Question. How many negroes did you see in town the day of the riot?

Answer. It is a guess; I suppose I saw a hundred.

Question. Is that more than resided there?

Answer. Yes, sir; a good many were there from the country that day, but I have no idea that they came there for a collision. It was court week, and the result of the election was not known. Certainly those two things brought a good many of them; I am positive of that.

Question. I understand you that such was and is the state of feeling that, without any organization, such a thing as that could happen, and may happen again, at any time during the approaching election?

Answer. O, not now.

Question. You said you were over a volcano?

Answer. Not now. The negroes are quiet now; I see no indications of hostility on either side; but it may be, if we have an election, two parties may spring up again, and the feeling may spring up again. We are quiet now, and have been since that time. The negroes are working better than they have done since the war.

Question. The election was practically nullified?

Answer. No, sir; I don't know how it was. The nominees of that party were all declared elected, but only one got his seat. Three were members of the legislature.

Question. But the county officers?

Answer. They did not qualify. They were elected; two of them were negroes, and incompetent; they became satisfied of that. There were no threats to them; they did not refuse because they were threatened, but that school commissioner is an evidence of the state of feeling.

Question. It was hardly necessary to tell them so, after two of them had been killed?

Answer. No, sir; no commissioners were killed; the probate judge and one member of the legislature were killed.

Question. I see by the census that the native white population is nine thousand eight hundred and thirty-two, and the native colored population twelve thousand six hundred and twenty-six in that county.

Answer. I told Senator Scott just now I supposed it was about twenty thousand. I was guessing.

Question. That was a majority of nearly three thousand colored?

Answer. Yes, sir.

Question. The foreign population is not material?

Answer. I think, possibly, that very fact intensified these things more in Laurens County than in any other. There was a strong contest. If the whites had been in hopeless minority, we would have had no apprehension.

Question. Did you not consider that a hopeless minority, two hundred?

Answer. Two hundred I did not consider were hopeless—two hundred votes.

Question. You say the lines were drawn on color, and a few whites went with the blacks?

Answer. Yes, sir; but this movement had been inaugurated with Carpenter, to see if there could not be a fusion, and we went so far as to nominate a negro on the ticket, to make a diversion of the negro vote to have quiet. There was one circumstance, I should state, to show still further the aggravation of the whites. You have seen the election law of South Carolina—transparent from beginning to end in its character. They appointed members of their own party, the white people did, to have a fair election or count; appointed a committee to wait on the canvassers, Joe Crews and Young Owens, to have a joint committee from both parties to attend at the boxes and register the voters, so as to prevent double voting at the different boxes two or three times. That proposition was spurned with contempt; they would not allow a white committee near the boxes.

Question. For what position did you nominate the negro nominee?

Answer. For the legislature.

Question. What was his name?

Answer. I declare I do not remember.

Question. What was he before the war?

Answer. A slave, farming. It was against my counsel. I would not attend the meeting; I did not think it was right.

Question. Is he educated?

Answer. No, sir, an ignorant man. I did not believe in it.

Question. Is he a man of particular mark?

Answer. No, sir. He is popular in his neighborhood among the negroes.

Question. Yet your convention nominated that man?

Answer. Yes, sir, the county convention did.

Question. The people voted for him?

Answer. No, sir, he declined, and I was glad of it; it was a rebuke to the whites.

Question. If he would have run, the people would have voted for him?

Answer. I do not think I would. I knew he was incompetent. I would have stultified myself to have voted for him.

Question. Do you not know your State convention tendered the nomination for lieutenant governor to several negroes?

Answer. Yes, sir; and I was opposed to it.

Question. To whom was it tendered?

Answer. This negro secretary of state, Cardoza—I believe he is secretary of state.

Question. Did he decline it?

Answer. Yes, sir.

Question. To whom was it then tendered?

Answer. I do not know that it was then tendered to any other. General Butler was nominated.

Question. Was he not put in nomination in the convention by a negro delegate?

Answer. Yes, sir.

Question. You had negro delegates?

Answer. Yes, sir; showing how anxious the people were for a political amalgamation if it could be done, for our protection.

Question. Are you sure it was not for your success?

Answer. We think our protection and success are synonymous. We mean intelligence. Intelligence is on our side, except a few white men who have gone over to the negroes, who were possibly intelligent—Governor Scott, for instance, and he is by no means a star. I suppose in your own State he never would have occupied a political position.

Mr. VAN TRUMP. I never heard of him until he was governor of South Carolina.

Mr. STEVENSON. We are now running a young man for governor of Ohio, General Noyes, who was not heard of before the war.

The WITNESS. Governor Scott was old enough to have been heard of in Ohio, if he had been a man of mark.

By Mr. STEVENSON:

Question. He is not a veteran?

Answer. No, sir. I think Chamberlain is the smartest man connected with the whole party. I will take the word party back. I do not class them as republicans. They are the representatives of the negro population of South Carolina.

Question. You do not recognize the republican party as existing here; you call it the black and white party?

Answer. I think that is the true significance of things here. These men have assumed that name in South Carolina, and some of them in their own States before they came here; but they are not following out their principles in elevating the negro above the white people in this State.

Question. After this rioting, these murders in Laurens, was any effort made to arrest the parties charged with murder before the troops came here?

Answer. Nobody knew who was charged; but this was done: Lieutenant Estes came up the very week of the election, and he was told, "If there are to be any arrests made, just let it be known whom you want arrested—whom Governor Scott wants arrested—and they will come forward and surrender." I remember telling Lieutenant Estes myself that there was no necessity of making a big parade about this thing; that I supposed arrests would be made. I did not know who was charged. I supposed they would arrest nearly the whole county, because everybody was there and sort of mixed up in it. I told Lieutenant Estes that if any arrests were to be made, if they would ascertain who were to be arrested and let it be known, they would come forward and surrender. Instead of that being done, they telegraphed for a regiment at Nashville, and brought on a great troop of cavalry, and I do not know how many constables, and made a grand display, and arrested twelve of our people, and took them to Columbia.

Question. Was there an effort made to arrest them before the troops came?

Answer. No, sir; none whatever.

Question. Do you not know that an officer went up there with a force to make arrests and was driven out?

Answer. No, sir; I never heard of it. I do not believe it is so. I will tell you truthfully, Mr. Stevenson, I do not believe that State constable could have arrested him.

Question. I mean that one of the State constables went there with considerable force.

Answer. It is not true that they attempted to make any arrests. I know some six or eight or a dozen men rode through the town one evening. They came riding through armed. We were all sitting in the public square —

Question. You all; how many?

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Answer. Just the citizens. It is the habit of the citizens in the evening to sit in front of their stores. We had no warning, and about twelve men rode right through the square with hands on their guns, and rode up to Crews's house and staid all night, and went off. We never heard what they came for.

Question. You never heard?

Answer. I never heard.

Question. You do not seem to be in all the secrets there?

Answer. I never heard it.

By Mr. VAN TRUMP:

Question. Was Crews at home at that time

Answer. No, sir.

By Mr. STEVENSON:

Question. You did not hear that a band of two hundred and fifty armed men gathered to prevent the action of those officers?

Answer. I never heard of it, and possibly I ought to stop right there, but I must say that I do not believe one word of it. I would have heard of it.

Question. How is it you so often say if there had been Ku-Klux or any such thing you would have heard it?

Answer. I live at the village and practice law and know everybody in the county. I have been a candidate for the legislature over and over again, was elected to the senate, and I do not think a thing of that sort could have passed without my knowing it.

Question. Do you think that your relations to that community are such that the members of these unlawful organizations would tell you anything they would do?

Answer. They would not tell me anything of their violence, but such a thing could not have occurred without my hearing it. A man could not be murdered within five miles without my hearing it. The thing is impossible. I heard of Powell's death, and of Riley being killed, and the other men.

Question. Did you hear of their shooting at young Crews?

Answer. Yes, sir; I heard that report. That came from young Crews himself. I never heard anybody say they saw it done. I heard of young Crews.

By Mr. VAN TRUMP:

Question. Is it possible that two hundred and fifty men could have assembled to prevent those arrests without your having heard of it?

Answer. I do not believe it.

By Mr. STEVENSON:

Question. You do not believe it is possible in that county, not the town?

Answer. It is possible, but not probable.

Question. Suppose the Ku-Klux organization does exist, could they have assembled in Laurens two hundred and fifty strong, and you not know it?

Answer. I think it is possible, but not probable, for two hundred and fifty to assemble at any point without somebody not belonging to them talking about it.

Question. Who killed anybody there on the day of the riot?

Answer. I do not know.

Question. Have you never heard?

Answer. I never have.

Question. Who took part in the shooting the day of the riot?

Answer. I never have heard.

Question. Those were public acts?

Answer. Yes, sir. I was in the court-house.

Question. Yet you never heard who did any of it?

Answer. No, sir. A man of that sort would hardly put himself in the position by his own statement to be annoyed to death by these prosecutions, and everything of the sort. Somebody must have seen the men shot, but that is very different from two hundred and fifty men assembling.

Question. Somebody saw the men shot?

Answer. Yes, sir, I suppose so.

Question. Did you ever hear anybody say he saw a man shot?

Answer. No, sir.

By the CHAIRMAN:

Question. You say eleven or twelve of your citizens were arrested and taken to Columbia, and writs of *habeas corpus* were taken out?

Answer. Yes, sir.

Question. What was the result of that?

Answer. Well, sir, when first arrested, they were arrested in the streets, and taken to the depot without being allowed to go to their families. Some of them sent to me previous

to going. I went down to see them, and I attempted to have a writ of *habeas corpus* issued by the United States commissioner, who was in town. The officers refused to allow the parties to go before the commissioner; they took them off immediately. I followed them. When they got to Columbia they were lodged in jail. We made application for their discharge before the commissioner who had them arrested. They were discharged. Before they came out of the court-house warrants were issued upon the information of the State constable, Hubbard. He went to a magistrate in the town, and made an oath upon information and belief; he had not been within eighty miles of the county. There were twelve affidavits, one for each gentleman; and they were arrested under State warrant on the charge of murdering Volney Powell and Riley. They were lodged in jail, and we made application for a writ of *habeas corpus*, before Judge Vernon, then in Spartanburgh.

Question. Judge of your circuit?

Answer. Yes, sir. He made an arrangement to have the men taken to Spartanburgh. The writ was served on the sheriff, and he promised to take them up by rail on a certain day. He got six men in an omnibus and brought them from the jail one morning. I went down that day with the other counsel to the depot. When we got there a man charged up, pretending to be the Sergeant-at-Arms of the House of Representatives, summoning the sheriff before the committee of the legislature that day at 10 o'clock. The sheriff pretended that he was going to Spartanburgh, anyhow. I believe it was all a pretense.

Question. Was this at Columbia?

Answer. Yes, sir; that prevented these men from going to Spartanburgh. In a day or two Judge Vernon came to Columbia. We had an appointment in the court-house then to hear this writ. They summoned Judge Vernon. They knew the hour he had appointed. They summoned him before the committee of the legislature the hour before, and had him in their committee until the hour passed. We had an appointment a day or two afterwards. Finally we got the prisoners before the judge on the bench in the court-house. While we were discussing it, two lawyers in Columbia—a man named General Worthington, although the solicitor was there and had charge of the prosecution, resisting the application, claimed to represent the commonwealth of the State, and made a long speech, and another lawyer, representing the attorney general, made a speech—while that speaking was going on, they were passing a resolution in the house of representatives, suspending Judge Vernon in his functions. They had passed a resolution of impeachment, that, according to some construction of the constitution, suspending him at once, and while he was hearing the case they sent a messenger, after they had passed that resolution in the house, and served it on him. Judge Vernon, however, went through the case, although the paper had been served on him, and issued his order discharging the prisoners on bail of \$5,000 each.

Question. Was that for trial before him in Laurens?

Answer. Yes, sir; that was a discharge from custody.

Question. What was the ultimate result?

Answer. They then went on to the impeachment of Judge Vernon. He finally resigned, just on the day the case was to be heard. There were other charges against him. They did not exactly allege this about the *habeas corpus*. The ground of attack was drunkenness. He resigned, and the prisoners were discharged. The warrants were all sent up to Laurens; they are all there ready for trial, whenever we have a court.

Question. Have you a judge?

Answer. Moses has been elected, brother of the present chief justice—a Jew, a very competent man, so far as I know. He came to Laurens this term to have a court, a week or two ago, but the legislature passed an act changing the law with reference to drawing jurors.

By Mr. VAN TRUMP:

Question. The result is, there cannot be a trial—none at all?

Answer. I can explain.

By the CHAIRMAN:

Question. Are you aware that Judge Moses holds that a jury can be drawn, and, notwithstanding that law, is a valid jury?

Answer. Yes, sir; but that is not the ground upon which he held that the court could not go on at Laurens. They must be drawn after the passage of the act, thirty days before the meeting of court, by the jury commissioner and the chairman of the county commissioners, and the county auditor. The county auditor's office was vacant, and Governor Scott made an appointment of a county auditor, but not in time to qualify within the thirty days. The result was, that the jurors were drawn by two instead of three, and he held that the act required all three to be present. The county auditor had not been commissioned, and, consequently, did not attend the drawing.

Question. That was as to your last court?

Answer. Yes, sir.

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Question. What leads to the idea that there will not be a court for two years, as I have heard suggested? The act required them to be drawn within thirty days, and every year after that, during January.

Answer. Not two years—

By Mr. VAN TRUMP:

Question. Is it the opinion among the legal profession that there can be no jury drawn for two years?

Answer. Not two years; but there cannot be a jury drawn legally until next January.

By the CHAIRMAN:

Question. So far as these persons who were arrested were concerned, they were first arrested at the instance of the State authorities?

Answer. At the instance of the Federal authorities, under the act to enforce the fifteenth amendment.

Question. There was no information from your county by anybody to bring persons to trial before your State court?

Answer. No, sir, none at all.

Question. There never has been any information made?

Answer. No, sir.

Question. Then if this information before the United States commissioner was the only one made, how did you come to have them bound over for trial before Judge Vernon?

Answer. They were discharged by the United States commissioner in Columbia, under bail, and before they got out of the court-house, while making their bond, Hubbard, the State constable, went to the State trial justice of that county, Richland County.

Question. That strikes me as peculiar. Does your law authorize that?

Answer. Yes, sir; a criminal escaping from jurisdiction may be arrested anywhere.

Question. Does that authorize a warrant from a trial justice in one county for an arrest in another?

Answer. In an escape from jurisdiction.

By Mr. VAN TRUMP:

Question. Was this an escape?

Answer. No, sir.

Question. Were all these men arrested citizens of the village?

Answer. Yes, sir, every one of them.

Question. Yet he made an affidavit, eighty miles away, that they were guilty of this offence?

Answer. Calling all these people away down the railroad, outside of the county, upon information and belief.

By the CHAIRMAN:

Question. Has information been made in your county by anybody of the killing of Powell, or those members of the legislature, or the citizens killed in town?

Answer. None at all. There has been no proceeding in the county at all. Our people are, perhaps, different from your people in that respect. I never heard, before the war, in my life, in the case of an act of violence, of anybody being arrested upon the affidavit of a citizen, unless he was in some way connected with the party injured. Nobody feels the duty incumbent upon him to run to a magistrate here.

By Mr. VAN TRUMP:

Question. So far as you know, did anybody there know who committed the offense?

Answer. No, sir; but even if they had known it, I never knew a man to go to a magistrate, thinking it his prerogative to go and have parties arrested.

Question. Was your sheriff there during the day of the riot?

Answer. He was one of the arrested parties.

Question. Was he there on the day of the riot?

Answer. Yes, sir; he mounted his horse immediately after he left the court-house, and commanded a posse as loudly as any man I ever heard, riding all through the crowd. In reference to the federal arrests, after they were discharged at Columbia, Corbin, the district officer, prepared bills of indictment against all of them; and some others were arrested. The grand jury ignored two cases. He presented them one by one, and he withdrew all the cases. He has them still. They are bound over in the United States court, under the act of Congress. The grand jury returned no bill, and when the court closed, they presented their views about various matters, and among other things, they presented—not in name—Joe Crews, as the instigator of that thing at Laurens.

By the CHAIRMAN:

Question. Was there any prosecution growing out of this contest between Johnson and this constable?

Answer. No, sir; Johnson has never been arrested by anybody.

By Mr. VAN TRUMP :

Question. Nor the constable ?

Answer. No, sir. We could have indicted Crews several times for these incendiary speeches and other things, but the people of Laurens, and I suppose of the State, have never been active in prosecuting ; because no man is disposed to engage in that. Even if convicted, up to a recent time Governor Scott has exercised the pardoning power in such a way that we have had very little hope of a party being punished by means of law.

By Mr. STEVENSON :

Question. Speaking of that practice of not filing complaints unless a man was concerned, where would be the remedy in the case of killing Powell, who is dead ?

Answer. If a man is so friendless as to have nobody to do anything for him but his partisans—

Question. You mean nobody files a complaint unless he is interested as a partisan ?

Answer. Interested in some way to prompt him to do it. I mean to say that generally, if the peace is broken, unless it is broken in view of an officer, the party is not arrested unless by affidavit of a man who has some feeling in the matter.

The CHAIRMAN. I do not know that you are peculiar in South Carolina in that respect. I think there are more prosecutions where men are interested everywhere.

By Mr. VAN TRUMP :

Question. Whatever may have been the cause of delay in the courts, state whether these twelve men are not ready and willing to be tried.

Answer. Assuredly they want to be tried, if they have to be tried. They are unpleasantly situated.

By Mr. STEVENSON :

Question. They would not stand in much danger with two thousand five hundred men in that county, or all the white men of the county, implicated with them, and they might well face a trial ?

Answer. I do not think two thousand five hundred men are implicated.

By Mr. VAN TRUMP :

Question. I understand that most of these men came in from long distances.

Answer. Yes, sir ; a long way.

By Mr. STEVENSON :

Question. They were ready to take a hand ?

Answer. Ready to defend their country in a conflict of races ; but so far as their conviction is concerned, you may have no apprehension of their being convicted in the world, because there is no evidence against them ; but if they were guilty and the proof could be made out, I believe they would be convicted.

Question. Did you not hear of the Ku-Klux in that county in 1868 ?

Answer. I do not think the word had hardly started in 1868 ; had it ?

Question. Yes, sir ; it started in 1867.

Answer. I gave you the two acts of violence I heard of in 1868.

Question. Did you hear of a visit of a disguised band to the house of Witt McCue, in that county, in 1868 ?

Answer. I think not, sir ; I may have.

Question. Did you hear of a visit by a disguised band to the house of Spencer Sullivan just before the election in 1868 in Laurens County ?

Answer. Spencer Sullivan lived close to the village.

Question. And that he was threatened that if he voted the republican ticket they would come back and take his life ?

Answer. No, sir ; I do not remember that occurrence. I did hear in 1868, just before the election, of men riding about at night.

Question. In disguise ?

Answer. I do not know about their being in disguise.

Question. Did you hear of their going to the house of Cæsar Culbertson ?

Answer. I think I did hear something about that.

Question. Did you hear that they went there and threatened him, and that they said they were Ku-Klux from Ohio ?

Answer. No, sir, I never heard ; certainly never.

Question. And, being neighbors, he knew them and their horses ?

Answer. No, sir, I never heard it.

Question. That they fired pistols in his yard, and said if he voted at the election they would hang him up ?

Answer. I never heard of it. I heard of Cæsar Culbertson and some man being at his house, and threats made, and of this case of Harry McDaniels, who was shot through his arm, just before the election in 1868, by men he said were white men. I heard that.

YORKVILLE, SOUTH CAROLINA, July 24, 1871.

B. W. BALL sworn and examined.

By the CHAIRMAN :

Question. Where do you reside ?*Answer.* At Laurens Court-House.*Question.* How long have you resided there ?*Answer.* I am a native of the county. I have been residing there sixteen or twenty years.*Question.* What is your occupation ?*Answer.* I am a lawyer.

The CHAIRMAN. I will request Judge VAN TRUMP to continue the examination.

By Mr. VAN TRUMP :

Question. Were you at Laurens at the riot on the day after the last election ?*Answer.* Yes, sir.*Question.* Will you now give us a detailed statement of all you know or have authoritatively heard of the facts in reference to that occurrence ?

Answer. I was there on the 20th at Laurens Court-House, in the court-house, and engaged in defending some prisoners who were charged at the time, I believe, with assault with intent to kill. There was a witness on the stand. Pending the hearing of that case there was some disturbance on the public square. The court-house is in the center of the square, and all the business done is done on that square. Probably that square is one hundred yards by one hundred. There was considerable noise as that which usually accompanies a quarrel. After listening to it a minute or half a minute, I heard a pistol or fire-arm discharged. I got up from the court-room and walked out on the portico, looking toward where the difficulty appeared to be. I saw probably a dozen men in a cluster. They appeared to be engaged in a fight which was going on, and one of them, whom I recognized as belonging to the State constabulary force, named Kahlo, was retreating. He was fighting and moving back at the time I discovered the parties, with probably three or four or five or six negroes and other members of his party. He was fighting and they retreating toward the position where the State arms were deposited. He was pursued by Richardson, or, at least, they had hold of each other. Kahlo was retreating to the door of the building. During this time the crowd was collecting toward where this fight was going on, both negroes and white people. There were not many negroes; the negroes were fleeing into this building, running in at the rear and sides of the building. Kahlo went in by the front door and slammed the door as he went in. He was not pursued by any of the party at that time. I heard probably two or three pistols or guns discharged. I went down upon the square just about the time the door was closed. I think I heard almost simultaneously a discharge of pistols from the public square and from this building, where the arms were deposited. It is an old and large tenement, so much abused that there were no glass to the windows, and in the front the panes are all open above. The lower door of this tenement was open. At the time there was a large number of negroes in this tenement, and the State constabulary, composed of half a dozen men, had their offices there. There was also a trial justice who held his office in the same room where these arms were deposited. In probably half a minute there was considerable firing from this building, and a number of persons from the crowd were firing pistols at this building. In a very short time several persons appeared upon the public square and returned the fire into that building. I then went for my arms. I lived probably seventy-five yards from the public square, and when I came back I saw the negroes and constables running from the building and persons from the public square firing at them. That building was immediately broken into and a good many negroes dragged out from the building. The constables, and many of the negroes, ran directly off. Some of these were fired upon. I think the whole thing occupied five minutes, and the occupants of the building, who were firing through the weather-boarding of the building—it is an old frame building—ran out by the rear and by the various avenues of the building, and ran through the public square. The crowd was dispersed and they ran down, but not many were hit, I think. From the position the citizens occupied firing, they had to shoot a considerable distance, and these persons were running very fast. At the time I took an active part and did all I could to restore order. At about this time, too, those who occupied the public square assaulted this door and knocked it down, and ran and seized the arms; there were fifty, or, perhaps, more, and everybody who had not arms ran in and got guns. The crowd then commenced to organize and discharge their guns in the air. There was considerable firing ensued, mostly from getting the arms in order. I organized about seventy-five men into something like a company in short order. There was great excitement. There was apprehension of the negroes. There was intense excitement at this point, Laurens Court-House, and throughout the county, at this time. It was understood that three or four days before the election a candidate for the legislature had carried from this armory to his private dwelling, about a quarter of a mile up the street, a number of guns.

Question. Who was he ?

Answer. Joseph Crews, a member of the legislature, a trial justice, commissioner of elections, and internal revenue officer, acting under Mr. Wallace at that time. He had removed a number of arms there. I then had organized this company and restored order. The crowd seized and fired the guns, and everything became quiet. The question was, there were arms up street, and they had better be looked after, for fear the negroes would seize them and a fight would ensue. I took fifteen or twenty young men up to take a position near that house and see that these guns were not seized. They went up to within one hundred yards of that house, and took a position within commanding distance of Mr. Crews's house. Judge Vernon, who was then presiding there, at the request of some of the citizens probably, issued an order that the sheriff constitute a posse, and take charge of all the arms within the county. I was detailed by the sheriff to act as his deputy, and went up to Mr. Crews's house, and went to his barn, and there I found several boxes of Remington rifles, several boxes of ball cartridges, and probably fifty rifles in stack, with the bayonets fixed, as though ready for use. This barn was constructed on the upper side with scantlings at intervening points, so as to give them many very good port-holes; and on the side toward the street a ditch was dug, as though to make it easy to occupy these ditches and use these vacant places in the weather-boarding as port-holes.

Question. Was this ditch anything like a rifle-pit ?

Answer. Something like a rifle-pit.

Question. Was it an old ditch, or newly made ?

Answer. It appeared to have been newly made, according to my recollection and observation at the time. These arms were secretly and quietly removed to that house about five or six days before the election, in Mr. Crews's private wagon; but the fact became known to our citizens.

Question. Removed from where ?

Answer. From his armory; the old building in the square. In the mean time there were arms at Clinton, a little town nine miles from Laurens, where there was a company organized of colored troops belonging to the National Guards, and they were furnished with arms and ammunition—thoroughly equipped and armed. My recollection is that some of us, for fear that the negroes all over the county might get excited, sent word to some citizens of Clinton to take charge of these arms. I do not remember whether Judge Vernon's order comprehended these arms or not; but I know word was sent to Clinton, requesting some of the citizens to see that these arms did not fall into the hands of the negroes. During all that time, as it was reported after a little while, two negroes were killed, and one was killed on the public square during that firing. I think they were killed as they ran, after firing some guns out of this old tenement.

Question. You spoke of the point where the firing commenced when you came down from the court-house to that old building and the people on the public square. Which volley was the first; that from the house, or that fired into the house by the people outside? What is your best impression about that?

Answer. I do not think it was a volley. I think there was one shot probably fired before I went out of the court-house. I do not know where it came.

Question. That was a shot supposed to have been accidental ?

Answer. Yes, sir; a pistol-shot.

Question. But when you got out, and the firing commenced to and from the building, which fire preceded ?

Answer. I can't say. I think there was no volley. I think there was a shot fired from that building, as that door was closed—from that room which was occupied as an armory.

Question. Do you think that was the first shot ?

Answer. Yes, sir; and I think simultaneously with that, or immediately afterward, there was a rush made at this door, and some fired pistols through the weather-boarding of this house.

Question. From the inside or outside ?

Answer. From the outside. I think the firing was returned in that way; but there was no access to the building. That door was closed that was fired into, and the firing continued, and half a dozen or a dozen shots were fired into this building, and from the upper windows of this building; the parties occupying it appeared at the upper windows; all the upper windows have no glass. This building is only used by negroes in the summer season, and it was in bad condition. There were some shots fired from these upper windows—at least parties were seen up there with guns about that time. I saw parties up there with guns; but there was much excitement, and the thing was a very short and rapid passage.

Question. How far is the barn from this old armory ?

Answer. A quarter of a mile, I suppose.

Question. You say you found two boxes of guns and cartridges ?

Answer. Yes, sir.

Question. How many guns in each box ?

Answer. I remember two boxes; there may have been more. I think there were one hundred guns there, probably more. I think a box of guns is not more than twenty.

Question. Did this ditch extend all around the barn?

Answer. No, sir; not all around the barn. I think the upper part of the barn had no ditch. The lower side had.

Question. That faces the street?

Answer. The lower side does not face the street.

Question. Did you see Crews there about that time?

Answer. No, sir.

Question. Had he been there that day?

Answer. Yes, sir.

Question. Was he there the day before at the election?

Answer. Yes, sir.

Question. Was there any trouble at the election?

Answer. Yes, sir; there was considerable trouble at the election, or at least considerable excitement at one time during the day. There were four precincts in the town within three or four hundred yards of each other.

Question. How did they happen to have so many voting-places in the town?

Answer. Crews was a candidate. He was a commissioner, and he and the other commissioners had the right; and during all the elections for three years, with the view of concentrating the negroes and massing them at one point, especially where the United States troops were, four precincts were made; and at one of the precincts during the day there were probably blows passed between a negro and a white man. The managers of that election, without asking the military, (Captain Smith was there with a company for protection,) without calling on the civil authorities, though the sheriff had a large posse, closed that box. The negroes took offense or became excited. I do not think a blow passed between a white man and a negro, but the managers of the election closed the box, and a large body of negroes went to Crews's house, where these arms were stored, and threatened to come down and attack the crowd of white men. Captain Smith, who was commanding this company, went to them, and I believe he stated that he told these negroes that if they came down town with their arms, they would be used roughly, and influenced them to desist; and they did not come. At the same time a large body of white men collected on the street watching these negroes going off, and there was a strong feeling to arm for protection at once; but the older citizens influenced them to desist, and they did desist.

Question. Who were the managers of the box which was closed—democrats or republicans—white or black?

Answer. They were republicans. I do not remember; but one, I think, was a State constable.

Question. You say the negroes took offense at that?

Answer. There was a little fight, and probably he became alarmed, and they closed the box.

Question. You think the box was closed in consequence of this little fuss?

Answer. Yes, sir.

Question. I understand you to say the negroes took offense at the closing of the box?

Answer. No, sir; they took offense at this little row or some little interference. They probably charged that this white man was interfering. My impression is that the white man, one of the State constabulary, took the responsibility of going away, and another man deserted, and that stopped the box.

Question. Then the reason the negroes went off to Crews's for arms was, the fight between one negro and a white man?

Answer. That was the cause probably, and it was hardly a fight; probably a white man struck a negro. There was some stir, and one or two white men cursing.

Question. How many negroes went off to Crews's?

Answer. One or two hundred.

Question. A large crowd?

Answer. Yes, sir; there was probably one thousand negroes there that day.

Question. By the appearance of their going for arms, was there?

Answer. They went to this barn; they probably took their arms, and started to come down.

Question. Anyhow the manifestation on the part of the negroes was so significant that Captain Smith went to them to dissuade them from further violence or attempting to get up a row?

Answer. Yes, sir. In one instance, I know, there was a simple, plain man, probably from Pennsylvania or Ohio—one of the State constabulary—against whom there was intense feeling. The alarm spread over the county that night, and a large number came to Laurens from Abbyville, Spartanburgh, Union, and other districts. One man was taken charge of by the sheriff, and protected for a week, I believe—kept concealed at night. There was intense feeling against them. I think these are all the circumstances connected with that riot that I remember particularly.

Question. Do you know anything that will throw light upon the state of feeling for a short time before the election occurred?

Answer. Yes, sir. The canvass had been conducted throughout the whole campaign in this manner. At every public meeting I remember held in the county, the colored company of militia mustered at the court-house.

Question. How many belong to that company?

Answer. About one hundred negroes. That company was carried to the country with arms in their hands, and on all occasions, in east, west, south and north parts of the district, and the State constabulary and candidates were escorted by these companies. They mustered and paraded the district.

Question. Was Crews along with them?

Answer. Yes, sir.

Question. Was he one of the stump speakers?

Answer. Yes, sir; the prominent man who conducted the canvass.

Question. Was there any reason to apprehend any interference by the white people?

Answer. None in the world.

Question. Did you hear of any interference?

Answer. I was at most of the meetings held within the corporate limits, and they were never attended by white men. I never saw more than fifty. I never witnessed more badgering than usually attends a political canvass. On no occasion were the speakers of the republican party questioned by anybody more than the democratic speakers were when they were canvassing through the State.

Question. Did you ever hear Crews make a speech?

Answer. Yes, sir; several speeches.

Question. During that canvass?

Answer. Yes, sir.

Question. What was their character—mild and temperate, or inflammatory and incendiary?

Answer. I would not undertake to say—Crews is a very ignorant and uneducated man—that the natural tendency of his speeches would be incendiary; but the matter of his argument would lead to and necessarily have that effect. But I never heard him directly instruct or argue that any incendiary proposition should be the policy of his party.

Question. Were you at his Waterloo meeting?

Answer. No, sir; I do not know of it except by report. What brought about this difficulty principally was, probably a month before this riot a difficulty occurred in a neighboring county, about eighteen miles from Laurens, in which a large number of negroes—three or four hundred—appeared at the house of a man named Chappel.

Question. In Newberry County?

Answer. Yes, sir, bordering Laurens. A large number of negroes were there, and threatened his life. A few citizens were there for his protection, and no fight ensued. The negroes in Laurens, to the number of one hundred, probably, marched in the direction of Chappel's from various points, particularly from about Crow's Hill; but the sheriff of Newberry went up and interfered, and they were scared and went away. Numbers, I think, were arrested, and I think at the same time probably one hundred negroes went to Clinton and Laurens district, and threatened to seize the arms there and go to Chappel's. It was reported at Laurens Court-House that the negroes and whites were fighting in the neighborhood of Chappel's. Crews got in his buggy, and went to the most populous negro quarter of the county, assembling the negroes as he went, getting fifty or sixty negroes, probably, together, addressed them a speech, and instructed them that all the negroes in that region of country should be at Laurens on that night. They came there in large numbers, probably three or four hundred, by 10 or 11 o'clock that night, crowded the public square, and took possession of the street in front of this armory. These negroes encamped there three days, and were furnished with rations as troops are rationed, on the public square.

Question. In arms?

Answer. Unarmed, but the whole county was apprehensive. The people were very much excited, and the white people were instructed to hold themselves in readiness to come to the court-house in case these negroes, who were quartered there for no reason except this little riot in Newberry that we knew of, to prevent anything like serious consequences. The white people were alarmed, but no demonstration was made. They merely held themselves in readiness. After probably three days, the negroes quietly dispersed.

Question. Were they there three days?

Answer. I think they were three; probably not more than two days. This was a month or two before the election.

Question. Where did the rations come from?

Answer. Crews furnished them. I saw all his negroes and boys and men and himself carrying a large amount of bacon across the public square to these negroes. They held their camp there, cooking their rations.

Question. Was there no declaration of their purpose in coming there ?

Answer. I don't know. It was generally understood that these negroes would make some effort to go toward Newberry, or might attack the town. We did not know. I do not think that Crews's purpose was known, and I do not know that he told the negroes; but he had them so completely under his power, that at his command he could have brought every negro in the county there to carry out his purposes. There had been no administration of law there for four months. This tenement, during the whole campaign, had been occupied by fifty or one hundred negroes every night. The court-house porticoes were occupied by negroes all the summer.

Question. Negroes from the country ?

Answer. Yes, sir; of the republican party. These constables had their headquarters at Crews's office, and white men had been dragged in there every day, and tried in the face of all those muskets for three or four months. There was no such thing as town authorities. I remember on one occasion a negro cursed a white man in the street, and a town marshal undertook to arrest him, and he ran into Crews's office. Crews was present; I saw him; he protected him, and would not allow him to be arrested. There were no authorities there at all.

Question. How long were these State constables located at Laurens ?

Answer. Two or three months.

Question. For what purpose ?

Answer. They were sent there to preserve order and keep the peace.

Question. What particular breach of peace had there been before that ?

Answer. There were various breaches of the peace, but I do not know of any particularly. Those constables were sent there according to an act of the assembly requiring a number of State constables to be created and a general constabulary of the State. The law provides that they shall come from the county, but Governor Scott sent his friends, citizens of Ohio principally. I think they were mostly his neighbors. He sent them up there, although the law required that they should be of the county. He selected his own friends and citizens of other States, who were principally strangers. They came there and became partisans.

Question. Was this constabulary force white or black ?

Answer. They were altogether white; but some of them, in other counties, were colored. I remember on one occasion, some colored constables were brought there to make some arrests from Abbeville. The force was increased, but they only remained a few days.

Question. How many militia companies were organized in Laurens County ?

Answer. I think half a dozen or a dozen. I do not know whether they were received as part of the national guard, as it is called under the law, or not. My impression is that they were not. But they mustered six or eight or a dozen companies, that were organized throughout the district. They held meetings and drilled with such arms as they could get. One company was fully armed and equipped, and drilled at the court-house, and one company at Clinton. I am not prepared to say that to any other company arms were given out.

Question. Did not these six, or eight, or twelve companies form what is known as the thirteenth regiment of National Guards ?

Answer. They were part of it.

Question. Do you know how many arms were sent into Laurens County in the summer preceding the election of 1870 ?

Answer. I do not. I know a large number of Remington rifles and another kind of breech-loading guns whose name I do not know, and a large number of Winchester rifles. I do not know whether the law authorized it. A large number of new Winchester rifles were found in this barn at Crews's house, and the State constabulary were armed with them. I have heard that Crews bought a large number of these guns, and he stated they were his private property. I expect that the Winchester rifles were his.

Question. I see, by the report of the adjutant and inspector general of the State of South Carolina for November, 1870, that Joseph Crews, lieutenant colonel and aide-de-camp, received at Lawrence, on the 30th of June, 1870, three hundred rifle muskets. What were they ?

Answer. I suppose Remington and some other pattern—Winchester.

Question. On the 2d day of August, 1870, he received to General J. B. Dennis, acting ordnance officer, South Carolina, for three hundred and twenty rifle muskets, besides the various accouterments pertaining to them, making in all six hundred and twenty rifle muskets; and included in the two receipts ten thousand rounds of ammunition. What sort of ammunition was it ?

Answer. That was ball cartridge.

Question. Minie-ball ?

Answer. Yes, sir; large copper ball.

Question. It is the kind used with rifle muskets ?

Answer. Yes, sir.

Question. How were these companies organized—publicly, under the law, or otherwise ?

Answer. Otherwise—privately. No white citizens of the county knew when they were organized.

Question. Did not the militia law, passed prior to that by the legislature, require an open registry?

Answer. Yes, sir.

Question. Who was the person deputized by the governor or State authorities at Columbia to organize these black companies in Laurens County?

Answer. I do not know.

Question. If it was done secretly, who did it?

Answer. I do not know.

Question. Do you not know that a son of Joe Crews did it?

Answer. I have seen him with that company when it was drilling.

Question. With the village company?

Answer. Yes, sir. I never saw him with a sword or emblem of office on the ground with them.

Question. Did this militia law apply to the whole population, white as well as black?

Answer. Yes, sir.

Question. Do you know of any efforts in Laurens County to organize white companies?

Answer. Yes, sir; we organized a company of men and sent a list of the names of the officers.

Question. To whom?

Answer. To Governor Scott, and a copy to the adjutant general. That there might be no excuse that the communications had not been received, we sent it to the adjutant general's department and to the governor, by mail.

Question. Was that in 1870?

Answer. Yes, sir, about the time these companies were organizing. The law required that these officers should be appointed by the governor. I requested him to receive this company as part of the National Guards, appointing the commissioned officers designated, and I received no response to that letter; it was treated with contempt, I think.

Question. In the face of a fact like that in regard to the action of the white people, what impression did it make on the public mind there with that immense amount of fixed ammunition sent to these negroes?

Answer. Well, all these facts, connected with many others, created a bad feeling and a want of confidence in the Government.

Question. Did it create alarm and apprehension?

Answer. Yes, sir; the people felt that they had to take care of themselves, and put themselves in a condition to defend and protect themselves.

Question. I suppose the people of Laurens County knew there was no necessity for fixed ammunition in drilling?

Answer. None at all. Two weeks before the election—probably in September—another matter, of which I was cognizant, occurred, which caused excitement. A large demonstration was held at Laurens Court-House by the negroes, and when the procession was formed, it was headed by the militia company from Laurens Court-House, armed with fixed bayonets, and the armed militia company from Clinton, and numbered fifteen hundred negroes in the procession. Large numbers of these were armed with shot-guns and pistols, and clubs and weapons of every possible description. The republican orators followed this escort, and held their meeting right in the public square—on the public square, or within one hundred and fifty yards of it, with these bayonets stacked around them, and I know the fact, for I went to this meeting to hear the speakers.

Question. Who were the speakers?

Answer. Crews was a speaker; Wallace was a speaker and candidate for Congress; Chamberlain, the attorney general, was a speaker; Moses, the speaker of the house of representatives, and half a dozen others were on the stand; they all spoke; and, in the eyes of these people, a white man was not allowed to hear—to get upon his legs and hear; if he did, was jerked down by various parties; and the guard detailed to move around through the crowd, with arms in their hands, offered all sorts of indignities to the white men present. I do not suppose there were more than twenty-five; a few young men from the country, who came there from curiosity, and a few from the town, went down to listen to these speeches. I know on that occasion a negro there who had been in sympathy with the white people—the democratic party—was chased out of the crowd and run through the town by the republicans.

Question. By the negroes, you mean?

Answer. Yes, sir, by negroes, with arms in their hands. His life was threatened. Two or three weeks before the election another negro—a very quiet old negro—came to the town; he was understood to be in sympathy with the white people; he was mobbed and severely beaten for his political opinions. I know, because I was chairman of the democratic organization of the county, that there was such a reign of terror among the negroes, against those who sympathized with the democratic party, that they could not

express their sentiments. It would have cost any negro his life to have stated, in a crowd where there was a dozen negroes, that he was a democrat.

Question. There were a few negroes in Laurens that felt inclined to go with the democratic party?

Answer. Yes, sir, but they were not allowed to do it.

Question. Did they vote the republican ticket?

Answer. I think a very few did; they did at one precinct, probably, I do not believe a democratic colored man's life would have been safe in the county, unless he was in close proximity to and had the protection of white people who could shield and protect him. All that sort of thing brought about intense political feeling and a state of anxiety which culminated in this riot.

Question. On the day after the election?

Answer. Yes, sir.

Question. Unless you know some fact that you think ought to be stated, of which I know nothing, I am through questioning you, sir. If you know anything pertaining to this question in Laurens or any other county, you can state it.

Answer. I do not think that I know anything else which I need to state. I can state that, so far as I know, there has been no disturbance of a serious character or excitement since this thing.

Question. Things have been quiet in Laurens County since the last October election?

Answer. Yes, sir.

By the CHAIRMAN:

Question. How did you find the material for a company of seventy-five men on the spur of the moment there?

Answer. It was court day, and I suppose there were fifty men in attendance on court. I think there were at least fifty arms-bearing men in the town. Everybody who was present immediately fell into line at my request, and at the request or suggestion of half a dozen that we had better organize.

Question. How long was that after the first alarm or pistol shot?

Answer. This organization was after all the firing was done. The men were dead, and the bodies had been examined. It was fifteen minutes, I suppose.

Question. You say the men were dead?

Answer. Yes, sir; it was after the killing.

Question. You say men were dead, and the bodies had been examined?

Answer. Yes, sir, it was some fifteen minutes. The riot was spent. The shooting occupied, perhaps, five minutes. In the meantime, parties had seized these arms and were shooting in the air.

Question. Were the bodies of the men killed between the court-house and the tenement occupied for arms?

Answer. No, sir; they were near that tenement.

Question. Were they on the same side of the tenement as the one on which the fighting occurred between Cahlo and Richardson?

Answer. There was one man wounded within that tenement.

Question. Do you recollect the names of the two men who were killed?

Answer. No, sir; I know the name of the man who was wounded was Crews, a negro.

Question. Had all the men who composed this impromptu company, which you organized, arms?

Answer. No, sir; very few of them had arms; only such arms as they seized at the armory.

Question. Were they all armed in the same manner?

Answer. I do not think they had got arms, but there were arms enough there, and after a while they got supplied.

Question. Did not the white men control the armory?

Answer. They did at that time.

Question. Had not the negroes fled?

Answer. Yes, sir.

Question. And the white men had control of all the arms in the town?

Answer. Yes, sir.

Question. Were these the only men killed at that riot?

Answer. Yes, sir.

Question. These two?

Answer. These two, and one negro wounded.

Question. Were any others killed?

Answer. No, sir, not at the riot; there were some parties killed in the county that night.

Question. Did the riot keep on in that county?

Answer. I do not know whether the riot kept on when these parties were killed. The bodies were found next day.

Question. Had it connection with it?

Answer. It followed.

Question. You have omitted in your statement all mention of that. Had that any connection with these proceedings in the town?

Answer. I think it was consequent, and the result of the same feeling that existed at that riot, and was consequent upon it.

Question. Who were the men who were found dead the next morning?

Answer. There was a negro by the name of Simmons—young Eb. Simmons. He was found some three miles below town.

By Mr. VAN TRUMP :

Question. Was his name Riley, also, for they have double names.

Answer. No, sir. I will state all. There was Eb. Simmons, he lived two or three days, about four miles out on the Laurens railroad, at Benjamin's turnout. There was a negro named Bill Riley, who was employed at this armory as a keeper of arms, and to guard over the arms at night, and a man named Volney Powell, who was a State constable, and who was a candidate for probate judge, and declared elected. There was a negro killed at Martin's Depot, fourteen miles from the court-house, on the railroad, named Perrin. He was a member of the previous legislature and a candidate at this time. Then there was a negro, I think, killed on the premises of a man named Copeland. I do not know his name at all. I think there was a negro wounded there, also.

By the CHAIRMAN :

Question. Had your citizens in the town pursued these men out to this distance?

Answer. I do not know whether they did or not.

Question. You took none of your company out that far?

Answer. O, no, sir. My company was put upon guard that night. When we took charge of the arms, the immediate necessity for this company was gone, and it was disbanded entirely. When that company took charge of these arms, and everything was quiet, it went to the winds. It was for temporary protection.

Question. Was Powell in the town that day?

Answer. Powell, I think, was one of the managers of the election.

Question. Was Riley there that day?

Answer. I do not remember. I think he was; he lived there.

Question. Was not this man who was a candidate for the legislature there that day?

Answer. He was.

Question. Was not Simmons there that day?

Answer. I do not know. He lived in the town there.

Question. These men were all found out three or four miles from the town.

Answer. Yes, sir.

Question. Do you know of your people pursuing them?

Answer. No, sir; I do not.

Question. How do you account for their deaths?

Answer. I think those people were known and prominent as connected with politics, and some of them—all, probably—were not in the best odor with the white people. They had made themselves prominent.

Question. Who do you believe killed them?

Answer. I believe some of the white people of either Laurens or Newberry or Spartanburgh killed them.

Question. Do you believe they were killed because of their connection with the political affairs of the country?

Answer. No, sir; I do not think they were killed because of that. They were known as prominent leaders, and Perrin, particularly, as a speaker, an ignorant speaker, who spoke incendiary language, and without even knowing what the sentiments of his words would be; and this man Eb. Simmons was a notorious bad man in every way. Riley was present wherever there was a fight or loud talking between a white man and a negro, and in bad order, and I think when this excitement was up, and it was understood to be a sort of struggle between negroes and whites, in this state of feeling parties who met them struck.

Question. How do you account for their killing Powell?

Answer. Powell had been acting the part of a partisan in this party. He was a State officer and had been marching through the streets of Laurens with this armed militia for months, singing, "Old John Brown is marching on," and all that, in the face of our community, insulting it in various ways, and had made himself obnoxious. I think if any other of the State constables were met they would not have been killed.

Question. Was it the general sentiment that it was right to kill them for these reasons?

Answer. I never heard any approve it. But I did not think it was right.

Question. Did the general tone of public sentiment say it was right?

Answer. No, sir. I think it was generally regretted; but the general feeling was that this result followed natural causes.

Question. How many people came into your town that night ?

Answer. A large number. I think twelve hundred.

Question. Do you think fifteen hundred ?

Answer. I don't know. A large number.

Question. Do you think there were two thousand ?

Answer. No, sir.

Question. Do you think there were twenty-five hundred ?

Answer. I have no idea that there were. Between one thousand and fifteen hundred. I would say fifteen hundred.

Question. Were they all armed ?

Answer. I expect they were all armed. All I saw were armed. I saw very few.

Question. With fifteen hundred people who could turn out, armed, in Laurens County on that notice, were you really apprehensive that these negroes were going to rise against you ?

Answer. Yes, sir ; we were.

Question. These arms were all at one depository at Laurens and one other at Clinton ?

Answer. Yes, sir.

Question. Those contained all the arms there for the purpose of being distributed ?

Answer. I think so.

Question. At the time these people came into town, the arms at Laurens were really in the control of the white people ?

Answer. Yes, sir.

Question. And the arms at Clinton had also been taken possession of ?

Answer. I do not know, but I think they had been.

Question. At that time what was the necessity of any further proceedings against the negroes, if there were fifteen hundred white men armed, and who had control of the arms designed for the negroes ?

Answer. There was none at all ; no necessity at all. It followed, as I suppose people were killed in New York during the riot there.

Question. Then it was a lawless murder of these men ?

Answer. No, sir ; I do not think so.

Question. You do not ?

Answer. No, sir ; I do not think so, as a man or as a lawyer. I think it was a political riot and disturbance, consequent upon great excitement, following political causes, and men were killed.

Question. Even you then do not think, although the necessity had ceased for public demonstration, that the shooting of these men was a lawless murder ?

Answer. I do not think that these people who were simple, plain people, that the necessity had ceased.

Question. You saw a good many of these people that night ?

Answer. No, sir ; I did not see many of them. I judge of their number by hearsay.

Question. Were they citizens of Laurens County ?

Answer. I saw men the next day from Spartanburgh and Union.

Question. Were they responsible and prominent citizens ?

Answer. I think the whole community, sir, were responsible for it.

Question. Were these men that you saw responsible ?

Answer. O yes, sir ; citizens of high standing. The whole people were there.

Question. You do not want to compare that part of your community that come there with what constituted the mob of New York, do you ?

Answer. Well, I do not. No, sir, I do not. But I think when it becomes a matter of excitement and political feeling all people participate. I do not think it would be murder in either case. I think educated people—civilized people—are as much subject to excitement, especially political and religious excitement, as the uneducated and the mass. It is a matter of temperament.

Question. You say you were at this meeting at which Crews and others spoke, and there was not more badgering there than at your political meetings usually ? Is it not the practice of both parties here to interrogate speakers on the stand ?

Answer. Yes, sir.

Question. Was that done to the usual extent ?

Answer. No, sir ; it was not done at all that day.

Question. You said there was no more badgering than usual ?

Answer. I said it generally of the canvass.

Question. How as to that meeting ?

Answer. I do not think any questions were asked at all. We were alarmed and afraid.

Question. You were there. Was any indignity offered to you ?

Answer. No, sir.

Question. You were about as prominent as any white man ?

Answer. Yes, sir.

Question. Did you see any indignity offered to anybody ?

Answer. Yes, sir.

Question. Who?

Answer. I do not remember the name. It was a white man.

Question. Was he making himself offensive?

Answer. No, sir: not at all.

Question. By whom was it offered?

Answer. I think by negroes detailed to act as a guard on that day. They were not allowed to take prominent positions in the meeting, but ordered to stand around and occasion taken to say not to talk; to keep quiet, unnecessarily.

Question. That was preserving order in the meeting?

Answer. But it was unnecessary.

Question. That is your judgment?

Answer. I speak from my judgment.

Question. Did you see any violence?

Answer. No, sir.

Question. Did they do more than to tell people who were talking to keep quiet?

Answer. In my judgment the interference—

Question. Did they do more than that?

Answer. They interfered unnecessarily, I think, with white people who were present; they showed a disposition to intrude upon them and make a row.

Question. You have stated what they said to persons standing around talking, that they must keep quiet. Did they do more than that?

Answer. I do not think they did.

Question. Do you consider that an indignity to a white man?

Answer. I do not take it, the bare fact; but the manner and the occasion when it was given.

Question. That was the extent of it?

Answer. Yes, sir; that was the extent as to the fact; but then a man could be asked to take a seat in such a way as to insult him, and I speak of the impression made on my mind.

Question. I suppose the negroes are not well trained, or as well trained, to do these things as white men?

Answer. Not at all.

By Mr. VAN TRUMP:

Question. Is not the negro brother largely capable of being insulting in his manner if disposed?

Answer. He can do it.

By the CHAIRMAN:

Question. Is there not a great disposition to resent anything like what are the privileges of the negroes, even though exercised in a proper manner?

Answer. No, sir; not at all. I think our people are as polite to the negroes as they would be to President Grant, and I believe they are much more kindly disposed to the negroes than they are to any other race of people on the globe. I know it, so far as my experience and observation are concerned.

Question. I wish they were all like you.

Answer. I speak for the people.

Question. Do you speak for those who go about whipping negroes?

Answer. I think I can speak for those—

Question. Take the four hundred or the two hundred cases where men have been taken out of their beds in Spartanburgh County and whipped. Do you think that kind treatment?

Answer. If they have been so many; if there are two hundred negroes in Spartanburgh who are bad men, and are punished because the people are satisfied, by the way the administration of the State government is carried on, that the law cannot be made to reach these bad men.

Question. That is the way you account for it?

Answer. Yes, sir.

Question. Are you satisfied now that this is a fair solution of it?

Answer. I am satisfied of it. If the law was administered, as the law is administered in Massachusetts, or even in New York, there would be no trouble here.

Question. From whom do you get that information?

Answer. I get it from my own observation in my own county, and from what I can find out of the Government.

Question. Have there been any negroes whipped in your county?

Answer. I do not think there have been for political causes at all. There may have been a quarrel, a personal or neighborhood affair, in which the negro may have been beaten.

Question. I am speaking of these cases of whipping, and I desire to know where you get your information as to the causes?

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Answer. I get it from what I hear. I live near Spartanburgh, and see the people there. The business intercourse is very large between the people of the different counties.

Question. Name two or three men who have told you that is the reason for whipping the negroes?

Answer. I do not think I can give you any names at all.

Question. Can you remember none?

Answer. No, sir; none at all.

By Mr. VAN TRUMP:

Question. Let me understand. Do you say that men who have whipped the negroes have told you this?

Answer. No, sir; I never saw one who had whipped a negro, so far as I know. I do not admit that any of them are whipped, but I say that if any of them are whipped, I am satisfied my explanation is a true one. That is a fact.

By the CHAIRMAN:

Question. Then you undertake to give the motives of men, of whom and whose motives you are entirely ignorant?

Answer. Yes, sir; and your case is entirely unsupposable. I do not doubt that there are cases of people having been whipped, but I do not believe that there are two hundred. I live close to Spartanburgh, and my sources of information are as good as they can be from large numbers of persons in Spartanburgh. I see people from there every day.

Question. You have no idea that in one township in that county there have been one hundred negroes and white persons whipped?

Answer. I have no idea of the fact. I do not believe a word of it. Not that number.

Question. If the fact were established before you by testimony of witnesses that these whippings had occurred, and were from political motives, would you still have the same doubts?

Answer. If I was satisfied in my own mind that they were credible witnesses, I would have no doubt.

By Mr. VAN TRUMP:

Question. Suppose they were black witnesses generally?

Answer. If they were black witnesses, I should doubt the fact.

By the CHAIRMAN:

Question. You do not give any credence to what they swear to?

Answer. I do; I know negroes who tell the truth, but as a mass they are very ignorant; are uneducated and depraved by political associations, and I do not believe they tell the truth much; but I know a few good negroes, those who have good opportunities.

Question. Is not that one of the difficulties of getting at the real state of things—the fact that the very people whose all was in the hands of these negroes, whose wives and children were at their mercy, and who depended upon them at one time, now say to us they cannot rely upon them with regard to their own interest? Is not that one of the difficulties we are to encounter?

Answer. I do not think it is a difficulty now about getting at the truth in this investigation.

Question. Is the whole of the race which eminently deserved your confidence at one time not entitled to confidence now?

Answer. I do not think they are entitled, or ever were entitled to confidence. The law made them incapable as witnesses.

By Mr. VAN TRUMP:

Question. You never had any experience with them as witnesses before the war?

Answer. No, sir; they were not allowed to testify.

By the CHAIRMAN:

Question. Has the whole moral nature of the negroes, which so fully executed his trust a few years ago, changed now?

Answer. No, sir; he has never changed. He had no trust; he was a slave, a chattel; he was sent to feed a horse or black a pair of boots. Slaves were treated kindly as domestic servants, but no trust was imposed upon them or committed to them.

Question. When the whole of the white population was in arms, had they no trust reposed in them?

Answer. Very little. There were white men at home, and the negro was as much in the control of white men during the war as when enslaved before the war. There were hundreds of wounded soldiers all over the country, and they were under more terror than they are now, or when they were slaves before the war.

Question. Is not that the real source of animosity—that the white man has sought to control the negro here and has been unable to do it?

Answer. I do not think so; I think, of all people under the sun, the old masters are the kindest disposed to the negroes.

Question. Personally; but politically, then, they have sought to control them and failed to do it; has not some animosity resulted, especially in the lower classes of the white people?

Answer. Not at all. There may be individual instances among the white people, but the masses are kindly disposed.

By Mr. STEVENSON:

Question. On the question of credibility of witnesses, how are you to get at the proof which you would consider credible, in case a band of disguised men came at midnight to the house of a colored man, took him out and whipped him; suppose you, as a lawyer, were prosecuting that case, how would you undertake to make proof?

Answer. Well, sir, I would judge by the bearing of the witness upon the stand; the character of what he said—his expressions.

Question. Would you take the testimony of a negro?

Answer. I do not know whether I would or not; I would judge of his credibility by his bearing.

By Mr. VAN TRUMP:

Question. And his surroundings?

Answer. By all he might say; his whole bearing; just as I would judge of the credibility of any other witness.

By Mr. STEVENSON:

Question. Then you do not mean to say absolutely that he is a non-credible witness?

Answer. I say he is a credible witness, and, I believe, ought to have been a witness in slave times. I believe it is properly the law now that he may testify.

Question. Do you know any other way of establishing such a fact as that than by negro testimony?

Answer. Why, no, sir; for the case is a visit by a disguised band; there is no other way; but—

Question. Coming to a negro's house at midnight; no others knowing anything about it, they will not tell; they are bound by an oath of secrecy among themselves not to tell, and they are guilty and would not tell on themselves. How are you to prove that?

Answer. I would substantiate his testimony by circumstances; if they went on foot, by the surroundings, by the tracks they would make in marching; if they were charged with having been on horseback, I would examine the ground; the neighbors near would probably hear. A band of armed men could not collect without somebody seeing them, and other negroes also would see them and corroborate the negro who was the prosecuting witness; and there might be other facts by which the presence of this party could be traced; probably there would be marks of violence upon the person. In that way I would take the testimony with all the surroundings that might be proved by other parties.

Question. From all that, I gather that you do not consider the testimony of a negro totally worthless?

Answer. Certainly not; at the same time, if his testimony is impeached in any way, I would have to give some credibility to it; but here, in an investigation like this, there is no opportunity to impeach testimony, and, therefore, I think the testimony of the negroes generally must be admitted with grains of sand of allowance, in my judgment.

Question. If some fifty witnesses testified that they had been whipped for political reasons, those engaged in the whipping having declared that they had been whipped for political reasons, you would think that very doubtful?

Answer. Yes, sir; I should doubt whether they were whipped for political reasons. I do not believe that occurs.

Question. Suppose a dozen white men swore they were whipped, and political reasons were given for the whipping at the time?

Answer. I should disbelieve the whole story.

Question. Upon what ground?

Answer. Because I have heard—I do not know of my own knowledge of any whipping by any party—but I have read in the newspapers and heard oral statements of parties in this State being whipped and otherwise maltreated; and, in many of these instances, I have heard that they were persons of bad repute notoriously in their neighborhoods, and I believe they were whipped for these reasons, and because the law could not reach them.

Question. You believe that from what you hear in the newspapers?

Answer. From what I hear of these parties.

Question. In the newspapers?

Answer. Yes, sir; I cannot call to mind now, but from the names and characters of the people whipped, I am convinced that they are bad people for any community.

Question. I understand that you would discard sworn testimony upon statements in the newspapers?

Answer. I give no credit at all to statements in the newspapers, because that is no evidence at all. They merely publish rumors.

Question. I would like to get at the root of this absolute confidence in your mind. Are you a member of this organization called the Ku-Klux?

Answer. Well, sir, I would not answer that question, because, were I to answer "No," it would be a confession of your right to ask the question. Were I to answer "Yes," it would criminate me. Therefore I would not answer the question. I do not believe any other southern man, under the circumstances before your committee, would do justice to himself and neighbors in answering it. I believe there is an organization commonly so known, and I believe that if I did answer it "No," then every other man in the community might be forced to answer No; and some might criminate themselves or perjure themselves; therefore I would not answer the question.

The CHAIRMAN. If Mr. Stevenson desires the question answered, it is proper to call your attention to an act of Congress which takes away from parties immunity from answering questions of that character.

The WITNESS. Well, sir, I decline to answer the question.

Mr. STEVENSON. I insist upon my question. If such a question as that is not to be answered, we certainly never can get inside of this organization.

The CHAIRMAN. The second section of the act of Congress of 1857 reads thus:

"SEC. 2. *And be it further enacted,* That no person examined and testifying before either House of Congress, or any committee of either House, shall be held to answer criminally in any court of justice, or subject to any penalty or forfeiture for any fact or act touching which he shall be required to testify before either House of Congress or any committee of either House as to which he shall have testified, whether before or after the date of this act, and that no statement made or paper produced by any witness before either House of Congress, or before any committee of either House, shall be competent testimony in any criminal proceeding against such witness in any court of justice; and no witness shall hereafter be allowed to refuse to testify to any fact or to produce any paper touching which he shall be examined by either House of Congress, or any committee of either House, for the reason that his testimony touching such fact or the production of such paper may tend to disgrace him or otherwise render him infamous: *Provided,* That nothing in this act shall be construed to exempt any witness from prosecution and punishment for perjury committed by him in testifying as aforesaid."

The act of 1862 reads thus:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the provisions of the second section of the act entitled "An act more effectually to enforce the attendance of witnesses on the summons of either House of Congress, and to compel them to discover testimony," approved January twenty-fourth, eighteen hundred and fifty-seven, be amended, altered, and repealed, so as to read as follows: That the testimony of a witness examined and testifying before either House of Congress, or any committee of either House of Congress, shall not be used as evidence in any criminal proceeding against such witness in any court of justice: *Provided, however,* That no official paper or record, produced by such witness on such examination, shall be held or taken to be included within the privilege of said evidence so to protect such witness from any criminal proceeding as aforesaid; and no witness shall hereafter be allowed to refuse to testify to any fact, or to produce any paper touching which he shall be examined by either House of Congress, or any committee of either House, for the reason that his testimony touching such fact, or the production of such paper, may tend to disgrace him or otherwise render him infamous: *Provided,* That nothing in this act shall be construed to exempt any witness from prosecution and punishment for perjury committed by him in testifying as aforesaid."

By Mr. STEVENSON:

Question. Are you a member of this organization called the Ku-Klux?

Answer. I am not.

Question. What organization do you belong to?

Answer. I do not belong to any organization.

Question. Have you ever belonged to any such organization?

Answer. Well, sir, I have never; I have not belonged to any organization, I do not think, of any character at all that might be termed an organization. I remember in 1868, I think previous to the election, when we were in apprehension of some attack upon us—I think there was a threat to burn—I organized a club of fifteen or twenty young men in my town for self-protection and to protect the property of the town. I think we had signs and tokens of recognition; but it was discontinued.

Question. What were the signs?

Answer. I do not remember them, sir. They were agreed upon by our club. I do not think it lasted a week.

Question. Just explain that organization.

Answer. I think there was some threat of an attack upon the town.

Question. I do not mean the origin, but the form and character of it. You organized it, you say?

Answer. Yes, sir; I think it was agreed between fifteen or twenty young men of the town that in case of any disturbance whatever, or any attack on the town, or any alarm of fire, or any disposition to burn the town, or to do violence by any political party, and especially by the negroes, we, at a given signal, were to rally at a certain point, such as might be agreed upon. We were to rally at the making of these signals.

Question. You had signs; what were they?

Answer. I think they were words. I do not remember them. I do not suppose I would recognize them a week afterwards; words of recognition by which to recognize each other at night for the sake of protection, and to guard ourselves against danger at night.

Question. What was the sign of recognition?

Answer. I think merely signals.

Question. What were the signals?

Answer. I do not remember. I think they were, in cases of any alarm, we were to explode a twine ball inclosing powder—powder wrapped in a ball. We were to explode, probably, one, two, or three, to give the alarm.

Question. Did that organization extend over the county?

Answer. No, sir; I do not think it did. Probably similar organizations in 1868 were created in the county.

Question. Where?

Answer. In the county at different places, and with different signals, intended to cooperate. They were abandoned immediately after the presidential election.

Question. You think there were others communicating with yours? Do you not know the fact?

Answer. I do not know the fact, but my impression is that there were.

Question. Do you not remember that such signals were given—these explosions—about the time of the presidential election, throughout that county?

Answer. I do not.

Question. Have you not heard so?

Answer. Possibly I have, but I do not remember. Possibly they were. My recollection is that they were, but not generally throughout the county.

Question. It has been proved, I believe, that on the night before the election there were fired something like cannon, which produced an impression of trouble, and frightened some of the people of that county.

Answer. I think there was something of the kind, but it was not general. I do not remember distinctly that it was the fact, but I think so. I know that was one of the signals agreed upon, but any others I do not remember.

Question. What was to be done?

Answer. It was simply in self-defense in case of trouble.

Question. And for concentration?

Answer. Yes, sir, and for concentration.

Question. Were not these country organizations commonly called Ku-Klux?

Answer. No, sir; I do not think I had ever heard of the Ku-Klux at that time.

Question. Did they go in disguise?

Answer. No, sir; they never went at all.

Question. Did you hear of the visits of disguised bands in 1868?

Answer. I do not remember that I did.

Question. Visiting Wat McKay?

Answer. No, sir; I do not remember.

Question. Did you hear of a visitation of Spencer Sullivan?

Answer. I did not.

Question. Of Cæsar Culverson?

Answer. I did not. If I did hear that, I have forgotten it. I have no idea that they were disguised bands.

Question. Do you not know that these organizations have been kept up and extended since in that county?

Answer. I have no idea that they have. I think they were totally abandoned, and I never heard of them from 1868 to this day.

Question. Who were with you in your organization?

Answer. There were a number of young gentlemen there. I do not remember all of them, and they are not upon their trial.

Question. You have hardly forgotten all their names?

Answer. I know that, but they are not on their trial.

Question. We do not propose to put them on trial, but we would like to know the facts?

Answer. These are not facts.

Question. Is it not a fact that they joined you?

Answer. It is a fact that certain parties did; but who these parties are is another matter. I do not think I am called upon, unless they are criminally charged, to testify as to who they were.

Question. Why not? Did you take any obligation of secrecy?

Answer. I do not think we did.

Question. You do not think you did?

Answer. I do not think so.

Question. Do you not remember whether you were under any obligations to each other?

Answer. I do not think we were. I think the obligation was simply that we were, at the making of a signal agreed upon, to assemble for the protection of the property of the town, and the lives of the citizens, and of the country. I think that was the entire obligation, and no secrecy in it.

Question. Was there no arrangement that they should defend each other and come to the assistance of each other?

Answer. No, sir, not of each other; I think not.

Question. Was there any arrangement or understanding as to who should command or control them when together?

Answer. Yes, sir.

Question. What was it?

Answer. I think we agreed upon four officers who were to take charge whenever they were congregated or assembled.

Question. What did you call your officers?

Answer. I think they were called captain, and first, and second, and third lieutenants.

Question. What place did you hold?

Answer. I think I was captain.

Question. You think you were?

Answer. I do not remember.

Question. You do not remember whether you were captain or not?

Answer. I do not remember. I do not think we ever met again.

Question. You do not remember whether you were captain?

Answer. I do not.

Question. That is the first time I ever heard of a man holding an office and not remembering it.

Answer. It was not an office. It was merely an organization gotten up one evening when it was charged that there were rumors of the town being burned. Then gentlemen got together and made the arrangement who should take charge. There might have been a written statement drawn up designating the officers; I do not remember that they were styled officers. I think I was designated first. I do not think there was a constitution at all. It was simply a paper, an inch long, and that the undersigned agreed to form an association for the protection of the property and lives of the citizens of Laurens village.

Question. Who wrote it?

Answer. I think I wrote it.

Question. Who were your subordinate officers?

Answer. I do not remember. I think I remember two of them; but I submit that it is a question of privilege that I am not bound to answer.

Question. On what point do you put such a privilege as that?

Answer. Well, I do not know any strictly legal ground upon which I can put it; but I think it is incompetent. It would be in a court of justice.

Question. Why?

Answer. Simply because it is irrelevant to any issue. I say that a certain number of gentlemen composed a certain organization. If half a dozen men are on trial for murder and I am charged as having been present as a principal or accessory, I do not believe it would be competent in a court of justice to ask was anybody else present as accessory or principal.

Question. Do you think so? I will submit the question to the committee if you object?

Answer. Then if the committee overrules me I shall answer the question.

The CHAIRMAN. The general duty with which the committee is charged is that of inquiring into the manner in which the laws are executed in the late insurrectionary States, and the security in this State of life, person, and property. One of the largest elements of insecurity has been the existence of secret organizations affecting life, person, and property. In all our inquiries we have directed them not only to ascertain the extent of this organization, but who compose the organization, and if Mr. Stevenson insists upon the question, it will have to be put to a vote of the committee whether the question shall be answered or not.

Mr. VAN TRUMP. Mr. Ball is a lawyer; he has heard the law read and must decide for himself. I certainly shall vote for an answer to the inquiry. Mr. Ball understands the law and understands our powers. We cannot compel him to answer; we can report him to Congress, where he can be made to answer. Under these circumstances, I shall vote for the question to be answered. It is for him to decide for himself.

The WITNESS. I am willing to abide by the ruling of the committee, and answer that Captain R. E. Richardson was one, and, I think, Mr. T. P. Crews was another, and the other I do not remember, for it has been a long while, and the thing died out in a short time.

By Mr. STEVENSON :

Question. What other members belonged to the company or club ?

Answer. I remember that Dr. William E. Black belonged to it, and I think J. W. Ferguson, and I think Stobo D. Garlington. These are all I can recollect at this time.

Question. Who is Captain Richardson ?

Answer. He is a gentleman in the county there.

Question. Living in the town ?

Answer. Yes, sir.

Question. Why do you call him captain ?

Answer. He was a captain in the confederate army.

Question. Who is T. B. Crews ?

Answer. He is the publisher of a newspaper there.

Question. The editor of a democratic paper ?

Answer. Yes, sir; he is the publisher. He always has an editor employed. His name is in the paper.

Question. Who is Dr. Black ?

Answer. He is a dentist in the town of Laurens.

Question. Was he in the army ?

Answer. He was.

Question. Who is J. W. Ferguson ?

Answer. He is a Scotchman in the town, and now editor of a newspaper.

Question. Editor of the democratic paper ?

Answer. Yes, sir. He was not at that time, but he is now.

Question. Was he in the army ?

Answer. I do not know; I think very little; probably towards the latter part of the war he was. He was a school teacher and exempt.

Question. How as to Mr. Garlington ?

Answer. He was not in the army.

Question. Do you know whether your men were good, reliable men who had seen service ?

Answer. I do not.

Question. Are these men citizens in good position ?

Answer. Citizens in good position.

Question. What form of organization have the citizens kept up since then ?

Answer. None, sir.

Question. For their protection ?

Answer. None, sir.

Question. What form had they last fall ?

Answer. Well, sir, as I told you, I do not think they had any. There was none last fall. I organized a company, which was tendered to Governor Scott as part of the National Guards. It was agreed that that organization should exist for protection for some two or three months, but it was dropped at least a month before the election, and disorganized.

Question. After it was tendered to Governor Scott and not received, it was then agreed that the organization should be kept up as a volunteer organization, was it ?

Answer. Yes, sir; for two or three months. That was in March or April, and probably two months before the election. I told the parties the organization was no longer an organization.

Question. What further companies were organized in the county ?

Answer. There was a company organized in the lower part of the county, which was tendered to Governor Scott as a part of the National Guards. I do not remember the officers, but a man by the name of Vance, and one named Watts. The services of that company were tendered to Governor Scott as part of the National Guards. I think when it was rejected that no action was taken upon it. I never heard of it afterward.

Question. Do you know Major Farley ?

Answer. No, sir. I suppose I know the man you allude to, a man who might be called major sometimes. There is but one Farley in the county. He was a lieutenant in the army, and, I believe, called captain. I suppose he is the person.

Question. Was he connected with any of these companies ?

Answer. He was not. I do not think he was in the county at that time. He came to the county, I think, early in the fall.

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Question. You say you believe there is a Ku-Klux organization in that county?

Answer. No, sir, I do not. From what I have read in the newspapers and what I hear, I suppose there is, probably, a Ku-Klux organization in the South, and, probably in this State. That is my impression; but I do not know. I have no reason to believe it exists in my county.

Question. In what part of the South do you believe it to exist?

Answer. Possibly in this State, and in North Carolina, Georgia, and Alabama.

Question. Mississippi?

Answer. I do not know. I know very little of Mississippi, from reading or otherwise. I have not heard much mention of it. I do not remember that Mississippi has been impressed upon my mind so much as the States I have mentioned.

Question. Do you know whether it exists in Spartanburgh County?

Answer. I do not, sir.

Question. Have you understood who manage it there?

Answer. I have not, sir.

Question. Have you never heard who were the managers of it in that county?

Answer. I never have, sir.

Question. You deny belonging to it yourself?

Answer. Yes, sir.

Question. Do you understand whether there is an obligation upon the members of it not to reveal the fact of the membership or any of the secrets of the order?

Answer. I do not; I know nothing about it.

YORKVILLE, SOUTH CAROLINA, July 25, 1871.

JAMES R. BRATTON sworn and examined.

By the CHAIRMAN:

Question. Do you reside in this place?

Answer. Yes, sir, and have been residing here for twenty-five years.

Question. Are you a native of this State?

Answer. Yes, sir; of this county.

Question. What is your occupation?

Answer. I have been practicing medicine here for twenty-five years.

Question. Have you had an opportunity of becoming acquainted with the people of this county generally?

Answer. Yes, sir, I think I have.

Question. Does your practice extend through the county?

Answer. Through the different sections of the county.

Question. Our purpose is to inquire into the security of life, person, and property through this county, and the manner in which the laws are executed. Have you any knowledge of any offenses against the law, or against the security of person and property, that have not been redressed in the ordinary courts of justice?

Answer. I have no personal knowledge of anything of the kind. I merely hear rumors and reports. Personally, I know nothing about it.

Question. Have you been called upon, as a physician, to either testify before, or certify upon, any inquests on the bodies of dead men?

Answer. I have not. I have only heard these reports from the coroner's inquests; that is the way I get my information about these cases.

Question. How many persons have you heard of who have been killed in this county within the last six or eight months?

Answer. There was a man up here named Tom Black, or Roundtree, that they say was killed—I cannot tell when. One report says he was killed by negroes for his money; another, that it was by white men in disguise. He had been to Charlotte a few days before that, to sell his cotton, and, when killed, his money could not be found; but who killed him I cannot tell.

Question. Was that within six months?

Answer. I think it was this year; if not in this year it must have been toward the close of last year.

Question. Have heard of any other cases?

Answer. Yes, sir; a negro up here, named Brown, was reported killed.

Question. What was he?

Answer. He was a farmer, renting land, I presume.

Question. What was his full name?

Answer. Anderson Brown.

Question. Was that, also, since the beginning of this year?

Answer. I think it was.

Question. Was he a militia captain?

Answer. Not that I know of. I do not think he was, to my knowledge.

Question. Any others?

Answer. Yes, sir; a negro was hung about twelve miles below by some persons, who I cannot tell.

Question. What was his name?

Answer. Williams.

Question. Was he a militia captain?

Answer. He was.

Question. When was that?

Answer. That was some time in this year, in February or March; in the latter part of February or the first of March; I do not remember the date exactly.

Question. Do you recollect the day of the week?

Answer. No, sir, I do not remember it.

Question. Do you recollect the day you heard it?

Answer. No, sir; nor the day it was done; it was some time in the latter part of February or the first of March.

Question. Was that done by men in disguise?

Answer. Yes, sir, it was so reported; that was the testimony at the coroner's inquest.

Question. Were you at that inquest?

Answer. I was not; but it was so reported to me by the coroner.

Question. Was that in February or March?

Answer. Yes, sir.

Question. Are those the only cases you have known of?

Answer. I do not know any other cases that I can think of now. I have not fixed any other cases upon my mind. Let me see, there may have been other cases.

Question. Those are cases of actual death about which I am inquiring now?

Answer. What do you mean by that?

Question. Persons killed.

Answer. Those three are negroes killed. I do not know any other cases to my knowledge.

Question. Was there any arrest in either of the three cases?

Answer. None that I know of; I do not think there was any.

Question. Do you know of any trial in the case of persons who killed Roundtree?

Answer. No, sir; I do not think there were any arrests made; not to my knowledge.

Question. You think there were not?

Answer. I do not think any were made.

Question. You reside in town here?

Answer. Yes, sir. That negro, Roundtree, was killed eighteen or nineteen miles from here; if any persons had been arrested in his case I presume I would have known it.

Question. The trial has been in the last six months if at all?

Answer. Yes, sir; and I presume at this post office.

Question. You have not heard of any trial?

Answer. No, sir, I have not.

Question. Is it likely that if it had excited any interest here you would have known it?

Answer. Certainly; I would have known it had there been a trial going on; but there has been no trial.

Question. For killing Roundtree or either of the other two?

Answer. No, sir.

Question. Has there been anybody arrested for killing either of these men?

Answer. No, sir, I do not know of it.

Question. Do you recollect any persons whipped in this county within six or nine months?

Answer. Only such cases as are reported to me; I cannot mention them, because negroes were reported to me as whipped that I did not know of at all.

Question. Do these reports which you hear and give credit to go to any considerable extent?

Answer. I have inquired how many negroes have been whipped from different persons in the county and town, and they did not report to me more than fifteen. Some gentlemen and myself were counting them up the other night how many negroes to their knowledge or from report had been whipped and we could not make out more than fifteen.

Question. Did you make it fifteen?

Answer. I think it was twelve or fifteen.

Question. Whose names you knew?

Answer. Yes, sir. I do not know that we know the names; we know the cases.

Question. In what parts of the county were they?

Answer. In different parts of the county, east and west. Some were reported to have been whipped clear on the western side of the district, and I think one negro man reported himself to Colonel Merrill in the last month as having been whipped, and I get from reliable authority that that negro was not touched.

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Question. From whom did you get it—who is the authority upon which you rely from whom you got it?

Answer. I was talking to Squire Brown on that subject about two weeks ago. The negro is named Kale.

Question. What is his first name?

Answer. That is his last name. I do not know his other name.

Question. Did he report who had whipped him?

Answer. I cannot say. I do not know. I asked Squire Brown about it, and heard that the negro had reported to Colonel Merrill that he had been whipped, and he told me that the negro, as he understood, had not been touched; that there was some difference between the negro and his employer; that the employer had called together a number of men to settle the difficulty between them about the crop. They settled the difficulty; awarded the negro so much, and he not being satisfied came off to Yorkville with this story.

Question. Had Brown been charged with taking part in the whipping?

Answer. No, sir.

Question. Had the negro said who whipped him?

Answer. I do not know. I did not inquire when Squire Brown told me, "There is not one word of truth in it." I did not bother myself further.

Question. Brown gave you that as his opinion?

Answer. Yes, sir, and information derived from other sources by him.

Question. Information derived from those who had been charged with whipping him?

Answer. No, sir; from those who acted as arbitrators.

Question. But their testimony that he was not whipped was opinion?

Answer. It was information.

Question. Mere negative testimony?

Answer. Yes, sir.

Question. Have you examined the negro?

Answer. No, sir; I do not know him. I have mentioned the case to show you that if that negro was not whipped how easy it is for some people to report themselves here falsely.

Question. Suppose he was whipped and swore to it, would it not be just as easy to circulate a story that they did not believe he was whipped?

Answer. But if he was whipped the marks should show, and now let him bring up the persons who whipped him.

Question. Do you discredit the statements of negroes who say they were whipped?

Answer. In many cases I do.

Question. Do you think the men who disguise themselves could be easily told?

Answer. I do not say that, but a great many of these people dislike to work, and if they can get the protection of the State or the United States to relieve them from work they will do it, and I have no faith in their testimony.

Question. In negro testimony?

Answer. I have not.

Question. Is there any concerted arrangement here for the purpose of intimidating the negroes either with regard to their political rights or their making complaints against those who have whipped them or otherwise committed violence upon them?

Answer. I know nothing of the kind. The truth is this, I think it is just the reverse. If ever our people were earnest in anything it is to teach the negro his duty to be quiet and passive and attend to his duty; to let public meetings alone; to go and vote as he pleases, allowing no man to interfere with him. I do not know any cases where a darkey has been interfered with at the polls.

Question. Is attendance at a political meeting considered imprudent or wrong in them?

Answer. When they attend in large numbers they create great confusion and annoyance; but I do not know a procession that has been interfered with.

Question. Is that the light in which the white people view that subject, that the negroes had better stay away altogether from political meetings?

Answer. Yes, sir. Our advice is "have as little to do with politics as possible; if you want to vote, vote, but vote for no dishonest, vicious, ignorant, and wicked man; vote for whom you please, so he is honest, whether a radical or a democrat." That has been my advice to them all.

Question. Do you know of no organization in this county intended to prevent negroes from voting as they saw proper?

Answer. I don't; and that has not been the case.

Question. Do you know anything of this organization commonly called Ku-Klux?

Answer. I am no member of the Ku-Klux, and know nothing of their proceedings.

Question. Do you know anything of an organization in this county having any political purpose or purposes against the negro, whether Ku-Klux or not?

Answer. I have not. I tell you the feeling, the honest purpose of the people of this county and State, so far as I know, are in favor of the negro.

Question. What do you mean ?

Answer. For his general good, private and public. They do not wish to take away one particle of the rights of the negro, civil, moral, religious, or political.

Question. Have you no knowledge of this charge, which is so general, as to the existence of this organization called Ku-Klux ?

Answer. Only from report and rumor, and from public proclamation.

Question. From your intercourse with the people here, do you believe that that organization exists in this county ?

Answer. I do not believe there was an organization. There may have been assemblages of men to protect person and buildings, but evidently, from the fact of these negroes having been killed, somebody must have done it ; but I do not know anything about the organization.

Question. I want your belief as to the existence of this organization, which is by popular name called Ku-Klux, let its real name be what it may ; does it exist in this county ?

Answer. Not to my knowledge.

Question. I ask for your belief ?

Answer. That is my belief ; if there is any organization of that kind, I do not know it.

Question. You may not have actual knowledge, but you have ridden through all the county and heard of these murders, and heard of these whippings. Is it your belief that these murders and these whippings are done merely by individuals to revenge private wrongs, or that the people who do it are organized to assist each other ?

Answer. No, sir ; I think there is no organization in the matter. There may be neighborhood assemblies, but to say that they have a regular organization, I do not believe it.

Question. Were you here the night the county treasury was broken open ?

Answer. I was in my bed.

Question. In this town ?

Answer. Yes, sir.

Question. How many men were present ?

Answer. I cannot tell you.

Question. How far do you live from here ?

Answer. On the next lot. There is one intervening between this and my house.

Question. How many yards from here ; two hundred ?

Answer. No, sir ; not more than seventy-five yards.

Question. Did you hear the disturbance ?

Answer. I heard the noise and got up, but did not go out of my house.

Question. Did you make inquiries ?

Answer. I did next morning.

Question. Was there noise enough to arouse you.

Answer. Yes, sir ; I got up.

Question. What was your impression ?

Answer. When I first heard it, I thought it was a drunken row. It was a terrible noise ; but after awhile, when the noise ceased, I went to bed. Next morning they told me what had been done, but they could not tell the purpose.

Question. What time of night was that ?

Answer. About the middle of the night ; between 12 and 1, I think.

Que. You heard the noise ?

An. Yes, sir.

Que. a. Were the men in front of your house ?

Answer. The men seemed to be in this direction, on Front street, first.

Question. Did you see men in front of your house ?

Answer. No, sir.

Question. Did you hear the noise here ?

Answer. Yes, sir.

Question. Did you hear firing ?

Answer. I heard a few shots fired ; that was after the noise was over.

Question. Did the noise impress you that night with the idea that there was a disturbance of the public peace ?

Answer. I was satisfied that there was a row of some kind, and that would be a disturbance of the public peace ; but what its nature was I could not tell.

Question. Did you learn the property in the house here was broken up ?

Answer. Not until next morning.

Question. Did you go back to bed and to sleep ?

Answer. Yes, sir ; I went to bed after the row was over.

Question. You heard all the noise ?

Answer. Yes, sir.

Question. Within seventy-five yards ?

Answer. Yes, sir.

Question. You did not go out of your house ?

Answer. No, sir ; not out of my piazza.

Question. Did you know what was going on ?

Answer. No, sir.

Question. You did not know whether the mob was going to burn the town or not ?

Answer. No, sir ; I came out and heard the noise, and after it was over I went back to bed.

Question. You knew it was in this house ?

Answer. Yes, sir ; there is a bar-room here.

Question. There is but one intervening house, that frame dwelling ?

Answer. Yes ; sir.

Question. You did not apprehend fire ?

Answer. No, sir ; I heard darning and cursing.

Question. You knew nothing of what these men were doing until next morning ?

Answer. I could only judge from the noise that they were breaking down something.

Question. You did not get up to inquire ?

Answer. No, sir ; not until next morning.

Question. At what time ?

Answer. My usual time of getting up.

Question. Did it cause a disturbance of your usual rest ?

Answer. Yes, sir ; it caused a disturbance, but I make it a rule not to get up for these disturbances. I might get myself into a difficulty by attending public disturbances.

Question. Do you know any man that was present here that evening ?

Answer. I do not.

Question. Had you no previous knowledge of violence being intended ?

Answer. I had not.

Question. Was that the general course of your citizens here, to remain in bed while this thing was going on, and no one know what it was ?

Answer. I understand some did get up.

Question. Was there no knowledge in this town that a company of cavalry was expected here that evening by the railroad ?

Answer. No, sir ; I do not think the cavalry was expected.

Question. Or infantry ?

Answer. I think the infantry was expected.

Question. There was no knowledge that the rails were torn up below this town ?

Answer. Yes, sir ; the rails were torn up.

Question. So that the train could not go down to bring them up ?

Answer. Yes, sir. Who tore them up I cannot tell.

Question. Have you any knowledge of how they were torn up ?

Answer. No, sir.

Question. Was there no knowledge that the infantry was expected here that evening ?

Answer. Yes, sir ; our citizens understood it, because the train was down the day before.

Question. Was there any knowledge that night or next morning that the rails were torn up ?

Answer. The next morning the train went down and returned, and the inquiry was made why did they not go down, and the answer was that some of the rails had been torn up.

Question. That was Sunday evening ?

Answer. I think the train started down Sunday morning.

Question. And came back ?

Answer. Yes, sir.

Question. And it was known here Sunday that the train was stopped by rails having been taken up below the town ?

Answer. Yes, sir ; the train brought back these men.

Question. And it was that Sunday night this raid occurred ?

Answer. Yes, sir.

Question. The next night the troops got here ?

Answer. Yes, sir ; Monday. That was on Sunday the train started to go down, but failed to go that day, and the next day they went, and the troops came up that evening—Monday.

Question. When you heard of the rails being taken up how many did you hear had been taken up ?

Answer. Three or four rails. That was the report of the engineer.

Question. That train laid there all day for the want of these three or four rails ?

Answer. Yes, sir.

Question. How long did it take to put them down ?

Answer. I think they put them down next morning.

Question. In ten or fifteen minutes ?

Answer. I understood the rails were lost—so the engineer said. They could not find them.

Question. And the train came back here, and staid until next morning for want of two or three rails?

Answer. Yes, sir.

Question. Was there no idea that the persons in control of the road and citizens were winking at the detention to prevent the troops from coming?

Answer. No, sir; I heard nothing of the kind. I saw the president of the road that night, and he told me the train was going down Sunday morning for the troops. That was Saturday night.

Question. Did you see him Sunday?

Answer. No, sir. I think he went down there. I think I went into the country that day, and when I came back they told me the train had not gone, from the fact that the track was broken.

Question. It did go next morning?

Answer. Yes, sir; Monday.

Question. You say there was no expectation on the part of the citizens here that that raid would take place that night?

Answer. That may have excited surmise in the minds of persons from the fact of the rails being taken up.

Question. Did it excite any in yours?

Answer. I might have had some idea that something was to be done—I could not say what.

Question. When the rails were taken up, and you learned it on Sunday in connection with the coming up of the troops, had you no idea that the raid was to be made?

Answer. I had not.

Question. Had you no idea that a visit of the Ku-Klux was to be made that night?

Answer. No, sir.

Question. You had an apprehension that something was to be done, you say?

Answer. Yes, sir.

Question. What gave rise to that apprehension?

Answer. Simply the train being stopped. It meant that something was to be done, or that the citizens, or whoever did it, did not want the troops to come up that day.

Question. Did that thought strike you?

Answer. Yes, sir; you might draw that conclusion.

Question. Who did you think was going to do whatever was going to happen?

Answer. I could not fix that upon any individuals, because no one had expressed any intention to do anything to me or to the community. It was simply a matter from which to draw a conclusion.

Question. Are you a member of any secret organization?

Answer. I am not. I belong to no Ku-Klux organization.

Question. Do you hold any official position in any organization in this county, either political or otherwise?

Answer. I do not. I have met frequently in political meetings, but held no position.

Question. Do you believe there is a Ku-Klux organization in this county?

Answer. If there is, I do not know it.

Question. I am not asking for your knowledge, but your belief.

Answer. I do not believe there is. All I know about the Ku-Klux organization is simply from their proclamation.

Question. What do you mean by that?

Answer. Their public proclamation, which is in the public print.

Question. Did they publish any proclamation here?

Answer. Yes, sir.

Question. What was it?

Answer. I will read it to you. Knowing I was to be examined, I remembered something of the kind was published, and I went up to the office this morning, and have got this paper.

Question. What is the date of the paper?

Answer. This is March 9, 1871, from the Yorkville Enquirer:

“**KU-KLUX MANIFESTO.**—Below we publish a document which we received through the post office on Monday last, it having been dropped into the letter-box the previous night, as we are informed by the postmaster. As to whether or not the paper is genuine, and emanates from the mysterious Ku-Klux Klan, we have no means of knowing, as the handwriting is evidently disguised. Although it is our rule to decline the publication of all anonymous communications, we have decided to waive the rule in this instance, and print the document for what it is worth. Here it is in full:

“EXTRACT OF MINUTES.

“**ARTICLE 1.** Whereas there are malicious and evil-disposed persons, who endeavor to perpetrate their malice, serve notices, and make threats under the cover of our august

name, now we warn all such bogus organizations that we will not allow of any interference. Stop it!

"**ART. 2.** There shall be no interference with any honest, decent, well-behaved person, whether white or black; and we cordially invite all such to continue at their appropriate labor, and they shall be protected therein by the whole power of this organization. But we do intend that the intelligent, honest white people (the tax-payers) of this county shall rule it! We can no longer put up with negro rule, black bayonets, and a miserably degraded and thievish set of lawmakers, (God save the mark!) the scum of the earth, the scrapings of creation. We are pledged to stop it; we are determined to end it, even if we are 'forced, by force, to use force.'

"**ART. 3.** Our attention having been called to the letter of one Rose, county treasurer of York, we brand it as a lie! Our lieutenant was ordered to arrest him, that he might be tried on alleged charges of incendiarism, (and if convicted he will be executed.) But there were no shots fired at him and no money stolen; that is not in our line; the legislature of the State of South Carolina have a monopoly in that line.

"By command of the chief.

"Official:

"K. K. K., A. A. G."

Question. Did that appear after the raid on the county treasury?

Answer. Yes, sir; some time after. I do not remember the night of the raid.

Question. Does that convey to your mind the belief that there is an organization in the county?

Answer. Yes, sir; who constitute that organization I cannot tell.

Question. You do believe now that there is a Ku-Klux organization?

Answer. From that article there must have been at that time; whether there is now I do not know.

Question. Who compose it you do not know?

Answer. I do not know. It was upon outrages committed by what are called counterfeit Ku-Klux in this county. That was the rumor here. For instance, I understood that some negroes were whipped and their whisky was taken from them. That article was intended, it seems, to meet such cases.

Question. Then the fact being that counterfeit Ku-Klux were in the county, was this proclamation necessary to convince your mind that the genuine article was here?

Answer. That seems to be the tenor of the article.

Question. Before this appeared were you in doubt whether the Ku-Klux organization existed?

Answer. I did not know that there was any such organization until I saw that article, and it seems to be to warn the bogus Ku-Klux who were doing this mischief.

Question. Have you any knowledge where this came from?

Answer. I have not, except as I saw it in that paper.

Question. Was it never submitted to you before it was given to the paper?

Answer. No, sir.

Question. Had you any consultation about it?

Answer. No, sir.

Question. Has your name never been connected in public rumor with any of these transactions?

Answer. It never was. If that article be in the true spirit of the Ku-Klux organization or any other organization—if the object be to place honest and intelligent men at the head of affairs, without regard to party, every good, honest man ought to sanction it.

Question. With this statement, so far as this proclamation is concerned, you indorse it?

Answer. So far as honesty and intelligence is concerned, I do. I do not think the remedy is right. This Ku-Klux business is certainly a terrible remedy; but if the motive be to keep down dishonesty and rascality, and place honest and virtuous men in power, and let them rule the State, without regard to party, we all ought to sanction it.

Question. Is that the tone in which you have spoken of that organization in this county?

Answer. Yes, sir; and if that be the motive and tenor, that is my opinion.

Question. Has it escaped your attention that the protection accorded to honest people in this proclamation is confined to honest white men?

Answer. White and black.

Question. Has it escaped your attention that it is confined to honest white people?

Answer. No, sir; it is not alone to white people.

Question. Do you say this proclamation does extend its protection to honest people, white and black?

Answer. Yes, sir; so I understand it—without regard to whites or blacks.

Question. Does it concede to honest black men their political rights in this county?

Answer. That is what I think it means.

Question. What construction do you put upon this sentence in it: "But we do intend that the intelligent, honest white people (the tax-payers) of this country shall rule it."

Answer. I mean simply this, that the honest, intelligent white people are the only persons in the county capable of ruling it.

Question. Suppose there had been a majority of negro voters in the election which elected a republican ticket, was it the intention of this organization, as you understand it, to submit to such a rule?

Answer. If they elect their members through the ballot-box, we have no other redress than to submit.

Question. What construction do you put upon this language: "We do intend that the intelligent, honest white people (the tax-payers) of this country shall rule it?"

Answer. I presume they intend to rule it through the ballot-box.

Question. If three negroes had been elected county commissioners, do you believe this organization would have permitted them to remain in office?

Answer. I think so, because I was requested by the colored people to act as their secretary; and they called upon these commissioners to resign.

Question. Which commissioners?

Answer. The county commissioners. Two colored men were elected, and they were called upon to resign.

By Mr. VAN TRUMP:

Question. By whom?

Answer. The black people had a meeting here, and requested me to act as secretary.

By the CHAIRMAN:

Question. They called upon the colored people to resign?

Answer. Yes, sir; and white people.

Question. Did they resign?

Answer. No, sir.

Question. Are they in office yet?

Answer. Yes, sir. They asked me my opinion, and I told them, "If they do not represent you, let them know it by an expression of opinion."

Question. When was that meeting held?

Answer. In March, I think.

Question. Was that after most of these outrages had occurred?

Answer. Yes, sir.

Question. This seems to have been a second or an adjourned meeting?

Answer. Yes, sir.

Question. Are these the proceedings you referred to?

Answer. Yes, sir; this is the one—the second meeting, for final action, and there is the resolution.

Question. Were the proceedings of the first meeting published?

Answer. Yes, sir; a called meeting. I do not think there was anything done at the first meeting. There was not a full meeting, and the colored people met and adjourned to a second meeting.

[The proceedings referred to, as published in the Yorkville Enquirer of April 6, 1871, are as follows:]

" [For the Yorkville Enquirer.]

"PUBLIC MEETING OF THE BLACKS.

"YORKVILLE, April 1, 1871.

"In accordance with previous notice, an adjourned meeting of the colored people of this county was held this day in the court-house, with Charles Bessier as chairman, and J. R. Bratton again acting, by request, as the secretary of their meeting.

"On motion of George Byers, a committee of three, consisting of George Byers, Moses Edwards, and Andrew Tims, was appointed to prepare a resolution expressive of the sentiment and objects of the meeting. These persons having requested Captain Mitchell to retire with them and act as their secretary, returned in a little while and reported the following resolution:

"*Resolved,* That we, the colored people of this county, earnestly desiring the restoration of peace and harmony throughout the country, and the perpetuation of kind feelings and true friendship among all classes—both white and black—do hereby request the members of the legislature—our immediate representatives—the probate judge, the school commissioner, and the county commissioners, to resign their respective offices, believing that such action, and such only, on their part, will secure and place the object of our desires on a lasting basis.'

"The chairman then stated that the resolution was open for discussion by his colored friends. Nelson Davis, colored, then spoke against the resolution, stating that the meeting had been called, not to ask the resignation of members of the legislature or county officers, but to put down the 'Ku-Klux.' He admitted the corrupt legislation, the extravagant expenditure of the public money, and the unjust and oppressive taxation again imposed upon the people by the legislature, but appeared to have an idea that the resignation of the members of the legislature for this county could not in

any way, assist to purge out and purify that body. He thought that all corrupt legislation and incompetency should be met by an action under the law in the court-house, and concluded by earnestly hoping that not one colored person present would vote for the resolution.

"No other colored person being anxious to speak upon the resolution, the chairman personally requested General E. M. Law to give his opinion upon the resolution before the meeting.

"In compliance with that request, General Law frankly stated that he was pleased to see the resolution coming from the colored people, as they were the prime and willing instruments by which these members were put into office; and have, undoubtedly, the moral right and power to request them to resign their offices if such action would secure sound, healthy legislation for them in Columbia, and peace and contentment at their homes. He stated that it was folly to talk about peace, harmony, and true friendship among all classes, so long as the virtuous, intelligent white men were represented by vice and ignorance, and such reckless, rotten legislation and reckless extravagant expenditures of the public money continues. Let virtue be substituted for vice; intelligence for ignorance; and honesty for rascality. Let the morality, intelligence and wealth of the people of the country be honestly, fairly represented; then, and not till then, would we have peace secured on a permanent basis. He could see no other way, devise no other plan, by which the object of the resolution could be more fully and satisfactorily carried out for all classes than that set forth in the resolution, and therefore advised the colored people to vote for it because it was a peace measure, looking not only to our own individual good, but also to the general improvement and prosperity of the country.

"After the mode of voting was made clear to the understanding of the colored people by the chairman, the resolution was put to the meeting, and carried without a dissenting voice.

"It was then ordered that the Enquirer be requested to publish the proceedings of the meeting.

"The meeting then adjourned.

"CHARLES BESSIER,
"Chairman.

"J. R. BRATTON, *Secretary.*"

By the CHAIRMAN:

Question. Now, Doctor, having stated your belief that there is a Ku-Klux organization, since you saw this notice in the paper, state who in your belief compose it.

Answer. I cannot tell you that, sir.

Question. What class of people, sir?

Answer. I cannot tell you who compose that organization. I know nothing about them. I do not belong, and have no means of knowing.

Question. Have you no idea who compose it?

Answer. No, sir; I have no means of knowing.

Question. With the three men of whom you have spoken as murdered by disguised men, as you state—with fifteen cases that you are able to call up, of negroes that you understood were whipped—with this raid upon your county treasury by men in disguise, all transpiring within six months, have you no idea who the men are who compose the organization which does these things?

Answer. I have not; as I say to you, I do not belong to the organization, and therefore have no means of knowing.

Question. Do you believe that they are the respectable men of the county?

Answer. I cannot say that.

Question. Or are they the criminals of the county?

Answer. I do not know whether they are the worthless class or the most respectable class.

Question. Have you no opinion about it?

Answer. I have no opinion as to that point. I have this opinion as to this thing. I say to you here that article now comes up to a better expression of my opinion than anything I can give you. If the object of the organization be to preserve peace and harmony and protect the innocent white and black, I can sanction it.

Question. You believe that that notice in that paper did emanate from the men who were here at the raid on the county treasury?

Answer. No, sir; I do not know that these men were here—the same organization.

Question. It refers to Rose's account—of his escape?

Answer. Yes, sir.

Question. And they contradict his statement about the money?

Answer. Yes, sir.

Question. You give credit to that card as coming from some organization?

Answer. Yes, sir.

Question. With that statement in it about Rose, do you believe it came from the organization which appeared here and broke open the county treasury?

Answer. Some persons connected with the business of breaking open the county treasury or making the attack must have had some knowledge of the article.

Question. Approving, as you say you do, of the spirit of that proclamation, did you approve of the raid on the treasury?

Answer. No, sir; I did not approve of that, but I approved of the motive. The remedy I did not approve of. I say it should be our motive, whether republican or democrat, to place honest and intelligent men at the head of affairs.

Question. Have you ever denounced the Ku-Klux for their operations?

Answer. Often; I have often. I have told them it is not the remedy for our disease.

Question. Did you denounce it in the way you now denounce it, by saying while you denounced the act you approved the motive?

Answer. No, sir; I have not approved of the motive. I have told you more than any man I have talked to before.

Question. Do you know the motive?

Answer. Only so far as these publications show.

Question. Do you know whether that is the true motive?

Answer. Yes, sir; if that article represents their true motive.

Question. Do you believe that is the true motive of that organization?

Answer. So far as I know it, it is.

Question. Where did you get that?

Answer. From that article simply.

Question. Have you had no communication with anybody to know the motive?

Answer. No, sir.

Question. Suppose this organization should be composed of outlaws and thieves, as some persons have said, do you ascribe to them such motives?

Answer. If outlaws and thieves forget their principles, and express such sentiments and carry them out, I am bound to believe they are exercising these principles.

Question. You think it possible that the outlaws and thieves of South Carolina have taken up such lofty principles?

Answer. I say if they do denounce the principles of outlaws and protect white men and black men in the peaceful prosecution of labor under honest government, I approve of that motive.

Question. And you are willing to see the outlaws and thieves installed in place of those of those who are trying to put them there?

Answer. No, sir; I am not willing to see them do that.

Question. Is it your belief that they will place honest, virtuous men in power when they get control?

Answer. I cannot say; but I do say, that even if the outlaws and thieves published that article, I am willing to indorse those sentiments.

Question. Do you attribute it to outlaws and thieves?

Answer. I do not know who they are.

Question. Do you believe it is from a respectable class of society?

Answer. I cannot say whether they belong to the respectable or the lower class. I have no knowledge on that subject.

Question. Has no suspicion ever entered your mind in reference to a single individual as connected with this organization in this county?

Answer. I have no knowledge of any.

Question. You have never fixed upon any man in this county as connected with this organization?

Answer. I have never suspected any man. I cannot fix upon any man, who is, to my knowledge, a member of the Ku-Klux or any other organization.

Question. Have you ever heard of the Invisible Circle, or the Knights of the White Camellia in any part of the State.

Answer. No, sir.

Question. Have you heard of the White Brotherhood existing in North Carolina?

Answer. I never have. I saw some of these names published in the newspapers, but so far as any practical association with such parties is concerned, I have none.

Question. Have you taken enough interest in them to read them?

Answer. No, sir.

Question. Did you know that these outrages in this county were attributed to such an organization?

Answer. I did not. I do not know of any organization of that kind.

Question. Did you know that they were attributed to such an organization?

Answer. I did not.

Question. You have not taken enough interest to inform yourself whether they were or not?

Answer. No, sir; I have never inquired.

Question. Then the public mind in this county is dead to the importance of inquiring who these parties are?

Answer. No, sir; the public mind denounces these things.

Question. And you, with your extensive acquaintance in this town and county, think that no trial has ever taken place here of anybody for the murder of Roundtree?

Answer. I do not think there has. If there has, I would have known it. I do not know a single individual who was arrested.

Question. Have you any knowledge of the men who participated in the hanging of Captain Williams?

Answer. I have no knowledge of that fact.

Question. Has no man said anything to you about it?

Answer. No, sir; no man has said, "I did it," or "he did." I know nothing about it as to who hung him.

Question. Either from those who participated in it or from any other person?

Answer. No, sir.

Question. Did you learn that he was hanged?

Answer. Yes, sir.

Question. That that was the mode of his killing—that he was hung?

Answer. Yes, sir.

Question. Were you upon the inquest of any one of these men who were murdered by violence in this county?

Answer. No, sir. I was engaged all the time in other business. Generally in these cases in the country they take the nearest physician.

By Mr. STEVENSON :

Question. This public meeting you have spoken of was the final meeting held by the colored people?

Answer. Yes, sir. The second meeting was the final meeting.

Question. On Saturday before that there had been a meeting of the whites, had there not.

Answer. No; I think the colored people had their meeting first, and the same evening, I think, the whites had their meeting, too. They postponed their meeting.

Question. Let us get at the history of the matter. The first meetings were held on the same day?

Answer. Yes, sir.

Question. By both whites and blacks?

Answer. Yes, sir.

Question. But separate meetings?

Answer. Yes, sir.

Question. Did you participate in both?

Answer. I did.

Question. What was done at this first meeting?

Answer. The first meeting the blacks had, they postponed it until the second meeting; they adjourned to meet after a week or ten days. The whites had a meeting immediately afterward, and adjourned to sales-day, I think.

Question. Here is an account of the meeting in the Yorkville Enquirer of March 30, 1871?

Answer. That is it.

Question. Meetings were held on Saturday, the 25th of March last?

Answer. That is the first meeting.

Question. Here is also the account of the meeting of the whites.

Answer. Yes, sir; and now take the next paper, and you will get the second meeting.

[The proceedings above mentioned, as published in the Yorkville Enquirer of March 30, 1871, are as follows:]

"PUBLIC MEETING.

"At a meeting of a respectable number of colored people, held at the court-house in Yorkville, on Saturday, 25th instant, Charles Bessier was called to the chair and J. R. Bratton requested to act as secretary of their meeting.

"The chairman stated that he regretted he did not have information of the meeting sooner, the object of which was to adopt some measure on their part which would restore peace to the country, and good will and friendship among all classes, both white and black. He confessed that he, as well as many others, had been deceived by the radical party; that whereas he was once blind, he can now see his error, and was willing to use all his efforts to secure the object of the meeting. He regretted that there was not a full meeting of his colored friends present, and hoped that some one would suggest a postponement of final action on the subject of the meeting until some future day.

"On motion of Andrew Sims, it was agreed to adjourn the present meeting until Saturday next, the first day of April; and, in the mean time, the colored people in each township were requested to hold meetings and appoint delegates to meet in the court-

house at Yorkville at the above-stated time, and to invite all other colored persons to attend the meeting who can possibly leave their business.

"On motion, the white citizens having colored laborers in their employ were requested to extend this notice to all such as may be engaged on their farms, and encourage their attendance at the meeting.

"George Byers then addressed the meeting, giving his experience in politics for the past few years; acknowledged the deception practiced upon him and others, and renounced all political parties and politicians, now and forever.

"It was moved that the Enquirer be requested to publish the proceedings of this meeting, and the same then adjourned to meet on Saturday next.

"CHARLES BESSIER, *Chairman.*

J. R. BRATTON, *Secretary.*"

"PUBLIC MEETING.

"At a meeting of white citizens of York County, held at the court-house in Yorkville, on Saturday, 25th instant, in pursuance of a previous call therefor, Colonel Cad. Jones was called to the chair, and J. S. R. Thomson elected secretary. It appeared that on account of the short notice which had been given, there had been no opportunity for a full attendance from the more remote portions of the county; on motion, it was, therefore,

"Resolved, That this meeting do adjourn until the first Monday (sales-day) in April next, and that the chairman do appoint a committee, consisting of two persons from each election precinct, to prepare business for the next meeting, and that it be a portion of the business of said committee to use their endeavors to have as full an attendance as possible of the white citizens of this county to assemble in mass meeting at the court-house on said sales-day.

"Resolved, That said committee be requested to meet at the court-house on Saturday (1st April) at 10 o'clock a. m., and that the chairman of this meeting do act as chairman of said committee.

"Under the first resolution the chairman appointed the following committee :

"For Yorkville—W. B. Wilson, J. R. Bratton.

"For Bethel—J. L. Adams, J. C. Phillips.

"For Bethany—Wm. McGill, A. P. Campbell.

"For King's Creek—W. W. Gaffney, W. C. Black.

"For Hickory Grove—D. C. McKinney, Jno. W. Mitchell.

"For Bullock's Creek—J. P. Hood, S. C. Youngblood.

"For Sharon—Sam'l G. Brown R. A. Ross.

"For McConnellsville—J. P. Moore, L. P. Sadler.

"For Pride's Old Mill—Jno. S. Bratton, Daniel Williams.

"For Coates's Tavern—Jno. R. Patton, Alexander Black.

"For Rock Hill—Jno. Rattaree, F. H. Barber.

"For Fort Mills—J. H. Faulkner, Baxter Springs.

"For Clay Hill—W. B. Allison, David T. Partlow.

"For Buffalo—Jonathan Moore, Jos. G. Webber.

"Resolved, That the proceedings of this meeting be published in the Yorkville Enquirer.

"On motion the meeting then adjourned.

"CAD. JONES, *Chairman.*

"J. S. R. THOMSON, *Secretary.*"

Question. Now what was the object of those two meetings, in a word?

Answer. The object of the colored meeting, as I understand it, and as they expressed their wish to me, was to do something to restore peace and harmony between the whites and themselves, and they thought, as that resolution expressed it, that something of that kind would be the means of doing it—a resolution simply requesting those persons to resign.

Question. What was the object of the white meeting?

Answer. The object was to denounce this lawlessness that existed throughout the country, and, I think, their resolution expressed something of the kind.

Question. It was, then, in substance, on the part of the negroes, to do something to restore quiet, and on the part of the whites, to meet them half way?

Answer. Yes, sir; it was a harmonious meeting.

Question. It resulted, did it not, in the colored people renouncing politics?

Answer. Yes, sir.

Question. And parties?

Answer. Yes, sir.

Question. And the whites giving them assurance of order and quiet?

Answer. That they would be protected in all their rights. I think the resolution of the whites sets forth all those points. I think Colonel Cad. Jones got up the resolution. He was chairman of the committee.

Question. I notice that in the last meeting they requested the officers they had elected to resign?

Answer. That is the second and final meeting by the colored people.

Question. And in addition to that their speakers said, and it seemed the general sentiment, that they should renounce all parties and quit politics?

Answer. Yes, sir.

Question. And that was satisfactory to the whites?

Answer. Yes, sir. The whites had no objection to it; if you will read the resolutions of the whites you will see they meet the blacks on half-way ground. They are perfectly willing to enter into any measures that will restore peace and harmony to the country.

Question. Have you any knowledge of the movement, in this county, among the colored people, to emigrate to Liberia?

Answer. Only from the last paper. I saw in the last paper a notice of some persons out in the west of the county intending to go to Liberia.

Question. Do you know Rev. Elias Hill?

Answer. Only by appearance. I know him when I see him.

Question. June Moore—are they leading colored men?

Answer. I believe in their neighborhood they are leading colored men or darkies.

Question. Is that the article in the Yorkville Enquirer of July 20, 1871, headed, "Going to Liberia." [Showing the witness the following:]

"GOING TO LIBERIA.—We learn that a large number of negroes—comprising sixty or eighty families—in the vicinity of Clay Hill, in the northeast part of this county, have determined to emigrate to Liberia, and are now making their arrangements to embark in the vessel of the Colonization Society which will sail from Charleston or Baltimore early in November next. Rev. Elias Hill and June Moore (two colored men of this county) are at the head of the movement, and it is the intention of the emigrants to locate in that part of Liberia known as the North Carolina Colony. These emigrants are to be received at Rock Hill, and will be furnished transportation to Liberia by the Colonization Society. We understand that several hundred other negroes in this county are making preparations to follow in the vessel which sails next May."

Answer. Yes, sir; Elias Hill is a lame man out here. I do not know him personally.

Question. Is the Yorkville Enquirer the democratic paper of the county?

Answer. It is the only paper in the county.

Question. Is it democratic?

Answer. I don't think the editor has anything to do with politics in the world.

Question. Are the sentiments of the paper not democratic?

Answer. Yes, sir, pretty much so. I do not believe the editor has much to do with politics. Does not he say at the head of his paper neutral in politics? Does not he set forth that as his banner?

By the CHAIRMAN:

Question. He calls it "An independent family newspaper."

Answer. That is it. I think he publishes anything for either party.

By Mr. STEVENSON:

Question. Do you really think this is not a democratic paper?

Answer. I do not. I think he publishes for either side. I think republicans subscribe to that paper just as well as the other side.

Question. It being the only paper in the county. But I have some curiosity to know whether this is a democratic paper?

Answer. I think he is purely conservative.

Question. What do you mean by that?

Answer. He does not interfere with either party; he takes conservative ground—points between the two.

Question. When this raid was made on the county treasurer's office, was there any other place or house in the town visited?

Answer. Not to my knowledge.

Question. Did you not hear of the visitation to the house of Wright?

Answer. That was the rumor—the report next day.

Question. You are, of course, giving your information?

Answer. It is from rumor, not from personal knowledge.

Question. You do not know anything about it personally?

Answer. No, sir; that was the rumor the next day, that they had visited the colored man, Tom Wright.

Question. Did you hear what they did there?

Answer. I do not remember what they did. I do not think, from what I could learn and remember now, that he was at home. I do not think he was at home.

Question. Did you not hear what they did at his house?

Answer. I did not.

Question. That they went into the house and fired their guns and broke up the furniture?

Answer. No, sir.

Question. You did not even hear that?

Answer. No, sir, I did not hear that.

Question. Did you hear of another Ku-Klux visitation to this place by some persons who took some ammunition?

Answer. Yes, sir. I heard ammunition was taken out of the ordnance office.

Question. What did you hear about that?

Answer. I simply heard the ammunition was taken out and some little boys found some of it over here in the old field.

Question. Did you hear what they did with the cases in which it had been kept?

Answer. No, sir.

Question. You did not hear that they left them on the steps of the Presbyterian church?

Answer. Yes, sir; I heard they left them on the steps of the Presbyterian church and had taken the ammunition out; that the boxes which had held the ammunition were left on the Presbyterian church steps.

Question. You spoke of the killing of a negro man named Brown?

Answer. Yes, sir; I understood he was killed. It was so reported.

Question. Did you understand whether that was done by men in disguise?

Answer. That was proved at the coroner's inquest.

Question. How many?

Answer. I do not remember the number of men, sir.

Question. Do you remember how many shots were fired?

Answer. No, sir, I do not remember that, either. It strikes me that the evidence adduced on the trial was that he was shot in the head, if I remember aright. I was not at the inquest.

Question. I see by this paper that twelve shots were counted.

Answer. Yes, sir, it so says. Twelve shots.

Question. You spoke of the murder of a negro named Black?

Answer. Yes, sir; John Black or Roundtree. He has two or three names. That was simply a rumor that he was killed. They had two reports about that. One that he was killed by the negroes who lived with him, for his money. I cannot say who did it. It looks to me like he was killed for his money, because he was not killed until he got back from Charlotte, after selling his cotton.

Question. Do you know who Samuel Raudall of North Carolina is?

Answer. No, sir.

Question. John Hicks, of this county?

Answer. I do not know him?

Question. Mac Byers?

Answer. No, sir.

Question. Are they colored persons or white?

Answer. I do not know.

Question. I am asking for your information.

Answer. I do not know.

Question. Do you not know that the coroner's jury found that there was evidence against them?

Answer. I do not know the fact, sir.

Question. Do you know at what number the party was estimated that killed him?

Answer. I do not, sir. I do not remember all the points of the evidence brought forth by the coroner's inquest.

Question. You say this man Thomas Black is also called Roundtree?

Answer. Yes, sir; he had those two names.

The article above referred to in the Yorkville Enquirer of March 30, 1871, is as follows:

"INHUMAN MURDER OF A NEGRO.

"A negro, named Thomas Black, who lived near Harmony, in this county, three or four miles from the State line, was murdered at his house on Saturday morning last. The testimony adduced before the coroner's investigation elicited the facts, that at about 1 o'clock on Saturday morning the inmates of Black's house were aroused by the firing of guns in his yard. Surmising trouble, Black attempted to conceal himself in the loft of his house, but was discovered, when he attempted to make his escape by flight, but was fired upon and fell in his yard pierced by a number of balls, after which his throat was cut. The party, estimated at sixty in number, was recognized to consist of white men with the exception of three who were disguised and whose complexion could not be distinguished. They rode off in the direction of North Carolina. The jury rendered a verdict that 'the deceased, Thomas Black, came to his death by gunshot wounds and having his throat cut by persons unknown, though it is in evidence that Samuel Randall, of North Carolina, and John Hicks and Mac Byers, of York County, South Carolina, were in the company.' On a warrant issued by J. H. Fayssoux,

the coroner, Mac Byers has been arrested by the civil authorities, and was lodged in the jail at this place on Tuesday. We have heretofore expressed our condemnation of these inhuman and lawless acts, which, in this instance, we can only reiterate. However obnoxious this negro man may have been, or howsoever grave the charges—real or imaginary—resting against him, laws are provided to meet the exigencies of the case, without a necessity of resorting to mob violence; and the sooner the strong arm of the civil law arrests and brings to punishment the perpetrators of such outrages the better it will be for all."

Question. Are you a member of the "Council of Safety?"

Answer. I am not, sir.

Question. Who compose that council?

Answer. I cannot tell you, sir.

Question. Are you a member of any company?

Answer. Military company?

Question. Military or semi-military.

Answer. None at all.

Question. Have you ever been a member of any organization to provide for the protection of the whites against the blacks?

Answer. No political organization.

Question. Or any organization?

Answer. No, sir. In 1868 we had a little agreement between ourselves, citizens of this town, to protect our own property. We simply patrolled our own lots and the streets. That was in 1867 and 1868. That was simply to take care of ourselves. That is all the organization I know of; but to say there was any regular organized body during those years, I do not know it.

Question. What was that organization?

Answer. That organization was simply an agreement between ourselves. It was not an organization, but an agreement that we would take it alternately, time about, to patrol the streets and watch our lots, because we did not know what mischief might be done.

Question. An agreement between whom?

Answer. Between citizens of the town. I suppose every real estate owner in the town was engaged in that. I think that was in 1867 and 1868.

Question. White and black?

Answer. No, sir; I do not think any blacks were engaged in it. That was a matter of social agreement to take care of ourselves.

Question. Who were they?

Answer. The citizens of this town. You might take up any man in this town and he could tell you the same thing.

Question. Name some of them.

Answer. You may take my copartner, Dr. Barron. He knows that fact, that we had an agreement of that kind to take care of our property by patrolling the streets and watching our lots. We were armed, but simply with pistols.

Question. What was the arrangement for notifying each other?

Answer. The agreement was made in this way: We would notify each other whose turn it was; we had our names down in regular form. The real estate owners here were known, and we took it as our names were called. Certain men would take it one night, and another set another night. We were not able to pay a marshal to do this work for us and we had to do it ourselves.

Question. What was the arrangement to give notice of trouble?

Answer. The only arrangement was that we would announce to each other, in verbal form, if anything was wrong. I know of no other plan.

Question. Had you no signals?

Answer. None at all. No secret signs nor signals.

Question. Who had general control of the arrangement?

Answer. I do not think there was any chairman of the committee or anything of the kind. I do not think there was anything of the kind.

Question. You had no officers?

Answer. None at all, simply a private agreement.

Question. Was any such organization formed in the country or county?

Answer. None that I knew of.

Question. Did you not hear, in 1868, of the formation of clubs or some organization which was supposed by outsiders to be Ku-Klux?

Answer. No, sir; I know of no organization, neither did I hear of any.

Question. Did you not hear of the Ku-Klux in this county in 1868?

Answer. I did not. If they existed I did not know it, neither did I hear of it. I do not know that I can refer to a single act done by any persons or band of persons in 1868.

Question. How did this county vote in 1868?

Answer. The republican party carried this county in 1868.

Question. By what vote?

Answer. A pretty close vote. I think Senator Rose was elected by fifty or sixty majority.

Question. You were not aware, then, of the existence of Ku-Klux here in 1868?

Answer. I know of no organization of that kind in 1868. I know of a private agreement between real estate owners, among themselves, to take care of their own property.

By Mr. VAN TRUMP:

Question. In regard to this colored meeting, at whose request you acted as secretary, how large was that meeting?

Answer. It was quite a respectable meeting.

Question. Held in the court-house?

Answer. Yes, sir.

Question. What number of persons were there?

Answer. The benches were full.

Question. What number?

Answer. Probably one hundred and fifty or two hundred. They were delegates from different sections of the county.

Question. A regular meeting by delegates from the county?

Answer. Yes, sir; it was not every individual for himself, but delegates to represent certain sections. I looked upon it as a very respectable meeting, and it was a very decent meeting.

Question. Who were the leading black men who took part?

Answer. There were no prominent men among them. They were simple, plain black men. One old man was named George Byers. I think he was the only black man who made a speech.

Question. What, in your opinion, have been the causes of whatever disturbances have occurred in this county within a year; what are the principal leading causes of any troubles that may have existed, whether breaking out by Ku-Klux acts or any other mode of proceeding?

Answer. Why, sir, my opinion is this: that these burnings of people's houses and barns and gin-houses produced this disturbance.

Question. Was that last summer?

Answer. That was last fall and winter, and this spring. I do not know that there were any burnings last summer that I remember. I think it was all this winter.

Question. You have given an estimate of the number of the whippings of negroes, whether by Ku-Klux or other negroes, or somebody else for private reasons, at twelve or fifteen. What is the probable number of burnings of gin-houses in this county in the last year?

Answer. I will have to count them up. Thomason, stables and barn; Warren, gin-houses; Miller, gin-house; Crosby, gin-house; Preacher Castle, barn; my brother's thrashing-house was burnt the other night. A boy confessed it afterward. He simply did it because my brother had told him not to go into his select orchard. He had a large orchard and told him that he and the rest of the colored people might go in there, but not in the garden. He did go into the garden. He caught him there and cursed him a little, and, in a few days, this fire took place.

Question. Go on with your list.

Answer. I cannot think of any more. I have not had these things fixed in my mind.

Question. Were you here on the night in which there were five or six or seven gin-houses burning in sight of the town?

Answer. Yes, sir; I do not know that they were all burning the same night.

Question. Did you not see several fires?

Answer. No, sir; I did not get up at all to see. It strikes me that Thomason's house and Warren's were burned at the same time, or Thomason's, or Miller's. It strikes me that two were burned at the same time—I think Thomason's and Miller's.

Question. You have no recollection of seeing or knowing by information of five or six gin-houses burned on one night, and the conflagration being seen here in town at the same time?

Answer. I do not know that they were all burning in one night.

Question. You say you do not know of anybody being arrested for the murder of Roundtree, or Black?

Answer. I do not know that there was.

Question. Do you know that there is a colored man in the Chester jail now on that charge?

Answer. No, sir. I inquired about that very fact and nobody could tell me. Is not he reported among these men?

Question. I do not know.

Answer. I cannot tell you; I inquired about that man because that man was living with Roundtree, was he not?

Question. I do not know; I ask for information.

Answer. The reason I inquired was, the coroner told me the man sent to inform him

of the murder, instead of coming directly to him, stayed here in town a number of hours before he came to him and told him; that excited my suspicion. I inquired soon afterward, "Has that man been arrested?" I never heard he was arrested. If he was arrested and put in this jail I would have heard it. You say he was in the Chester jail?

Question. I have heard so.

Answer. I simply asked that question because the coroner told me that it was strange that the man did not come to him immediately and give him the information.

Question. Was it known that Roundtree had money?

Answer. It seemed so; that was the report.

Question. Was it known that the money was missing after the murder?

Answer. So I understood; that is the rumor.

Question. What effect on the public mind had this order of Governor Scott arming the negroes, with not only arms but fixed ammunition, all through the State; and what was the extent of that arming in this county?

Answer. I think there were several companies here; one down below, at Rock Hill, and one below here. There were three in the district. They were well armed and had ammunition, which I was sorry to see; indeed I was.

Question. What effect did that have on public sentiment?

Answer. It depressed and discouraged the white man, and made him feel uneasy; it certainly made the negroes more unruly. They had less regard for peace.

Question. Is it the nature of the negro, when put in power, to become arrogant?

Answer. That is so, according to my experience; I have been raised with him.

Question. I understand you to say that where a negro has a direct motive in giving his testimony, you have little confidence in it?

Answer. I would question his evidence. I am speaking now the honest conviction of my heart.

Question. You have been raised with them?

Answer. Yes, sir; God knows I speak the truth.

Question. You speak of the mass?

Answer. Yes, sir; in a body of black men you would get now and then at the truth; but I speak of them as a mass; as a nation of people they cannot be relied upon.

By the CHAIRMAN:

Question. What is your opinion as to the truth and veracity of the men composing the Ku-Klux?

Answer. I cannot tell; I have no experience or information upon the subject.

Question. Do you believe they would perjure themselves to deny their connection with an order that commits murder and violence?

Answer. If that organization does exist, and is composed of honorable men in this county, I do not believe they would.

Question. We want to know, taking things as they stand, what is your opinion of the veracity of the men who do compose the Ku-Klux?

Answer. I cannot tell you who they are, in the first place. If I knew these men I could tell whether I would believe them or not.

Question. Have you any opinion as to whether we could rely on the testimony of men who were charged with being members of the Ku-Klux organization?

Answer. I cannot say as to that. I do not know who compose the organization.

Question. Would you give as much credence to the testimony of the men who were charged with these murders as you would to the negroes, as a class?

Answer. I would question very much men who would kill and whip and disturb negroes. I would question very much their veracity.

Question. Do you think they would be as likely to commit perjury, to get clear of the imputation of those crimes, as the negroes who swear that they suffer by them?

Answer. Not if they were white, honorable men.

Question. Do you think white, honorable men go into an organization to commit murder?

Answer. No, sir.

Question. Then, who do commit these murders?

Answer. I can give you no opinion; for I have no stand-point from which to reason.

Question. You have mentioned six cases of burning in this county. The first is Thomason. Do you know whether that fire was accidental or was caused by incendiaries?

Answer. From what I learned the man ran the persons from his barn.

Question. Did he know who they were?

Answer. No, sir; they never were found out.

Question. Do you charge that to the negroes or white men?

Answer. I don't know who did it.

Question. You have given it as one of the causes for the acts against the negroes.

Answer. I have given the burnings.

Question. Which do you say caused that fire—whites or blacks?

Answer. I cannot say.

Question. Is it not as probable that a man who will murder a black man will also commit arson, as that the negroes will do it?

Answer. Yes, sir; men who kill may do anything.

Question. Warren's was the next; when was that?

Answer. I think that was some time in February.

Question. Is there any evidence who did it?

Answer. None.

Question. The third was Miller's?

Answer. Yes, sir; that is not far from Warren's.

Question. Is there any evidence who did that?

Answer. No, sir; not that I know of.

Question. The next is Crosby. Is there any evidence who did that?

Answer. No, sir; not directly. They ran these persons; and, as I understand, if they had not stopped to roll the cotton out, they might have caught them; but they have no positive evidence, or the persons would have been arrested.

Question. Then the fifth was the Rev. Mr. Castle's. Was there any evidence in that case?

Answer. There is indirect evidence as to it. A negro man was charged with it, and left the country.

Question. Was he arrested?

Answer. No, sir; he left the country. He had a dispute the day before, or a day or two before that, as I heard.

Question. This was charged against one negro—that he burnt it out of resentment?

Answer. Yes, sir.

Question. Not against an organized band of negroes?

Answer. No, sir.

Question. Your brother's case was the sixth, and there it was known to be done by a boy out of resentment?

Answer. Yes, sir; he made a confession.

Question. Has he been arrested?

Answer. Yes, sir; he is in jail.

Question. Out of these six cases, is there any evidence to connect the negroes, as a class, with the burning?

Answer. No, sir.

Question. Yet you give these burnings as the outrages against the negroes?

Answer. That is the general impression among the people.

Question. What justice is there in charging the negroes, as a class, with burning, any more than the murderers who are operating through the country?

Answer. Let me tell you. These people are easily excited to action, and when we had the candidates last fall, strange to say, one candidate actually made this speech: "You have to succeed in this county if you have to burn every blade of grass," or something to that effect.

Question. Did you hear it?

Answer. No, sir.

Question. Who reported it to you?

Answer. I do not know.

Question. Who made the speech?

Answer. Doctor Neagle.

Question. Who heard it?

Answer. Almost any citizen you can take up.

Question. You cannot swear that he said it?

Answer. No, sir.

Question. You are willing to believe it?

Answer. Yes, sir.

Question. And that the negroes did these burnings, incited by that?

Answer. I am more disposed to think that the negroes did it than that white persons did it.

Question. And yet you have no opinion as to the murderers in this county?

Answer. No, sir.

Question. You think yourself an impartial witness?

Answer. I have desired to do justice, and I think I have done a little more than justice to the negroes.

Question. Let me call your attention to a communication from Chester, dated the 27th of March, and published in the Yorkville Enquirer of the 30th of March, to know how far these sentiments find indorsement in the community here. I will read an extract:

"Your correspondent does not, however, agree with Governor Perry, Hon. C. W. Dudley, and with others who have written in regard to the disturbed condition of the country, that the hostility between the races is the result, solely, of the teachings of

the carpet-baggers and scalawags, and that if the negroes had been left to themselves, without foreign interference, all would have been peace and good will between the two races. Those creatures have seized upon the natural antagonism to the white race that existed in the negro mind, and have fanned it into a blaze and intensified it for their own vile purposes of plunder and robbery; but the hatred was there for them to build on, otherwise they never could have succeeded in drawing the line of conflict as sharply as it has been drawn. Palliate it and attempt to smooth it over as we may, there can be no doubt that the hostility between the races is bitter and universal and is permanent. Hollow truces may be patched up, whites may be compelled, under the pressure of Federal bayonets and sabres, to live under negro rule; but whenever the pressure is removed, the natural feelings of the heart will rise to the surface, and the white man will assert his supremacy."

And then, after some other matter, he proceeds:

"The negro is naturally the white man's enemy, and there will be a war between them so long as they are forced to live on terms of political equality."

That is a communication from Chester in a paper published in your town; does that sentiment to any extent pervade the people of this community?

Answer. No, sir; they do not have that extreme view that that reporter gives there. If the negro is left alone, I believe we can live well together.

Question. You do not believe there is any natural antagonism between the negro and the whites?

Answer. Not if left alone; but if such men as Neagle go through the country making such speeches which ought not to be made—because that is not politics, and he should not excite the negro against his domestic peace and comfort—the negro's mind could be excited to commit acts which he would not otherwise do. I say a man should be condemned for making such speeches, for that is not politics at all.

Question. You did not hear the speech?

Answer. No, sir; but I believe those are honorable men in town who heard it and told me.

By Mr. VAN TRUMP:

Question. Plenty of men could be summoned to prove it?

Answer. Yes, sir; there can be no difficulty on that point. I did hear one speech here from Governor Scott's secretary—I forget his name—but in that he did not touch upon any subject of that nature. I think he made a very respectable speech. I think his name was Hayne. I heard that speech—a very sensible speech. Some were disposed not to hear him. I said, "No; if a man tells the truth let him go on." He did go on, but he did not touch upon incendiarism.

Question. You would have been as willing to have believed it of him as of Neagle, if it had been told to you?

Answer. Yes, sir; if an intelligent, truthful man had told me so I would have believed it.

By Mr. VAN TRUMP:

Question. But you would not have as readily believed it after hearing him?

Answer. No, sir.

Question. Do you know Joe Crews?

Answer. Only by report.

Question. Did you ever hear him make a speech?

Answer. No, sir.

By the CHAIRMAN:

Question. Do you still adhere to the opinion that there has been no trial in this county for the murder of Roundtree?

Answer. None that I have heard of.

Question. Do you not know that a man named Seapaugh was tried for that offense and proved an *alibi*?

Answer. I did not know it.

By Mr. VAN TRUMP:

Question. If you knew it, you have forgotten it?

Answer. Yes, sir; I have forgotten it, if I heard it.

By the CHAIRMAN:

Question. It was a small affair, was it?

Answer. No, sir; taking human life is no small affair.

Question. The murder occurred?

Answer. Yes, sir.

Question. And if the trial occurred in the town it attracted so little attention that you did not know it, or have forgotten it?

Answer. No, sir; I would have known it, because it would have taken place regularly in the court-house. I would have known it.

By Mr. STEVENSON :

Question. Which began first, the Ku-Klux whippings and killings or the burnings ?

Answer. I cannot tell that. I do not know when these whippings began, neither can I date the first burning.

Question. Do you know any of the people about Clay Hill ?

Answer. Yes, sir.

Question. Do you know Captain J. W. Phillips out there ?

Answer. Yes, sir.

Question. A white man ?

Answer. Yes, sir ; a very respectable man.

Question. A democrat ?

Answer. I believe so.

Question. Was he in the rebel army ?

Answer. No, sir ; he was not able to do service in the army.

Question. I observe that he is called captain ?

Answer. That is a military title of long ago.

Question. Colonel W. B. Allison, who is he ?

Answer. A very correct man, a colonel in the confederate army.

Question. A white man and a democrat ?

Answer. Yes, sir.

Question. Do you know Peter McCallum ?

Answer. Yes, sir.

Question. A white man and a democrat ?

Answer. Yes, sir.

Question. Do you know D. T. Partlow ?

Answer. Yes, sir.

Question. He is a white man ?

Answer. Yes, sir.

Question. Major A. A. McKenzie ?

Answer. Yes, sir.

Question. Is he a white man and a democrat ?

Answer. Yes, sir.

Question. Was he in the rebel army ?

Answer. Yes, sir ; the first two years, I think, he was in the army.

Question. I find here, in the Yorkville Enquirer of the 16th of February, 1871, an account of a meeting held at Clay Hill, in which Mr. Phillips acted as chairman, Colonel Allison as secretary, and the other gentlemen named participated as the committee on the part of the whites, while four colored men, Peter Watson, June Moore, Sol. Hill, and Francis Johnson, on the part of the colored men, and they brought in some resolutions, one of which is as follows :

“ Resolved, That the burnings which follow depredations, by whoever committed, are acts of injustice which we utterly condemn, and are only calculated to produce greater animosity between whites and blacks ; and, if continued, will, we fear, produce a crisis terrible to contemplate.”

Does it not appear that the community considered burnings consequent on the outrages ?

Answer. It does, from the wording of that article.

Question. The preceding resolution denounces the outrages committed by persons in disguise ?

Answer. Yes, sir, but I am not able myself to fix which began first, the burnings or the whippings.

By Mr. VAN TRUMP :

Question. Were there any outrages committed by disguised men here before the arming of the negroes last spring ?

Answer. Not that I know of. I think the negroes were armed this time last year. I do not know that any burnings or whippings took place until the winter of 1870 and 1871.

The CHAIRMAN. I submit to the committee a copy of the Yorkville Enquirer, of date March 9, 1871, in which appears an editorial article which was submitted to the witness T. M. Graham, then in the form of a slip cut from a paper in which this article had been reprinted. There was at that time a question raised as to whether the matter presented included the whole of the article in the Yorkville Enquirer. By the newspaper now submitted it appears that it was the whole of the article.

[The article mentioned will be found printed in the testimony of T. M. Graham, page 420.]

The proceedings of the meeting at Clay Hill above mentioned, published in the Yorkville Enquirer of February 16, 1871, are as follows :

"[For the Yorkville Enquirer.]

"PUBLIC MEETING AT CLAY HILL.

"A public meeting of white and colored citizens was held at Tate's store, in the vicinity of Clay Hill, on Saturday, 11th instant. The meeting was organized by calling Captain J. C. Phillips to the chair, and the appointment of Colonel W. B. Allison, secretary.

"On motion, the chair appointed a committee of seven, consisting of Peter McCallum, D. T. Partlow and Major A. A. McKenzie, on the part of the whites, and Peter Watson, June Moore, Sol. Hill, and Francis Johnson, on the part of the freedmen, to prepare business for the meeting.

"On motion, the chairman of the meeting was added to the committee.

"After consultation, the committee reported the following preamble and resolutions, which, after discussion, were adopted:

"Whereas there has lately been many acts of violence committed in York County, such as shooting at, whipping, and otherwise abusing white and colored citizens, by unknown persons in disguise; and that those acts are, in nearly every instance, followed by the burning of barns, gin-houses, and other buildings, by persons who are likewise unknown, and who, like those preceding them, cover their outrages by midnight darkness; therefore,

"Resolved, That we, the citizens residing in northeastern York and vicinity of Clay Hill, do, in this public manner, disavow all knowledge of, or participation in, the acts of lawlessness committed at night by disguised persons, and we most positively condemn all such outrages, no matter by whom committed; and that we believe it to be the duty of every law-abiding citizen, white or colored, to aid the officers of justice in arresting and bringing to punishment all such offenders against law and order.

"Resolved, That the burnings which follow depredations, by whoever committed, are acts of injustice which we utterly condemn, and are only calculated to produce greater animosity between whites and blacks; and, if continued, will, we fear, produce a crisis terrible to contemplate.

"On motion, it was directed that the proceedings of this meeting be published in the Yorkville Enquirer.

"The meeting then adjourned.

"J. C. PHILLIPS, *Chairman.*

"W. B. ALLISON, *Secretary.*

"NOTE.—The opinion having been freely expressed in the meeting that there was a probability of the outrages continuing while the Union League kept up its organization, the members of the League present pledged themselves to hold *no more secret political meetings at night.* This pledge was made by June Moore, for himself and other members of the Union League present."

YORKVILLE, SOUTH CAROLINA, July 25, 1871.

WILLIAM K. OWENS sworn and examined.

By the CHAIRMAN:

Question. Do you live in this place?

Answer. Yes, sir.

Question. What is your occupation?

Answer. I am a carriage-maker by trade.

Question. What is your age?

Answer. I will be twenty-five next February.

Question. Are you a native of South Carolina?

Answer. Yes, sir.

Question. How long have you lived in this place?

Answer. I was born and raised right here. I have been here ever since, except a few years from place to place.

Question. Have you any knowledge of any organization in this county, or in this State, which the public call Ku-Klux?

Answer. I have, sir.

Question. Go on and state what knowledge you have of it.

Answer. Well, my knowledge, I suppose, is extensive.

Question. Give it, whatever it is.

Answer. In the first place, I reckon you want **the thing** from the jump.

Question. I want to know when you were initiated, who initiated you, what the purpose of the organization is, and all about it.

Answer. I can't exactly recollect the day of the month I was initiated on, but I think it was before last Christmas. I was initiated up town here, in the back room of Avery's store. I was initiated by John Hunter, William Colcock, Rufus McLain, Daniel Williams, and Simon Wallace. I was initiated by them. Do you want to know the mode of initiation?

Question. I want to know it.

Answer. In the first place, you are blindfolded; then you are required to get down on your knees and take an oath, and the oath reads this way:

"I solemnly swear to never reveal, but always conceal, the secrets of the Invisible Circle; also, to defend and protect our families, our homes, and our firesides; and to be ready at any moment to obey the call of the chief."

That is the initiation. Then I received the signs of the order.

Question. Are those all the terms of the oath?

Answer. That's all the terms of the oath. I then received the signs and pass-word of the order. Then, if I have to give the sign—

Question. What was the sign?

Answer. The sign of recognition was three strokes with the left hand against the ear. [Illustrating.] The reply or response to that was this: The right hand struck on the pocket, or put in the pocket—done as careless as possible. [Illustrating.] Then there is the grip. [Illustrating, taking the chairman by the hand.]

Question. The fore-finger on the muscle of the arm or wrist, and the little fingers inter-laced?

Answer. Yes, sir. Then the pass-word is syllabled; it is not pronounced. If you meet a man at night, and think he belongs to the order, and you wish to find out, you spell the word s-a-y. If he belongs, he will reply n-o-t-h-i-n-g—spelling it. The next word—that is the word of distress—is avalanche. That is all that pertains to the mode of initiation, and signs, and words.

Question. Was any explanation given at that time as to what further you were expected to do?

Answer. No, sir; you are then supposed to act at the discretion of the chief.

Question. Was that the end of the ceremony of initiation?

Answer. Yes, sir.

Question. Is there no further instruction as to the manner in which you are bound to obey the chief?

Answer. No, sir; you are simply to go out as called, and he is to give instructions on the spot. We don't know what's to do.

Question. Do you know the purpose of the Invisible Circle?

Answer. Yes, sir; I told you there in the oath.

Question. Is there no further explanation?

Answer. No, sir.

Question. Have you given the date when you were initiated?

Answer. No, sir; I can't recollect the date. It was before Christmas, I think, but I would hate to say, because I can't positively tell; but I will find out and let you know.

Question. Are there any records kept of the organization?

Answer. No record at all.

Question. Who were the officers of that organization to which you belonged?

Answer. I was not. The organization is divided into clans by tens. I belonged to what is called the Black Panthers. That was the name the club went by. Rufus McLain was chief. He was deputized from Bill Avery.

Question. Does William Avery live in this town?

Answer. Yes, sir. He is not here at present.

Question. What office did he hold?

Answer. I think he was chief of the whole party in Yorkville.

Question. Where is he at present?

Answer. That is out of my knowledge; I don't know where he is.

Question. You say he was chief of all that were in Yorkville?

Answer. Yes, sir.

Question. How many clans were there here that you know of?

Answer. I think there were three.

Question. What were the names of the other clans?

Answer. I don't know.

Question. Were you ever in them?

Answer. Now, just to speak collectively, I never was in but one party of them.

Question. Were you at any of the meetings of the other clans?

Answer. No, sir.

Question. How do you know there were other clans?

Answer. I knew by the members of the other clans.

Question. How did you get to know them?

Answer. We all know each other.

Question. Who do you know to be in the other clans?

Answer. I know Dan Williams to be in another clan—he belonged to Avery's clan—and John Tomlinson and John Hunter and Ross—Samuel Ross—and others. It would be impossible for me to name all; my information don't go so far.

Question. Who is the chief of that clan?

Answer. That is Avery's clan.

Question. Who is the chief of any other clan?

Answer. I can't say. I don't want to tell anything but what I know.

Question. I want to see what you do know.

Answer. Just all I know I'll tell you.

Question. Do you know of any other clan beside the one you were in and Avery's?

Answer. No, sir.

Question. Do you know any further about the organization of the Ku-Klux Klan than those two clans?

Answer. They are organized all over the State, and they are organized all through this county, in clans of ten. There is Govan Hopper is a chief of a clan out here in the country.

Question. Who else?

Answer. There is John Benfield, is chief of another.

By Mr. VAN TRUMP:

Question. What is his middle name?

Answer. I don't know.

Question. Do you know the man personally?

Answer. Yes, sir.

By the CHAIRMAN:

Question. Did you see him here yesterday?

Answer. Yes, sir.

Question. Who else?

Answer. I don't know of any one else.

Question. How did you get to know those two men were chiefs of clans?

Answer. By talking with them.

Question. How many clans are there in this county of York?

Answer. It would be impossible for me to tell. There's a great many, though, but as I am not acquainted at all out in the country, and never go out into the country, I couldn't tell you how many clans there are.

Question. Have you heard any estimate of the number there are in the county?

Answer. I think there are in this county between four and five hundred.

Question. Members?

Answer. Yes, sir, as members.

Question. From whom did you get that information?

Answer. I got it generally from members of the party just as we were talking.

Question. What is the mode of proceeding in this clan; what business do they do when they meet?

Answer. Heretofore the business is known generally what they have done. Their business is this, I suppose. I have never been on any of their raids and excursions, these murderings, &c., but their plan of operations is to remove obnoxious people, as they have done it, I suppose. The plan is to meet always when they call you, and go, and ask no questions. You are bound to go.

Question. You are to meet whenever called?

Answer. Yes, sir, whenever called; no difference what time of night, you have to meet and go.

Question. Have any of these occurrences which have taken place in this county ever been discussed in any clan that you were in?

Answer. O, yes, sir, it was generally in my clan—McLain's clan.

Question. Which occurrences?

Answer. This occurrence of the murder of Jim Rainey, down below here.

Question. When was that discussed?

Answer. Shortly after it was done.

Question. What was said about it?

Answer. We were just talking about it and making remarks about it, that he was a mean, desperate kind of a negro, and certain remarks were made that they hung him. I got this information from one of the party. I was not there myself.

Question. From one of the parties who went there?

Answer. Yes, sir.

Question. Who were there?

Answer. The whole clan from York were there, except a few. I couldn't tell you all, but one or two I know were there. This information I got from them.

Question. Who were they?

Answer. Rufe McLain was there.

Question. Who else ?

Answer. Dr. Bratton was there, John Hunter was there, Tomlinson ; that is as far as my information goes on that subject.

Question. From whom did you get the fact that these men were there ?

Answer. From Rufe McLain.

Question. Was that when you were in the meeting of the clan ?

Answer. No, sir.

Question. When was this man murdered that you spoke of ?

Answer. I don't remember ; I can come very near it. He was murdered just before this company of infantry came up here ; just a short time before that, but I can't remember exactly what time it was. That can be very easily found out. I never paid no attention to dates, never thinking this thing would come to an issue or anything.

Question. You say this man's name was Jim Rainey ?

Answer. That was the name he went by.

Question. No other name ?

Answer. I think he went by the name of Williams also.

Question. Was it Thomas Williams ?

Answer. No, sir, I reckon not.

Question. Was he a captain of a militia company ?

Answer. Yes, sir.

Question. Was any other reason given for killing him than that he was a bad negro ?

Answer. None, only they said he had been making threats of what he would do if he had the power, &c.

Question. Were there any other cases of murder in this county discussed in that clan, or by the members of the clan, to you ?

Answer. Yes, sir. There was a negro— [Pointing to the door partly open, leading into the hall, in which persons were standing.] There's a party standing out there can hear every word that is passing in here ; but it makes no difference ; I can say this before the world.

By Mr. VAN TRUMP :

Question. Why were you so alarmed because anybody was hearing ?

Answer. I am not alarmed.

Question. Why did you make that peculiar motion ?

Answer. I didn't know but what this might be a private business.

Question. Why were you concerned whether anybody heard you or not ?

Answer. I didn't know but what this might be private.

By the CHAIRMAN :

Question. Go on with your statement ; who else were you going to name ?

Answer. I say there was a murder committed above here.

Question. Who was that ?

Answer. I can't recollect his name, but I know the night ; I remember the night ; I don't remember the date, but I remember the occurrence. I was told what men it was had done it.

Question. Who told you ?

Answer. Rufe McLain told me.

By Mr. VAN TRUMP :

Question. Are you afraid to speak loud so that we can hear you ?

Answer. No, sir. Are you deaf ? you must be. Are you slightly deaf ?

Question. Not a bit.

Answer. Pardon me.

By the CHAIRMAN :

Question. Go on with your statement.

Answer. I say this was told me by Rufus McLain.

Question. What did they say about him ?

Answer. They said he had made threats of what he would do to white girls if he had the power to do it, and that was the cause of his being removed.

Question. Removed ; is that the term they use—removing them ?

Answer. Yes, sir.

Question. Are there any other cases you remember that were spoken of to you ; you said he told you who were present at the occurrence ?

Answer. Yes, sir.

Question. Who ?

Answer. John Tomlinson, John Hunter, here in town, and some others ; but I can't recollect the names now to save my life.

Question. Was anything said in the clan about any other cases than those two that you remember of now ?

Answer. No, sir ; no murdering business.

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Question. Was anything said about whipping ?

Answer. O, yes, I heard a good deal of it, but I never heard who did it or how many. It was done in the country.

Question. Did you hear the extent to which it was done ?

Answer. I heard a good many were whipped.

Question. For what purpose ?

Answer. I suppose for making threats, &c. There were so many cases like that that I never paid any attention to it here in town.

Question. Was that the expressed purpose by the officers of the clan to you ?

Answer. Yes, sir.

Question. Were any names given of persons who had been whipped ?

Answer. There may have been, but I don't remember it now.

Question. Were you ever called upon, yourself, to go out on any of these expeditions to either whip or hang anybody ?

Answer. No, sir, I never was.

Question. How did that come ?

Answer. I was called on, too ; I don't know how that came.

Question. What were you called on to do ?

Answer. I was called on to go down below here one night to get some guns, but I wouldn't go.

Question. Where was that to ?

Answer. That was down here about McConnellsville.

Question. What guns ?

Answer. Guns belonging to the militia.

Question. The negro militia ?

Answer. Yes, sir.

Question. State guns ?

Answer. Yes, sir.

Question. At what place was that ?

Answer. At McConnellsville.

Question. Was there a company there ?

Answer. There had been.

Question. Did they go there ?

Answer. Yes, sir.

Question. Who went ?

Answer. A party from town.

Question. Who wore they ?

Answer. I couldn't begin to tell all the names. They were generally known. They went without disguises on or anything, in open light. Avery was at the head of it.

Question. Which Avery ?

Answer. William Avery.

Question. How did it come that you were called upon in that way ; had the clan anything to do with the business when they went publicly ?

Answer. I don't think so, but I think they just went after the guns.

Question. Who called on you ?

Answer. I got notice from some of the party.

Question. Who were they ?

Answer. I had notice from William Robinson.

Question. How did he give you the notice ?

Answer. He asked me if I was going.

Question. Is he a member of a clan here ?

Answer. Yes, sir.

By Mr. STEVENSON :

Question. Where is McConnellsville ?

Answer. It is ten miles from here, on the railroad to Chester.

By the CHAIRMAN :

Question. Is there any other occurrence that took place here that you know of ; had you any knowledge of this raid on the treasury ?

Answer. Yes, sir.

Question. Were you here ?

Answer. Yes, sir.

Question. Do you know who participated in that ?

Answer. The most participation in that was from the country, I think.

Question. How are people got in here from the country to do these things ?

Answer. They are notified from men in town.

Question. Describe what is the mode of proceeding.

Answer. When they go to do anything of that kind they send a courier from town.

Question. To what extent did they send out couriers ?

Answer. To let them know what's to be done and to assemble at a certain place.

That night they assembled here about a mile from town. It was about half past 12 when they assembled there. They came immediately into town and stopped here at the court-house. Then the party came down and made a raid on this place. [The building in which the committee were sitting, formerly Rose's Hotel, used as the treasurer's office.]

Question. Do you know how many of them there were?

Answer. I think there were about forty or fifty.

Question. Were you here?

Answer. Yes, sir.

Question. Were you among them?

Answer. Yes, sir.

Question. Were you disguised that night?

Answer. Yes, sir.

Question. How did you get the notice?

Answer. I got the notice from some of the party. It was known among the party here.

Question. It was known here?

Answer. O, yes, sir.

Question. When was that arrangement made for this raid on the treasury?

Answer. I don't know. The arrangement was made by men that I don't know anything about, or I don't know who made the arrangement anyhow; the minors got the notice.

Question. When did you get the notice?

Answer. I got the notice that evening.

By Mr. VAN TRUMP:

Question. What do you mean by minors?

Answer. I just mean what I say, precisely, that we were the subordinates.

By the CHAIRMAN:

Question. You say you got the notice that evening?

Answer. Yes, sir.

Question. What were you to do?

Answer. We were to go out—the party from town—to meet this party out here in the country a mile from town, and then to form a junction out there and come into town, and the express purpose was to kill Ned Rose; to put him out of the way. That was the express purpose.

Question. Was he the county treasurer?

Answer. Yes, sir.

Question. Who communicated that purpose to you?

Answer. It was generally known among the party; I can't tell you exactly who did it, but it was known to all.

Question. For what reason was he to be killed?

Answer. I cannot tell you that.

Question. To what extent did you consider yourself bound to obey the orders of your chief?

Answer. On the penalty of death. If he commanded you to kill a man you were bound to do so. I was bound to do it.

Question. Was that the understanding in the order?

Answer. Yes, sir, that was the understanding. If you did not you were killed yourself.

Question. Where were you told that?

Answer. That's the part I left out of that oath. I forgot that. The terms is, if you don't obey the chief it is death; and it would have been death immediately if a man were not to do it.

Question. Go on now. You said you were told out there that the purpose was to kill Ed. Rose?

Answer. Yes, sir.

Question. Who were in that company that you know?

Answer. From this place?

Question. Yes, sir; or any other place.

Answer. I don't know but one or two that were out in the country, because all were disguised so I couldn't tell, and there were no names used at all.

Question. Tell us all you do know.

Answer. Well, from town here there was Dr. Lowrie's son.

Question. What was his name?

Answer. I don't know his name. They call him Ernest or Bern. That's his nickname.

Question. That is what he goes by—Bern or Ernest?

Answer. Yes, sir.

Question. Who else ?

Answer. Wilson's son—Blackman Wilson ; he goes by that name.

Question. Who else ?

Answer. Bob Latta.

Question. Who else ?

Answer. John Tomlinson, Dr. Hunter or John Hunter.

Question. Do you call him Doctor ?

Answer. Yes, sir ; that's a nickname.

Question. Who else ?

Answer. Myself, William K. Owens—that's myself—Rufus McLain, Samuel Smith. Those are all the names I can recollect now from town.

Question. Who were there from the county that you know ?

Answer. There was one man from the county I know ; I heard his name ; it was Caldwell, but what Caldwell it was I don't know. I remember the circumstance that he lost his pistol, and he asked me, if I found it next day, to take care of it. I asked him what name, and he said Caldwell. There are so many Caldwells out in the country I can't tell who he is. Benfield was one. A man named Dobson that lives in the country.

Question. What is his first name ?

Answer. I don't know. I know him when I see him. He lives in the country.

Question. Does this include all you remember who were in that raid on the treasury ?

Answer. That is all I know.

Question. When they came in was there any noise made here, any considerable noise ?

Answer. They came down here quietly ; but then they demanded entrance.

Question. Who did that ?

Answer. I don't know ; it was a man from the country ; I couldn't tell his name. I didn't know his voice. The voices were all disguised.

Question. How were the operations conducted ? Was there any command given ?

Answer. Yes, sir.

Question. Any discipline ?

Answer. Yes, sir ; some of the party went around to the side of the house there, and just as they went around there the attack commenced on the front door. They demanded entrance. Springs Withers was inside and a man named Porter that keeps bar. There were two women in there, also. This man came to the door and demanded the key.

Question. Who was he ?

Answer. I didn't know ; his voice was disguised ; he was outside. Withers told him he didn't have the key, &c., and, in the meantime, they didn't listen to him much ; they just picked up a pole out in the yard there, and burst the door panels in, and gathered on Springs, and wanted to know what he was doing there. I didn't want to see him injured, and I told some of the party, "Let him go ; he's all right."

Question. Was he a member of the Klan ?

Answer. No, sir ; but I know him, and didn't want to see him imposed on. Then they told him to go on home, and he went home. They went ahead, and arrested Porter. Then they demanded from Porter where Ed. Rose was. Porter told them he didn't know. I believe they called him a liar, I don't know. There was so much excitement I didn't pay much attention to the asseverations made. I think they called him a liar. They proceeded to ransack the house from top to bottom.

Question. What did they do with Porter ?

Answer. They kept him in custody. They ransacked the house, and when they couldn't find Rose they pitched off to Wright.

Question. Who is Wright ?

Answer. Thomas Wright, a negro preacher.

Question. What did they do there ?

Answer. They went there and demanded him ; but he was not inside of the house. They hunted all over the house for him and couldn't find him, and tore up some private property and broke a trunk open and smashed things generally—broke up a clock and some lamps.

Question. What did they want with Wright ?

Answer. I don't know why. It was currently reported that he had been exciting the negroes to incendiarism. That's what they wanted to put him up for. I suppose that he retreated down in the hollow, because there were three shots fired by some party at the party.

Question. Did you go up to Wright's ?

Answer. Yes, sir.

Question. Was that all that was done here that night ?

Answer. Yes, sir ; that's all that was done as far as I have any knowledge of it at all. The party came down the cross street though, and I went home.

Question. What kind of a disguise had you on ?

Answer. Only a disguise on the face.

Question. Was it a mask ?

Answer. It was a sort of oil-cloth.

Question. What kind of a mask ?

Answer. A piece of oil-clôth with holes to see and breath through ; and I had a gray overcoat I have at home now.

Question. Was it your own ?

Answer. Yes, sir ; and boots.

Question. How were the others disguised ?

Answer. Variously. I couldn't tell. Some in red flannel, some in black gowns, and some in gray and different colors.

Question. How far did you understand these people came ? Were they all from this county or different counties ?

Answer. It would be impossible for me to say.

Question. Do they reveal to the subordinates where the people come from who do these things ?

Answer. No, sir, that is not generally done at all. It is generally kept pretty close ; and if there is any remarks made about it, if we members of the party hear any remarks made about what has been done, we pass it over with wonder and surprise, and never tell anything ourselves.

Question. How were these men armed ?

Answer. Some with sixteen-shooters, others with repeaters, some with militia guns.

Question. State arms ?

Answer. Yes, sir.

Question. Where did they get them ?

Answer. From different parties ; I suppose negroes. They had taken them from negroes out in the country.

Question. Did you understand that that was part of their work—taking guns from negroes ?

Answer. Yes, sir ; of course.

Question. How did this Klan get arms ?

Answer. They bought them.

Question. Did you buy yours ?

Answer. Yes, sir.

Question. Are there no men in it who are not able to buy guns ?

Answer. Yes, sir ; there are many men in it not able to buy guns, and I suppose they borrow guns, or something of the sort. I don't know how they arm themselves. Those that are able to, arm themselves.

Question. Had you your own arms ?

Answer. Yes, sir.

Question. What was it ?

Answer. A shot-gun.

Question. Now, so far as this raid on the county treasury was concerned, have you told all you know about it ?

Answer. Yes, sir. That night I made a remark while I was in where the safe is. I said, "Boys, do not destroy private property." They were pitching into Ed. Rose's bureau and ransacking it. I said, "Don't destroy private property ; that's not our business."

Question. What was your business ?

Answer. The business was to get Ed. Rose. Also, in the bar-room I remarked, when they were pitching into everything, "Don't do that ; that's not right."

Question. Who did you say that to ?

Answer. I just made the remark to the party inside.

Question. Were you here the night the probate judge's office was entered, and ammunition taken from it ?

Answer. Yes, sir.

Question. Had you anything to do with that ?

Answer. Yes, sir.

Question. What was that for ?

Answer. That was to take the ammunition.

Question. What ammunition ?

Answer. State ammunition, I suppose ; it was cartridges.

Question. What was done with them ?

Answer. They were thrown in a well.

Question. Whose well ?

Answer. Bloodworth's. Bloodworth lived at the house at the time, right above McCaffrey's jewelry store, at the right hand of the lane.

By Mr. VAN TRUMP :

Question. Into whose well ?

Answer. Into Bloodworth's well. He lived there at the time. I think the place belonged to Sadler.

By the CHAIRMAN :

Question. Who were engaged in that ?

Answer. There was myself, and Sam. Smith, and Rufe McLain, and McCaffrey —

Question. What McCaffrey ?

Answer. Ed. McCaffrey, the only one there is in this place ; that man Bloodworth ; a man named Thomas Corele, who lives out in the country ; he is not here now.

Question. Have you named all ?

Answer. No, sir. There were some others prior to the arrangement, who did not participate in it. The plan was made by McCaffrey and Tomlinson and Harris—Frank C. Harris; the plan was made by them. I didn't know anything about it until that night. I went up street—I was going off next morning to Winnsborough—I went up street and was met by McCaffrey. He said, "Bill, you are the very man I want to see." I said, "What's up ?" He said, "We're going to have a little fun to-night. Come back, and we'll have something to drink first." We went and had three or four drinks before any mention was made. I said, "I have some business myself." He said, "Your business is nothing to that," and he told me what was the matter.

Question. What did he say ?

Answer. He said the Klan was to go to the probate's office and take out these cartridges.

Question. Who did they belong to ?

Answer. To the State, I suppose. Then Harris came in, and looked at me, and looked at McCaffrey, and he says, "Is he all right ?" McCaffrey told him "Yes." We then took an impression. Harris had the key of the office in there, and there was an impression taken of that on wax or soap, I forget which.

Question. Who was Harris ? Was he a clerk, or principal, or what was he ?

Answer. He was a clerk, I think, for Sam. Hill at the time.

Question. How did he get the key ?

Answer. He got it from Glenn, I think. After the impression was taken, there was a key made, but it would not answer the purpose ; the key was broken off in the lock. It was then tried with wire, and that wouldn't do, and the door was then forced open, and the cartridges were taken over to McCaffrey's there, and after they got them over there, they didn't know what to do with them. We didn't know what to do with them. We didn't know. We men that had helped to get the cartridges out said, "What are you going to do with these ? You made a plan to take them out. Have you got a place to put them ?" They fooled around awhile. It was about 1, I think, and they came to the conclusion to throw them in the well ; and they threw them there.

Question. Did they remain there ?

Answer. They remained there, I think, three or four weeks, and then they were taken out one day in daylight.

Question. Who took them out ?

Answer. I couldn't tell you ; I was working at the shop.

Question. How do you know ?

Answer. Because Rufe McLain and one or two others came down to the shop and told me they were taken out. Benfield and Jim Bennett—he is a well-digger—went down in the well and took them out.

Question. Were you in disguise that night.

Answer. No, sir, not at all.

Question. Was there any noise and confusion in doing that, or was it done quietly ?

Answer. It was done quietly, except a few pistol-shots.

Question. Who fired them ?

Answer. Tom Corele fired one, and, if I mistake not, Sam. Smith fired the other.

Question. What was it done for ?

Answer. I don't know. McCaffrey proposed it, and I didn't have anything to say about it. I didn't see what use there was in it at all.

Question. Now, Mr. Owens, how many men, according to your knowledge of this organization, can be assembled at the call of these chiefs ?

Answer. In a short time, in one day's notice ?

Question. Yes. What knowledge have you on that subject ?

Answer. My knowledge, I think, is not very extensive. I suppose three or four hundred.

Question. Have you any knowledge of how far this organization extends by any actual work you have done in it or communication with the officers ?

Answer. It extends throughout the State.

Question. Do you know who are the chief officers in the State ?

Answer. I do not. My knowledge is just limited to this county, in fact to the town, as I have told you.

Question. How do you know it extends through the State ?

Answer. By information from the members of the party. I have been off fifty or sixty miles, and I have met members of the party.

Question. Where ?

Answer. At Winnsboro ; and I have often met them in Columbia and in Spartanburgh, and all over this up-country ; and you will find them all over North Carolina, too.

Question. Have you been in North Carolina?

Answer. No, sir, I have not been there, but there has been men from there down here.

Question. Did you recognize each other as members of this organization?

Answer. Yes, sir. There was an excitement got up here about the negroes once as having rows—a good many rows were raised about the time, and the negroes had assembled together in bands at night, and the report had got out that they were going to burn the town; and I think one day there were perhaps forty or fifty men down here from North Carolina and the upper edge of South Carolina. I met men from Gaston, North Carolina, who gave me the sign of recognition.

Question. When was that?

Answer. Just before the soldiers came.

Question. Had you any talk with them about the order?

Answer. No, sir, we never had much to do with them. We just met and took a drink and would go ahead. We never discussed this subject on the street at all.

Question. Was ever anything said about what purpose was finally to be accomplished by this order?

Answer. I think, sir, it is a political thing.

Question. What was said on that subject?

Answer. There has never been anything general, nothing said positively about it; but I think the whole and sole object was to frighten.

Question. To frighten whom?

Answer. To frighten the colored people into a kind of obedience to them, so that they could be subverted to the interests of the democratic party.

Question. Was this ever said in your secret meetings?

Answer. As I told you, I was never in any secret meetings; but that was the general report made by the boys all around. They would say, "Next election we'll be certain to gain it, for the negroes know their own interests, and will not vote against us." That was the general talk among the democratic party.

Question. Of all these men you have named as in the organization, was any of them republican?

Answer. There was one man taken in by coercion.

Question. Who was he?

Answer. I think he was taken in simply by fraud. He had always been a republican up to the time he was initiated.

Question. Who was he?

Answer. Roland Williams. He was initiated, but I think it was done by his being frightened into it.

Question. Were you there when he was taken in?

Answer. I was not present at his initiation. He was initiated down at the shop.

Question. How did you get that information?

Answer. By John McLain and Rufe McLain. John McLain didn't belong to the party at all. He says, "Bill, what's going on up-stairs?" I said, "I don't know," but I had a suspicion there was an initiation going on, and next day I asked Rufe, "Was anybody put through last night?" He said, "Yes, we put Roland Williams through." But he was a republican up to that time, but he worked on the lot, and had a suspicion that every one that worked on the lot belonged to it, and I suppose he joined to be with the party.

Question. Is there any understanding in that order that binds its members to deny their membership?

Answer. Yes, sir.

Question. To what extent are they bound to deny it?

Answer. You are bound to deny it under penalty of death.

Question. Suppose they become witnesses in court?

Answer. They do it, then, at the penalty of life. Of course it wouldn't be profitable or safe. It is not profitable for me now. I am in danger every night of my life, and every day too.

Question. For what reason?

Answer. Just simply because they think or have heard that I made these reports; and I told them at the time, and repeatedly, that if I was ever called on to state the truth about this thing I would do it, and, if called up, I would publicly denounce it in the court-house. I am no laggard about what I say. I don't fear anything to-day.

Question. Suppose a member of that organization is called as a witness for the organization to defend it, how far does his obligation go?

Answer. He is bound to do all he can. Suppose a case was got up—a murder case. I belonged to the party. Well, if they were to arrest a man, and he was charged with this murder, and I was to be called on as a witness to prove that he was with me that night, although I had not seen him at all, I would have to go and swear that he was there that night with me; that's the plan of operations. Several cases have been got up here on suspicion of Ku-Klux Klanism, but they are always proved out, because

they can produce abundant proof; that is the principle of the party. They are bound to clear each other at the risk of their lives.

Question. Is that the instruction that is given to the members?

Answer. Yes, sir, you are bound to defend a brother.

Question. Who gives that instruction?

Answer. It is generally known by one another. You say such and such a man is up, and if we are called upon, we must do all we can.

Question. Were you given to understand that that was the meaning of the oath you took to defend each other?

Answer. Yes, sir.

Question. What case do you refer to in which there has been a trial, and they were called on to prove that the accused parties were in some other place?

Answer. Dave Barrett had a man arrested on a charge of Ku-Kluxing him, or scaring him, or frightening him, or something, and swore to him. The man then turned around, and proved that he was eighteen or twenty miles off from the place of operations.

Question. Who was that man?

Answer. I do not know. I just heard the case was going on at the court-house; I was down at the shop. We heard the Ku-Klux had been tried and had proved that.

Question. Was that for whipping Barrett?

Answer. I believe it was for getting after his son-in-law.

Question. Was Barrett the man that instituted the prosecution?

Answer. Yes, sir, I think so. You mustn't expect to find me a perfect dictionary about all these matters, because it is not possible for me to know every little particular; but I give you my knowledge as far as it goes.

Question. Was this subject ever talked over in your Klan about how far witnesses were required to go?

Answer. Of course, that was discussed frequently. We were obliged to do anything and everything.

Question. How does it affect the obligation of a juror, if he goes on a jury to try a member?

Answer. He has to do all he can for the prisoner; it makes no difference what capacity he is in, he is bound to do all he can for him.

Question. How long has this organization existed in this State, according to your information?

Answer. I think since 1867.

Question. What is the use they make of this term Ku-Klux?

Answer. I don't know exactly the origination of that word. I don't understand the meaning of the word, in fact. There is something mysterious in it.

Question. What is the real name of the organization?

Answer. The real name of the organization is the Invisible Circle.

Question. Do you understand that it has the same name here that it has in other States?

Answer. I think so. I think it is a general thing.

Question. Has the name been changed at any time?

Answer. If it has, I was not made aware of it.

Question. Had you any conversation with these North Carolina men about any change of signs or words?

Answer. No, sir.

Question. You had no conversation about it?

Answer. No, sir, none at all.

Question. How many cases do you know of men being killed in this county?

Answer. What I have told you, are the only ones I know of.

Question. Have you heard of others?

Answer. No, I don't think I have. There has been others. I heard of a negro being shot out here in the leg, one day, out in the county a piece. He was hauling wood for Dr. Bratton; but it's all over town; that was done in daylight.

Question. Have any of these men in town said anything to you on the subject of your testifying here?

Answer. Yes, sir.

Question. Who?

Answer. I have been spoken to by Bloodworth, and Wallace, that lives up here in the country. He says it's reported in the country that I had received a certain amount of money, &c., and transportation into Canada, &c.

Question. What Wallace?

Answer. His name is Ran. Wallace.

Question. Has any one ever endeavored to deter you from testifying—anybody else than Bloodworth and Wallace?

Answer. That is all that have spoken to me on the subject; but it has been generally reported around.

Question. Did they do anything to prevent your testifying?

Answer. Yes, sir; they told me I had better not, if I had any intention of doing it. I have thrown them off their guard; I have given them no satisfaction. It would not have done at all for it to have become known that I would have done anything that I would tell.

Question. Why not?

Answer. Simply because they would have went for me. I would have been put up I would have been killed. Death would have been my portion. That's the inference.

By Mr. STEVENSON :

Question. Do you say no names were used?

Answer. No, sir; we went by numbers.

Question. How were the numbers used?

Answer. The party that would go on business like that was arranged, and each clan numbered from one down to ten.

Question. You mean the members of each clan numbered?

Answer. Yes, sir. Sometimes they would change the numbers and take from ten on up. Sometimes we might call a man five or fifty, or one hundred and eight, or something like that—anything, so it was not his real name.

Question. What number was given to you?

Answer. Number fourteen. A man was called just any number; it didn't make any difference what it was, so it was not a name. A person was not to use any name at all.

Question. Where did you get your disguises?

Answer. My disguise I got at the shop—it was just a piece of oil-cloth—at the shop I worked at. No one knew anything about that. We always could get oil-cloth or anything there when we pleased.

Question. A carriage-shop?

Answer. Yes, sir.

Question. Who commanded the town-clan on the night of the raid on the treasurer's office?

Answer. I think Tomlinson had control.

Question. How do you know he commanded it that night?

Answer. I know him by his number.

Question. But when he gives a command how do you know it comes from him?

Answer. Well, he was always with us, close to us.

Question. Is he dressed differently, or has he anything about him to indicate his command?

Answer. Yes, sir.

Question. To distinguish him on sight?

Answer. Yes, sir.

Question. What was it?

Answer. His dress that night? He was dressed in red flannel, I think, with white stripes all over him; in disguise. I couldn't tell you exactly.

Question. When you moved did you march?

Answer. We just marched right along in file; single file sometimes, and sometimes in double file.

Question. In military order?

Answer. Sometimes, and sometimes at a route-step, at the discretion of the party.

Question. Where does your officer stand toward you when you move?

Answer. He goes ahead.

Question. How long was Porter held that night?

Answer. I think it must have been an hour and a half or two hours. He was held until the party broke up. I think we were about an hour and a half or two hours in the place. He was not held exactly until the party broke up, but he was let loose up here just opposite Rawlinson's Hotel, in the back lot where the blacksmith's shop is. The party was broken up across the street.

Question. Is there any sign by which one member gives warning or caution to another?

Answer. None, only the signal whistle.

Question. What is that?

Answer. That is only employed at night.

Question. What is that?

Answer. It is a small whistle. You have seen them. They have a small ball in them to make a rattle. Three blasts are warning, and four is to call for aid.

Question. That is what is called a bead-whistle?

Answer. I suppose so.

Question. Is there any signal by taps?

Answer. Yes.

Question. What is that?

Answer. If you are on the street of a night and see a man standing about, and you are not close to him, if you give the three taps in that way, [illustrating,] if he belongs to the party he will respond.

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Question. It is three taps—first one, and after that a little two together?

Answer. Yes, sir.

Question. Is that used as a caution in any way?

Answer. Sometimes it is used as a caution, and sometimes as a signal.

Question. How as a caution?

Answer. It is always known if there is danger around. If you come up to a crowd of men and see a man in it talking too much, and about to divulge something, you can make the sound with your foot on the ground, the same as the taps. It wouldn't be noticed by the others, unless they belonged to the party. He would understand the meaning of it to be careful of the crowd, and so on. Perhaps he might not know the crowd he was in, and they might be trying to pick something out of him; that's to warn him.

Question. Do you know the two constables in this town?

Answer. The two police?

Question. Yes, sir. What are their names?

Answer. One of them is Rufus McLain, and the other William Snyder.

Question. Do you know whether either of them belongs to this organization?

Answer. Yes, sir; they both belong to it.

Question. Rufus McLain is the man you have already spoken of?

Answer. Yes, sir.

Question. I do not know whether you have named Snyder or not?

Answer. I have not.

Question. Do you say he belongs to it?

Answer. Yes, sir.

Question. Which one of them was it shot a man the other night, since this committee came?

Answer. Snyder.

Question. Were you present at that shooting?

Answer. No, sir.

Question. How do you know he shot him?

Answer. I heard it next morning from two or three men on the street speaking about the shooting fray. They said William Snyder put five balls into a negro. They spoke down on the piazza about it, and I heard William say so himself.

Question. Who is the intendant of this place?

Answer. I think it is Frank Harris—F. C. Harris.

Question. Do you know whether he is a member?

Answer. Yes, sir, he is a member.

Question. Who appoints these policemen?

Answer. The council; the town council.

Question. Do you know who they are?

Answer. The town council are Mr. Hobbs and Harris, and Captain Kerr and ——. I believe that is all. I believe there are four. I don't remember the other.

Question. Are any of them members?

Answer. I don't know any of them that are except Harris. I never have known by any sign, or word, or deed, that they belonged to it.

Question. Do you know Major Berry?

Answer. Yes, sir.

Question. What is his first name?

Answer. James Berry.

Question. Do you know whether he is a member of the order?

Answer. I don't know whether he belongs to it or not.

Question. Did you hear of the raids made on the jail at Unionville?

Answer. Yes, sir; that was in the paper.

Question. Did you hear of it before it happened?

Answer. No, sir.

Question. How soon afterward?

Answer. I didn't hear of it until the paper came out. I heard nothing in regard to it before that.

Question. Do you know whether any of the Klan went from this county or not?

Answer. I don't know; I don't think any one from town here.

Question. This county does not adjoin Union, does it?

Answer. It is right next to Union County. Broad River divides them.

Question. You do not know of any going from this county?

Answer. No, sir, I do not.

Question. Did you hear of the raid into Chester?

Answer. At the time they had that fight going on there?

Question. Yes, sir.

Answer. Yes, sir.

Question. Do you know whether any of the Klan from this county were in that?

Answer. I don't know whether they were or not. I was working at the shop at the time, and had no chance to know.

Question. Do you know whether anybody went from here at that time?

Answer. I really couldn't say, because I don't know; there might have been.

Question. Have you heard among this Klan anything said as to where else the organization exists, in what other States?

Answer. I believe it extends all over the Southern States. I am not positively certain of it, because I have not had a chance to get any information in regard to it. I think so.

Question. Did you get your information from members of the Klan?

Answer. Yes, sir; just speaking, talking.

Question. What do you understand to be the object of the Klan generally in all the Southern States?

Answer. It is a political thing, I think.

Question. How political?

Answer. I think the real intention at first was an opposition to this Union League business, and I do not think there would have been any Ku-Klux if there had been no Union League. Then after a while it turned into simply a party business, I think. It was done to intimidate and frighten the negroes into obedience to the wishes of the democratic party. I don't say that because I know it; I think it.

Question. How do you get that information?

Answer. By the talk which is used in the party as regards elections, &c. You know in every-day conversation certain things are talked about and certain reasons are started why such a thing could be or not; that such a man will be elected next election. Why? Because the reason he was beaten the last time was certain negroes voted a radical ticket, and they'll not do it next time, because they are afraid of the Ku-Klux and they will vote for these other men.

By the CHAIRMAN:

Question. Have you any knowledge of an arrangement about taking up the rails on the railroad on the Sunday night before this raid was made on the treasury?

Answer. No, sir; I had no knowledge of it until I learned it next morning afterwards.

Question. What did you learn about it then?

Answer. I learned it was taken up to prevent the troops from going up that night.

Question. Who arranged it?

Answer. I don't know who arranged it. I know some of the men who were there.

Question. Who?

Answer. Cal. Parish up here was there.

Question. Who else?

Answer. Thomas, the engineer on the road.

Question. The engineer who runs on the road?

Answer. Yes, sir.

Question. Who else?

Answer. John Benfield was there. That's all I know.

Question. How did you learn they were there?

Answer. I learned it next morning from Benfield.

Question. Did he tell you himself he had been there?

Answer. Yes, sir.

Question. What time did he say they had taken them up?

Answer. I think it was about 12 or 1 o'clock at night.

Question. Did he say with what purpose they had taken them up?

Answer. He didn't exactly express himself, but it was to prevent the soldiers from coming up here, I think, at the time. I think he knew of the intended raid on this place.

By Mr. VAN TRUMP:

Question. You say you are living here now?

Answer. Yes, sir.

Question. What are you doing, what is your business?

Answer. Carriage-maker.

Question. What are you employed at just now?

Answer. Right now?

Question. Yes.

Answer. I am employed in giving in evidence, I suppose.

Question. You know what I mean. Is that the sharp way you intend to answer my questions?

Answer. You asked me what I am doing. I am simply answering questions put to me.

Question. Is that the way you intend to answer?

Answer. I don't know any other way.

Question. Do you not know that I meant what business are you engaged at in town just now outside of being a witness?

Answer. Nothing at all, only my work.

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Question. Are you working at the carriage business now ?

Answer. Yes, sir.

Question. Who with ?

Answer. Captain Kerr.

Question. When did you work last there ?

Answer. I worked last there last week. I worked up to Saturday.

Question. Why were you not at work yesterday and to-day ?

Answer. I didn't feel like it.

Question. Have you quit ?

Answer. No, sir.

Question. How long does your engagement last ?

Answer. Just as long as I wish to work.

Question. When are you going to leave ?

Answer. Not until I get ready.

Question. Do you anticipate leaving the town ?

Answer. No, sir, not at all.

Question. Where were you born ?

Answer. Right here in Yorkville.

Question. Is your father alive ?

Answer. Yes, sir.

Question. Where does he live ?

Answer. Around here just the other side of the college.

Question. What is his business ?

Answer. Carriage-maker.

Question. Where does he work ?

Answer. At Mr. Kerr's.

Question. A journeyman ?

Answer. Yes, sir.

Question. Have you lived here ever since ?

Answer. Yes, sir; ever since I was born, except moving from one place to another sometimes for a year or six months.

Question. Where have you been living for five years ?

Answer. Right here in Yorkville.

Question. Working at the carriage business all the time ?

Answer. Yes, sir.

Question. Are you kept in steady employment ?

Answer. Yes, sir.

Question. Through the year ?

Answer. Yes, sir.

Question. Who first applied to you to join this Ku-Klux organization ?

Answer. The first intimation I got of it was from Rufe McLain.

Question. Who is he ?

Answer. He is a man stays here in town now; he is a policeman.

Question. Is that his business ?

Answer. Yes, sir; now that's his business.

Question. What relation is he to the druggist of that name? Is there a druggist of that name ?

Answer. Not in this place.

Question. Is there a merchant named McLain ?

Answer. Yes, sir.

Question. What is his first name ?

Answer. Joseph McLain.

Question. Is Rufus a brother of his ?

Answer. No, sir.

Question. What relation is he ?

Answer. None at all, I think.

Question. Rufus is a policeman and Snyder the other ?

Answer. Yes, sir.

Question. The only two in the town ?

Answer. Yes, sir.

Question. Rufus McLain first spoke to you about entering the organization ?

Answer. Yes, sir.

Question. When ?

Answer. Just about a week before I joined. I can't remember the date at all.

Question. What time of year was it ?

Answer. In the fall.

Question. What time in the fall ?

Answer. About the middle of the fall, just before Christmas.

Question. How long before Christmas ?

Answer. I couldn't say; a month or six weeks or longer. I could tell you the date hereafter, though. I could find it.

Question. How could you tell; you say there is no record kept of the institution?

Answer. I could find out, I suppose, from Rufe McLain or some of them.

By Mr. STEVENSON:

Question. Do you mean it was just before last Christmas?

Answer. Yes, sir.

By Mr. VAN TRUMP:

Question. You say this organization called Ku-Klux had existed here in South Carolina for years before?

Answer. Yes, sir.

Question. How long had it existed in Yorkville?

Answer. I can't tell you. It existed in this State, I think, since 1867.

Question. Why can you not tell by the same means by which you undertake to state that it existed in 1867; do you not know when it commenced in Yorkville?

Answer. For the reason that I asked, and was told by a man that he joined the thing in 1867. He told me that that was the first arrangement of the kind in the State. That was in 1867. I didn't take pains to find out when it was begun here, for that didn't interest me.

Question. Did you not naturally feel more interest as to the time when the particular body to which you belonged locally commenced than in the time when it commenced in the State?

Answer. I didn't feel any interest in that whatever.

Question. You have never ascertained since when it was instituted here?

Answer. No, sir.

Question. You never inquired when it started here?

Answer. No, sir.

Question. You know it existed all through the State for years?

Answer. I suppose so; since 1867.

Question. Where were you when Rufus McLain approached you as a tempter of this institution?

Answer. At the shop at my work.

Question. Who was in the shop besides you and Rufus?

Answer. Rufus and myself and my father and Almuth McLain.

Question. Who is he?

Answer. Almuth is the father of Rufus. I believe that was all.

Question. Where was Mr. Kerr?

Answer. He was in the shop.

Question. Where was his partner?

Answer. I don't know; perhaps in the show-room.

Question. What makes you recollect that those were there and this gentleman was not there?

Answer. Just simply because they were there in the shop always.

Question. You do not recollect that they were there at that time positively, but that they were there generally?

Answer. I say they were there positively. But he didn't come right out in the shop to tell me plain out that he wanted me to join this thing.

Question. Just stick to my questions; I have not asked that.

Answer. I am mighty apt to do that.

Question. You are sharp enough to do it?

Answer. I don't know as I am as sharp as you.

Question. Why do you think so?

Answer. I suppose you are an older man than I am and had more experience.

Question. Do you not think you are a pretty sharp man for your age?

Answer. I don't know that I am pretty sharp.

Question. I am very much deceived in the peculiar expression of that eye if that is not so?

Answer. I don't know how that is.

Question. Stick to my questions.

Answer. I will.

Question. All these men were in the shop?

Answer. Yes, sir.

Question. Where were you in the shop when Rufus came in?

Answer. He was in there at the time—already in.

Question. Came in at the same time?

Answer. He came in just about 12 o'clock; just after eating his dinner.

Question. Does he work there?

Answer. He worked there then.

Question. Was it before or after dinner?

Answer. After dinner.

Question. How do you know that ?

Answer. Just from circumstances.

Question. What circumstance ?

Answer. You ask was it after dinner ?

Question. You say it was after dinner ?

Answer. It was. He says, "Bill, I want to see you."

Question. I didn't ask you what he said ?

Answer. You asked me how I knew. That is what I am going to tell.

Question. You said you knew it by circumstances ?

Answer. He said, "Bill, I want to see you in about an hour." I said, "What time ?" He says, "About 2 o'clock." I says, "All right; what about ?" He says, "You come down in the spoke-house and I will tell you;" and I went down to the spoke-house and he told me the arrangement—to meet him that night and the thing would be done.

Question. That is the reason you recollect it was after dinner ?

Answer. Yes, sir.

Question. How long after dinner ?

Answer. About an hour and a half after dinner, I suppose. He just talked around.

Question. What time did you have dinner that time ?

Answer. About 12 o'clock.

Question. About half after 1 he spoke to you first ?

Answer. Yes, sir; I suppose so. I don't particularly know the time.

Question. He said for you to come down to the spoke-house ?

Answer. Yes, sir.

Question. How far was the spoke-house from the shop ?

Answer. About 42 yards—at a rough guess.

Question. Why do you put on the two ?

Answer. I have a very good eye for measuring,

Question. You think it is 42 yards from the nearest corner of the shop to the first corner of the spoke-house ?

Answer. Yes, sir; from the steps, about 42 yards, I suppose. I never measured it.

Question. That was after 1 o'clock, you say ?

Answer. About that, I suppose.

Question. He said to you that he wanted to see you ?

Answer. Yes, sir.

Question. You asked, "What for ?"

Answer. Yes, sir.

Question. He said, "Come down to the spoke-house at 2 o'clock."

Answer. He said, "In a little while."

Question. He did not say 2 o'clock ?

Answer. He said, "I want to see you in about an hour." That would have made it about half past 2.

Question. You said 2 o'clock.

Answer. Then I will correct myself. He said in about an hour. I said I supposed that would be about 2 o'clock. He said, "I want to see you."

Question. He did not say 2 o'clock, himself ?

Answer. No, sir; I said that.

Question. At first you say he said in a little while ?

Answer. Yes, sir.

Question. And you—

Answer. Excuse me, two cannot talk at a time. I will tell you the truth, sir, but I want to give you a little guess, myself. Don't try to bother me to get me to tell a lie—for you can't do that.

Question. I don't want to bother you, but to see if the truth is in you.

Answer. It's in me that far.

Question. You said, in the first place, "in a little while," and then said "in about an hour."

Answer. No, sir, I didn't say any such thing. He said, "I want to see you in a little while." I said, "How long ?" He says, "In about an hour." I said, "That's about 2 o'clock." He said, "Yes."

Question. Why did you not go right off to the spoke-house ?

Answer. I can't tell. I suppose because I didn't feel like going.

Question. Where did Rufus McLain go then ?

Answer. To his work.

Question. What was he working at ?

Answer. On wheels.

Question. What were you at work on ?

Answer. On a buggy-body.

Question. You recollect that distinctly ?

Answer. Yes, sir, because I didn't work on anything else.

Question. How far apart were you in working ?

Answer. About twice the length of this room.

Question. Did you work on them to the hour fixed without further conversation?

Answer. Yes, sir; we never have much conversation in the shop; sometimes we pass jokes.

Question. When the hour was up, what took place?

Answer. Then we went down, and he told me this thing.

Question. Who told you the hour was up?

Answer. I don't suppose we paid particular attention to the hour.

Question. Who first called attention to the fact of going to the spoke-house?

Answer. Rufe did. He says, "Come on, Bill, and I'll tell you what I was going to tell you."

Question. How long was it after he first spoke?

Answer. About an hour and a half after dinner-time.

Question. How long was it when you really went to the spoke-house after he first spoke to you about going there?

Answer. About an hour, I suppose.

Question. Then the contract between you was precisely kept?

Answer. Yes, sir. About the hour; I don't say precisely; I didn't look at the clock. In such a case, I wouldn't think of that.

Question. When you got there, what took place?

Answer. Then he told me he thought I — he asked me did I have any wish to belong to this order.

Question. What order did he say?

Answer. The Ku-Klux. I told him I didn't know anything about it—about its arrangement. He said, "There's nothing in it that will hurt you." I told him then I didn't care to join.

Question. Was that all that was said?

Answer. Yes, sir. Then he told me to meet him that night at the cross-street.

Question. What cross-street?

Answer. Right up here; generally known in this place as the only cross-street in York. I met him there that night, but the thing was not done that night, and I asked him the reason.

Question. Where did you meet him; on the street, or in some building?

Answer. On the street.

Question. Whom did you meet?

Answer. Rufe McLain.

Question. What hour did you appoint to meet him?

Answer. Seven o'clock.

Question. Was that before or after dark?

Answer. I guess it was a little bit after dark; it was the cool season of the year—a little after dark.

Question. What did he say?

Answer. He said he couldn't get up the men that time.

Question. What was agreed between you before you separated?

Answer. To meet in about a week.

Question. Did you meet a week from that evening?

Answer. Yes, sir.

Question. What did you and him do in the meantime as fellow-workmen?

Answer. We just worked ahead and played cards sometimes at 12.

Question. During that whole week you and McLain were working together in that shop?

Answer. Yes, sir.

Question. Was nothing said about the Ku-Klux?

Answer. Nothing at all, because it was a thing that didn't do to talk about.

Question. Were not you and him private during all this week?

Answer. Not a great deal.

Question. Were you not alone together?

Answer. We might have been; I can't recollect.

Question. Why can you not recollect that?

Answer. That's a simple question to answer. Because some things impress themselves on the memory and some do not.

Question. That is a fact; there is a curious philosophy in these things. You do not recollect whether you and him were privately together or alone during that whole week?

Answer. We might have been together fifty times, and I do not remember positive only that particular time.

Question. Do you not remember that you and him talked about that thing during that week?

Answer. Yes, sir; we talked about it at the time I told you—the first time—but not afterward.

Question. You never had a talk with him from that time until you were actually initiated ?

Answer. Not about that business.

Question. Were you perfectly satisfied with the few words he said ?

Answer. Yes, sir. He told me it was nothing to hurt me.

Question. You did not ask him the members ?

Answer. Yes, sir—what would be the use ?

Question. Had you heard what the Ku-Klux had been doing ?

Answer. Yes, sir.

Question. Had you heard that they had been killing negroes ?

Answer. No, sir. That was not known who killed the negroes. I did not belong to the party.

Question. It was not reported that they did it ?

Answer. Yes, sir. It was reported also that it was other parties that did it.

Question. What was your impression ?

Answer. My impress was groundless. I didn't know who did it. I didn't bother myself about it.

Question. You did not bother yourself about it when a proposition was made to join that very order ?

Answer. I didn't bother myself. I heard it was a political organization, and I was in for it, for I was a democrat myself.

Question. You think it is a political organization now ?

Answer. I do.

Question. You had heard of these outrages committed by this very body ?

Answer. No, sir ; I didn't know whether they were by these parties or others ; there was doubt about it.

Question. But you had heard that there was an impression on the public mind here that these outrages were committed by Ku-Klux ?

Answer. Yes, sir ; I had heard of it.

Question. Yet the simple announcement that if you belonged to that institution it would do you good was enough to satisfy you, after hearing all these rumors about this terrible body ?

Answer. Yes, sir.

Question. A lawless body ?

Answer. Yes, sir ; it is nothing else.

Question. And your mind was prepared to join it upon the simple assertion that it would do you good ?

Answer. I had confidence in the man, and did not inquire. I didn't inquire out the members. I knew I had no business to inquire about a secret organization.

Question. When did you first tell anybody outside of the organization that you belonged to it ?

Answer. The first man I ever made an intimation to was S. B. Hall.

Question. Who is he ?

Answer. He is probate judge.

Question. Does he live in this town ?

Answer. He resides here now at present, I think.

Question. When did that occur ?

Answer. It has been, I suppose, about three months ago.

Question. Was he a member of the organization ?

Answer. No, sir.

Question. How came you to tell him ?

Answer. Well, my reasons for it were best known to myself, I guess.

Question. Although you had sworn to not tell anybody ?

Answer. Yes, sir. I didn't consider that oath valid at all.

Question. At the time you took it ?

Answer. No, sir ; not after I took it. I went into it for the purpose of standing up to what the oath said ; but after I had been dragged into it in this way, I came out from it, and I consider I did right, and wouldn't hesitate to make a public asseveration of the fact, if I was not afraid of being assassinated.

Question. You are not afraid to make the declaration here ?

Answer. No, sir ; not at all.

Question. Why not ?

Answer. Because I don't think I am in danger of my life.

Question. Do you think you would be in more danger in a court-house than here ?

Answer. I might be. There are some men desperate enough to do almost anything.

Question. Are you that kind of a man ?

Answer. No, sir.

Question. About three months ago you told S. B. Hall ?

Answer. Yes, sir ; I think that time.

Question. What is his politics ?

Answer. Republican.

Question. Had you and he been on intimate terms before that ?

Answer. Yes, sir.

Question. Is he an old or young man ?

Answer. I suppose he is about—— In fact, I don't remember exactly when he was born. He might be about forty.

Question. I will ask you again ; how came you to go and tell him about this matter ?

Answer. Just simply because I wanted to get out of the business, and I knew the business would come to a close.

Question. What were those reasons best known to yourself ?

Answer. I didn't know you had any right to know why I told him these things.

Question. You seemed to think the chairman of the committee had a right to know everything you know ?

Answer. No ; he didn't ask me that question. I don't know any more about you than the chairman.

Question. What is in my question that is so terrible ?

Answer. What is your question ?

Question. How came you to go to S. B. Hall and tell him you were a Ku-Klux ?

Answer. Because I thought he was the only proper person I could go to at that time. I didn't know anybody to go to.

Question. What induced you to go to any person ?

Answer. I just told you a moment ago I wanted to get out of it.

Question. You got conscientious. You came here to kill Rose ?

Answer. Yes, sir.

Question. You had determined to do it ?

Answer. No, sir ; I was obeying the leaders.

Question. Were you here to do that thing ?

Answer. I was obeying the leaders of the party.

Question. Were you here to do that thing ?

Answer. Yes, sir.

Question. Why did not your conscience trouble you next day

Answer. It did.

Question. Why did not you go to Hall that day ?

Answer. Mr. Hall was not here, I don't think, then.

Question. When did he come here ?

Answer. I don't remember the day.

Question. How long has he lived here ?

Answer. Off and on, three or four years ; I don't remember how long positively.

Question. Where was he the next day after Rose was attacked by Ku-Klux ?

Answer. I suppose he was getting up and hiding, for he was afraid of the Ku-Klux himself.

Question. Within a few weeks, where was he ?

Answer. I don't know. I didn't profess to keep an exact diary of where he staid, for about that time it would be hard to tell where he did stay.

Question. You swear that three months ago you divulged this thing ?

Answer. I didn't swear any such thing. I said it was about three months leave that to the other gentlemen what I said.

Question. What did you say ?

Answer. You ask me if it was, to my certain knowledge ; but I cannot say it.

Question. Was it about three months ago ?

Answer. Yes, sir. There is a gentleman pretty close to you can tell you the exact date.

Question. Has he kept a record of it ?

Answer. Yes, sir.

Question. Who is he ?

Answer. Major Merrill.

Question. Was Major Merrill here then ?

Answer. He was here at the time.

Question. How did he get the date ?

Answer. I told him afterward myself.

Question. How long after you told Hall ?

Answer. I suppose it was—— I cannot tell exactly, but three or four days, or a week.

Question. Why did you not go to Major Merrill in the first place ?

Answer. I didn't know whether it would do or not.

Question. How did you know Major Merrill has the exact date ?

Answer. Because he took it down, of course. But when you spoke of Major Merrill——

Question. I did not drag Major Merrill into this ; it was yourself.

Answer. I am telling the date.

Question. How did he know the date of your telling it to Hall?

Answer. He knows the precise date; I went to him.

Question. How do you know that he knows that?

Answer. Because he set it down; and then I told him at the time when I had seen Mr. Hall, and he set that down.

Question. You told him the exact date, then, did you, when you had seen Hall?

Answer. Yes, sir; I went there with Hall himself.

Question. Did you tell Major Merrill the exact day you saw Hall?

Answer. No, sir.

Question. How do you know he has the exact day?

Answer. Because Mr. Hall told him; we went there together.

Question. Are you certain of that?

Answer. Tolerably certain. I am just giving all these things to the best of my knowledge. I couldn't tell you everything.

Question. About three months ago you went to Hall for what purpose?

Answer. I have told you.

Question. For what purpose?

Answer. I never say anything twice.

Question. You will say it twice or half a dozen times if I want it.

Answer. I have told you; don't try to intimidate me.

Question. I do not think a man that has belonged to the Ku-Klux is easily intimidated.

Answer. But I think that is your purpose.

Question. Not a bit of it.

Answer. I am mightily fooled in manner if it is not.

Question. What purpose did you go there for?

Answer. To tell him about the Ku-Klux business, and that I wanted to get out.

Question. What did you tell him?

Answer. I told him I belonged to a party I didn't want to have anything else to do with.

Question. Could you not cease to have anything else to do with it without going to him?

Answer. I might.

Question. You say you were a democrat?

Answer. Yes, sir.

Question. Were you a democrat when you went to Hall?

Answer. I don't know. I might have been a republican. It is hard to tell what I was.

Question. What were you?

Answer. I was a democrat, I suppose. I always was democrat in politics. I am not like some, democrat or republican, to suit interests.

Question. I guess you will take care of your interests in anything.

Answer. I will try to.

Question. You say you went to Hall so you could stop belonging to this Ku-Klux organization. What help could he give you?

Answer. I thought he might put me on a plan to get out of it—that's what I thought.

Question. Did you get that plan?

Answer. Get out of it? Yes, sir.

Question. What plan did he put you upon?

Answer. The plan of State's evidence.

Question. How did that thing come up?

Answer. That was the only plan in order to get out.

Question. What was the first expression you made to Hall when you went to him? Give us the exact conversation.

Answer. I didn't make any bones about it. I told him what I wanted with him.

Question. Where did you find him?

Answer. Right down here at the car-shop one Sunday.

Question. On the street?

Answer. Yes, sir.

Question. What did you say?

Answer. I told him I had something to say to him of a good deal of importance to himself as well as to myself; because there had been threats and attempts on his life. That I was privy to.

Question. Why did not you tell that in your examination awhile ago?

Answer. I was not asked anything about that. I am here to tell exactly what I am asked.

Question. You were asked to tell all that you knew about what was done by the Ku-Klux?

Answer. That is what I am doing now. I can't think of everything in five minutes.

Question. You had forgotten Hall altogether?

Answer. Yes, sir.

Question. That is a cardinal point—the first man you selected to lay your case before—and you forgot that he had been threatened by the Ku-Klux ?

Answer. I didn't forget it.

Question. You did not state it ?

Answer. No, sir ; I didn't think of it.

Question. What did he say ?

Answer. He said he would listen, and I told him.

Question. What did you tell him ?

Answer. I told him I belonged to a party that I wished to get out of. I told him I was willing to do almost anything to get out ; that I didn't consider that there was any honor attached to the party.

[The hour of half past 12 o'clock having arrived, the committee took a recess until half past 2 o'clock, when the cross-examination of W. K. Owens was resumed.]

By Mr. VAN TRUMP :

Question. How long did you say it was after you first spoke to the probate judge, Hall, that you had something to do with Major Merrill ?

Answer. Well, sir, about two or three days, or probably four or five, or a week—I don't remember exactly.

Question. From the time you spoke to Hall, up to the time of the Merrill intervention, had you spoken to anybody else about it ?

Answer. Yes, sir.

Question. To whom ?

Answer. Squire Watson ?

Question. Who is Squire Watson.

Answer. He is a man lives here in town. I don't know anything about him, except he is Squire Watson.

Question. Were you acquainted with him ?

Answer. I was by sight.

Question. How did you happen to speak to him about it ?

Answer. I considered that he was an older head than I was, and I needed advice from an older man.

Question. You were not satisfied with Hall's advice ?

Answer. Not exactly.

Question. What did he advise you to do ?

Answer. He advised me to do just what I told you this morning.

Question. What was that ?

Answer. To turn State's evidence.

Question. Why did you not turn State's evidence, then, three months ago ?

Answer. Probably I was not exactly ready.

Question. What was hindering you ?

Answer. I don't know ; my circumstances.

Question. What circumstances ?

Answer. I hardly know myself. Probably I didn't think about it ; didn't have an opportunity to.

Question. You had three months ?

Answer. Yes, sir, but this business is not like every other kind of business in human nature.

Question. You knew as much about it then as now ?

Answer. Yes, sir.

Question. What prevented you ?

Answer. Whom would I have gone to to turn State's evidence ?

Question. You went to Hall ?

Answer. Yes, sir ; but who would I have went to ?

Question. You went to Watson ?

Answer. But who would I have went to—only them ?

Question. I do not know ; I am not acquainted here ; you are. How many more did you want to communicate with before you were ready to proceed ?

Answer. That's all.

Question. You had communicated to Watson the same facts you did to Hall in a day or two ?

Answer. Yes, sir.

Question. Who else did you want to see ?

Answer. No one else.

Question. You were not ready then ?

Answer. No, sir.

Question. What was the reason ?

Answer. Simply because the thing wasn't ready.

Question. The thing had not what ?

Answer. The thing hadn't ripened.

Question. What ripening did it want?

Answer. Who would I have went to? To Sheriff Glenn, and told him I wanted this thing, or to one of those lawyers in town, and made my affidavit? I don't think I would. I couldn't act any further than I had done. That was all I could do.

Question. Did you consider this information you communicated to Hall and Watson a kind of capital in your hands?

Answer. No, sir,

Question. Why was it not ripe in the matter to be divulged?

Answer. I say I couldn't go any further—only to them. I didn't go to them for money. I didn't reveal this thing for money.

Question. You have not got any money in this matter?

Answer. No, sir.

Question. We will come to that directly. You swear to that?

Answer. I swear I don't know any money about it at all.

Question. You had no promise of money?

Answer. I had not.

Question. Have you ever told any one so?

Answer. Have I? How do you know?

Question. I want to know.

Answer. You talk like you knew yourself.

Question. Did you ever tell anybody so?

Answer. No, sir; I never did. I defy any one to come and say so.

Question. Think of it a little.

Answer. I'll think of it to the day of judgment.

Question. I give you plenty of time to think.

Answer. No one has offered me money.

Question. Did you tell no one that there was money in this thing?

Answer. I told them there was \$2 a day in it.

Question. Is that all?

Answer. That is all.

Question. Are you sure?

Answer. I told them a fellow got \$2 a day for giving evidence here.

Question. Who told you?

Answer. Anybody. Roland told me that he got \$2 for five minutes' work. I told them that it was good pay. It has been reported and in large circulation throughout the K. K. that I had got a large pile of money.

Question. How do you know it was among the K. K.?

Answer. How do I know what I tell you?

Question. You know what you told me?

Answer. I know; and I know, besides, there has been threats made against my life.

Question. When and where?

Answer. In this place.

Question. By whom?

Answer. By parties.

Question. Who?

Answer. I can't exactly criminate them, but they know themselves.

Question. You assert it as a fact that you have been threatened?

Answer. Yes, sir; I have been informed by just every-day conversation.

Question. When?

Answer. At various times it has been said

Question. When?

Answer. Here is one, a plain instance. A man came to my father and told him to tell me that I had to beware; that I had been making expressions that would get me into trouble. That man's name is Graham. I went to him, and asked him his reasons for this thing. He said he had heard this thing on the street. I asked him, "Who told you?" He says, "I can't tell you."

Question. What is his name?

Answer. T. M. Graham.

Question. Do you know he went to your father?

Answer. Yes, sir.

Question. How do you know?

Answer. My father told me so, and he is a man that don't lie like some.

Question. What did he tell your father?

Answer. That I had better beware how I talked; that I was in danger. That's a menace, I consider.

Question. What had Mr. Graham to do?

Answer. I don't know. I went to him, and asked Mr. Graham, "What right have you to use my name in the way you have?" He says, "I heard it on the street." I says, "Who told you all this on the street?" He said, "I don't know." I said, "I'll

find out." I went over to Dobson's, and he came over and told me to come out. He says, "I'll tell you the man—Mr. John Tomlinson."

Question. Who else made threats?

Answer. That is all; those two parties.

Question. Had Graham threatened you?

Answer. Yes, sir; that I had better hush.

Question. You say there are only two?

Answer. That is all I know of. Reports are going around.

Question. How did you happen to get Major Merrill's name in this thing?

Answer. Because I went to him and told him the facts of the case.

Question. He did not send for you?

Answer. No, sir.

Question. He did not write you a note?

Answer. No, sir; I would swear it if I was to die this minute.

Question. Who suggested to you to go to Major Merrill?

Answer. Mr. Hall.

Question. Why did you let two or three days intervene?

Answer. Because I am a man who goes and comes when he pleases.

Question. You say you are very conscientious about this thing, and your mind was troubled?

Answer. Yes, sir.

Question. You have said so?

Answer. Yes, sir.

Question. That your sensibilities were hurt by being a Ku-Klux?

Answer. Yes, sir.

Question. Your conscience upbraided you, and you wanted to get clear of it?

Answer. Yes, sir.

Question. As soon as possible?

Answer. Yes, sir; and that is the reason I went to Mr. Hall.

Question. The direct way to get clear of it was to just stay away?

Answer. Yes, sir; and I probably might have got away with my life in the mean time.

Question. Would there not be just as much danger in not attending the meetings as in felling on them?

Answer. You were not aware of the oath, were you? I have heard that I have to tend meetings.

Question. You said you did not feel your oath binding?

Answer. I did not when I saw how the party went on.

Question. You saw how the party went on when you went to Mr. Hall and Mr. Merrill?

Answer. Yes, sir; and that is when I got from under their thraldom.

Question. You were initiated in this town?

Answer. Yes, sir.

Question. At what time of night?

Answer. I suppose it was between 7 and 10 o'clock.

Question. At what place?

Answer. In the back part of Avery's store.

Question. Was Avery present?

Answer. No, sir; I don't think he was.

Question. Was he ever present when you were in there at all at any time?

Answer. I have been in the store many a time and traded with him.

Question. But in the lodge, or whatever you call it—do you call it a camp?

Answer. I don't know; it has not been called.

Question. Do you know what they call it?

Answer. They call it the Ku-Klux.

Question. The Ku-Klux what?

Answer. The Invisible Circle. Those are the only two names.

Question. Do they not call them camps or clans?

Answer. Yes, sir, clans.

Question. Did you ever meet Major Avery in the clan?

Answer. No, sir.

Question. How do you know he is a Ku-Klux?

Answer. By signs.

Question. Have you ever had any signs with him?

Answer. Yes, sir.

Question. How do you know Dr. Bratton is a Ku-Klux?

Answer. By the same way that I know Avery is; by signs and by other conversations by evidence.

Question. By grips?

Answer. No, sir.

Question. How do you know Dr. Bratton is a Ku-Klux?

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Answer. Haven't I told you I knew it by signs and by evidence that he is?

Question. What evidence?

Answer. I have evidence from Rufe McLain's own lips.

Question. What signs have you?

Answer. I have the signs to recognize every one.

Question. You swear to that?

Answer. Yes, sir.

Question. Right here, this afternoon?

Answer. Yes, right here, this afternoon.

Question. Dr. Bratton?

Answer. Yes, sir.

Question. Is there more than one Dr. Bratton here?

Answer. Only one.

Question. You swear here, this sunshiny afternoon?

Answer. I would swear it if it was winter-time and the snow forty feet deep on the ground.

Question. That you recognized Dr. Bratton by grips and signs?

Answer. No, sir; by the simple sign of recognition.

Question. What?

Answer. [Illustrating.]

Question. Three taps on the ear?

Answer. Yes, sir.

Question. Who made the sign first?

Answer. I made it to him; he replied.

Question. Did you have a talk?

Answer. No, sir. It was the time the excitement was up about the negroes, and it was understood every man should understand each other.

Question. Where was it?

Answer. On the street?

Question. In daylight?

Answer. Yes, sir.

Question. Who was present?

Answer. I don't know—maybe no one—that wouldn't have made any difference, unless he belonged to the order.

Question. Did they usually make signs on the street in daylight?

Answer. Meeting a man in the excitement you made the sign.

Question. What was the excitement?

Answer. This thing about these negroes.

Question. What excitement?

Answer. Where is there any negroes except in York? I don't know any others. The negroes were organizing in armed bands at night and creating a good deal of disturbance, and it was reported that they had threatened to burn the place, and there was a great many men in town and considerable excitement. If you will inquire from people that probably are more interested in it than you or me—

Question. I am a little interested in you just now.

Answer. It seems you are, and a good many others probably too.

Question. On what occasion was this particular occurrence?

Answer. I have told you that was the occasion.

Question. What occasion?

Answer. Must I repeat it?

Question. I want to see if I can get the particular occasion of this sign.

Answer. I can't tell the exact day of the month—what day the excitement was about here—but there was a general excitement about the negroes here.

Question. On that particular day, on the street?

Answer. Yes, sir; and that particular night.

Question. Where on the street did you meet Dr. Bratton?

Answer. Right here, nearly opposite Captain Kerr's.

Question. You made the sign to him?

Answer. I made the sign to him and he replied.

Question. What was the reply?

Answer. It is this: the hand on the pocket or outside of the pocket. [Illustrating.]

Question. Had he his hand in the pocket before you made the sign?

Answer. No, sir.

Question. He put his hand in the pocket at once when you made the ear-sign?

Answer. Yes, sir; he made me the reply.

Question. Did you separate then?

Answer. Yes, sir, that was the understanding between us.

Question. What was the meaning?

Answer. Just simply that we understood each other.

Question. Is that the only occasion on which you and Dr. Bratton understood each other on that subject?

Answer. Yes, sir.

Question. How long ago was that?

Answer. I suppose—I can't remember exactly.

Question. Give us something about it; you remember certain things very well.

Answer. Yes, I can. It has been, I think, about four or five—probably four or five—months ago.

Question. How often have you seen Dr. Bratton since?

Answer. Nearly every day.

Question. Have you made any other sign?

Answer. No, sir.

Question. Never made any allusion to the fact that you were both Ku-Klux?

Answer. Me and him never talk to each other.

Question. Never?

Answer. We never talk to each other.

Question. Have you never talked to each other?

Answer. Yes, sir.

Question. Since or before that?

Answer. Before that.

Question. Why not since?

Answer. I can tell you the reason mighty quick.

Question. I am asking that.

Answer. Because him and others of his same stamp hate me.

Question. When did that hatred begin?

Answer. About three months ago.

Question. Why was it commenced three months ago?

Answer. A suspicion was gotten up.

Question. How did it come up?

Answer. I got on a breeze one day—I am a pretty wild chap—so you have been informed.

Question. What do you say about it?

Answer. I am; I don't deny it. I got on a breeze one day in the street, and a man came to me and ordered me in a prompt manner to go to jail, and threatened to lay his hands on me, and I told him if he did I would ruin him. I only meant I would ruin him physically, give him a decent, genteel punching. That is the only way I takesatisfaction out of a man, and I generally do that with interest if he fools with me. So they got up a report then—they were conscious of it and knew it—they got up a report and circulated it that I had made a report of the Ku-Klux business. Then reports were circulated that I was to get a large amount of money from Major Merrill and had a promise of a certain amount of money and transportation into Canada, and that I had got some from Captain Christopher, and some from Mr. Hall. I never listened to any of these reports. I had then never said a word to either Mr. Hall or Major Merrill.

Question. This report then got out before you spoke about it?

Answer. Yes, sir.

Question. How did that happen?

Answer. Just from that remark I made to Harris on the street.

Question. This was Harris you had this difficulty with?

Answer. Yes, sir; I will tell you the truth, and if I am allowed in hell or heaven, I will meet you in it; not much danger of either of us getting up yonder.

Question. You are a pretty bold fellow?

Answer. Yes, sir.

Question. You can tell the truth in hell or heaven, can you?

Answer. Yes, sir; I don't think we need make any calculations about heaven.

Question. That I need not?

Answer. That we need not.

Question. What do you know about me?

Answer. Nothing in the world.

Question. Then why that remark?

Answer. Because you have been all the morning trying to get me to tell a lie?

Question. I have been trying to get you to tell the truth, and would be very happy to get you to tell the truth.

Answer. And a good many people would be very happy to get me out of the way, too.

Question. You and Dr. Bratton have never spoken since that sign?

Answer. No; for he made remarks about me. I didn't consider that I was under obligation to ever speak to him again.

Question. What remark?

Answer. Some one remarked to him I had gone back on the party. He said it didn't make any difference if I had; that this evidence would come in; that it didn't make any difference; my oath would not be taken; that plenty of people in town would get up and swear they wouldn't believe me on oath.

Question. When did he make that remark?

Answer. I can't tell the day; I can't remember it.

Question. Was that before you told this to Hall?

Answer. It wasn't long ago; he told it to a man named Porter—to his family—not long ago.

Question. How long ago?

Answer. I can't tell.

Question. About how long?

Answer. I can't tell.

Question. Was it since you saw Hall?

Answer. Yes, sir.

Question. A good while since?

Answer. Probably it might have been two days afterwards.

Question. If that is the reason you do not speak, there was no such reason long before that?

Answer. No, sir.

Question. After you recognized him?

Answer. No, sir; as long as he saw he could subvert me to his own interest, he spoke.

Question. How intimate is he with you?

Answer. Not intimate at all.

Question. You say five months ago you made this sign to him?

Answer. Yes, sir; but we were never intimate; I never was intimate with an aristocrat like him.

Question. You approached him ever since?

Answer. Yes, sir; I was bound to do that.

Question. Being both Ku-Klux, it would naturally bring you together?

Answer. That was a recognition of mutual feelings on that subject.

Question. Had you met each other frequently after that, and never spoken together?

Answer. Yes, sir; but we never spoke about it.

Question. Did you never sit down and speak together?

Answer. No, sir, never.

Question. You say the doctor is a Ku-Klux?

Answer. I say he is.

Question. Who do you say was present and initiated you into this mystery?

Answer. Haven't you the names down there?

Question. I want them again.

Answer. I can tell you with the greatest degree of obligating assurance.

Question. I have no doubt you can.

Answer. My memory is very doubtful. That has got me out of a good many scrapes. I have been a most a devil of a chap.

Question. Are you any better now?

Answer. Not much.

Question. Not reformed much?

Answer. Not much reformed—a little.

Question. Give us the names.

Answer. John Hunter; there was Sam Wallace, Rufe McLain, Dan. Williams, and Bill Colcock.

Question. Were they all?

Answer. That's the names. Let me see. Did I tell you Dan. Williams?

Question. You must remember what you told me.

Answer. Dan. Williams, Rufe McLain, Sam. Wallace, John Hunter, and Bill Colcock.

Question. No more than that?

Answer. That's the names.

Question. Were there any more present?

Answer. No more present.

Question. Who initiated you?

Answer. They are the men.

Question. Who?

Answer. Who read the service?

Question. Yes, certainly.

Answer. Bill Colcock.

Question. Where does he live?

Answer. In town here.

Question. What did the others do?

Answer. They were witnesses to it.

Question. Was it dark that night?

Answer. Hold on. I have made a little mistake. Allow me to correct it. McCaffrey was present. That slipped my memory.

Question. What is his name?

Answer. Ed. McCaffrey. They had nothing to do, only as witnesses. It was night.

Question. Who else was present?

Answer. That was all. McCaffrey had slipped my memory. I was thinking of that this morning after I went away. I knew there was some one else, but I couldn't think who it was. Immediately after I was initiated, the handkerchief was taken off of my eyes, and there was the pistols to my head, and the initiation was through.

Question. That is the simple initiation of the Ku-Klux?

Answer. Yes, sir.

Question. What was the oath you took?

Answer. The oath—well, now—is this. I will give you the oath now, but if I make a few mistakes don't think hard of me.

Question. I will not think hard of anything.

Answer. I don't think you are capable of it. "I do solemnly swear, before Almighty God, never to divulge, to never reveal, but always conceal, the secrets of the Invisible Circle; to aid and defend our homes, our wives, and our firesides." That is what you got down there.

Question. You say that is all the oath?

Answer. That is what I gave you this morning.

Question. I am asking not what you gave this morning, but what the oath was.

Answer. That's all the oath. It embraces a good many other particulars.

Question. What particulars?

Answer. Particularly defending and supporting a brother in case of trouble.

Question. How do you infer that?

Answer. Don't it say so there?

Question. I want you to say.

Answer. I say you swore to defend our homes, our firesides, our families; that infers that we are to defend brothers.

Question. What else?

Answer. It infers we are to obey the dictates and laws of the oath.

Question. What else does it infer?

Answer. I don't know of any other inference. The penalty is different, it is, altogether from the oath.

Question. Where does that come in?

Answer. It comes in after the handkerchief is taken off of your eyes.

Question. A new oath?

Answer. No, sir; only the penalty, which is death, death, death.

Question. You have been reading this printed book since we adjourned for dinner?

Answer. I am not much of a hand on stereo—, what do you call it, phrases. I just speak from the mind.

Question. Have you seen a book of this order since we adjourned for dinner?

Answer. I never saw one in my life, and don't believe there is a book printed of the order. If there is, it has been kept away from me.

Question. How does that penalty come in; after the ceremony is all over?

Answer. I don't know, but that's so; after the ceremony it comes in.

Question. Where is this provision that you must defend a brother, even in the jury-box, when he is indicted?

Answer. It don't come in the oath.

Question. Where does it come in?

Answer. It comes in where you defend a brother at the risk of your life, and death is the penalty. You have to do it—to swear a lie.

Question. Does defending a brother necessarily make a man commit perjury?

Answer. Yes, sir; it has been done.

Question. I speak of the philosophy of the thing; the necessary meaning of the language.

Answer. I am not much of a hand at philosophy, but I think it wouldn't bind a man of course.

Question. Does an oath or instruction to defend a brother mean that a man shall swear falsely as a witness?

Answer. Yes, sir.

Question. Where did you get that idea; is that in the oath?

Answer. No, sir.

Question. Where was it?

Answer. That was a thing generally known in the party. I can illustrate it in this style, if you will allow me: For instance, I am taken up on a charge of Ku-Kluxism—

Question. I do not ask for a speech.

Answer. I am not going to make a speech.

Question. I ask for the facts, and as short as possible.

Answer. I want to illustrate.

Question. I do not ask for the illustration, but the facts.

Answer. I was going to give the facts.

Question. You shall not give them unless they are facts.

The CHAIRMAN. If the witness has a mode of answering the question, I do not know that we should assume that he must answer it in another way.

Mr. VAN TRUMP. He shall not answer it by an argument.

The CHAIRMAN. The question was put where the inference was derived that he should commit perjury.

Answer. I say if I am arrested or charged with Ku-Kluxing a man, I go to a court-house; I subpoena two or three witnesses; I can go there and take my lawyer to put the questions; to question these men and ask them where I was such a night, and I can make them turn around and prove that I was twenty miles from the scene of operations that night. That is the plan of proof—that is the only thing, by undeniable evidence, to throw the prosecution.

By Mr. VAN TRUMP:

Question. How do you know that is the plan of operations? Did you ever see it in actual existence or operation?

Answer. It has been done right in that court-house over there.

Question. In what case?

Answer. In the case of Barrett.

Question. Who were the witnesses?

Answer. I don't know the witnesses. Caldwell was taken up—two Caldwells—on a charge of Ku-Kluxing. They proved that they were twenty miles away from the scene of operation.

Question. Were you there?

Answer. No, sir.

Question. How do you know that testimony was not true? Were you on the raid?

Answer. I didn't get it from one of the parties along on the raid. They were not on a Ku-Kluxing raid, but around scaring them; they didn't hurt anybody that night; I got it from one of the parties out that night.

Question. Who?

Answer. John Benfield; he told me that the Caldwells were there, and he was there himself.

Question. When John Benfield told you that he was not under oath?

Answer. No, sir.

Question. Who were those witnesses who swore that Caldwell was twenty miles away?

Answer. I don't know; it was done. They never committed them even to jail.

Question. It is only your suspicion that that was a Ku-Klux operation?

Answer. It is no suspicion at all, because we were notified that we were to go and make evidence, and I didn't know Barrett or the Caldwells, or anything else about it.

Question. How did you know then that it is a fact that the testimony was not true?

Answer. That's the very thing I was called on to give.

Question. Assuming as a fact that you as a Ku-Klux was ordered to that occasion when the Caldwells were along, you say you do not know the Caldwells?

Answer. No, sir.

Question. And you do not know Barrett?

Answer. Yes, sir; I do.

Question. The Caldwells, you say, proved by two witnesses that they were twenty miles away on that night?

Answer. They proved it.

Question. How do you know they were not?

Answer. Benfield was along and he told me the circumstances, and that they were there.

Question. Hence you think, or your inference is, that that is the way the thing could be done?

Answer. What a man says I suppose is so.

Question. I do not know anything about Benfield, but you say he told you the Caldwells were there?

Answer. They were there. I don't know the Caldwells at all.

Question. Do you not know that there are more than thirty Caldwells in this county?

Answer. Not probably in that place. Are you sure there are that many?

Question. I am not being examined; you answer me. You do not know the Caldwells?

Answer. No, sir.

Question. You cannot know that they were there?

Answer. I was told by Benfield; he told me, "You know the plan, Bill, and that's the way they got out of it." I says, "Certainly, I do."

Question. Who is this Rufus McLain?

Answer. He is a man that lives in town, here; a policeman.

Question. How often did you meet in that clan?

Answer. Meet in secret meeting?

Question. Yes, sir.

Answer. I never met in my life.

Question. The only time you ever met as a clan was on the night of your initiation?

Answer. That's the only time we ever met in secret session as a clan.

Question. Did you ever meet in open session as a clan?

Answer. We met on this raid and on that raid at the court-house, but we were not disguised that night at all.

Question. Which night were you not disguised?

Answer. The night that we were at Sam Hall's office, the ammunition night; there was no disguise that night.

Question. How did you know who was chief of the clan you belonged to?

Answer. Rufe McLain was chief.

Question. How did you know?

Answer. I knew it by an election.

Question. Was there an election?

Answer. There was an election, but Avery appointed McLain chief of the clan.

Question. Where?

Answer. Down at the shop.

Question. How do you know?

Answer. Because Rufe told me so and gave my name on his list.

Question. You first said he was elected, and then appointed?

Answer. I say not an election, exactly, but—

Question. There is no election, but appointment of superior officers?

Answer. Yes, sir.

Question. How many of these clans are in Yorkville?

Answer. As far as my knowledge extends I think there's three.

Question. Ten in each?

Answer. Yes, sir.

Question. There were thirty Ku-Klux in this town, then?

Answer. Yes, sir; I suppose so; probably more than that. I didn't know all the Ku-Klux—don't pretend to know them all in this place. Some of them are so sharp, so cowardly, they never would recognize anybody and never come out after they joined.

Question. How do you know that?

Answer. Because they never went out.

Question. If you only know that they belonged to it because they never went out, how do you know it at all? [A pause.] What do you say? What do you say?

Answer. Some were so cowardly they would keep even if they did belong to it.

Question. How do you know they belonged?

Answer. Because, by their action in open day-light; they were so cowardly they wouldn't come out.

Question. How do you know they were Ku-Klux?

Answer. I didn't say that; I said even if they did belong to it.

Question. You mean that some of the citizens here, it may be, who belonged to it, are cowards?

Answer. Yes, sir; I don't say all the citizens of Yorkville are Ku-Klux.

Question. How high in command is Mr. Avery?

Answer. I think he was the chief over them; I think he was general chief of the Ku-Klux of this upper portion of the county; I think all obeyed his will; I don't know; I wouldn't swear that.

Question. Is there an organization that includes, in that single organization, the whole county?

Answer. They are all divided into clans; there is a general chief somewhere.

Question. How many clans?

Answer. I don't know how many. I suppose he was—I think he was chief of all the clans in York and the upper portion of the county, from the way in which he acted.

Question. Then the county must be divided into two or more divisions of Ku-Kluxism?

Answer. It might have been. I don't pretend that my knowledge extends further than York.

Question. What makes you think Mr. Avery was grand commander of so much territory?

Answer. Because he appointed these others over the clan.

Question. That you know only from information?

Answer. That's all the way I know anything about it.

Question. Did you ever meet Mr. Avery as a Ku-Klux?

Answer. I met him on the street.

Question. How?

Answer. As one meets another.

Question. How is that?

Answer. We met at night?

Question. As Ku-Klux ?

Answer. Yes.

Question. By what did you know him ?

Answer. By the word.

Question. What word ?

Answer. S-a-y, and the reply, n-o-t-h-i-n-g.

Question. Who said say ?

Answer. I did.

Question. You always advanced ?

Answer. Yes, sir ; it was my business on that night.

Question. It was your business with Dr. Bratton, too ?

Answer. Yes, sir.

Question. He replied ?

Answer. Yes, sir, to say n-o-t-h-i-n-g—spelling it.

Question. On what occasion was that ?

Answer. I don't remember the occasion ; it was night.

Question. Was it on the occasion of another excitement ?

Answer. No, sir ; it was about the same time of this excitement ; and he told me to go to his store and get a gun. I went and got it.

Question. Whom did you get of ?

Answer. I got it out of the store.

Question. Who from ?

Answer. From Dan. Williams.

Question. This same Dan. Williams you have spoken of ?

Answer. Yes, sir ; he clerks for Avery.

Question. What made him say go and get a gun ?

Answer. Because the negroes were coming, as they said, and I had no arms. He said, "Go to my store and get a gun."

Question. Was that all the conversation ?

Answer. Yes, sir.

Question. Where did you meet him afterward as a Ku-Klux ?

Answer. That's the only time I ever met him as a Ku-Klux, but I have seen him as to a paper Rufe McLain had got.

Question. If he is commander-in-chief of some general organization, including the town or part of a county, he is not captain of a clan, then ?

Answer. I don't know anything about him being captain more than the clans of Yorkville and the upper portion of the county. I don't pretend that he is superintendent of the State.

Question. How came you to speak of Avery's clan ?

Answer. He is captain of a clan in town.

Question. He is captain as well as general, then ?

Answer. Yes, sir ; we have privates as well as full generals.

Question. You said he was chief of a clan here in town ?

Answer. Yes, sir.

Question. And you gave some parties who belonged to it ?

Answer. Yes, sir.

Question. Who are they ?

Answer. Bill Colcock, John Hunter. I think John Tomlinson either belonged to his clan or Dan. Williams's.

Question. Who else ?

Answer. John Hunter ; and Snyder belonged to one clan ; I don't know which.

Question. What Snyder ?

Answer. William Snyder ; I don't know which clan he belonged to, but to one of these clans up town.

Question. You do not say he belonged to Avery's clan ?

Answer. No, sir.

Question. I asked what men belonged to Avery's clan ?

Answer. I don't know them all ; I told you that this morning once or twice or three times. You can't expect me to know everything that is happening. I am not so generally well-informed as that.

Question. Is there any other person belonging to Avery's clan that you have not mentioned just now ?

Answer. Not that I know of. He has his clan, but I don't know who it is. He has his clan of ten—my knowledge is not general.

Question. I want you to think of anybody else you can that belonged to it ?

Answer. Sometimes a man is apt to get confused with so much questioning. [A pause.]

Question. I will give you a reasonable time. I do not want to wait too long. Who else, if any, belonged to the clan ?

Answer. To Avery's clan ?

Question. Yes.

Answer. Well, there is Cal. Parish; he belongs to that clan, either to Avery's clan or the other.

Question. I am asking about Avery's clan?

Answer. Well, I will endeavor to tell you about Avery's clan.

Question. You say Bill Colcock and Cal. Parish belonged to Avery's clan?

Answer. Yes, sir, and John Hunter.

Question. And you gave John Tomlinson?

Answer. I said I didn't know whether he belonged to that or Dan. Williams's.

Question. Which did you say Tomlinson belonged to this morning?

Answer. I can't recollect now.

Question. Is that all you want to say?

Answer. Yes, I believe that is all I want to say. I may have time to study up this thing better.

Question. I want to give you fair and full time now—reasonable time.

Answer. As this may be the last time I may be ever called upon to give my evidence—

Question. I do not know.

Answer. Well, if there is any more it slipped my memory.

Question. I will read to you what you said this morning: "Daniel Williams, John Tomlinson, John Hunter, and Samuel Ross belonged to Avery's Klan." You now leave out Ross and add Parish and Colcock.

Answer. Those two I gave you just now belong to the Klan. Those others I gave you this morning had slipped my memory. The other Klan was there. I see my evidence—I may get confused sometimes and perhaps not tell the same story exactly as you wish me to do it.

Question. You say this Ku-Klux is organized all over the counties of the State?

Answer. That's the general report among the Ku-Klux.

Question. You do not know it as a fact yourself?

Answer. I never met them in Winnsboro. I have met them in Columbia and Spartanburgh, and I suppose they are as apt to be anywhere else as in those places.

Question. Who was Govan Hopper?

Answer. He is chief of a Klan up above here.

Question. Above where?

Answer. Above York.

Question. How far?

Answer. I think eight or ten miles from York.

Question. Do you know him?

Answer. I do.

Question. Did you ever meet him as a Ku-Klux?

Answer. I have.

Question. Where?

Answer. On the night of the raid here.

Question. Was he here as a disguised man?

Answer. He was.

Question. How did you know him?

Answer. By his taking off his mask and recognizing me.

Question. What position did he hold in the order?

Answer. He was chief of a Klan.

Question. Do you know this John Benfield?

Answer. Yes, sir.

Question. You say four or five in all of these Klans are in the county?

Answer. I think there is about that many.

Question. That is your information?

Answer. Yes, sir.

Question. You said in the first place you had never been on any of these raids?

Answer. Only those two I told you about.

Question. You told that a long time afterward.

Answer. I told it when I was asked. I didn't come here to advance evidence but to answer questions.

Question. In an answer on your direct examination you said you had never been on any raids?

Answer. Never, except on those two.

Question. You described those raids very particularly a long time afterward; why did you not think of that in the first place?

Answer. I was not asked about them. When I was asked about them I told.

Question. You were asked if you were at the murder of Williams—

Answer. I said I was not.

Question. And you said that you never were on any of these raids

Answer. I never was on any outside. I was on these two.

Question. You had not made up your mind at that time to answer fully ?

Answer. No, sir. I had told these two men before I had told you where I had been. That wouldn't have done me any good to have went back in that style.

Question. Who did you say was at and engaged in the murder of Rainey, otherwise called Williams ?

Answer. I say all the men I know from town was Dr. Bratton, Rufe McLain, John Hunter, and John Tomlinson.

Question. How do you know ?

Answer. From Rufus McLain's mouth. I told that this morning.

Question. You know it in no other way ?

Answer. In no other way ; only by Rufe McLain.

Question. On what particular raid did Rufe McLain tell you that ?

Answer. He told me the next morning after the thing occurred.

Question. Where ?

Answer. Haven't I told you about the man being hung ?

Question. Where did he tell you ?

Answer. At the shop ; Kerr's shop.

Question. Does he work there ?

Answer. He worked there.

Question. Was he working there then ?

Answer. Yes, sir.

Question. How did it happen you did not go out that night ?

Answer. Because I didn't want to go.

Question. Were you warned to go ?

Answer. No. I was warned to go one night after some guns, and I wouldn't go. That was the only time I was ever warned. They didn't put enough confidence in me.

Question. You are not a favorite with them ?

Answer. No, sir.

Question. You think you have not the material for a Ku-Klux ?

Answer. No, sir.

Question. You said you were a devil of a fellow ?

Answer. I am.

Question. Don't it take such a fellow to make a Ku-Klux ?

Answer. I am pretty the devil of a fellow, but I haven't got that much devil in me—not to murder a man. I don't like that.

Question. What murder of a man do you mean ?

Answer. He was killed above here.

Question. Who ?

Answer. I can't think of his name.

Question. What were the circumstances of this murder ? Give us some clow to it ?

Answer. The party that went there went to his house and asked his wife where he was. She told them he was in the house. They took him off some two hundred yards below—so I am informed—and they put an end to his existence.

Question. Who was along ?

Answer. John Tomlinson, John Hunter, and Bill Colcock are the only ones I know. There may have been a hundred others.

Question. Do you not know any more ?

Answer. No, sir.

Question. Whose names did you give this morning connected with that murder ?

Answer. Isn't that all ?

Question. It happened to be a little more ; because you only mentioned Tomlinson and Hunter and others. You did not recollect.

Answer. Are you certain I didn't give more ?

Question. I am pretty certain.

Answer. I think I gave his name this morning.

Question. Are you willing to swear you did ?

Answer. I think I did. I might be mistaken.

Question. How do you know, sir, that the party that made this raid on the treasury, of which you yourself are one, made that raid for the purpose of killing Rose ?

Answer. Just simply because it was the intention, and generally reported by men all around that that was the intention.

Question. Did anybody announce the fact ?

Answer. It was announced by the whole party, as I told you this morning. That was the intention.

Question. Where was it announced ?

Answer. Among us.

Question. At what time in the raid ?

Answer. It was mentioned that night, I suppose, just before we came into town, and along from about 10 or 11 o'clock the thing was talked about.

Question. Were you drawn up in line and that information communicated ?

Answer. No, sir ; we were standing together in a bunch.

Question. Who first spoke of it?

Answer. I cannot tell you; men were disguised.

Question. Can you not tell us because you do not know the person?

Answer. They were disguised.

Question. Is that the reason you cannot tell who it was?

Answer. That's the reason; and another reason, I was not thinking anything about it that night and didn't care anything about it.

Question. Was that sentiment generally responded to by the Ku-Klux around? Did all seem to be willing?

Answer. All seemed to be willing.

Question. Did anybody object?

Answer. Some objected, but didn't say so. I objected for one; but I couldn't say anything.

Question. You did not say anything?

Answer. I could not say anything. If I had I would have been swung.

Question. Who notified you to be out that night?

Answer. John Tomlinson and Rufe McLain.

Question. Where did they tell you to rendezvous?

Answer. About a mile from town, just above Uncle Bill Kerr's.

Question. What did he say?

Answer. There was to be a raid on the treasurer's office.

Question. And kill Ed. Rose?

Answer. And kill Ed. Rose.

Question. When you got down there among them disguised you could not object you say?

Answer. No, sir.

Question. Because you were afraid to do it, and could not object?

Answer. I got into it, and couldn't object to anything then.

Question. Tomlinson told you before you went there that the object was to raid the treasury and kill Ed. Rose?

Answer. But hold on. He didn't tell that. He said, "Rendezvous at Bill Kerr's, and raid the treasury."

Question. And kill Rose? You said that. Is that so? Was anything said by Tomlinson?

Answer. There was after we got out there.

Question. But at the notification?

Answer. No, sir; there was nothing said then—only to meet there for the raid on the hotel. After we got there I don't know. The questions and answers were by men. I didn't know who in the thunder they were, because Tomlinson and others were there.

Question. Did you know what they meant by a raid on the treasury?

Answer. I asked some of the party.

Question. Did you ask Tomlinson?

Answer. I did not that night.

Question. You did not feel any curiosity?

Answer. I asked others I saw. I might have asked him.

Question. Notice that I am speaking of the time Tomlinson invited you to meet them that night.

Answer. I was notified by Tomlinson through another man.

Question. Who?

Answer. Through Rufe McLain.

Question. Tomlinson did not notify you personally?

Answer. He told Rufe McLain to tell me to rendezvous at Bill Kerr's, because there was to be a raid on Rose's hotel.

Question. What do you mean by saying Tomlinson was the first man notified you?

Answer. He was. I was notified by him through another man.

Question. By proxy?

Answer. Yes, sir.

Question. McLain then told you that you were to meet a mile from the town and make a raid on the treasury?

Answer. Yes, sir.

Question. Did you ask the purpose?

Answer. Yes, sir; I did after we got out there.

Question. But here?

Answer. No, sir; I never asked about it here.

Question. You were perfectly willing to go?

Answer. Yes, sir; what else could I do? You tie a man to a wagon and I guess he would be willing to go; there was no way to get out of it.

Question. Was that the only way you were notified to meet in the country?

Answer. Yes, sir.

Question. What would have been the consequence if you had not been there?

Answer. Worms would have been eating me now, I suppose, if I hadn't gone to the meeting. It seems you take quite an interest in the K. K. party.

Question. I do. What do you think about it?

Answer. Nothing at all, sir. I just made the remark.

Question. What makes you think I take quite an interest in the K. K.?

Answer. It seems you do. I don't know.

Question. Give us your impression about it.

Answer. From the interest you took to get me to go back on something I have said. Your intention is to use all your power to overthrow my evidence.

Question. What?

Answer. To do all you can to overthrow my evidence.

Question. My intention is to get the truth out of you.

Answer. To get the truth, and just as many lies as you can.

Question. That depends on you, not on me.

Answer. I have seen that all day. I am not being used to be questioned as you questioned me this morning.

Question. You will be questioned more before you are through.

Answer. I guess I can stand it all.

Question. Now, sir, I want you to give us a list of the names of the men who were in the treasury raid from this town.

Answer. Well, I will endeavor to do so with as much accuracy as I can. If I make a mistake you must not be too hard on me. I guess you will not do that. There was myself, that's one, and Bern Lowrie, and Blackman Wilson, and John Tomlinson, and Dr. Hunter, and Rufe McLain, and Sam Smith, and Robert Latta—and that's all I can possibly recollect. I think that is. If I have made any mistake I hope it may be overlooked a little.

Question. Who is Dr. Lowrie's son Bern?

Answer. He is Dr. Lowrie's son Earnest.

Question. How old is he?

Answer. Twenty-one or twenty-two.

Question. Does he live in town?

Answer. Yes, sir.

Question. With his father?

Answer. Yes, sir.

Question. Is he married?

Answer. No, sir.

Question. Who is Blackman Wilson?

Answer. Colonel Bill Wilson's son.

Question. Where does he live?

Answer. In town.

Question. How old is he?

Answer. About twenty-one.

Question. Is he married?

Answer. No, sir.

Question. Does he live with his father?

Answer. Yes, sir.

Question. Who is Bob Latta?

Answer. An agent of the depot down here; he stays there.

Question. How old is he?

Answer. About twenty-one or twenty-two.

Question. Is he married?

Answer. No, sir.

Question. Where does he live or board?

Answer. He lives right out here in Mr. Latta's house.

Question. With his father?

Answer. His father's dead.

Question. With his mother?

Answer. His mother is living.

Question. Who is John Hunter?

Answer. He is a man doing business for Dobson now, I think.

Question. Rufe McLain?

Answer. He is a policeman.

Question. Sam Smith?

Answer. A shoemaker.

Question. How old?

Answer. About twenty-five.

Question. Does he live here?

Answer. Yes, sir.

Question. Live here now?

Answer. Yes, sir.

Question. Married?

Answer. No, sir.

Question. That is all you recollect?

Answer. I believe so. Is that all the names you asked me? I gave them a while ago; I can give them again. I would like to have a pencil, because I forgot them sometimes myself. I will set them down myself. [Taking a pencil and noting.] That's all I can recollect—Rufe McLain, John Tomlinson, John Hunter, Robert Latta, Bern Lowrie, and Black Wilson, and Sam Smith, and W. K. Owens, (that's myself.) [Handing the paper to Mr. Van Trump.]

Question. Now give us the names of all the parties who were in this raid on the ammunition magazine.

Answer. Well, there was myself—W. K. Owens—and McCaffrey, and Sam Smith, and Tom Corele, and Rufus McLain, were actual participators; and there was Harris—yes, and there was Bloodworth, too; he was one of the main hands. There was Harris and Tomlinson; they were prior to the fact.

Question. What?

Answer. Prior to it; they had the plan, that is.

Question. Was there nobody else connected with that raid on the ammunition but Smith, McLain, McCaffrey, Corele, and yourself? Are there no others, besides those you mentioned, along with you from anywhere?

Answer. Tom McCole was there; he didn't live in this place.

Question. I ask from anywhere?

Answer. Not to my knowledge.

Question. Did those men do the whole thing?

Answer. There were six of us active operators, but some others did the planning—Hunter, and Tomlinson, and Harris.

Question. How do you know that?

Answer. Because they were in there making the plan, and I wanted to know what they were doing with the ammunition after they got it.

Question. Who did you say had the key of the office?

Answer. Harris.

Question. You say there was a large meeting of undisguised men here from North Carolina, and you did not know any North Carolinians?

Answer. No, sir; I didn't know any of them at all.

Question. You spoke with some of them?

Answer. Yes, sir.

Question. And you did not know any of them?

Answer. No, sir.

Question. Did you not live in North Carolina once?

Answer. No, sir; never in my life. I have been there several times, and staid there a month or two at a time. I suppose I was living at that time; but, in the common acceptation of the word, I never lived there.

Question. I understand you to say, Owens, that on the three several occasions you communicated with other parties in regard to their being Ku-Klux, or members of the Ku-Klux order, you each time made the advance?

Answer. Did you say three times?

Question. Yes; is that too often, or too little?

Answer. I don't remember telling you but twice.

Question. Who were they?

Answer. Bratton and Avery.

Question. But I ask about your speaking with other persons divulging the secrets.

Answer. Who?

Question. How many did you talk with about it?

Answer. Only three.

Question. On each of those occasions did you advance and begin the subject?

Answer. I made the advance when I went to Mr. Hall, and Hall told me we would go down and talk to Mr. Watson. I don't know what you would call that, whether an advance or not. I went to Mr. Watson; we talked the matter over, and he advised me what to do; that the plan would be if I wanted to get out of it to give in my evidence to Major Merrill. I never saw Major Merrill, then, from the time I spoke to Mr. Hall; it might have been for four or five days, or a week; but meanwhile I had seen Mr. Watson.

Question. Do you say that the purpose you had in seeing all or either of these men was the honest purpose brought about by the working of your conscience, that you wanted to get clear of this organization, and expose it as an honest man?

Answer. I do say so—unreservedly say so.

Question. For no other purpose?

Answer. No other purpose.

Question. No other reward?

Answer. No other reward.

Question. You swear that ?

Answer. I swear that.

Question. Have you had the promise of any kind of property, or money, or valuable thing of any kind, for divulging the secrets of the Ku-Klux ?

Answer. No, sir.

Question. By no person ?

Answer. By no person.

Question. At no time ?

Answer. At no time.

Question. And nowhere ?

Answer. And nowhere.

Question. Do you know a man by the name of Scott Owens ?

Answer. Yes, sir.

Question. Where does he live ?

Answer. Scott Owens lives over here on the hill, about half a mile from the court-house.

Question. Does he belong to the Ku-Klux ?

Answer. He does.

Question. How do you know ?

Answer. I know it ; he belonged to them in 1867. I don't know whether he ever joined them since then or not.

Question. How do you know that when you did not belong ?

Answer. He told me so not longer ago than to-day. I said, "What are they going to do with you about it ?" He says, "I am up. I never was a Ku-Klux." He says, "I was in 1867."

Question. He said it right square out ?

Answer. Yes, sir ; but he says, "I never joined them since then ; I never was on the raids."

Question. Is he a young man ?

Answer. Yes, sir.

Question. How old ?

Answer. About twenty-two or three, I reckon ; he may be older or younger.

Question. And he voluntarily owned it to you to-day for the first time ?

Answer. I asked him, "What do they want of you, Scott ?" He said, "They want me about something." "What do you mean ; what do they want to do with you ?" That's the natural question down town everywhere. If you meet a man who is summoned, they say, "What do they want with you up there ?" There is nothing strange in that remark.

By the CHAIRMAN :

Question. Is Scott Owens summoned here as a witness ?

Answer. He told me he was ; I don't know anything about it. He told me he was summoned, and I asked several what for.

By Mr. VAN TRUMP :

Question. Who is John McLain ?

Answer. He is working at the shop.

Question. With you ?

Answer. Yes, sir.

Question. Now did you or did you not say to Scott Owens and John McLain that you had been offered from one to five thousand dollars by Colonel Merrill to give evidence to convict the Ku-Klux ; that Colonel Merrill wanted one or two witnesses ; that you had taken the job for one, and wanted Scott Owens to take the place of a second man ?

Answer. No, sir ; I never said any such thing. That is evidence gotten up. I could myself tell who it was gotten up by.

Question. Just answer my question.

Answer. I say I never did it. All the men that said so lies. Go to Major Merrill, and he will tell you what I said to him.

Question. It is what you said to Scott Owens and John McLain that I am asking for.

Answer. I say I never said any such thing.

Question. Very well ; that is an answer to the question. You say you have no promise from any person for any reward or remuneration for testimony given here to-day ?

Answer. I do say so.

Question. Were you ever committed to the Chester County jail ?

Answer. I was.

Question. When ?

Answer. In 1866.

Question. Upon what charge ?

Answer. For a pretty grave offense.

Question. What ?

Answer. Stealing a horse.

Question. How did you get out of jail?

Answer. That's my business.

Question. It is my business too.

Answer. No; it is not.

The CHAIRMAN. You are bound to answer questions.

The WITNESS. That's got nothing to do with the questions here.

The CHAIRMAN. You are bound to answer the question if it is insisted upon.

The WITNESS. I made my escape from jail.

By Mr. VAN TRUMP:

Question. Where did you go to?

Answer. To North Carolina.

Question. Then you have lived in North Carolina?

Answer. I said I lived there three months; I told you that. I was aware all that would be brought up against me when I came here.

Question. It did not make you nervous at all?

Answer. Not at all. You see, I have been used as a tool by those men in town as long as they can, and now they want to go back on me, on my past life. It's all very good. That's why now I do as I do. I wouldn't hesitate to denounce them right in the public square.

Question. Do you know James Ferguson?

Answer. No, sir.

Question. You do not?

Answer. No, sir, and never heard of him.

Question. Did you tell James Ferguson or any other man that there were three or four thousand dollars in this business of exposing the Ku-Klux?

Answer. No, sir; I don't know any such man as James Ferguson.

Question. Did you ever tell any other man that?

Answer. No, sir; I never told any other man so.

Question. How much did Mr. Hall pay you for the information you gave him?

Answer. He never paid me one cent.

Question. Are you sure he did not pay you \$45?

Answer. I am sure he never paid me a cent for any information I ever gave him. He lent me money at one time or other. He never lent me \$45 either. He lent me at one time \$10, and at another time—

Question. I did not hear your remark.

Answer. I say at one time he lent me \$10, and at another time \$8, but he never paid me a cent for the information.

Question. At what time did he lend you \$10 and \$8?

Answer. I don't remember the date anyhow. I was going to Chester, and I borrowed \$10 of him.

Question. How long ago?

Answer. I don't know—about three or four months. About two months ago I borrowed \$8 from him as I was going to Winnsborough on business.

Question. How long before that was the \$10 borrowed?

Answer. I suppose it was about two months. I reckon somewhere there.

Question. Had he lent you a single cent before you communicated this news?

Answer. Yes, sir; he lent me \$10 before I had said a word to him.

Question. Is that all the money he ever lent you, the \$8 and the \$10?

Answer. That's all I ever asked him for.

Question. How much has Major Merrill lent you?

Answer. He never lent me a cent.

Question. Never paid you anything?

Answer. Never paid me a cent.

Question. Did you say to John McLain that Major Merrill had promised to give you a full and free passage out of the United States, and full pardon from Governor Scott?

Answer. No, sir; I did not.

Question. You never told John McLain that?

Answer. Never. That is the report. I said that a dozen times to forty men. I went up street the other day to buy some goods, and I said, "This is the last cent I have of the \$3,500."

Question. You said that?

Answer. Yes, sir; I had heard the report, and I said that to aggravate them.

Question. Did you hear that you had received \$3,500?

Answer. Yes, sir; and that I was to have transportation to Canada. That was reported all over the country here.

Question. Were you reckless enough even in joke to say that you had spent the last of it?

Answer. Yes, sir; I said, "Here goes the last of \$3,500."

Question. That is all you ever admitted?

Answer. Yes, sir.

Question. To Scott ?

Answer. I don't know Ferguson. I borrowed money of Sam. Hall, and I didn't care whether anybody knew it or not.

Question. What were you charged with in Chester County jail ?

Answer. I was charged, but falsely, with stealing a horse.

Question. You say it is false ?

Answer. Yes, sir; and I have proof of tha

Question. What did you break jail for, then ?

Answer. I thought it best, the way things were then; it was just after the war.

Question. Did you ever tell John McLain you had stolen a horse in 1865, and that you broke Chester jail ?

Answer. No, sir; I never did. It was generally known that I had got away from Chester jail, and what I was put there for.

Question. Were you ever charged with robbing Mr. Kerr, your employer, of anything ?

Answer. No.

Question. You are sure of that ?

Answer. I was a party in that thing, but they never come against me. Me and two or three others went, in a state of intoxication, into Mr. Kerr's office and took some tobacco.

Question. Nothing else ?

Answer. No, sir.

Question. Not a particle of anything else ?

Answer. No, sir.

Question. Were you drunk ?

Answer. Yes, sir.

Question. Did you get drunk on purpose to steal ?

Answer. I suppose so.

By the CHAIRMAN :

Question. You have spoken of a penalty, which was communicated after the handkerchief was taken off and the oath was administered ?

Answer. Yes, sir.

Question. In what form was it put ?

Answer. With the pistols right at my heart and head; and the penalty was death.

Question. How was it expressed ?

Answer. The penalty was that if I divulged these things, may I meet a traitor's doom—death, death, death.

Question. Was there anything more after that ?

Answer. Nothing more. I received the signs.

Question. You have been asked about being in the jail at Chester ?

Answer. Yes, sir.

Question. Was that in 1866 ?

Answer. I forget the year; I think it was the latter part of 1865.

Question. You say the charge of your stealing a horse was false ?

Answer. Yes, sir; it was.

Question. By whom were you arrested ?

Answer. By parties below Chester; I don't know the men.

Question. Was there a civil or military government here then ?

Answer. It was military, or no government at all; everything was torn up.

Question. When did you come back here ?

Answer. I staid in North Carolina, I reckon, about two months and a half, and then I came right here and went to work with Mr. Kerr.

Question. Have you been living here ever since ?

Answer. Yes, sir.

Question. Has any attempt been made to rearrest you ?

Answer. No, sir. I have been at Chester a hundred times since, and was recognized by the sheriff and others, and no attempt was ever made to arrest me at all.

Question. Whose horse was it alleged you had stolen ?

Answer. A man named Joseph Naves.

Question. Does he live there ?

Answer. No, sir; about fourteen miles below Chester.

Question. In that county or district ?

Answer. No, sir; I think it is in Fairfield County, just the other side of the line.

Question. Does he know that you are here ?

Answer. Yes, sir; and he knew that I was in Chester.

By Mr. VAN TRUMP :

Question. How can he know ?

Answer. I have seen him in Chester since the occurrence.

Question. Do you know whether he recognized you ?

Answer. I didn't recognize him. He went up to speak to me, or talk about the occurrence.

By the CHAIRMAN :

Question. Have these associates of yours, Hunter and Tomlinson, ever declined to associate with you, on the ground that you had been in Chester jail ?

Answer. No, sir. We have always associated as far as that class associates with a poor mechanic.

Question. Have you been their companion in these operations here ?

Answer. Yes, sir.

Question. Did you drink with them ?

Answer. Yes, sir, repeatedly.

Question. Did they drink with you ?

Answer. Yes, sir.

Question. Has this charge of horse-stealing ever been made by any of them, when you were in company with them ?

Answer. Never; as, of course, not many gentlemen would do that. It would not have been exactly safe.

Question. You say you were not guilty of the charge ?

Answer. No, sir, I was not.

By Mr. VAN TRUMP :

Question. Were there any men in pursuit of you when you were on this horse ?

Answer. There was, I suppose.

Question. Had not one man shot at you ?

Answer. No, sir; no shot was fired at me.

Question. Do you know N. M. Sandiford ?

Answer. Yes, sir.

Question. Did he not fire at you ?

Answer. No, sir.

Question. You swear that ?

Answer. No shot was fired at me, that I heard.

Question. You say the country was under military rule ?

Answer. There was no rule at all.

Question. Do you not know that there was no court held in Chester for two years

Answer. I don't know. I know there was court here and in Chester.

Question. If you stole the horse there, you would not be tried here ?

Answer. There was court held in Chester in 1867.

Question. When did this horse-stealing take place ?

Answer. In the latter part of 1865-'66, I think.

Question. You say there were courts in Chester ?

Answer. Yes, sir.

Question. In 1867 ?

Answer. Yes, sir; because there was court here in York. The civil authority was asserted, and I suppose there was court. I didn't come down to see.

Question. Did the man get his horse again ?

Answer. Yes, sir; and I called on him and told him the circumstances, and tried to make some reparation for it, and nothing was said or done. This is brought against my character now. I understand this motive just as well as you do, and probably better.

By the CHAIRMAN :

Question. What were the circumstances ? What was the foundation of the charge ?

Answer. I lived fourteen miles below Chester with a man named Naves, in Fairfield or Chester; about the line. I took a notion one night to go to Chester and get on a bruisse. I have been there several times the same way. I went to the stable and got the horse and went to Chester, and when I was there I took a notion to come on up here to York; and I would have been a darned fool to come to York on a stolen horse, wouldn't I ? While I was coming on, coming up here, within four miles of York, I was a little tight, and I was arrested by these men.

Question. You had taken the horse ?

Answer. Yes, sir; I didn't deny that; but without the intention of stealing at all—

By Mr. VAN TRUMP :

Question. Then whenever you intend to steal you get on a bruisse ?

Answer. I don't consider that a fair question, sir. I don't consider that a gentleman would ask any such question, with a little deference for your age and your position—that's all.

Question. Do not give me counsel here, sir.

Answer. My friend, I have noticed you. I don't know but that you are one of the men. I know you take an interest in them, and are a democratic man, and do all you can to subvert over to the interests of the democracy—

Question. Go on.

Answer. I understand that kind of by-play.

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The CHAIRMAN. Go on with your statement in which you were interrupted.

The WITNESS. It wouldn't be hardly likely I would come up here with a stolen horse leisurely riding along. I would have been likely to have taken a back track.

By Mr. VAN TRUMP:

Question. You said you got on bruises when you went to steal, and when I asked you if you got on a bruise to steal a horse—

Answer. You didn't say that. You asked me if I got on a bruise to steal.

Question. You said you got on a bruise when you stole tobacco?

Answer. Yes, sir.

Question. I asked you at that point whether you got on bruises for the purpose of stealing, and you said perhaps you did, or you supposed you did.

Answer. I answered as you asked, in a kind of slang of sarcasm.

Question. Under oath? Do you swear to slang?

Answer. I said probably I did, and very probably I swore that.

Question. I will now ask you whether it is your habit to get on a bruise when you want other people's property?

Answer. I can answer. I have never been accused of stealing except that one occurrence.

Question. You were accused in regard to the tobacco?

Answer. I say so.

Question. And in regard to this horse?

Answer. Yes, sir; only that occurrence.

Question. You had taken the horse without the owner's consent?

Answer. Yes, sir; I have said so.

Question. Did you take it out of the stable?

Answer. Yes, sir.

Question. Down in Fairfield?

Answer. Yes, sir; or in Chester.

Question. Fourteen miles beyond Chester village?

Answer. Yes, sir.

Question. And it is twenty-two miles from here to Chester?

Answer. Yes, sir.

Question. You borrowed, or got that horse in that way, and rode thirty-five or forty miles with him, and do not call that stealing?

Answer. Yes, sir, I don't.

By the CHAIRMAN:

Question. You say you were working with this man whose horse you took?

Answer. Yes, sir.

By Mr. STEVENSON:

Question. Did you intend coming here when you left his house?

Answer. No, sir; I came on to Chester, and took three or four drinks, and got on what you might call a bender. I came on here right in the road openly. I didn't try to get out of the country.

Question. Have you ever heard any estimate made of the number of the members of the Ku-Klux in South Carolina?

Answer. I never have, sir.

Question. Have any of the members of the Klan, so far as you know, been in the rebel army?

Answer. Yes, sir, nearly all.

Question. Were you in the army yourself?

Answer. I was, sir.

Question. At what age?

Answer. I went into it at fourteen years of age.

Question. In what arm of the service?

Answer. Into the artillery service; into Lucas's battalion of heavy artillery. I fought four years, and was a prisoner about six months.

Question. You served through the war?

Answer. Yes, sir.

YORKVILLE, SOUTH CAROLINA, July 25, 1871.

JOSEPH W. AKINS sworn and examined.

By the CHAIRMAN:

Question. Where do you live?

Answer. I live, sir, in the northeastern portion of this county, fourteen miles from here, in the Clay Hill neighborhood.

Question. What do you follow there?

Answer. I am a farmer.

Question. How long have you lived there?

Answer. I was born and raised in this county, but moved out of it, and remained out of it during five years before the war, and during the war, and moved back in this county in the fall of 1865, and remained here since. I am only just across the river; the river is the line.

Question. Do you know a man named Pink Hill?

Answer. Yes, sir, very well.

Question. Is he a colored man or white man?

Answer. A colored man.

Question. Look at that receipt and say whether you signed it? [submitting to the witness the following receipt:]

"Rec'd, of Pink Hill, ten Dollars, in part pay on Peter Bigar's Coten.

"MARCH 27, 1871.

"J. W. AKINS."

Answer. That is my handwriting. I wrote that and signed it.

Question. Look at that letter, and before you answer I call your attention to the word "coten" in this receipt, and the word "coten" as written in that letter. Read it. [Submitting the following paper. Accompanying this paper is an envelope, addressed Mr. Francis Johnston, Clay Hill, So. Ca., post-marked Rock Hill, May 10.]

"HEAD QUARTERS OF THE 29 SQUAD 143 DIVISION OF K. K. KLAN.

"To Francis Johnston & Pink Johnston :

"first. Francis, I have noticed your card in the Enquirer. it sounds sorter hard & personal. you bleave unjust reports has Bin circulated on you. i don't no how you can think so when we no you have fed of the meat-houses of uper york & Gaston county, & fatened of the coten farms in the Clay Hill Neigher hood, & them principaly of widow Ladies at that, & backed Sam Simrell in his unlaw ful corce untill you brot him to whare he is, & still you are clare of blame ; so you think.

"2. But for Pink, he noes evry body noes he is a Lire & a theaf, & only keeps company with such, & for you to say you deny any Sperit of Lawlessness, i am surprised at your daring to li so, & as for Julius Mason i am surprised to see him there, but he is in the Enquirer whare Geses Christ was when he was crucified, between 2 theaves.

"now take heed. your evil day Will surely come. your Back was all we wanted before, but now your necks will do as well, so if you don't leave that is what we will have, as sure as night follows day.

"C. O., KU-KLUX KLAN.

"Vic Rory."

[Below is a pencil-sketch of a gallows.]

Answer. I don't know that I can, sir.

Question. Try it.

Answer. It is a very bungling out I can make of it. I suppose I can make out of it something. [Reading.]

Question. Have you read it?

Answer. I can read some of it.

Question. Now I call your attention to the word cotton in that receipt and the word cotton there in that letter. Look at the two and answer whether you wrote that letter?

Answer. I never wrote this thing in the world. I wrote that, [receipt,] I did that. I never did that other paper; I never did; I know nothing about that; but this receipt I did write, that's certain.

Question. Look at "Pink" on the receipt and at "Pink" in that letter.

Answer. Yes, sir. I don't see much resemblance. It is Pink in both places.

Question. Did you write that word Pink?

Answer. I never wrote any part of that letter. I never saw it before.

Question. Look carefully over the whole of that letter.

Answer. I have looked at it and examined it. I never saw it, or any part of it, before you showed it to me. That receipt I did write.

Question. In the tenth line of this letter, look at the name "Pink" again, and take the receipt and look at the letters in the word "Pink," especially at the letters i-n-k, and then answer the question, did you write this word in this letter?

Answer. I never wrote any part of that letter, and never saw it before since God made me. I saw that receipt, because I wrote it.

Question. Look over the whole letter, and say whether you ever saw it or wrote it.

Answer. I tell you I never saw it before you showed it to me; never, never. I know nothing of it. I didn't know such a thing was in existence.

Question. Were you in Rock Hill on the 10th of May last?

Answer. I can't tell you. I visit Rock Hill about every five weeks, and maybe I was there on the 10th.

Question. Look at the address on that envelope, post-marked Rock Hill, May 10. Did you direct that envelope ?

Answer. I did not ; it is not my work. I know nothing of it. I am at Rock Hill about every five weeks ; have been this year. I go down there to get my supplies.

Question. You say you did not address that letter to Francis Johnston and Pink Johnston, giving them that Ku-Klux notice ?

Answer. I never did.

Question. Have you had anything to do with the Ku-Klux ?

Answer. I never did ; to tell you, Mr., perfectly, if you have any confidence in any other here I will prove to you I am not a man to do it. I am on the exemption roll on the tax-book at the office.

Question. Have you been initiated into any secret organization ?

Answer. Never, in the world ; not even Masonry ; no organization whatever.

Question. Never been asked to join the Ku-Klux ?

Answer. Never even asked in my life.

Question. You never have joined them ?

Answer. No, sir, never ; and know nothing about it.

Question. Are there any in your neighborhood ?

Answer. There was such a thing, I suppose, in existence there.

Question. How do you know ?

Answer. From what the colored people told me about their demonstrations.

Question. Were any whipped in your neighborhood ?

Answer. Yes, sir ; right close to me.

Question. Who ?

Answer. They got Sam. Simmons, and his house was burned. As soon as I heard Sam. Simmons's house was burned I went to the place.

Question. You say you are not a member of the Ku-Klux ?

Answer. No, sir.

Question. Nor any organization ?

Answer. No, sir, not even a church. I don't belong to anything in the world ; not to nothing ; not a height.

The CHAIRMAN. I put these two papers in evidence. They should be photographed.

By Mr. STEVENSON :

Question. Why did you not join the Ku-Klux ?

Answer. I never had the proposition to join them. I was a disabled man, as I want to tell you, afflicted with the rheumatism. In the winter season I am not able to travel horseback or afoot. It is seldom I can travel at all. I can't pull my coat on my back to-day.

Question. What do you do ?

Answer. I live on a farm and carry on a farm.

Question. Have you any tenants ?

Answer. Yes, sir.

Question. Did you ever get the Ku-Klux to whip any of them ?

Answer. Never. There never was a Ku-Klux on my plantation, to my knowledge, in the world. If there was I never saw it, nor any of my people.

Question. How do the planters manage with the Ku-Klux ?

Answer. I can't tell you how other people do.

Question. Have you not understood ?

Answer. Have I not heard anything said about it ? I heard loafers talking about it.

Question. But among the planters in the neighborhood ; what use do they make of the Ku-Klux ?

Answer. I know nothing of it.

Question. You have heard no talk about it ?

Answer. No, sir ; never heard of a planter having anything to do with the Ku-Klux in my life ; not a planter in my country, nor speaking as if he knowed them.

Question. Who are your Ku-Klux out there ?

Answer. I don't know. I never saw one.

Question. To what class do they belong ?

Answer. I don't know.

Question. How do they go about ?

Answer. I know nothing of it.

Question. Do they go disguised ?

Answer. I only know from what the black men tell me

Question. I am asking for information.

Answer. I have seen black men that have seen them.

Question. How do they go about ?

Answer. They tell me they are mounted men, and that they are disguised sometimes, and sometimes they are not disguised, they say.

Question. Who do they say they are ?

Answer. They don't know, is what they tell me. I don't know whether they know or not, but they tell me they don't.

Question. What seems to be the object of the Ku-Klux?

Answer. I know nothing about it. I have been an object of affliction myself, and have not had any chance to participate in any such thing, had my will been good. My situation would not admit of it, had my will even been good to do it.

By the CHAIRMAN:

Question. Was it good in that direction?

Answer. In the Ku-Klux? No, sir; I am opposed to disorder in the country. I want civil law to right the Ku-Klux.

By Mr. STEVENSON:

Question. Do you think the Ku-Klux make disorder?

Answer. I don't know that they did it any good; but I don't know that they did it any harm.

Question. Do they not keep the negroes in order?

Answer. I don't know about that. I can't say as for that part of it.

Question. Are you afraid to give your opinion about it?

Answer. Not at all.

Question. What is your opinion?

Answer. I can't say, because I am not well enough posted. I am not a man able to travel about enough to know the situation of the country—to give any opinion.

Question. You have no opinion about it?

Answer. I simply have an opinion; but as to forming an opinion to give you, I can't do it.

Question. What is your opinion?

Answer. I don't know that they did it any good or that they did it any harm. That is all I know about it. I don't know which side did good or which side did harm. I don't know anything about that.

Question. Do you know this cripple negro man, Elias Hill?

Answer. Yes, sir, very well. He lives in a mile of me.

Question. Have you had any talk with him since you came here?

Answer. Yes, sir. We called to get the marshal to go down to receive him and try to get his evidence taken to-day—to get him in to-day, as he is a cripple, and even give way, as he is a little distance, and was to come in here in my stead. I gave way to him.

Question. What did you say to him about telling on who had whipped him?

Answer. I never said nothing to him about that. We never mentioned it. I never saw him from that day to this; and it has never been mentioned.

Question. But to-day?

Answer. I didn't say anything to him about it that I recollect of; and it was never mentioned at all.

By the CHAIRMAN:

Question. Do you know Francis Johnston?

Answer. Yes, sir, very well.

Question. How near do he and Pink Johnston live to you?

Answer. About a quarter of a mile or six hundred yards.

Question. On your land?

Answer. No, sir.

Question. Had you any quarrel with them?

Answer. I have had a heap of trouble with them.

Question. What kind of trouble?

Answer. Pink Johnston I shut up in my corn-crib one night. He had a key. I had the key in my pocket, and I fetched him here to Yorkville. He was sent to the penitentiary for eighteen months, and he came back after staying four; and he is right beside me. We speak passing as neighbors.

Question. When did he come back?

Answer. About four months after he went.

Question. How long ago was that—more than four months ago?

Answer. Yes, sir; over four months ago.

Question. How long was it before the 10th of May that he came back?

Answer. I don't know; a year, probably.

Question. Did you take any means to get Pink out of that neighborhood?

Answer. Never in the world. I never took such a step to him, and we pass one another perfectly friendly, and speak every place we meet.

Question. How about Francis Johnston?

Answer. I never speak to him. I never have spoken to him since we had the suit.

Question. Is he a brother of Pink?

Answer. Yes, sir.

Question. Then there is bad feeling between you and Frank and Pink ?

Answer. I have no harm at Pink. The negro has behaved himself as a man ever since he has got away from the penitentiary, for aught I know, as a man should be towards another, with me since that time.

Question. In the light of that explanation, you still say you do not know anything about that letter ?

Answer. I know nothing more about it than you do, because I never saw it before.

Question. You did not write it ?

Answer. I had nothing to do with writing it, nor saw it, nor heard tell of it.

YORKVILLE, SOUTH CAROLINA, July 25, 1871.

ELIAS HILL (colored) sworn and examined.

By the CHAIRMAN :

Question. Where do you live ?

Answer. In Clay Hill precinct in this county, (York.)

Question. How long have you lived there ?

Answer. I was born and raised there. I was born belonging to the Hills, near the mill—just above the mill.

Question. How old are you ?

Answer. Fifty years. I was born in May, 1819.

Question. How long have you been in your present crippled condition ?

Answer. I was afflicted and became disabled from walking when I was seven years of age. I walked until I was seven.

Question. Since that time have you been as badly afflicted as you are now ?

Answer. I continued to get gradually worse from that time until the present.

Question. How long is it since you were able to walk ?

Answer. It is forty-five years since I walked.

Question. How long is it since you have been in your present condition ?

Answer. One arm was drawn up directly after I was taken down.

Question. What disease was the cause of that ?

Answer. The doctor said it was rheumatism.

Question. How were you maintained ?

Answer. My father bought himself some thirty-odd years ago, by paying \$150 to the estate of the Hills, and that made him free ; and when my people were sold, he bought my mother, but he could not get her without taking me ; as I was a cripple, they compelled him in the contract to take me when he bought his wife, who was my mother.

Question. Then you were not a slave ?

Answer. I was born a slave, but never served.

Question. Can you read and write ?

Answer. Yes, sir.

Question. When and how did you learn that ?

Answer. I learned that gradually, between the years 1830 and 1845, from the school children, and catching it up as I could. Between those years I became so much of a scholar as I am.

Question. State whether at any time men in disguise have come to the place where you live, and, if so, what they did and said. First, state when it was.

Answer. On the night of the 5th of last May, after I had heard a great deal of what they had done in that neighborhood, they came. It was between 12 and 1 o'clock at night, when I was awakened and heard the dogs barking, and something walking, very much like horses. As I had often laid awake listening for such persons, for they had been all through the neighborhood, and disturbed all men and many women, I supposed that it was them. They came in a very rapid manner, and I could hardly tell whether it was the sound of horses or men. At last they came to my brothers door, which is in the same yard, and broke open the door and attacked his wife, and I heard her screaming and mourning. I could not understand what they said, for they were talking in an outlandish and unnatural tone, which I had heard they generally used at a negro's house. I heard them knocking around in her house. I was lying in my little cabin in the yard. At last I heard them have her in the yard. She was crying, and the Ku-Klux were whipping her to make her tell where I lived. I heard her say, "Yon is his house." She has told me since that they first asked who had taken me out of her house. They said, "Where's Elias ?" She said "He doesn't stay here ; yon is his house." They were then in the yard, and I had heard them strike her five or six licks when I heard her say this. Some one then hit my door. It flew open. One ran in the house, and stopping about the middle of the house, which is a small cabin, he turned around as it seemed to me as I lay there, awake, and said "Who's here ?" Then I knew they would take me, and I answered, "I am here." He shouted for joy, as it seemed, "Here he is! Here he is! We have found him!" and he threw the bed-

clothes off of me and caught me by one arm, while another man took me by the other and they carried me into the yard between the houses, my brother's and mine, and put me on the ground beside a boy. The first thing they asked me was, "Who did that burning? Who burned our houses?" gin-houses, dwelling-houses and such. Some had been burned in the neighborhood. I told them it was not me; I could not burn houses; it was unreasonable to ask me. Then they hit me with their fists, and said I did it, I ordered it. They went on asking me didn't I tell the black men to ravish all the white women. No, I answered them. They struck me again with their fists on my breast, and then they went on, "When did you hold a night-meeting of the Union League, and who were the officers? Who was the president?" I told them I had been the president, but that there had been no Union League meeting held at that place where they were formerly held since away in the fall. This was the 5th of May. They said that Jim Raney, that was hung, had been at my house since the time I had said the League was last held, and that he had made a speech. I told them he had not, because I did not know the man. I said, "Upon honor." They said I had no honor and hit me again. They went on asking me hadn't I been writing to Mr. A. S. Wallace, in Congress, to get letters from him. I told them I had. They asked what I had been writing about? I told them "Only tidings." They said, with an oath, "I know the tidings were d—d good, and you were writing something about the Ku-Klux, and haven't you been preaching and praying about the Ku-Klux?" One asked, "Haven't you been preaching political sermons?" Generally, one asked me all the questions, but the rest were squatting over me—some six men I counted as I lay there. Said one, "Didn't you preach against the Ku-Klux," and wasn't that what Mr. Wallace was writing to me about. "Not at all," I said. "Let me see the letter," said he; "What was it about?" I said it was on the times. They wanted the letter. I told them if they would take me back into the house, and lay me in the bed, which was close adjoining my books and papers, I would try and get it. They said I would never go back to that bed, for they were going to kill me—"Never expect to go back; tell us where the letters are." I told them they were on the shelf somewhere, and I hoped they would not kill me. Two of them went into the house. My sister says that as quick as they went into the house they struck the clock at the foot of the bed. I heard it shatter. One of the four around me called out, "Don't break any private property, gentlemen, if you please; we have got him we came for, and that's all we want." I did not hear them break anything else. They staid in there a good while hunting about and then came out and asked me for a lamp. I told them there was a lamp somewhere. They said "Where?" I was so confused I said I could not tell exactly. They caught my leg—you see what it is—and pulled me over the yard and then left me there, knowing I could not walk nor crawl, and all six went into the house. I was chilled with the cold lying in the yard at that time of night, for it was near 1 o'clock, and they had talked and beaten me and so on until half an hour had passed since they first approached. After they had staid in the house for a considerable time, they came back to where I lay and asked if I wasn't afraid at all. They pointed pistols at me all around my head once or twice, as if they were going to shoot me, telling me they were going to kill me, wasn't I ready to die? and willing to die? didn't I preach? that they came to kill me—all the time pointing pistols at me. This second time they came out of the house, after plundering the house, searching for letters, they came at me with these pistols, and asked if I was ready to die. I told them that I was not exactly ready; that I would rather live; that I hoped they would not kill me that time. They said they would; I had better prepare. One caught me by the leg and hurt me, for my leg for forty years has been drawn each year, more and more year by year, and I made moan when it hurt so. One said "G-d d—n it, hush!" He had a horsewhip, and he told me to pull up my shirt and he hit me. He told me at every lick "Hold up your shirt." I made a moan every time he cut with the horsewhip. I reckon he struck me eight cuts right on the hip bone; it was almost the only place he could hit my body, my legs are so short—all my limbs drawn up and withered away with pain. I saw one of them standing over me or by me motion to them to quit. They all had disguises on. I then thought they would not kill me. One of them then took a strap and buckled it around my neck and said, "Let's take him to the river and drown him." "What course is the river?" they asked me. I told them, east. Then one of them went feeling about, as if he was looking for something, and said, "I don't see no east! Where is the d—d thing?" as if he did not understand what I meant. After pulling the strap around my neck, he took it off and gave me a lick on my hip where he had struck me with the horsewhip. One of them said, "Now you see I've burned out the d—d letter of Wallace's and all," and he brought out a little book and says, "What's this for?" I told him I did not know; to let me see with a light and I could read it. They brought a lamp and I read it. It was a book in which I had kept an account of the school. I had been licensed to keep a school. I read them some of the names. He said that would do, and asked if I had been paid for those scholars I had put down? I said no. He said I would now have to die. I was somewhat afraid, but one said not to kill me. They said "Look here! Will you put a card in the paper next week like June Moore and Sol Hill?" They had been prevailed on to put a card in the paper to renounce all

republicanism and never vote. I said, "If I had the money to pay the expense, I could." They said I could borrow, and gave me another lick. They asked me, "Will you quit preaching?" I told them I did not know. I said that to save my life. They said I must stop that republican paper that was coming to Clay Hill. It has been only a few weeks since it stopped. The republican weekly paper was then coming to me from Charleston. It came to my name. They said I must stop it, quit preaching, and put a card in the newspaper renouncing republicanism, and they would not kill me; but if I did not they would come back the next week and kill me. With that one of them went into the house where my brother and my sister-in-law lived, and brought her to pick me up. As she stooped down to pick me up one of them struck her, and as she was carrying me into the house another struck her with a strap. She carried me into the house and laid me on the bed. Then they gathered around and told me to pray for them. I tried to pray. They said "Don't you pray against Ku-Klux, but pray that God may forgive Ku-Klux. Don't pray against us. Pray that God may bless and save us." I was so chilled with cold lying out of doors so long and in such pain I could not speak to pray, but I tried to, and they said that would do very well, and all went out of the house except one. He handed me back a little book, that schoolbook, saying, "Here's that little book;" but it seemed that he forgot to speak in that outlandish tone that they use to disguise their voices. He spoke in his common, plain voice, and then he went out.

Question. Was that the end of it with you?

Answer. Yes, sir.

Question. How many of these men were there?

Answer. Six.

Question. How were they disguised?

Answer. With coverings over their faces. Some had a kind of check disguise on their heads. One had black oil-cloth over his head, and something like gloves covering his hands and wrists. When they brought the lamp to read that little book I could see his face all around his eyes, and he seemed a red-whiskered man.

Question. Did you know any of them?

Answer. No, sir, I cannot say I know any one of them.

Question. Who was this red-whiskered man?

Answer. From what I have heard since I believe it was a Max Steele, who lives right below us.

Question. Are you confident of it, or is it a mere opinion?

Answer. From what I have heard since, to the best of my knowledge it was him.

Question. From what you saw there?

Answer. No, sir, I only saw through the eye-holes of his disguise.

Question. Had you been president of the Union League?

Answer. Yes, sir. They charged that, and I owned it.

Question. Had there been political meetings held at your house.

Answer. Yes, sir, and I owned that; but they were not this year.

Question. Had you been preaching?

Answer. Yes, sir, regularly.

Question. For how long?

Answer. Every month. I have been preaching regularly for some ten years or more, with a license to preach.

Question. To what church do you belong?

Answer. To the Baptist church.

Question. Were you ever able to go out at all and attend to any other business than to teach a school?

Answer. I once went to a place in North Carolina and taught a temporary school.

Question. Had you to be carried then?

Answer. Yes, sir, as I am here. I could sit here for three or four hours comfortably teaching or preaching.

Question. Had you anything to do with anybody who was connected with the burning of property—gin-houses and barns?

Answer. No, sir. I heard of the burning going on, but I never knew who did it, neither did I inquire. I only heard of the burnings as everybody else did.

Question. You spoke of others who were visited in your neighborhood by the Ku-Klux?

Answer. Yes, sir.

Question. How many were there?

Answer. From what I heard before and since, on the same night they were at June Moore's and Sol. Hill's. I heard them; they broke in the door and searched the house; and at Jesse McGill's, too, on widow Mary Watson's plantation; they live in the yard; then down by Ross Watson's they came. He heard them and ran out. They threw his bed in the fire. Then they came on to me. The only damage to property they did me was what I have said. I missed some pencils—a slate pencil and the lead pencil with which I mark the school lessons.

Question. How many persons in your neighborhood have been whipped, according to your information and belief?

Answer. I have been mentioning only what occurred that night.

Question. You did not see that?

Answer. No, sir; only what took place at my own house; but I heard it myself.

Question. State how many have been whipped, according to information which you believe to be true?

Answer. They went on and whipped J. P. Hill's wife the same night they were at my house.

Question. Who else?

Answer. Julia, Miles Barron's wife. Rumor says they committed a rape on her.

Question. That you do not know?

Answer. No, sir.

Question. Are those all in your neighborhood?

Answer. Those are all that I heard were whipped that night. Samuel Simrell's house was burned down that night.

Question. Do you know of anybody being whipped at any other time?

Answer. Yes, sir; Sam Simrell and Addison Woods, who live not far from me; Jack Garrison, who is out here now; his clothes were taken and he had to get away. Addison was beaten.

Question. Were all those persons whipped or abused by persons in disguise?

Answer. Yes, sir; that is my information.

Question. What effect did this have on the colored people up there—were they alarmed?

Answer. Yes, sir; so alarmed that they did not sleep in their houses at night.

Question. How many slept out?

Answer. I did not hear of any who did not sleep out—none at all; during last winter and spring all slept out from the effect of this excitement and fear.

Question. Of this whipping?

Answer. Yes, sir.

Question. Was that a general thing among the colored men in that neighborhood?

Answer. Yes, sir; with men and women both. Some women would sleep out with their husbands. The women would be so excited when their husbands left that they would go too with the children, and one staid in the rain-storm while her husband was fleeing for his life, as they were about to kill him. There is June Moore; his wife went out with her little babe in the rain every night until late in the spring, and many, many of them did the same.

Question. Do you know any reason why these men whipped you that night?

Answer. No other than what they stated—that I had been president of the Union League—that I had incited burnings and had advised colored men to ravish white women and to rule white people. It was of these things they accused me that night with the fist and the pistol. My breast is now sore from their blows, and there is one place on my head where I feel the effect of it still. I cannot point it out to you, because I cannot touch my head with my hands, but it seems to me here as well as I can point it out, [pointing with a stick, held in the fingers, towards the upper part of the left temple.]

Question. What effect had the whipping on your hip?

Answer. I am not certain whether the scar is there yet or not. It raised blisters and sores that were there a long time, and may be seen yet.

By Mr. STEVENSON:

Question. Who is June Moore?

Answer. He is the man whom you saw carry me in here and place me in this chair.

Question. Is he a leading colored man in that neighborhood?

Answer. Yes, sir.

Question. Is he a preacher?

Answer. No, sir.

Question. Who is Sol. Hill?

Answer. His brother-in-law.

Question. Who is Francis Johnson?

Answer. He is my brother's son.

Question. Is he a leading man?

Answer. No, sir; but a man well-to-do in property; he increases in wealth.

Question. You spoke of a card which June Moore and Sol. Hill put in the paper—do you mean the published proceedings of a meeting held in that place?

Answer. No, sir; merely a card stating that they would renounce the republican party and have no more to do with the Union League. That is what they were advised to put in the paper, publishing to the world that they would interfere no more with politics.

Question. When was that published?

Answer. A week or two before they whipped me.

Question. Do you recollect when that meeting was held at Tates's store, at Clay Hill?

Answer. That was some time in February, as near as I recollect.

Question. Was it Saturday, February 11 ?

Answer. I think so.

Question. Was that before or after they published their cards ?

Answer. It was after that. They were accused of burning some houses, and while under that accusation they were persuaded to put a card in the paper renouncing republicanism and denying all burnings.

Question. Afterwards this meeting was held ?

Answer. No, sir ; before they put the card in the paper the meeting was held.

Question. Do you know what induced them to join in this meeting ?

Answer. You mean in that meeting at the forks of the road ?

Question. Yes, sir ; at Tate's store ?

Answer. We thought that would pacify the neighborhood. The colored people called a meeting with the hope that it would be the means of compromising or of pacifying the whites.

Question. Was it because the colored people had really become tired of the republican party ?

Answer. No, sir ; it was not. It was only to pacify the neighborhood and stop the outrages that had not reached that side of the creek.

Question. I see the following article in the Yorkville Inquirer of July 20, 1871 :

"GOING TO LIBERIA.—We learn that a large number of negroes—comprising sixty or eighty families—in the vicinity of Clay Hill, in the northeast part of this county, have determined to emigrate to Liberia, and are now making their arrangements to embark in the vessel of the Colonization Society which will sail from Charleston or Baltimore early in November next. Rev. Elias Hill and June Moore (two colored men of this county) are at the head of the movement, and it is the intention of the emigrants to locate in that part of Liberia known as the North Carolina Colony. These emigrants are to be received at Rock Hill, and will be furnished transportation to Liberia by the Colonization Society. We understand that several hundred other negroes in this county are making preparations to follow in the vessel which sails next May."

Answer. That did come out in last week's paper, but it surprised me very much when I saw that after I had made preparation, and had been writing and inquiring in this matter merely for myself personally, it should be taken up in a public print in such a manner calling me a leader. It was because of the outrages of the Ku-Klux that I took the resolution and made and am making preparations, and others are doing the like ; but in that article June Moore and myself, who only acted for ourselves, are put before the world as leaders influencing others.

Question. Is it a fact that you are making arrangements to go ?

Answer. Yes, sir ; that is the fact.

Question. And others are making arrangements to follow you ?

Answer. Yes, sir ; to go to the same place, whether because I am going or for some other cause I cannot tell ; but we all ascribe the same cause for this movement ; we do not believe it possible, from the past history and present aspect of affairs, for our people to live in this country peaceably, and educate and elevate their children to that degree which they desire. They do not believe it possible—neither do I. I think so from reading history and from the present state of things around us. The number of families there stated, seventy or eighty, assign their own reasons for their going, which are those I have stated, but not my advice.

Question. It is done on their own motion ?

Answer. Yes, sir.

Question. Do you not believe that, now that the white people have pledged themselves in a public meeting to be quiet and protect you, they will do it ?

Answer. They pledged themselves at that meeting in February at the cross-roads, to protect the colored people in case of outrage, and that they would come to their assistance, and use their influence in keeping it from that side of the creek which is our neighborhood especially. I will tell you how we proved them. When the Ku-Klux crossed the creek and came into our neighborhood, approaching nearer and nearer to where we lived, they were heard to prophesy where they would come, and why they would come to such and to such a house. And when they came to my house and beat my sister-in-law and me, a young man, her son, rushed off to Mr. James L. Bigger, telling him to wake up, that there was distress at our house on his mother and me, his uncle, and asking him to come to our relief ; but he refused to come, and the next day he was heard to say that he had known of their coming ; that he knew they were coming ; he knew well what they came for ; and that we might never expect anything else. All my white neighbors, after pledging themselves on the 11th of February to give us aid in time of trouble, every one of them was heard to rejoice, every one that spoke at all rejoiced that so many were whipped, and telling all the causes and reasons—all this they did, they pledge to the contrary. That is why we do not now take their pledges as good in every case.

Question. I see that April 1, 1871, there was a public meeting here in Yorkville ?

Answer. There was.

Question. The Saturday before there had been a meeting of whites in which they thought they had made peace?

Answer. Yes, sir.

Question. Have there been any troubles since?

Answer. Yes, sir; that was the 1st of April; and did they not afterward beat me, and June Moore and Ross Watson and Francis Johnson and Billy Barron, and others besides? Since that Samuel Simmons's house was burned. All these things were since that resolution was drawn up and passed in Yorkville for making peace among white and black; and long since that resolution at the meeting at the forks of the road in which they pledged themselves to come to the black people's assistance.

By Mr. VAN TRUMP:

Question. All that was done by six men, was it not?

Answer. Yes, sir. There were six men at my house.

By Mr. STEVENSON:

Question. When were they at your house?

Answer. On the night of the 5th of May.

Question. What is the feeling out there now among the colored people?

Answer. Those that are not arranging to go to Liberia have some hope, through the operation of this sub-committee here and elsewhere, and that they will pacify the whites, who will cast off the Ku-Klux in such degree that we hope the times will be better for them. We hope for much through the operation of this sub-committee, and through the punishment of the Ku-Klux, who are the neighbors generally, so that the times will eventually come that those who want to go away now may stay, finding that they can live in peace. But for certain of us, we have lost hope entirely since the whites pledged themselves at the meeting at the forks of the road three miles from where I live, and then broke all those pledges; those whites that professed to be our friends then have since cried out and rejoiced in our hearing over our injuries and sufferings. That is the reason we have arranged to go away. Others are still hoping, as I said, for relief through the means of this sub-committee.

Question. What is the temper of the white people, do they rejoice over these outrages?

Answer. They did, from what they said.

Question. What is their temper now?

Answer. I cannot tell you from what I have seen myself, for this is the first time I have been carried out.

Question. What is your information on that subject?

Answer. I will tell you the impression: They are so afraid just now that, with the exception of one in a hundred, they cannot bear to see a blue-coat coming out there; they cannot bear to hear of the officers bringing them up here; it frightens them. The other day, when the summons came for me to come here, a young man that I had thought was innocent was seen to jump out of his father's house and run, without coat or hat, as if for his life. Hearing of so many Ku-Klux having been taken up in other counties, and expecting that these men were after him, he did not wait to be halted, but ran. Not one in fifty of them now but is uneasy and trembling at the sight of an officer or a blue-coat, and staying out in the woods by day, and some by night, like we used to—not myself, but our people. I thought my pitiful condition would screen me, but all our colored people that could walk, males and females, and many children, staid out during last winter and spring. Now the white men, the young men and boys, from fifteen to the gray-headed, are out, some by night and hunting by day, an excuse that if a summons should come for them they would be absent. Some in my neighborhood have fled the State, and others are ready to go.

Question. What, in your judgment, would be the condition of affairs if the United States troops were not here?

Answer. I would not then have come up here to report for anything in the world, for I would have expected to have been killed to-night if I had. Men have been run out of the State for reporting outrages. Major Merrill knows of men having been run out for reporting to him. Addison Woods had to leave his home in my neighborhood because they accused him of reporting. There is Jack Garrison; he is here in town now. Why? Because he could not stay in his own home. They accused him of reporting what they had done to him, and he had to flee.

Question. Reporting to whom?

Answer. To the troops, the first troops that came here. They accused him of reporting to them and run him out. There was Abraham Broomfield. You sent a summons for him to testify here, but he has had to flee the State.

By Mr. VAN TRUMP:

Question. Why was that?

Answer. Because he could not stay at home, being a leading man and a republican. I am not naming whites now. These are black men. There is James Bynum; he has been beaten in Ebenezer.

By Mr. STEVENSON :

Question. How much do you weigh ?

Answer. I do not know ; I have never been weighed.

Question. Your legs seem to be about the size of a man's wrist ?

Answer. Yes, sir.

Question. Your arms are withered ?

Answer. Yes, sir ; you see them. My right side was first affected, and it yet feels the most affliction. I suffer more pains in the right than in the left side. Though it has been forty-five years since I walked, the pain is yet running up and down the right side. The bones of my mouth are stiffened so that I cannot move the jaws like other men.

Question. You cannot travel taking care of yourself, but could you not emigrate to some State out West ?

Answer. I have learned from papers and from pamphlets and speeches—here is one [producing a pamphlet]—and from letters Mr. Wallace has sent me, that in some of the Western States these outrages are as bad as they are here. It is so in Mississippi and Tennessee and other States. By documents that Mr. Wallace has sent me from Congress, I saw that those Western States toward which I had looked are worse plagued than we are, if it is possible, and I did not know where to flee. I wrote to the American Colonization Society at Washington, and they have been sending me papers and pamphlets for some time. In them I found that in Liberia there was greater encouragement and hope of finding peaceful living and free schools and rich land than in any place in the United States that I have read of. These things encourage us a great deal in our intention to move away to Africa. That is where my father came from.

Question. Do you think Africa is your only refuge now ?

Answer. In a general way I do—that is, for general peace, abiding peace and prosperity for me and my race, and for the elevation of our people.

By Mr. VAN TRUMP :

Question. This paper you took from your pocket is only part of a document. Do you recollect whose speech it is ?

Answer. I have the balance of it at home.

Question. What was the name of the gentleman who made the speech ?

Answer. I forget the name. That is only a part of a speech which I took to wrap a letter in.

Question. Would you recollect the name if you heard it ? Was it the Hon. Mr. Stevenson ?

Answer. No, sir ; I think that is part of a speech by Mr. Butler.

Question. You do not feel very kindly toward the white race ?

Answer. I am afraid of them now.

Question. Frightened at them ?

Answer. Yes, sir. I have good-will, love, and affection toward them, but I fear them.

Question. Is that because you are a Baptist, or why ?

Answer. I know it is my duty as a human being to respect all the human race, and also the grace of God teaches me to say so.

Question. When you get to preaching, do you not show up the wrongs and oppressions suffered from these white people ?

Answer. Yes, sir.

Question. Is that what you generally preach about ?

Answer. Yes, sir ; love universal.

Question. I do not wish to mislead you or have you answer without fully understanding my question.

Answer. Please to ask it again.

Question. I ask you if the subject-matter of your sermons is the wrongs and cruelties inflicted by these white people ?

Answer. No, sir ; not at all. I was accused of that on the night when they beat me ; but that is not the subject on which I preach ; it is Scriptural salvation.

Question. You have the idea that these white people are determined to put you black people down ?

Answer. Yes, sir ; I have that idea very strongly. They are determined to keep us from using any influence for republicanism, which we believe is God's will. I do believe it comes nearer to God's will and universal love and friendship in this world than any other.

Question. You mean republican government ?

Answer. Yes, sir.

Question. Do you also mean the republican party ?

Answer. Yes, sir. I believe the republican party advocates what is nearer the laws of God than any other party, and therefore I feel that it is right.

Question. When you are preaching, do you preach republicanism in your sermons ?

Answer. No, sir; I preach the Gospel, repentance toward God, and faith in our Lord Jesus Christ.

Question. Do you never preach about politics?

Answer. No, sir.

Question. Then these Ku-Klux were wrong in their accusation?

Answer. Yes, sir; they were.

Question. Do you disbelieve the whole of those white people who made those pledges at the meeting in this town, and at the forks of the road, because six men have since abused you?

Answer. As I told you, not one in fifty of them now but will run and hide from what they consider a Yankee. Just let a man in a Yankee uniform go out there, and not one in fifty of our white neighbors but will run. What makes them run but guilt—conscious guilt?

Question. Have you seen fifty men run from a Yankee soldier?

Answer. That is what they are doing, as I learn by reports.

Question. You get those reports from the colored people?

Answer. Yes, sir.

Question. Are all the colored people as intelligent as you are?

Answer. I cannot say that they are.

Question. You say it is an actual fact that affairs have changed right around, so that instead of the black people being in the woods the white people are there?

Answer. Yes, sir.

Question. Do you mean that up in that country the white people are generally lying out in the woods at night?

Answer. By day they are, and I hear that they are at night.

Question. You hear this from the colored people?

Answer. Yes, sir; they stay out for fear.

Question. You are not able to go around yourself?

Answer. No, sir.

Question. You depend for information about worldly affairs upon others?

Answer. Yes, sir.

Question. You depend upon the colored men—your own race?

Answer. Yes, sir. They visit me.

Question. They come and tell you that all the white people are lying out in the woods?

Answer. Yes, sir, generally—the males.

Question. In how large a scope of country does that state of things exist?

Answer. As far as I can hear. Clay Hill extends along the river Catawba, which is the line between North and South Carolina; it is from Alison's Creek to the post office.

Question. What are the distances?

Answer. From the river to Bethel is ten miles; from the creek to the north line is eight or nine miles.

Question. Then that is a region eight or ten miles square?

Answer. Yes, sir. Since they heard reports of the coming of this sub-committee and the word from North Carolina, they are generally showing fear and fleeing.

Question. And that state of things extends over a tract eight or ten miles square?

Answer. Yes, sir; from what I hear.

Question. From whom?

Answer. From colored persons.

Question. Do colored persons come from all that wide-spread country and tell you?

Answer. Yes, sir. When I preach there are a great many come who are acquainted all over there, and sometimes they told others who told me.

Question. At how many churches do you preach?

Answer. There is a church two miles and a half from me.

Question. Is that up in this country you describe?

Answer. Yes, sir; that is one. My house is a regular place of preaching, and that church is two miles and a half north. We generally meet up in the western part of the neighborhood, and hold meetings among the colored people.

Question. Do the black people hold meetings in the western part of the country you have spoken of?

Answer. Yes, sir.

Question. Then your charges are scattered all over this district of ten miles square?

Answer. Yes, sir; the congregation is.

Question. But the place where you preach—is it there?

Answer. Yes, sir.

Question. How do you travel from one place to another?

Answer. Just as I came here, as you saw.

Question. You are carried by other persons?

Answer. Yes, sir.

Question. Can you ride in a wagon?

Answer. Yes, sir; but I have a carryall.

By Mr. STEVENSON :

Question. Is that a spring-wagon ?

Answer. Yes, sir.

By Mr. VAN TRUMP :

Question. Am I to understand from you that since this committee has been here those white people have been sleeping out in the woods over that extent of country ?

Answer. Yes, sir, generally.

Question. How often have you traveled over that space of country preaching since this committee has been here ?

Answer. Not any since Saturday. The sub-committee came last Saturday, I understood.

Question. Then you have not learned this in traveling around to preach ?

Answer. No, sir ; but from persons coming to my house.

Question. How many have come to your house ?

Answer. A good many.

Question. Just your neighbors ?

Answer. I think from six or eight miles. Last Sunday there were a good many.

Question. What did they come for ?

Answer. They were just visiting—passing and repassing.

Question. Did they tell you this fact ?

Answer. Yes, sir ; a great deal of it.

Question. Is not all this about that great number of people through that wide-spread country sleeping out in the woods since Saturday a mere fiction ?

Answer. I do not know myself.

Question. Do you believe it ?

Answer. From those that reported it, I believe a great part of it. I do not believe all I hear.

Question. You intended this committee to believe it when you swore it was your information ?

Answer. That is my information—to that effect.

Question. And you believe it ?

Answer. I believe that it was a general thing.

Question. With all the male persons ?

Answer. Generally speaking.

Question. You mean the majority ?

Answer. Yes, sir ; that is the report that came.

Question. The report that came around was that the white people generally over that whole district of country have been sleeping out in the woods since Saturday ?

Answer. They are out by day, and many are out at night ; they are generally absent by day for fear of a summons, and, as I said at first, many, I hear, are sleeping out at night for fear of a summons, but I cannot say how many.

Question. You say that, instead of the white people coming to your rescue on the night of the 5th of May, as they had pledged themselves to, the next day when they heard of it they rejoiced ?

Answer. That is the report, sir.

Question. Did they rejoice that such a pitiful man as you had been whipped ?

Answer. That was the fact, from what rumor said.

Question. Who rejoiced ?

Answer. From rumor must I tell ?

Question. Yes.

Answer. My near neighbors. Do you want their names ?

Question. Yes.

Answer. James L. Bigger.

Question. What did he do ?

Answer. The next morning he came over to a colored woman and told that he knew ; he had heard I would be whipped and well might I expect it. And another nearer neighbor, S. D. Simmons, said he knew that they would come, and I might look for them on account of the Union League meetings that had been held there at my house, that I might expect it. S. D. Simmons, who is right by me, said that.

Question. Was that before or after you were whipped ?

Answer. Both before and after it too.

Question. He told a colored person that ?

Answer. Yes, sir.

Question. Who ?

Answer. The one working for him.

Question. Why did he not tell you ?

Answer. Why ! why ! There are two families. I could name others I heard of, near neighbors, who could tell that they were coming upon me.

Question. Assuming as true that they said you would be whipped, is that rejoicing ?

Answer. If you knew a man was going to be whipped and beaten, would you not try to hinder it?

Question. Yes, sir.

Answer. Would it look like you were a friend if you did not?

Question. Unless I was afraid.

Answer. I do not think you would be. That is the reason why we think they rather rejoiced than were sorry.

Question. Now, tell us who rejoiced and how they rejoiced.

Answer. I will tell you. J. L. Barry—[The witness had several times in the foregoing examination suddenly changed his voice for a moment to a hoarse whisper.]

Question. Why do you whisper when you mention persons? Can others hear you outside of this room?

Answer. No, I suppose not, but I feel afraid of others hearing. We are always afraid now and careful.

Question. What about Barry?

Answer. He could tell and did tell others of their coming to whip me, and as to Sam Simrell's barn being burned, that he expected it; and of Addison Woods that was run off, that he expected it.

Question. That makes three; give us a fourth.

Answer. Mrs. Wallace, James L. Bigger's sister, was another.

Question. What did she say?

Answer. She said, calling a name, I might expect it; I might well expect it.

Question. That was after it was done?

Answer. Yes, sir.

Question. Who was the fifth?

Answer. Some of the Nealys over the creek.

Question. Did they expect the same thing?

Answer. Yes, sir; I say it from rumor.

Question. All this was after it was done?

Answer. Yes, sir; some before.

Question. Are there any others?

Answer. Yes, sir; I have heard of others. Mr. J. B. Partlow.

Question. You need not whisper the names here.

Answer. But I am always so suspicious in speaking of these things, always watching, so that I do it even in answering you.

Question. Was this before or after you were whipped?

Answer. Both before and after. He was surprised at their whipping my sister-in-law, but not at their whipping me.

Question. Who else?

Answer. E. A. Faris. He lives over the river.

Question. Did he expect it?

Answer. Yes, sir.

Question. Was that said afterward or before?

Answer. Afterward; so I have heard.

Question. Without accumulating any more names, does it or not strike you as remarkable that these six or seven persons at different times and without being together should express the same thing—that they had expected that you would be whipped, and that you might have expected it?

Answer. I have often thought since that they must have had some idea of it.

Question. That was the idea in your brain?

Answer. Yes, sir.

Question. A pretty active brain for a colored man, that was the idea reveling in your brain, that these men must have known something about it in advance?

Answer. Yes, sir, or they would not have said that.

Question. So that you were not surprised at the singular coincidence of this number of men and women making precisely the same remark?

Answer. That is the fact. If I am wrong in judgment you will correct me; but I am to tell all the facts as straight as I possibly can, according to my best judgment, though I have to answer a part of what you ask me from rumor.

By Mr. STEVENSON:

Question. Did you ever give to your congregations of colored people, whether in sermons or otherwise, advice to commit any kind of violence on any person or on anybody's property?

Answer. Never.

YORKVILLE, SOUTH CAROLINA, July 25, 1871.

GOVAN HOPPER sworn and examined.

By the CHAIRMAN:

Question. Where do you live?*Answer.* On Ellison Creek.*Question.* How far from this town?*Answer.* About six miles.*Question.* How long have you lived there?*Answer.* Going on four years.*Question.* Are you a native of the county or State?*Answer.* No, sir.*Question.* Where did you reside before you came to this county?*Answer.* In North Carolina.*Question.* What is your occupation?*Answer.* Farming.*Question.* Do you own the land you farm?*Answer.* No, sir.*Question.* Do you rent it?*Answer.* Yes, sir.*Question.* Whose land is it?*Answer.* It belongs to Mr. Frank Brown.*Question.* Do you know anything about the raid made upon the county treasurer here?*Answer.* I don't. I have heard of the raid that was made; but as for knowing anything about it, I do not.*Question.* Are you a member of the Invisible Circle?*Answer.* Which? What circle?*Question.* Are you a member of the Invisible Circle?*Answer.* I don't know what circle you allude to.*Question.* You can answer that question. Are you a member of a society or organization called the Invisible Circle?*Answer.* No, sir; I am not a member of no organization whatever.*Question.* You say you heard of this raid on the treasurer?*Answer.* Yes, sir.*Question.* When did you hear of it?*Answer.* Some days afterward the report came out to the country. I saw it in the newspapers.*Question.* Did you hear of it the next day?*Answer.* I will not say whether I heard it the next day or not.*Question.* How far do you live from town?*Answer.* Six miles.*Question.* Do you remember how soon you heard of it after it occurred?*Answer.* No, sir; it was shortly afterward.*Question.* Do you know what night of the week it was said to have occurred?*Answer.* No, sir; I don't remember.*Question.* Do you recollect whether it was one of the week days?*Answer.* I don't remember now whether it was a week day or what.*Question.* Was it Saturday?*Answer.* I can't tell that either.*Question.* Was it Sunday?*Answer.* I forget all about it. I don't know whether it was Sunday or week day, I paid so little attention to it. I paid attention then, but not to know what day.*Question.* Did it attract no attention from you—a raid on the county treasury*Answer.* Of course it did.*Question.* Are you a tax-payer?*Answer.* Yes, sir; I pay a poll-tax.*Question.* Is that all?*Answer.* Yes, sir.*Question.* Did the raid on the treasurer of the county in which you are living and a farmer attract no attention from you?*Answer.* Of course it attracted my attention, but not to recollect it now.*Question.* In what month did it happen?*Answer.* I can't tell you.*Question.* Was it in April?*Answer.* I might recollect from the paper.*Question.* Was it in May?*Answer.* I don't know.*Question.* Can you fix the month you heard it in?*Answer.* No; I can't recollect.*Question.* Was it in January?

Answer. If I knew I could say just at once; but I can't tell.

Question. Can you fix no month?

Answer. It was long in the spring like.

Question. Was it in February or March?

Answer. Must have been long in February.

Question. Was it in February?

Answer. February or March.

Question. What time in February?

Answer. I can't tell the time.

Question. Was it in February?

Answer. I can't tell; it was long in the spring some time; I don't remember the date. There was a big fuss about it. I read it in the newspaper.

Question. Did you know anything of it until you saw it in the newspaper?

Answer. Nothing, until the newspaper brought it, as I have said.

Question. What date is the paper?

Answer. We get our paper Wednesday evening.

Question. Had you heard it before the paper came?

Answer. I think so.

Question. Did you hear it Tuesday?

Answer. I will not be certain; there was a rumor before the paper came; but we got the particulars in the paper.

Question. Did you hear nothing else about it?

Answer. Yes, sir; I heard a great deal said one way or another.

Question. Did you never hear that you were charged with being in it?

Answer. No, sir; I never heard that.

Question. What time did the troops get here?

Answer. The troops came shortly afterward.

Question. How soon afterward?

Answer. I would not be certain, but pretty quick afterward.

Question. Within a week?

Answer. Probably they were. They were here in that time anyhow. It was immediately afterward.

Question. Right immediately afterward?

Answer. Just directly afterward; not over a week anyway.

Question. Were they here the next day afterward?

Answer. I will not say sure that they were not the next day afterward.

Question. Were they here before the raid?

Answer. No, I don't think they were.

Question. Are you sure of that?

Answer. I will not be certain.

Question. Did you hear anything about the troops coming before the raid?

Answer. I don't know as I did.

Question. Try and think whether you did or not.

Answer. I might have heard it, but it slipped my mind.

Question. Do you think you did hear it before the troops came?

Answer. I will not be certain.

Question. What is your impression?

Answer. In regard to hearing it?

Question. Yes.

Answer. I will not be certain whether I did or not; I am not certain I did hear.

Question. Do you think you did?

Answer. Probably I did.

Question. Why did they not get here before the raid?

Answer. I can't tell you that.

Question. You do not know anything about that?

Answer. No, sir; I can't tell you.

Question. Did you never hear about the rails being taken up out here?

Answer. Yes, sir, I heard of that.

Question. When did you hear of that?

Answer. I saw it in the papers.

Question. Did you hear anything of it until you saw it in the papers?

Answer. No, sir.

Question. Did you not hear of that the next morning?

Answer. No, sir.

Question. What time on Sunday night did you go out here about a mile from town, at the cross-roads, to the rendezvous?

Answer. Whereabouts?

Question. About a mile from town here.

Answer. I never got there, sir.

Question. At the other end of town?

Answer. I never got there.

Question. Did you meet anybody there that night ?

Answer. No, sir ; no person.

Question. Where were you on Sunday night before the troops came here ?

Answer. I was at home, I suppose.

Question. Do you remember that ?

Answer. I suppose I was.

Question. Do you recollect you were at home Sunday night before the troops came ?

Answer. Yes, sir ; I suppose I was at home. I will not be certain. I am generally home when I am not from home.

Question. Who was there with you ?

Answer. I suppose the family.

Question. Do you remember ?

Answer. Yes, sir ; I think the family were all there that night.

Question. Sunday night ?

Answer. Yes, sir.

Question. Were you out to church that night ?

Answer. Not that night.

Question. Were you in the house the whole night ?

Answer. I was in the house the whole night.

Question. Sunday night ?

Answer. Yes, sir.

Question. What night was that ?

Answer. I think we are speaking of Sunday night.

Question. What month was it ?

Answer. I can't well say. I think we concluded a while ago it was February.

Question. What time in the month of February ?

Answer. Can't tell you that. I can't hardly get at the month.

Question. How do you know you were at home that night ?

Answer. I know I was at home.

Question. How do you know if you do not know what night it was ?

Answer. I know when I am at home.

Question. You say you were at home on that Sunday night ?

Answer. I am generally at home.

Question. Were you at home on the night the raid occurred on the treasury ?

Answer. Yes, sir.

Question. What Sunday night was that ?

Answer. That was the Sunday night before this occurrence here took place.

Question. But the Sunday night it did occur I am asking you about. You say you were at home on the Sunday night this raid occurred on the treasury ?

Answer. I was at home.

Question. What Sunday night was that ?

Answer. I can't get at the day of the month.

Question. What month was it ?

Answer. It was along in February, I suppose.

Question. What part of February ?

Answer. I can't come at that either.

Question. Was it the 10th ?

Answer. I will not be certain.

Question. Was it the 15th ?

Answer. I can't come at the number.

Question. Was it the 25th ?

Answer. It might have been the 25th or the 10th. I can't say what number.

Question. Was it the 26th ?

Answer. It might have been the 26th.

Question. Do you not know it was the 26th ?

Answer. No, sir ; if I had known it, I would have spoken it awhile ago.

Question. Where were you on the night of the 26th of February ?

Answer. At home, I suppose.

Question. Do you know you were ? (A pause.) How do you undertake to say you were at home on the Sunday night this raid occurred on the treasury, when you do not know what Sunday night that was ?

Answer. When you speak about a thing that night, I know I was at home that night.

Question. How do you know it, if you do not know what night it was ?

Answer. It was on Sunday night, and I am generally at home. I am hardly ever away from home ; especially Sunday nights I am at home.

Question. You do not know whether this was the 19th or 12th of February or what night it was that the raid occurred ?

Answer. I can't say what night it occurred.

Question. How do you fix it then that you were at home that night ?

Answer. Because I know I was at home. I am certain of that thing.

Question. How do you fix the night when the raid occurred on the treasury?

Answer. Well, it's just fixed so that I was there; that is all the way to fix it. Sunday night I am generally at home.

Question. Tell us who was with you that Sunday night of the raid on the treasury?

Answer. The family.

Question. Who is the family?

Answer. The family numbers about eight or nine.

Question. Give us their names; who were there on that night that you remember of now?

Answer. I can give you all the names of the family. My father and mother; and I have three brothers: Rollins, the oldest; and Madison; Ewell is the next; Amzi is the next. There are two girls; the oldest, McDowell; and the next, the baby, is Alice.

Question. What were you engaged in that evening?

Answer. Sunday evening?

Question. Yes.

Answer. I suppose just knocking about; reading and singing. We generally sing Sunday evening.

Question. What time did you go to bed?

Answer. Pretty early. We generally go pretty early.

Question. That night I ask about—do you recollect what time you went to bed that night?

Answer. I suppose that night about dark or little after—a little after.

Question. Did you sleep alone?

Answer. Brother Rollins and me slept together.

Question. Did you go to bed together?

Answer. Yes, sir.

Question. Did you remain in bed all that night?

Answer. Yes, sir.

Question. Were you not out at all?

Answer. No, sir; not out at all.

Question. That Sunday night the treasury was raided on here?

Answer. No, sir; we were not.

Question. What night was it you remember so distinctly sleeping with your brother Rollins?

Answer. That was the night you were just speaking about of this fracas.

Question. Was Rollins at home every Sunday night in February?

Answer. I don't remember, but he is generally there on Sunday night.

Question. How old is he?

Answer. About twenty or twenty-one now I suppose; about my size.

Question. Give us again what Sunday night that was that Rollins slept with you.

Answer. The Sunday night of the fracas here.

Question. How do you fix that it was that Sunday night?

Answer. Because we were at home.

Question. That is the only reason?

Answer. That Sunday night we were at home.

Question. I will ask you to listen to an oath: "I do solemnly swear that I will support and defend the Invisible Circle; that I will defend our families, our wives, our children, and brothers; that I will assist a brother in distress; that I will never reveal the secrets of this order, or anything in regard to it that may come to my knowledge, and, if I do, may I meet a traitor's doom, which is death, death, death. So help me God, and so punish me my brethren." Have you ever heard that oath before, or one in terms very nearly like that?

Answer. I never heard one like that in my life.

Question. Have you ever administered an oath like that to anybody?

Answer. No, sir; not an oath like that.

Question. Any part of that oath? I do not mean the one on this paper, but an oath containing terms like this.

Answer. There are terms in that I never witnessed in my life.

Question. Are there any terms in there you ever heard before?

Answer. (A pause.) I don't know that there is.

Question. Do you say there are no terms of that oath you have heard before?

Answer. I think not.

Question. What part of that do you think you did not hear before?

Answer. I never heard such oath before; never any oath of any order. I never heard such an oath as that before.

Question. Do you belong to any society which has for a hailing sign three taps on the left ear with the left hand in that way? (illustrating.)

Answer. No, sir.

Question. Are you sure you do not?

Answer. I am certain I do not.

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Question. Did you never belong to a society of that kind?

Answer. I never did.

Question. Do you know what the reply to that is?

Answer. No, sir.

Question. Do you belong to any such society now?

Answer. No, sir.

Question. Do you know of any such society or organization?

Answer. I do not.

Question. Do you know of any society or organization whose hailing word is given by pronouncing the letters that spell the word *say*?

Answer. No, sir.

Question. Have you never given that hailing word?

Answer. I have never given it or received it. I never heard the thing before.

Question. Do you know what the reply is?

Answer. No, sir; I didn't know it had a reply. I didn't know that there was a reply for such.

Question. Do you know any organization that has for a word of distress "Avalanche"?

Answer. No, sir; I don't.

Question. Is there any Ku-Klux organization in this county?

Answer. If there is I don't know it.

Question. Is there one, in your belief?

Answer. If there is I don't know it.

Question. Do you believe there is one?

Answer. I don't know that there is.

Question. What is your belief about it?

Answer. Well, people can have a heap of beliefs.

Question. What is yours?

Answer. I don't have a thing to say about it.

Question. I want to know whether you have looked at this question enough to have a belief whether there is an organization commonly called Ku-Klux in this county?

Answer. I have studied a heap about it.

Question. You have?

Answer. I have.

Question. What is your belief about it?

Answer. I don't have anything to say in regard to it. All I thought was, just if they let me alone, I would let them alone.

Question. If the Ku-Klux would let you alone?

Answer. If they let me alone; they or whatever is charging through the country.

Question. Have you never been asked to join a secret organization?

Answer. No, sir.

Question. None at all?

Answer. No, sir.

Question. Are you not the captain of a Klan?

Answer. Captain of what?

Question. Of a Klan of Ku-Klux in this county?

Answer. No, sir; I am not.

Question. You say here now after the oath that has been administered to you, with a full consciousness of the consequences, that you are not a captain of such a Klan in this county?

Answer. I am not. I know nothing about such, nor I am not wanting to know.

Question. Do you say you were not out within a mile of this town on the night the raid was made on the county treasurer?

Answer. I was not.

Question. That you were not in company with thirty or forty men who came into this building, in which we are now seated, on that raid?

Answer. I was not.

Question. Have you ever inculcated upon any one that the obligations of the Ku-Klux Klan required members to deny that they were connected with it?

Answer. Have did which?

Question. Have you ever inculcated it upon any one that the obligations of the Ku-Klux Klan or Invisible Circle required them to deny that they were connected with it?

(No answer.)

Question. Who did you learn were blamed with taking up the rails on the railroad?

Answer. I never learned any one.

Question. Never heard of any one?

Answer. No, sir.

Question. Who did you learn was accused of the raid on the treasury here?

Answer. I never learned any one.

Question. You don't know whether it was the Ku-Klux that were to blame or not?

Answer. I never inquired anything of the particulars at all. I never inquired anything about it.

Question. Did you ever inquire whether they have been here or not?

Answer. I never inquired, for I could hear without inquiring.

Question. How?

Answer. I could see it in the paper.

Question. Did you ever inquire to know whether it was true?

Answer. I believe the paper.

Question. Did you ever make inquiry to know whether it was so or not?

Answer. I don't know that I did.

Question. How soon after that Sunday were you in town?

Answer. It was some time before I was here.

Question. How long?

Answer. I can't say particularly how long it was. It was some time.

Question. Was it that week?

Answer. I don't think it was, but probably the second week it was before I was here; about the second week.

Question. Did you make no inquiry then about it?

Answer. Very little, in fact, I made none.

Question. Whether there had been any Ku-Klux here or not?

Answer. I heard they would say, "The Ku-Klux have been here;" "There have been Ku-Klux here."

Question. Who told you that?

Answer. It was frequently spoken about.

Question. You know John Tomlinson here?

Answer. I know him when I see him.

Question. Have you no other acquaintance with him?

Answer. None at all.

Question. Do you know John Hunter?

Answer. Yes, sir.

Question. Do you know William Owens?

Answer. I just know him when I see him; that's just about all.

Question. Have you never given the sign of recognition to either of those men?

Answer. Never in my life.

Question. Have you never met them in any enterprise connected with the Ku-Klux organization?

Answer. Never did in my life. I can say that with a clear conscience.

Question. Have you had any talk with either of them since you came into town?

Answer. I talked with Hunter, I think, a little.

Question. What did you talk about?

Answer. I just spoke to him. He had heard I was sick. I told him I was getting along pretty well. He was glad to hear it.

Question. Did you tell him you were subpoenaed here before this committee?

Answer. Yes, sir; I said I was subpoenaed yesterday about 12, but could not come until this morning.

Question. Did you confer with him about your testimony?

Answer. No, sir; not a word was said about it.

Question. Did he ask you what you knew?

Answer. No, sir; he never asked me a word.

Question. Did you confer with anybody else in regard to your testimony here?

Answer. No, sir; not a word.

Question. Did you know what you were subpoenaed for?

Answer. I did not.

Question. Had you no idea?

Answer. No idea what I was called for.

Question. You had not the most remote idea?

Answer. No, sir; I didn't know what I was called for.

Question. Have you never heard from any quarter that you were charged with being the captain of a Ku-Klux Klan in your part of the county?

Answer. No, sir; I never heard of it.

Question. What part of the county do you live in—what township?

Answer. Bethel Township.

Question. Have you heard of Ku-Klux operations out there?

Answer. No, sir; I think not—not right in our settlement.

Question. Has anybody been whipped in that neighborhood?

Answer. Not right in the settlement.

Question. Who is the nearest one who has been whipped?

Answer. The nearest to us was a boy, Grandison Currence. He lives about three miles off from us.

Question. When was he whipped?

Answer. I can't tell you now when.

Question. How long ago?

Answer. It was along in the spring.

Question. Who whipped him ?

Answer. I can't tell you. They said it was Ku-Klux.

Question. Don't you know anything about it ?

Answer. I don't know a thing about that. I didn't know it until it was done. He was out log-rolling one day, and I was up to Mr. Currence's shop and met this boy going to log-rolling, and noticed there was something wrong as soon as he came in sight. I didn't ask him any questions, but I saw there was something wrong with him, and went on down to the shop, and Mr. Currence said it was reported that the Ku-Klux had been down after him. I asked him why he looked so drooping. He said he supposed the Ku-Klux had been after him.

Question. Did you talk to the boy himself ?

Answer. No, sir; not at all.

Question. You didn't ask him about it ?

Answer. No, sir.

Question. Did you know who whipped that boy

Answer. No, sir, of course not.

Question. You have no knowledge ?

Answer. No, sir; none at all.

Question. Have you any knowledge of a man named Jim Rainey or Williams, in this county ?

Answer. No, sir.

Question. Never heard of him—captain of a militia company ?

Answer. No, sir; not one of that name. I know some Raineys.

Question. Did you never hear of a man of that name being killed in this county—Jim Rainey or Captain Williams ?

Answer. No, sir; I never heard of him.

Question. You never heard of a man named Williams being killed in the county ?

Answer. No, sir.

Question. Do you take the county newspaper ?

Answer. Yes, sir, the Enquirer. That is the only paper we take. We take the Baptist paper from Columbia.

Question. Did you ever see an account of his being killed in this county ?

Answer. I don't remember; I might, but it slipped my mind.

Question. Did you ever see an account of Roundtree being killed in this county ?

Answer. Yes, sir.

Question. Did you know anything about it ?

Answer. No, sir; only what was in the paper.

Question. Did you know anything about the ammunition being taken from the probate judge's office ?

Answer. No, sir.

Question. Never heard of it ?

Answer. No, sir.

Question. That is the first time you ever heard of that ?

Answer. I think it is.

Question. You never heard of the probate judge's office being opened ?

Answer. No, sir.

Question. How many guns have you at your house ?

Answer. But the one—one rifle.

Question. What kind of a one ?

Answer. A rifle that shoots buckshot and squirrel.

Question. Was none of the ammunition which was taken from the probate judge's house taken to your house ?

Answer. No, sir, unless it was taken by some one besides the family.

Question. Do you know what became of that ammunition ?

Answer. No, sir; I don't know anything about it.

Question. Then, according to your knowledge of the subject, and you say you have given it a great deal of study—you do not know whether there is a Ku-Klux band in this county or not ?

Answer. I do not.

Question. You have no belief on that subject ?

Answer. No belief. I have studied a great deal about the thing, but have never come to no belief.

Question. Who do you believe made this raid on the county treasury ?

Answer. I don't know a man, and therefore can't say a word.

Question. Do you believe they were Ku-Klux ?

Answer. I don't know what they were. I never saw them.

Question. From the description you read in the paper, did you form any idea of whether they were Ku-Klux or not ?

Answer. I didn't form any idea; I only noticed it.

Question. Do you know how the Ku-Klux ride about ?

Answer. No, sir.

Question. Do you know whether they put on disguises or not ?

Answer. No, sir.

Question. Do you know whether they carry arms or not ?

Answer. No, sir, I don't.

Question. Not from public information, or any other way ?

Answer. No, sir ; I don't know whether they do or not.

Question. Have you ever heard at all of there being any Ku-Klux in the county ?

Answer. I have heard that talk, but whether there are or not I don't know.

Question. You are entirely doubtful whether there have been any ?

Answer. I can't tell you a word whether there have been or not.

Question. You have no idea whether there have been any here or not ?

Answer. I can't tell you ; I never saw them.

Question. How old are you ?

Answer. Twenty-two years of age, and a little over. I was twenty-two the 9th of last November.

Question. Have you taken any part in politics in the county ?

Answer. None.

Question. What ticket did you vote ?

Answer. I didn't vote.

Question. Were you old enough to vote at the last election ?

Answer. Yes, sir ; but I didn't vote. I was at the election, but didn't vote. I was at Bethel Township.

Question. Was that the reason you didn't vote ?

Answer. We had a box ; there was a box.

Question. Why did you not vote ?

Answer. I didn't think it worth while. I just saw. I never voted in my life. I didn't take any part in the election. I had some reasons for not doing so.

By Mr. STEVENSON :

Question. Have you any militia organization in your neighborhood ?

Answer. No, sir ; none at all.

Question. Have you any arrangement among the young men ?

Answer. None that I know of.

Question. Did you have any heretofore ?

Answer. No, sir.

Question. Have you ever been out on night expeditions ?

Answer. I never was out on any night expedition in my life.

Question. Has there been any alarm in your neighborhood on account of the negroes ?

Answer. Not much alarm. Our settlement is doing very well around there. It has been pretty still.

Question. What is the reason you are not willing to tell what you know about the Ku-Klux ?

Answer. I have nothing to tell about them.

Question. You say you have no opinion about them ?

Answer. I don't have nothing to say in regard to that at all.

Question. But you must have some opinion about them, whether they are riding in this county or not ?

Answer. [No answer.]

Question. Do you swear you have no opinion whether they are in this county or not ?

Answer. I never saw them.

Question. Do you swear you have no opinion ?

Answer. I do. I don't know that there is one about.

Question. Do you swear you have no opinion about it ?

Answer. I have no opinion of them at all.

Question. You have no opinion whether they are in this county or not ?

Answer. I have not.

Question. You swear so ?

Answer. I do—in that way.

Question. Were you raised in this county ?

Answer. I was raised in North Carolina.

Question. How long have you lived in this county ?

Answer. Going on four years.

Question. In what part of North Carolina were you raised ?

Answer. In Cleveland County.

Question. Are there any Ku-Klux there ?

Answer. I don't know. I have not been there for some time.

Question. Have you no opinion about that ?

Answer. None at all. I visited there sometimes, but I saw none.

Question. Were you in the rebellion ?

Answer. No, sir ; I was not old enough.

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Question. Have you a brother?

Answer. Yes, sir.

Question. At home?

Answer. Yes, sir.

Question. Older or younger than you?

Answer. Younger.

Question. Was your father in the rebel army?

Answer. No, sir; he was too old.

YORKVILLE, SOUTH CAROLINA, July 26, 1871.

ALEXANDER P. WYLIE sworn and examined.

By the CHAIRMAN:

Question. Where do you reside, doctor?

Answer. In Chester village, Chester County, South Carolina.

Question. Are you a native of the State?

Answer. I am. I was raised within five miles of Chester.

Question. What is your age?

Answer. About fifty-four.

Question. What is your occupation?

Answer. Physician; practicing for over thirty years.

The CHAIRMAN. I will request Judge VAN TRUMP to continue the examination of this witness.

By Mr. VAN TRUMP:

Question. Please state your position in regard to the late rebellion, to nullification in 1832, to the question of extreme State rights, and the proposed secession in 1852?

Answer. Well, my father before me was a Union man, and a hot partisan. I was not old enough to vote in 1832, but I took great interest in the contest, and I battled against nullification and secession and all those doctrines throughout my whole life.

Question. Were you a writer on that subject to a considerable extent in 1860?

Answer. Yes, sir; and first in 1852. They attempted secession in this State at that time, but the people had an opportunity to discuss the matter and defeated the leaders who intended it. My writings were merely in a local paper, and argued against the right of the State to secede and State sovereignty; in that strict sense of the term. I never believed the State had the right to secede or sovereignty in the strict sense of the word. I viewed the United States as my nation, and that my allegiance was due to it.

Question. What was the position of your county of Chester in relation to the secession of 1860?

Answer. In 1860 there was a great majority of the people there who were Union in their sentiments; and part of the people were for secession, but they changed. I was satisfied there were men at work for the purpose in the State. If I do not go too much into detail—

Question. We do not want much in detail in regard to 1860. Make it as brief as possible. And I ask you, doctor, to speak as slowly as you can and as distinctly as you can, as your articulation is difficult to be understood.

Answer. In 1860 I was the first that wrote a piece in the Chester paper warning the people that the State—

By the CHAIRMAN:

Question. We cannot go into any essays on the position of Chester County or South Carolina in 1860.

Answer. I will make it as short as I can. I was the first who wrote a piece warning the people of their danger, and battling against it all summer.

By Mr. VAN TRUMP:

Question. Was there a Union sentiment in Chester County?

Answer. Yes, sir; both sides were pledged against secession.

Question. Please state your present political feeling, whether a politician or strictly identified with any party.

Answer. I am not. I have been a Union man throughout my life, and continued so in my district throughout the war. I never had any sympathy with the war. I always expressed that, and my sentiments are Union to this time. I have not identified myself with any party. I am opposed to the States-rights doctrine.

Question. Have you voted for men on both sides?

Answer. Yes, sir.

Question. Who did you vote as a candidate for Congress at the last election?

Answer. I voted for Mr. Wallace. I was under the impression that all our lawyers would vote for him at one time. They appeared not to care about politics at that time.

Question. As a practicing physician and citizen interested in the condition of the country, are you well acquainted with the state of affairs for the last two years in Chester County?

Answer. Yes, sir; I am.

Question. Please give us the history, as brief as possible, of whatever disturbances have occurred in Chester within two or three years.

Answer. I will endeavor to do so. You mean since the surrender?

Question. Since 1868—including 1868.

Answer. Well, just at the close of the war—

Question. We do not care about that.

Answer. They got down tolerably quiet, and ever since—I am thinking of 1868—ever since the negroes got to voting they have been very domineering over men.

Question. The negroes have?

Answer. Yes, sir; and particularly since they got these arms their conduct has been utterly unbearable, and at the public meetings they have had, and particularly the last year or so, they have grown worse and worse. They would take occasion, since they got these arms, in all their celebrations, to come to Chester; march through the streets in the most imposing manner, with one or two white fellows at their head. I can give you details of some of the meetings if you desire them.

Question. That is what we want, if anything occurred.

Answer. This last congressional canvass I will commence with. There was a man named Stokes, rather a crack-brained fellow, a lawyer, who seemed erratic in speaking, but inoffensive. He undertook to speak in Chester one night. The negroes congregated in large masses, insulted him, and hooted at him. I recollect various expressions to the white people, as that, "We have got you down, and we are going to keep you there." He said nothing offensive. There were very few white people there. I am satisfied their effort was to provoke a collision. They were congregated where he spoke from the court-house platform. They were sitting around and singing John Brown. That was about the conclusion, after interrupting and not letting him speak. Persons persuaded him not to speak. Finally, when he went to the tavern he was followed by a large crowd singing John Brown and hooting. In canvassing for the election of members of Congress last summer there was what was called a reform ticket. I had nothing to do with it and did not attend the meetings. I had been somewhat isolated of late, not in personal friendship, but in political matters. I never approved of the course of this State. I was a member of the convention under Johnson's call, and favored giving the negroes all civil rights. I voted with only three men, one a northern man and another Judge Cross, of Charleston, to give all civil rights to negroes, not mentioning color, and proposed that we should present some qualifications in regard to education and property. I am satisfied that a large proportion of the older men were in favor of that proposition, but they looked to their constituents and hesitated. They expressed themselves so—Judge Dorking and others, leading men, but they had not discussed the matter with the people, and were afraid. One evening, I recollect that Judge Frost made a long speech.

By the CHAIRMAN:

Question. Was this in 1868?

Answer. Yes, sir; I am running back a little.

By Mr. VAN TRUMP:

Question. We want to get, as soon as possible, to the disturbances at Chester?

Answer. Well, a reform party had a meeting. I think the feeling of the great mass of people was that they cared nothing for politics. They wanted self-preservation. They would have taken any part to save themselves. They had a called meeting of the reform party, and this fellow Wimbush, a yellow fellow, a senator, got up and interrupted the meeting. They said that was not the place for him to speak. They put him off by saying, "We will meet you when the regular meeting is held to speak on the canvass." I do not remember whether he made that proposition first or whether the reform party did; anyhow, the agreement was made that the republicans should meet the reform party to speak.

Question. Who were the speakers for the reform party that day?

Answer. I will tell you in a moment. They entered into a written contract how they should speak; that there should be no interruption of any speaker of either party without his consent. They signed the contract and had a meeting. There was Judge Carpenter and this General Butler; they came. There was Tomlinson and Chamberlain came from Columbia. The negroes on that occasion—I did not see this myself, but I was informed by a republican, and he is here too—after they made this agreement they had stones all piled under their benches ready for an assault. I took occasion to get the

old colored men, citizens, close to the meeting, although I had taken no part in the meeting before, to let them hear the speaking. When Chamberlain got through Carpenter got up, and then I saw that Yocum—he is some adventurer from Canada—and this man Wimbush went to whispering to each other, and interrupting Carpenter, and then all the negroes jumped up like tigers, hallooing and fussing, evidently designing to break up the meeting. I passed into the meeting. I had attended Wimbush and knew him as my patient. I laid my hand on his shoulder and I said, "For God's sake stop this. You can influence them;" for they are great creatures to follow their leaders. I said, "For God's sake make these men sit down and have no disturbance, and the other party will listen to your man." Two big negroes struck at me instantly with clubs. I was right among a great set of negroes. I dodged out. They commenced throwing stones; one big one fell right by me. They hit one young fellow on the head, right by Carpenter, and cut his head. We did not know but he was killed. He was carried off. Just at that time a little boy, a stranger named Bullock, started to run off, scared. Some one hallooted out, "There goes the fellow that slapped Wimbush." There was a large crowd; they looked to me like two or three hundred men, and they all pursued this young fellow, two or three hundred of them, round to Mrs. Browley's, a very respectable woman. There they cursed her that he was hid in the house—he run off. They met Dr. Jordan, a respectable man, and cursed him. One fellow drey a pistol on him, and some fellow hallooted, "That is the fellow that struck Wimbush." The first thing he saw this negro had a pistol out. He just said, "If you attempt to shoot, I will shoot," and the fellow put up his pistol and he put his up; and then the first thing was Dr. Jordan got a blow on the top of his head. The crowd got around him, and some negro who had been his patient went up and interfered, and I think that that act of that negro interfering saved Dr. Jordan. The meeting was broken up. A woman came running with a great stone and threw it just past his head; so he told me. They said they chased the rebels all off the ground. There was great exultation among them. The whites had no arms; some had arms, but nothing was done, and the thing was broken up.

Question. I understand that this was a regularly arranged joint meeting settled by a written contract?

Answer. Yes, sir; and they pushed themselves to get leave to speak.

By the CHAIRMAN:

Question. Who had pushed themselves?

Answer. Wimbush and the radical party pushed themselves in to get leave to speak, and made a written contract that no one should be interrupted without his consent. All went on well until Carpenter was to speak, and then the general threat of the negroes had been that he should not speak.

By Mr. VAN TRUMP:

Question. Did that break up the meeting?

Answer. Yes, sir; there was an old fellow there from Charleston, and they chased him to the car.

Question. Was that an old negro with General Butler?

Answer. Yes, sir.

Question. Was he a democrat?

Answer. Yes, sir. Then the party had a meeting shortly after that, and Wimbush came and proposed to General Walker and Mr. Bryce that they should speak.

Question. Were Bryce and Walker white men?

Answer. Yes, sir.

Question. Were they democrats?

Answer. They were reformers. Wimbush came to them, and proposed for the reformers to meet them, and speak at a meeting two or three weeks ahead.

Question. How long was that after the meeting at which Judge Carpenter was prevented from speaking?

Answer. Two or three weeks, I think.

Question. Go on.

Answer. Walker and Bryce concluded to back out, as it would certainly lead to a collision, for they had been so near it before. When the day came for them to speak, the speakers came up from Columbia—some negroes and some white. The negroes came riding from every part of the district with guns—all these militia men with guns and muskets, and some not militia men with guns, and they collected there at the stand. The reformers did not come. Very few white people went nigh. Some reform candidate negroes went there. They whipped and run them off the ground, and swore that no damned reform nigger should speak. They tore the clothes off of one fellow and chased him off the ground. There was another meeting over at Sanders's. I was not at that.

Question. What is your information about it specially?

Answer. The same course was followed there. This Captain Jim Wilkes was there.

He marched down with guns loaded, in military order, and his black men. They went up as if to camp, and stacked their arms just behind them. They came very near a collision on that day; so they said. Some of the whites, they said, were there, but no organized bands. Some came and had guns. Some of the negroes shot off guns right in the crowd. They pretended it was accidental. I speak of that to show that the guns were loaded. An old senator from our district, McAllilly, an old man of seventy years, a lawyer, got up to speak. He has always been considered a conservative. He did get a little warm during the war, but he was the only man in the State who voted against calling a convention at the time. The legislature of 1860 called a convention.

By the CHAIRMAN:

Question. Which convention?

Answer. The convention which seceded. He was opposed to secession. He took the stump in 1860. Well, I do not remember in detail, but there was a great deal that was offensive said and very hard to be heard, and the speakers of the radical party said everything they could to array the negroes against the whites on that occasion. This Captain Jim Wilkes, when McAllilly got up to speak, ordered his men to march off, and would not listen to him at all. There was no further meeting together. They thought it too dangerous. One meeting I forgot to mention—on the day of the meeting at Chester, at which the radicals spoke, but the whites did not meet them. They marched with fife and drum through the streets in military order; took the negro speakers down to Wimbush's, and the next morning marched down through the streets and brought them back. I was standing noticing.

By Mr. VAN TRUMP:

Question. Did they stay over night at Chester?

Answer. Yes, sir. They all had their arms from every part of the district. I noticed one big fellow waving his musket at the white people, and hallooing, "Here's your regulators." Well, I must say, now, that I do think if it had not been for the conservative element, the older men, who exerted their influence to keep the peace, I doubt whether there is a district in the State or a county in the State where there would not have been a collision.

Question. You mean any other district?

Answer. Yes, sir. It is not worth while for me to say much about the election. Of course it was pretty much a farce—just boys and all—

Question. What is the proportion of the white and black population in your county of Chester?

Answer. Near about two to one. They have it now two to one of voters.

Question. What other disturbances have occurred in the county within three years, including any disturbance by disguised men? Give us a history of them.

Answer. There were in the lower part of the district a great many negroes where was one of these companies—some negro men arrested for stealing cotton. One of these companies mustered up, they said, about seventy-five men. They arrested some of these prisoners—some three of them—that were notorious as stealing cotton, and they took them from the sheriff.

Question. Do you mean that the negroes rescued them?

Answer. Yes, sir; and they have never been arrested since. They made two or three efforts. The sheriff himself did not go down. I think he was rather timid of a collision.

Question. What was the first within the last three years in your county—the first act of violence on one side or the other?

Answer. I cannot bring it to mind just in order.

Question. Go on, then, in your own way, and give us, as briefly as you can, the condition of the county within the last three years.

Answer. There has been a great deal of burning done in Chester district.

Question. What was it?

Answer. I think there has been more burning done since the war than ever before since the first settlement of the country.

Question. What sort of burnings?

Answer. Machines and machine-houses.

Question. Is there any knowledge as to who did it?

Answer. They always appeared to be satisfied with regard to these machine and provision houses.

By the CHAIRMAN:

Question. When you say "they," who do you mean by "they?"

Answer. The people, generally, seem to be satisfied that the negroes did it.

Question. The black and white people?

Answer. The blacks, you know, would not say much about it.

Question. I wanted to know what you meant by people?

Answer. Well, white people; but I know intelligent negroes who say so. I could give you instances. I have a plantation with negroes entirely. I have been disposed to encourage them. I have land that I work entirely by negroes. You sometimes get a very intelligent negro to work land. Along last summer, when so much cotton was burned, I said to my man, "George, remove that cotton from under the screw; it might be burned." George laughed, and said, "No danger of burning your cotton. You treat the colored people with justice. It is only when they don't get justice that they burn it." They admit that they burn it.

Question. What is your belief, from all the facts, as to who are the authors of all these burnings?

Answer. I am satisfied that in the country they are done by these negroes.

Question. Has that been pretty extensive, or otherwise?

Answer. It has not been very extensive. In a locality five miles east of Chester, there has been no disturbance or burning. There was Johnson, had his wheat-house and stables and gin-house burned; in a quarter of a mile of him, Crane had his store burned; and in a quarter of a mile, Mrs. Hinston had her machine burned and her wheat; about two or three miles above that, Mrs. Rainey had her machine and cotton burned; not far above that, Major Eaves, who is an inoffensive fellow, and treated the negroes well, had his burned. It was supposed they stole the cotton, and burned it to cover their stealing. That is all in one little section. There have been various burnings. There was never any pretense that any negro was whipped or abused in that quarter, that I have heard of.

By Mr. VAN TRUMP:

Question. Proceed with your statement.

Answer. Now I might come up to this Jim Wilkes's remarks down at Chester.

Question. That fight or raid at Chester?

Answer. Yes, sir.

Question. Give us the history of that.

Answer. There was a good deal of talk of this Ku-Kluxism over at Union and Spartanburgh, but we had had nothing of the kind. I am as perfectly satisfied as I am of existence that there are no manner of respectable men in that, unless it might be some person who was utterly reckless from losing everything, and might not care anything about it, and would say, "Damn it, let it go," but the great body of the white people, I am sure, are earnestly, and have always been, against this Ku-Kluxism; it distracts the country. There is a great deal of injustice dealt out to negroes; and besides that, we are satisfied that the General Government will not put up with it. Such a thing will not be permitted as this Ku-Kluxism, as it was reported from that part of the country. I can give you the history of Ku-Kluxism in Chester so far as I know. The first we heard of it was in the northwest corner of Chester, near Union. That is a rough, wild country. The people have some wealth, but more ignorance, and generally have been more cruel to the negroes in that part, and there have been more disturbances there than in any other corner of the district. We heard of two white men, I think men of some wealth, who were living in open adultery with negroes, being whipped.

Question. Being whipped?

Answer. Two white men being whipped.

Question. For what?

Answer. For living in open adultery with negro women, keeping them in their houses and living alone; and one negro man was whipped, and I think probably a white woman who was living with a negro in open adultery. That was the first I heard of it.

By the CHAIRMAN:

Question. You say one white woman?

Answer. Yes, sir; she was whipped. I think that was the first; I did not know it until some time back. There was a good deal of fuss up in that quarter with the people below Carmel Hill. Jim Wilkes lived there and had a company. The people were afraid of the negroes. We had heard a good deal of it. In fact all the fuss in the district has been in that quarter. We understood that this negro company was parading about, but there was no open outbreak until we heard of this whipping. After that we heard the negroes were picketing the roads at night and turning people back. It may have been for fear of the Ku-Klux; I suppose it was; I do not know. There was a fellow named Abner Holly, a negro, right on the bank of the river, near Union, who was whipped. It has been put up, or told, by the negroes that it was for political purposes. In fact, there is an old negro down there who drills negroes what to tell. This negro put it up that he was whipped for voting for Scott.

Question. Who was the negro you speak of?

Answer. Jim Waller, a county commissioner, one of the most notorious villains, I suppose, that ever walked the face of the earth. He has not the courage to murder, but so far as stealing and treachery and theft is concerned, the history of his whole life has been one scene of it. I was at the officers' camp there, and we were talking about

this matter. Mr. Wallace had written a letter to me, to get a candid statement of the whole matter.

By Mr. VAN TRUMP:

Question. What Wallace?

Answer. The member of Congress. He wrote to me. He said he knew I would give him a truthful statement. I did give it in detail. I hunted up the facts. I did not wish to write on hearsay. I was at the officers' camp, and was getting the history. I told them I had heard of nobody whipped up there except those that I spoke of. They remarked, one very good man has been whipped. Abner Holly was whipped before the fight and the shooting of Darby. Then I examined into the facts, and found it was so. I saw this Jim Waller talking to Abner Holly. I have heard he trained them, all to say it was for political purposes. You recollect the election had passed a long time, and other negroes living on the same place were not touched. They simply whipped Abner Holly. I was informed by Mr. Chalk, a man who lived within about a mile from there, one of the most peaceable and respectable men in our district, that this fellow was a great braggart, a bad fellow, and had a gun, and he was satisfied that he was whipped for his threats against the white people. He said it could not be for political purposes, because there were other negroes that voted the same way that were not whipped. The opinion of Mr. Chalk was that those who did it came from Union, and it was not Chester people at all. It was right on the banks of the river. A short time after that, two or three nights after the whipping of Abner Holly, there were three young men—I forget their names now, except one named Darby—in common clothes, on a moonlight night, who had been on a visit, were returning, and a number of negroes lying in the corner of the fence, fired on them, a few feet from them. They shot Darby in the hip. I do not know whether he will ever recover. They riddled his saddle all to pieces, and cut the clothes of some of the other men. Then followed some violence. This is the negroes' tale. They say that then there were some fellows, Ku-Klux, came from up in that northeast corner down there, and got to hunting up this fellow Wilkes. I should have mentioned one thing: Darby went on for a physician, and they stopped him, and interrupted him, and threatened him. The next night some fellows came from above, supposed to be Ku-Klux hunting Jim Wilkes. The negroes supposed they were Ku-Klux. They shot about some. The report was they had killed a horse of a fellow named Wick Smith, said to be a Ku-Klux. It was a night or two after the shooting of Darby that these fellows came down hunting Jim Wilkes, and the negroes and the whites had some shooting, but nobody was killed. It was said Wick Smith's horse was killed, and he is said by the negroes to be a Ku-Klux. Wick Smith is a white man, supposed to be a Ku-Klux. There was some shooting about that night. This, I think, was about Friday night. The following night Jim Wilkes collected up his company, and sent out runners to all parts of the country for the negroes to come in and the fight to commence. That was the warning. I know very responsible men that was sent to come in, and that the fight was to commence, and to bring their guns. It was on Monday that they came down to Chester, but the night before that the negroes turned to Ku-Kluxing, and went to old Mrs. Atkinson, an old lady. Some ten or twelve negroes went to her house Ku-Kluxing.

By Mr. VAN TRUMP:

Question. Disguised?

Answer. I think so; partially disguised, but she could see they were negroes. She saw some of them. That old lady and her daughter were living there and a young fellow. They were hunting him and hunting guns. They told her they were Ku-Klux, and they went out and whipped a log tremendously, and pretended they were Ku-Klux whipping a negro, but they were satisfied nobody was whipped. She said they were negroes, and she is a respectable woman.

By the CHAIRMAN:

Question. What is her name?

Answer. Atkinson—an old lady. This, I think, was Saturday or Sunday night they went to Mrs. Atkinson's. The next day, Monday, they came on down to Chester, warning the negroes to come; that the fight was to commence; sending runners to various quarters. On Monday morning I went up; it was the first I heard of it. They were then encamped in the borders of the town, within the corporation, a few hundred yards from the court-house, picketing the roads, preventing the people from going in and out in that direction.

By Mr. VAN TRUMP:

Question. How many were there at that time?

Answer. Something like a hundred, I think.

Question. Fully armed?

Answer. All armed with muskets.

Question. Proceed.

Answer. It created a great excitement. The negroes were running backward and forward. There is a negro company there at Chester Village of about one hundred, commanded by a mulatto, John Lee. The lawyers counselled about, and the sheriff went out—he is a very quiet man—and advised them and urged them to disperse. He asked them what they came for. The captain would tell him, “We came for protection.” That was, Wilkes told him they came for protection, but the other negroes around would tell a different tale entirely. I remember that Dr. Heath said they talked quite differently to him—violently with threats, and so on. That is the way they talked to outsiders; it created great excitement. There were negro women there, I know two; one of them has been treated most kindly throughout her life by an old aunt of mine; she raised the cry, “Now is the time to burn,” and a night or two after that the fire was set. She cried out, “Now is the time to burn.” A number did that. I recollect one girl there who had been treated just as a white person—a bright mulatto, and still living with her old owner to this day. No person suspected such a feeling in her. And she said what she would delight in would be to be in hell, to have a churn-paddle, and churn the whites to all eternity.

By the CHAIRMAN:

Question. Did you hear her say that?

Answer. No, sir; but my people did; my folks did. A fellow named Johnson, a Frenchman, a soldier who married a negro there, and she said—I did not hear this, but I have no doubt of it; I heard of it—that it was time to commence burning. I think this feeling was going on. We have lawyers down there, and the lawyers advised the people to keep within the law, and endeavored to get them to disperse. They suggested this, but it was not carried out; if they would not disperse to get out a posse and arrest the leaders, but they were satisfied that that would bring on a collision, and it was not done. They went out several times during the day, but staid there, camped, and with a fire, and the negroes ran out and carried them provisions during the day. We found out they were after ammunition. They were out of ammunition. That leaked out. Some began to get afraid, because there were so many threats about burning the town. For months that had been settled. We began to think we had better take precaution, and send out after armed men to come in and protect the place, but the intendant of the town and the sheriff went out, and this fellow named Reister—he was an office-holder and belonged to the League, and an extreme man—a very bad man, I have no doubt, from his speeches and what I have heard of his advice to the negroes. He went out with them, and made a speech to them to disperse, but it was found out afterward that he had issued his orders secretly to the negroes to hold on. So the negroes all say. They promised to do so just at night. So no people came from the country armed at all. We were there, just a few men in town. Some of us were satisfied they were not going to disperse, but the majority thought they would. The report went to the country that they were all gone home. Some of us went out to hunt where they had gone, and rode up the road and saw nothing of them, but found they were lying on their arms in the woods, about a mile from town, on a densely wooded creek. From all we could hear, we saw a probability of a collision that night. So the intendant—I think it was him—telegraphed to Wimsborough and Rock Hills—there was no time to send to the country—for some men to come down armed to assist the town. There happened to be a fire at Wimsborough, I think, that night, and only about ten or twelve came from Wimsborough and probably the same from Rock Hill. We staid up all night guarding the town. After night, some time, the negroes marched up there in Chestertown, and formed on the square; the town company did this. The captain came to the intendant of the town, and there appeared to be some misunderstanding, and asking if he needed assistance, or something like that. He said he understood there was a misunderstanding between them; that he wished to come out and protect the town. The intendant said no, he didn't want their services. He appeared reluctant to break up. The intendant went down and made some speech to them; I do not know what he said to them, but he advised them, I think, to go home. He said he did; but they did not disperse at once. They staid some time, and then marched off in squads; and we could see them going on over to the depot, which was some four hundred yards from the hill. The village is on a high hill. Well, I remained up there, about the only person that staid up. I was very much afraid some drunken young fellow might imprudently start a fight, as the militia was in the street. I remained up there all night. These Rock Hill fellows came on down. They were in at supper, most of them, at the hotel at Nicholson's. One of these fellows was out on the depot platform, and fell in with a negro. I know the negro well—a very cowardly, deceiving fellow—he had worked for me a year, and he was a thieving fellow. He was standing on the platform with a number of other negroes with guns; he belonged to this company. As I have said, they had moved off in squads to the depot; they did not break up. One of these Rock Hill fellows (I think they said he was drunk) asked him, “Let me see your gun,” or, “Is it loaded?” and the fellow commenced backing and backing, and he caught hold

of his gun; the fellow was cowardly, and commenced backing, (I got this tale from most responsible men—Dr. Jordan and others;) the gun went off; I do not think he designed to shoot, but was frightened. Then general firing commenced; all the company commenced firing; they fired into Nicholson's house; balls rained on the hotel; there was no person shot, but there was a terrible turmoil and shooting; no person was shot except Fate, the negro who fired the gun; he got a pistol-bull in his leg; this fellow from Rock Hill fired his pistol and hit him in the leg; there was nobody else hurt, although there was great shooting. That all quieted down, and these fellows from Rock Hill came up on the hill to the village, and remained there during the night until morning, with the town guard, guarding the town; but these negroes, the Chester company, remained embodied in the old field, ready for a fight; (so we understood; I do not know this positively, but I understood that they staid there for some time;) they came up, and we had no idea of fighting at all, because there was none of us there scarcely; it was after night, and we determined to go by law; that was the conclusion of the sheriff and the rest—to do nothing but protect the town. In the night we knew nothing of this. We knew this company of Jim Wilkes's was lying in the woods, but we did not know that they had moved from their position. We found that they were in the woods about a mile from town, lying in ambush. We did not know that they had moved until about midnight. About midnight the guard captured three fellows of Jim Wilkes's company. They brought them up on the hill where the guard was. I was there myself. Some fellows talked about kicking them in the butt or whipping them, but I told them not to hurt them, and let them go home, but they questioned them to know the meaning of all this. They lived above Carmel Hill, in the neighborhood of this Captain Wilkes. They said they came under orders from Captain Jim Wilkes. We asked what they came for. We did not attempt to intimidate them. We told them we did not want to hurt them. They came, they said, for ammunition and reinforcements; that they were told the fight had commenced. We remained on guard there all night, but let these fellows go home. Next morning some young fellows of the guard broke off from the main body after daylight and went on to the depot; some of them were drinking; we tried to prevent them—to get them to wait until the sheriff came, and endeavored to get this matter settled. We learned at that time that Jim Wilkes's company were all at the turn-table, a large place, and Reister's yard, which was barricaded. They slipped around the turn-table. They lay in the Methodist church, about midnight; they left their ambuscade and lay in the Methodist church and then slipped down and joined the Chester company down at the depot, and were there in Reister's yard and in this turn-table pit; we learned that in the night. There were very few of us on guard. There were only about twenty-five or thirty, including the Rock Hill and Winstonsborough companies, on guard that night. I remember only one man from the country; his name was Walker. The reason for telegraphing was the fact of nobody being there, and we have not many young men in Chester. When they started off I was there; I begged them not to go, but let the sheriff proceed locally. They started for the depot—these young fellows. I expected a collision. We sent for the sheriff, and he got out his men, and then we started on to the depot—the great body of the crowd did. As we were going to the depot, we met runners, saying they were drawn up to fight, probably a hundred negroes, and eight or ten whites confronting them. The word was given immediately to expect every moment the firing to commence; to arouse the people to come armed. After a little, Mr. Brawley, the solicitor, who was here yesterday, came down; there was great excitement; he said he would go on and stay to see Reister, the colonel of the black regiment in that district. They feared bloodshed might commence, and there would be no telling where it would end. He went ahead, and the company, not over twenty-five or thirty, all congregated together, marched over and formed at the depot. The negroes were about two hundred and fifty yards above at the turn-table and around Reister's yard, with a high thick fence barricaded to protect them from balls. Then the sheriff and the solicitor and some other gentlemen went on up to see if they could get the matter quieted, and get them to go home. General Walker came to me and says, "As you have been intimate with Reister, and have attended his family in sickness, you may have influence with him." I told him I would go up; I went up to see Reister, but by the time I got there they had negotiated a kind of truce. They agreed, or Reister agreed, that they should march out of town and disband. I did not believe they were going to do it; I was satisfied of that. I did not believe that Reister wanted a fight. He merely wanted to keep them there until he could leave the town; he was afraid of being killed. I did not believe him. I believed they would stay as they did before. I asked him when they would disband. He said, "Two, three, four, or five hours." He was indefinite. Sill, the sheriff, came down and dismissed his posse, and told them the matter was all settled; that they had agreed to disperse and go home. We all obeyed and went home. There was a colonel from Rock Hill there—I forget his name—a prominent man; he had been one of the negotiators; he rode out with them.

Question. A white man from Rock Hill?

Answer. Yes, sir. He rode along up with this company that went in order out of the

town, they pledging that they would disperse and go home. Reister went off that day. That morning he went with these Winnsborough fellows.

Question. Is that the last you know of Reister?

Answer. No, sir; he came back. He went on with the company to Winnsborough. He spoke to those gentlemen, and said, "I reckon there is no danger in going with you." They said, "No," and he went down with them and went on to Columbia. It all went off then until evening. I heard they were seen marching four or five miles above Chester going still embodied, but we did not know that positively until near night, and no word was sent to the country, so that people two or three miles from this — in the country did not know anything of this until the fighting commenced. This was the day before the fight.

Question. What fight?

Answer. Jim Wilkes's fight.

Question. Where?

Answer. Out in the country. The day this peace was negotiated Jim Wilkes marched off from the village. He did not disperse his men, as he promised, but kept them embodied, and went on some five or six miles from Chester, and camped that night. We did not know it positively until evening. We learned then that they had done it. We sent runners out, but it was too late. No word was sent to the country except by one man named Hardin, so that the intelligence did not get all around the neighborhood generally that these fellows were there. A good many did not know until the firing commenced next morning. But the day Wilkes marched his company up, or probably the day before, the word went to Union, and some fellows from Union came on over. They fell in with a few citizens of Chester on the road.

Question. You mean Chester County?

Answer. Yes, sir, Chester County; on the road coming down, meeting Jim Wilkes. They camped the night before the fight. That is the same night that Wilkes camped; they camped six or eight miles above that.

Question. That is, the Union men did?

Answer. Yes, sir, with a few of these Chester County fellows that they fell in with on the road; but that evening that they came, which was the night before the fight, Captain John Wilkes, a most respectable man, and a large owner—one of the wealthiest land-owners in the district, having about five thousand acres—

Question. A white man of the same name as this negro captain?

Answer. Yes, sir, but John; the negro is Jim. He is a very kind, humane man. He employs sixty or seventy negroes. He came with Dr. McCallum the same evening they left Chester, John Wilkes did, and went on down to the camp of the negroes that evening, the evening before the fight, the evening of the day they left Chester. He had a talk with Jim Wilkes; he knew him well. He persuaded him to disperse. He pledged himself that they would not be interrupted if they would go home to remain. Some of John Wilkes's men hearing him advising them to disperse, proposed to go home. This fellow Jim Wilkes, the captain of the negroes, leveled a musket upon some of them and told them that the first man that moved he would blow his brains out. Then some of the negroes of John Wilkes's —

Question. Then some of the negroes who worked for John Wilkes were in the band of this negro Jim Wilkes?

Answer. Yes, sir; and they wanted to go home. He is a very kind, humane man. He persuaded them to go home, and he would guard them; but Captain Jim Wilkes said he knew his business, and gave no satisfaction. Then John Wilkes went on and met the people coming from Union and some other people from that corner of Chester County. He saw them up at the camp, and came on down in the morning with that company (Wilkes's) and some ten or twelve men. I have taken a great deal of trouble to ascertain the facts about this case. There are a great many conflicting reports abroad. I have seen Wilkes and talked with him. Wilkes and some ten or twelve men went ahead, and got another interview with Jim Wilkes, and tried to stop a collision. He had told Jim Wilkes the evening before, "You know if you come up armed in this way what will happen." He knew he had got that ammunition, for some persons in Chester had seen it. All the buckshot in Chester had been bought up. A good many were armed with double-barreled shot-guns with one load. John Wilkes, in company with ten or twelve men, went ahead with this company that came from Union, as they were coming to Jim Wilkes's company. His purpose was to endeavor to get them to disperse and go home.

By the CHAIRMAN:

Question. That is, to get the Union men to disperse?

Answer. No, sir; to get the negro men to disperse. Captain John Wilkes was with these men that came from Union. He had fallen in with them the night before. They came on down the road, meeting in the direction of where Captain John Wilkes was camped the night before. You recollect I said before that he had an interview the evening before; he advised them to disperse, and they would not. When he came down with that company, he concluded to make another trial. He took ten or twelve men,

and concluded to go ahead and not bring up his company, and see them, and see if he could not get the matter settled. But as they passed a church where a great many big rocks are beside the road, about two miles above where Jim Wilkes and his negroes had camped the night before, suddenly a whole volley of musketry was fired upon them. They killed a horse and wounded another horse, and shot a man named Waters in the knee and crushed his thigh. It had to be amputated. When he fell, they all jumped up and showed their heads from behind the rocks and cried out, "There is one God-damned white face we have brought down. We have brought down one white-faced scoundrel." These fellows let their horses go. The men behind did not advance. There appeared to be some confusion. It was done suddenly. They did not expect to meet them there. They expected to come on them two miles to the east below that point, and were disconcerted. They were only ten or twelve men—not exceeding twelve, from the best authority. They immediately let their horses go. They had rifles, and advanced behind trees on these fellows, shooting as they went. Two of these white men got around the church, on the rear of these negroes, and commenced firing. When they did that, the negroes broke, stampeded, and ran. They ran two or three hundred yards, and stopped behind a gravel hill and fired one or two volleys, and then fled and dispersed. The people in the neighborhood, very few of them, knew of it, though they heard the firing. There happened to be a Captain Jeffrey Hardin heard it the evening before, and he went on with some men. In fact, he was warned of it, and started before he heard the firing. He got there, and undertook to pursue this Jim Wilkes with a fragment of his men who came on. The body of the men from Union did not pursue them at all, but came right on down to Chester. They were wearied and worn out, and their horses not fed, and that little fragment pursued some fifteen or twenty, I do not remember the number, of James Wilkes's company on up in the direction of York. I took very great trouble—there are so many reports. People put out for amusement about a great many being killed. I took a great deal of trouble to ascertain about the killed on the occasion, and I never could ascertain but three, possibly it might be four, with one boy of fourteen or fifteen, were killed at that fight.

By the CHAIRMAN :

Question. White men or black men ?

Answer. Black men. No white men were killed. This white man wounded had his thigh amputated. I understood that three negroes were killed. I recollect, to show how reports go, a man named Hyatt, a near neighbor, who had the best opportunity to know and who saw them, told of about forty or fifty being killed, and seeing buzzards there. I took him off to myself and asked him for the truth, and also this Jeffrey Hardin, and he told me there were only three. I have tried very hard to find out the truth. Possibly there might have been more. There were some reported killed at Turkey Creek Bridge. That is way up in the northwest corner of York; in fact, in York, but about the edge. There was one fellow killed there crossing the bridge, as it was reported; a number were killed there coming on to reinforce Jim Wilkes, but, from the best information I can get, but one was killed. I took very great pains to ascertain the facts, and I could not ascertain any more.

By Mr. VAN TRUMP :

Question. Is that the full history of that trouble ?

Answer. That is a full history of that trouble.

Question. What other facts do you know in regard to that county ? How many companies were organized of negro militia in Chester County ?

Answer. Four, I think.

Question. How strong was each company ?

Answer. I think they ranged to about one hundred men.

Question. All armed ?

Answer. Yes, sir; generally with these Winchester rifles, some of them with these repeating arms. Most of them with Winchester rifles, but I will not say Winchester rifles positively.

Question. Had they ammunition ?

Answer. Yes, sir; they had ammunition in that house and they were all shooting. They were shooting people's cattle, &c. They also had cartridges about.

Question. Is there anything else you know that you think you ought to state ?

Answer. I could state, if you wish it, in regard to Ku-Kluxism at Chester, and in Chester district—all that I know about it. Now, I am perfectly satisfied that there is no organization at least of any respectable portion of the community in that village. It may possibly be of some, but I have always been informed by the neighbors there that there are fellows that took it up suddenly. They might have had some connection with these fellows over in the dark corners of Union and Spartanburgh; but in Chester district I am satisfied there was no organization, and that there is no people anywhere more opposed to any such a thing or an organization of that kind. You might occasionally find some reckless fellow, broken up and reckless, who would say it is a good thing, this Ku-Kluxism; but take the respectable portion of the community, the settled

members of the community there, and they are all against it. In regard to Ku-Kluxism, I might state more. As I said before, since the war I have made myself somewhat odious, although I always had the respect of the best men in Chester, and associated with them, and practiced with them; but I made myself odious on account of my extreme Union views. After the war I went in for accepting the terms of the situation, and advised the people to accept the situation, and give the negroes their civil and political rights. I was a member of the convention, and voted with three out of one hundred and seventy-five or one hundred and fifty to give them all their civil rights and all the rights of the whites. I thought it might be best to have some qualification in regard to education for both blacks and whites. A large number of gentlemen thought so. Judge Darling and others expressed themselves so, but they had not seen their constituents. On account of my votes, some extreme men cursed me, and called me an abolitionist, but not the respectable part of the people. They appeared to approve of it. In fact, Mr. Hemphill and Mr. Melton, a lawyer there—my colleagues—both approved it.

Question. We do not care about individual instances. What are you coming to?

Answer. I wanted them to adopt the fourteenth amendment, but you know what they did. I have kept aloof from elections pretty much, but in the last election I took a part, and my purpose was to get Wimbush and Yocum beaten. I was in favor of Wallace; at one time I thought the leading men were going to vote for him, they had expressed so favorable an opinion of him. It was a matter of policy, but they backed out on account of some misconduct. I still voted for him; I have generally agreed with him in politics. I took a very active part in that election to get Wimbush and Yocum beaten.

Question. Were they negro candidates?

Answer. Wimbush was a negro, and Yocum a Canadian adventurer, a hanger-on of the army, who never fought any; a sutler or something. Their influence was most abominable there. They said everything they could say to excite the hatred of the negroes against the whites. In a speech down there he warned them not to trust a white man. I had that on good authority. Wimbush, as I am informed, repeatedly urged the propriety of taxing the people until they made them poor; that that was the only plan to bring about social equality. "Make them poor; jerk the property from the whites." In a speech down there he cursed the white blood that flowed in his veins. The black people don't like the mulattoes.

Question. Is that the fact?

Answer. Yes, sir; they curse them. This Jim Waller, the county commissioner, a leading negro, says he will never vote for a mulatto again. They do not like mulattoes. I could give you a little illustration: A very excellent man, considered so, Loomis, a northern clergyman, came to Chester. He was a preacher and teacher from some society. He built them a church at his own expense, or at the expense of the society. He appeared to be an educated man. He did not mix in society, although some of our people gave him attention; but he did not go out in society at all. He devoted his time to teaching and preaching to the negroes, and built them a church; but they did not like him on the ground that he paid too much attention to the mulattoes; that in the school he would make mulattoes hear the negroes' lessons, favoring the mulattoes. They would not go to hear him preach, or went very little, because he was white; but they would go to hear a negro, and I know there was a strong prejudice against him because he favored the mulattoes. Now, in regard to the general feeling of the State in this matter, along in last November, word was sent out to all parts of the State for some of the leading men to meet in Columbia, at the time of the fair, in private, secret matter. I suppose I must tell of this; for it pertains to it.

Question. It was a private meeting, not public?

Answer. Yes, sir. Nobody was to hear it. It was thought best nobody should know; that it should not be public. I attended the fair at Columbia, and attended this meeting. I think almost every district was represented, but I noticed nobody from this district except Baxter Springs, who, I am satisfied, was conservative, and would denounce Ku-Klux. General Kershaw was chairman. We had no paper, pen, or ink, on the occasion. He made a long speech. It was asked that every man in the assembly should give an opinion on the condition of things, and if we had any suggestions for a remedy, to make them; that was done by all. One of the chief points in the discussion was this very Ku-Kluxism, and it was looked upon as one of our greatest difficulties. Some of that had occurred way up in Spartanburgh about that time, and there had been a fuss in Laurens. We agreed, every individual, I heard no dissenting voice, to use our best efforts to put down everything of the kind. It was the opinion that it would ruin us—ruin us in the estimation of the people of the North. They all gave their opinions; all were sad and desponding in regard to the future. Mr. Simmons, from Charleston, a lawyer, did not want any of that published. He was afraid it would drive capital from the State. He was interested in that city, and the Charleston members were all afraid of anything of the kind being published, for they said it would drive capital immediately from Charleston. He spoke of some little publication,

about a meeting of this kind which was going to take place, in the Charleston News. The editor was there. He had said something about a meeting of that kind, and he stated that before 12 o'clock on the day that paper appeared, a man came to his office and talked about leaving, and he allowed that the thing would not do to discuss, but not an individual there appeared to have a ray of hope except from patience and trusting to the current of events. The experience of every individual there was that the negroes, as a race, would forever clan together as a matter of instinct. That was the universal opinion. This man Simmons appeared to think that some about Charleston would not—a good many mulattoes were there. He appeared to think it would do to try the negroes a little longer, but every other individual expressed the opinion that it was utterly hopeless to attempt it; that some little circumstance might arise; some disturbing cause or palliatives might interrupt that current, but, on the whole, that the instinct of race would rule; that they would clan together to pull down the white people; we all agreed in that matter. They appeared to think there might be some disturbing causes for a while to interrupt that or palliate it, but that was the tendency.

Question. That some difference of opinion among negroes might interrupt the unity or break the solidity of the race?

Answer. Yes, sir; but not to be of much practical utility. Mr. Simmons was the only man who appeared loath to give that up. He thought the negroes of Charleston had friends of the whites among them. Some own property there, and he was sensitive about capital. I understood that the general sentiment of that meeting was that negro government was established here in a way that never could be remedied. It was utterly hopeless. I expressed some opinion. If I may be allowed to state—and it will not take long—I know them. I have treated them very kindly. I have prescribed for them a thousand times, and I never whipped a grown negro. I never saw my father whip a grown negro in my life. I know I have no prejudice against the race. I look upon them as a dependent race, and that the people of the United States are responsible for their destiny. There were some negroes of my father who always came back to me for advice. I know they like us. Their attachments are never strong like those of white people.

By the CHAIRMAN:

Question. Are you through with this meeting at Columbia?

Answer. I will finish it while I have this in my head. It is not very clear. I spent three months electioneering with them. I have ten or twelve negroes working on my place. Some are intelligent. I pointed out the villainies—they were voting for Yocum—and I showed where he had stolen \$2,000 in this land speculation. I showed that land I had owned before the war, the best part of which I had sold at \$2 50 an acre, and thought I was doing a good business.

The CHAIRMAN. I think we will have to dispense with the account of your private affairs.

Mr. VAN TRUMP. I think he intends to give the sentiment of the negroes.

Answer. I detailed all these things. They saw the land, and admitted it was of no account. Mr. Davega bought the land, a few months before, for \$1,200, on credit, and sold it to this fellow for \$2,500. It was not worth over \$1,200; it was black-jack poor land, worth only \$1,200—\$2 50 an acre. I was glad to get rid of it. Six hundred acres were bought by him for \$1,200 and sold for \$2,500 to a man named Brawley, and Brawley got in with Wimbush, and they went down to Columbia and palmed it off for about \$4,000, which would be about \$8 an acre.

By Mr. VAN TRUMP:

Question. Come to the point.

The CHAIRMAN. The reason I interrupted you was, I supposed that your statement had some connection in some way with the Columbia meeting which I could not understand. But go on in your own way. I will not interrupt you in anything. I find great difficulty in understanding your words.

The WITNESS. I was going to show how I pointed out frauds to these fellows, that they could go to the clerk's office and see the deeds.

Question. Come to the point as to the negroes.

Answer. I convinced them out and out of the villainy. They know and acknowledged that Jim Waller, the county commissioner, was a notorious villain. They expressed themselves as relying on my statement, and appeared to be pleased to have me tell others. When it came to voting, I told them I was not a democrat, and that I did not agree with the views of the democrats, and intended to vote for Wallace; but I urged them not to vote for Wimbush and Yocum. Wimbush was strutting about there—a little yellow fellow—with the money he took from the public. I am satisfied about that. He drank a little, and strutted about. They agreed with me as to these things. Some of them were living on my place. They admitted all the villainy, but, to come to the point, they would vote for him. Here is what they would say: "We go with

our race, right or wrong." That is the cry. I am no speaker, you will see by my language; I have weak lungs and bad teeth, and speak with difficulty, and I am worse this morning than usual; but I turned out and spoke, or talked, to these fellows in the country. I went around. This opinion prevailed generally among them, "We must tax the people until we force them to sell the land. They will not sell the land to us, but, by taxation, the land will be brought to sale." I talked with one fellow at the meeting. They had told me he was not in favor of it. I said, "How would you buy it?" He said, "It will not sell for much, and the Government will buy and give it to us."

Question. Is that about all?

Answer. That is about all. Upon the whole—and I wish it were otherwise—I feel perfectly hopeless in regard to the future of this country, and so do the people here. They are ruining the country, cutting down all the little pieces of woodland. You know this country was ruined by the big planters before the war. The woods were all cut down by them here. They are planting no fruit-trees or other kinds. There is a fellow selling fruit-trees, or trying to, down at Chester, who is starving, and the idea seems to be, "Save himself who can."

Question. They are not looking to the future?

Answer. No, sir; I hardly know any one who can get away who does not leave. The larger portion of the people, if they could sell, would leave; they do not appear to be satisfied. They do not look to the future. The newspapers of the State have adopted the policy of not publishing these things. That thing was discussed at Columbia at the fair, that it must not be published, for fear of driving of capital and discouraging immigration. That is why our speakers and writers do not refer to these things with regard to the future.

By the CHAIRMAN:

Question. I have labored under the disadvantage of not understanding all that you have said, owing to the difficulty of your articulation, and I will ask you as few questions as possible, and request as direct answers as possible.

Answer. I will try to do so. I must apologize. I was sick all night, and I am feverish to-day.

Question. Who is Mr. Davega?

Answer. The intendant of the town of Chester.

Question. Is he a native of South Carolina?

Answer. He was raised in Charleston.

Question. What is his occupation?

Answer. He is a druggist there.

Question. You say he bought this land for \$1,200?

Answer. Yes, sir; and sold it to Mr. Brawley for \$2,500.

Question. Who is Mr. Brawley?

Answer. He was originally a northern man, and settled in Chester some eight or ten years ago.

Question. Is he a lawyer?

Answer. No, sir; Mr. Brawley lives way up on Bull Creek farm, in the northwestern part of the district. The land was sold to him for \$2,500, but he gave a bond for a title really.

Question. Wimbush assisted him?

Answer. Yes, sir; assisted him in selling it.

Question. Were Brawley and Davega both democrats?

Answer. Yes, sir; I suppose so. I do not know what Brawley was.

Question. Then Brawley and Davega were in it with Wimbush?

Answer. No, sir; Davega got \$500 in cash and a bond for \$2,000.

By Mr. VAN TRUMP:

Question. Then he was paid for his land?

Answer. Yes, sir.

By the CHAIRMAN:

Question. Brawley and Wimbush went together in the matter, and it was sold to the State for \$4,000?

Answer. Yes, sir; to the land commission.

Question. Do you know the terms between Brawley and Wimbush?

Answer. No, sir; I never could ascertain.

Question. So that if there was any corruption in it, Brawley was as much in it as anybody?

Answer. Yes, sir, I suppose he was, though some would not be guilty of such a thing.

Question. I desire to know whether Brawley and Wimbush were not in the same transaction?

Answer. Yes, sir. All that I know is the land belonged to Brawley, and Wimbush, it was understood, negotiated the trade.

Question. In directing attention to the rascality of Wimbush, did you put any of it on Brawley?

Answer. No, sir; because Brawley was not in the question. I was endeavoring to defeat Wimbush.

Question. Then you followed that up by saying that, in talking to the negroes, they replied, "The people will not sell their land to us?"

Answer. Yes, sir.

Question. Is that the fact?

Answer. No, sir; if the negroes have money they buy land.

Question. Are the people willing to sell to them?

Answer. Yes, sir.

Question. Who called this meeting at Columbia?

Answer. I think it was at the instance of General Kershaw.

Question. How did you get notice?

Answer. I do not recollect. I was informed by some citizens of Chester, probably General Walker; he attended with me.

Question. Was it a written or verbal notice?

Answer. Only a verbal notice. I do not know positively whether I was informed of it until I was in Columbia and saw General Kershaw.

Question. Were you the only representative from Chester?

Answer. No, sir; General Walker and Major McLure for a short time; but there was a big ball in town that night.

Question. Who was there from Spartanburgh?

Answer. I cannot think of his name. I am not certain whether Cannon was there or not.

Question. Who was there from Union?

Answer. A man named Rice.

Question. Who from Laurens?

Answer. I am not very well acquainted in Laurens. There was a man whom I knew, but I cannot recall him.

Question. Who was there from Newberry?

Answer. That I cannot recollect. I do not know their names.

Question. Was anybody but Mr. Springs there from this district?

Answer. I think not.

Question. You say in that meeting, which was private, every district in the State was represented?

Answer. Not every one; but the desire was to have them all. I do not know how many were left out, but there was a large room full.

Question. There was no pen or ink, and no proceeding published?

Answer. Yes, sir.

Question. In that meeting, you say the subject of Ku-Kluxism came up?

Answer. Yes, sir.

Question. You say they all admitted the evil that existed in the State arising from it?

Answer. I do not know that they all spoke, but all that did speak denounced it.

Question. But it was agreed in that meeting that nothing should be said about it publicly, for fear of the effect on capital?

Answer. No, sir, not that. Simmons thought that.

Question. What was the conclusion?

Answer. I suppose the idea was to not let the negroes and leaders in the State know about it, so that they might defeat any measure, or know anything of our discussions.

Question. Defeat any measure for what?

Answer. Any measure for relief in any way.

Question. That the negroes might not defeat any measure for relief?

Answer. Yes, sir, and the other party.

Question. Which party?

Answer. The radical party; although not much was said about party.

Question. Did you understand that the negroes would defeat any measure to relieve the negroes from Ku-Klux?

Answer. The purpose of the meeting was not for that, but rather in regard to consultation, and Ku-Klux came up.

Question. Did you understand, or was it the sentiment of that meeting, that it should be kept quiet for fear the negroes or radicals would defeat any measure taken in regard to Ku-Klux?

Answer. No, sir; it was in regard to general consultation about the future; about the best measures to take to protect ourselves. I think it is my duty to tell you further that this was agreed upon, suggested by General Kershaw. Some members spoke of outrages that were about to be or threatened, insurrections, or something of the kind, and General Kershaw, I recollect, remarked that he had heard things that made the

hairs stand on his head since he came to town. I remarked that there was no danger of fighting; that the leaders did not want to fight; they had all the offices, and their purpose was to ruin us by legislation. General Kershaw said, "I am not afraid of them, either, but a dog-fight or a drunken man might start a conflict like tinder, and then there might be a general fight," and it was suggested that we had better arm for the purpose of protection. We did not know what time it might come; that the negroes were arming and we were not.

Question. That was in November?

Answer. Yes, sir.

Question. Were the conclusions you arrived at, as to any measures to be taken to relieve the State from corruption and bad men in office, made public?

Answer. No, sir, nothing was suggested; in fact they did not appear to know of any remedy. They advised patience and waiting.

Question. Then no conclusion on either subject, either with regard to getting ready or putting bad men in office or checking corruption or in regard to the Ku-Klux, was made public?

Answer. No particular conclusion. General Kershaw dwelt on the necessity. No conclusion was made.

Question. Was any part of the proceedings made public?

Answer. We talked about it afterwards.

Question. Was it published in the newspapers?

Answer. O, no, sir.

Question. This conference met and considered these questions and adjourned?

Answer. Yes, sir, without any definite conclusion.

Question. Was the meeting itself kept a secret?

Answer. It was generally; it was not published.

By Mr. VAN TRUMP:

Question. Did you talk about it?

Answer. Yes, sir, at home.

Question. Then the only conclusion you arrived at in your meeting was that, with the negroes ignorant and having the right to vote, it was hopeless to attempt anything for the prosperity of the State?

Answer. Yes, sir; that we must wait and watch the current.

By the CHAIRMAN:

Question. That was November?

Answer. Yes, sir.

Question. Now, were not the outrages worse, after that meeting, throughout this northern part of the State than they had been before?

Answer. I think the Laurens affair had occurred, but I do not remember to what extent.

By Mr. VAN TRUMP:

Question. That was not by Ku-Klux?

Answer. No, sir, it was a riot.

By the CHAIRMAN:

Question. I asked you were not the Ku-Klux outrages, by men in disguise, worse after November in this county, York, and in Union?

Answer. Yes, sir.

Question. And in Spartanburgh?

Answer. I know they were in York. In regard to Spartanburgh I could not positively say. I know they had not occurred here, but I know that that was one that was dwelt on at length; that they were to be stopped.

Question. It was the unanimous sentiment, with the one exception, of Simmons, that to attempt anything while the negroes had the right to vote and were so ignorant it was hopeless?

Answer. Yes, sir; and the editor of the News—I do not know his name—thought but that it was well still not to shut the door against them. They all agreed upon that, not to shut the door against them, but to try. There was the fear in regard to capital.

Question. I have been struck with the similarity of the language you use and that in a communication from Chester, published in the Yorkville Enquirer, in reference to the hopelessness of reconciliation between the white man and the negroes in this State; are you the author of that?

Answer. No, sir, I would not write such a thing. I had nothing to do with it.

Question. I understood you to say that that is the feeling of the negroes against the white man now?

Answer. That is the prevailing sentiment; it is a hopeless condition of things, but I think it is very imprudent to publish such a thing in the paper.

Question. Although that is the prevailing sentiment?

Answer. Yes, sir.

Question. But you think it imprudent to publish it?

Answer. Yes, sir; for it might be mistaken.

Question. The real sentiments of that conference of the leading men from many districts of the State were suppressed and not published, among other reasons, for fear of their effect upon capital?

Answer. That was about the general sentiment. I noticed that the fellows from Charleston were very much afraid of anything being published. That man Simmons spoke of the article, mentioning that there would be a meeting, and how sensitive capitalists were.

Question. Did that refer to the intended tax-payers' convention?

Answer. No, sir, it referred to this very thing, this very meeting.

Question. I think you said that occurred in May. Was it before this day that he had made that publication?

Answer. The editor had written something saying that a meeting of the leading men was suggested, and when he did so it stirred up the capitalists, and he dwelt upon the impropriety of anything going into print. He said there was still hope of the negroes; that several hundred did not affiliate with the blacks in Charleston.

Question. Having given us your own position, you say that since 1868 the trouble began, when the negroes got to voting and were armed—

Answer. There has been trouble all the time, but since the reconstruction acts were passed they became violent. If you will let me I will give you an illustration. There was a meeting shortly after the reconstruction acts were passed. We had some meetings in Chester. A number of lawyers spoke. We were trying to make the best of it. The negroes had a meeting at Landsford.

Question. Will you just give us the illustration?

Answer. That is the one at Landsford, as to the feeling of the negroes. After the reconstruction acts were passed several lawyers spoke. The negroes had a meeting at Landsford, and it was composed of leading men from three districts, York, Chester, and Lancaster.

Question. Three counties?

Answer. Yes. Well, they were composed largely of the clergy. It was said there was a man from Charleston to address them, but he did not come. I was passing there, going to Lancaster. There were very few whites had old muskets. They had a barbecue, and I never in my life heard such incendiary speeches dragged into a meeting, and the earth would ring whenever they uttered those sentiments. It was, "The negroes must go together, right or wrong; the negroes must have land or blood." After they had gone through and there seemed to be no dissenting voice, they urged the whites to speak. As I said, there were very few whites there. Some of them called me. I lived in Lancaster one time, and they had met me in Chester, too. Although I had never attempted to speak in my life before, I then attempted it. I got up and told them, "You must not interrupt me now if I speak."—

The CHAIRMAN. I must decline listening to your speech on that occasion. I want to get through with this examination.

Mr. VAN TRUMP. If it shows the condition of the negroes at that time, I insist upon it.

Answer. There were no sealawags and no carpet-baggers. It showed the instinct of the negro. I got up and gave them a history of what they had done. I said to them, "You should be satisfied with your condition. You have done nothing in the advancement of civilization in this world except what has been forced on you through slavery to white men, but you ought not to grumble; the Almighty has made you so. I do not think you are made as smart as we are, but you have an opportunity in this country to save yourselves, and though you never before did it, and ultimately you must become as great a people, if you do not get drunk on liberty, as the whites, and even be greater, and become the head of the column." I went on and gave them a history of San Domingo.

Mr. VAN TRUMP. You need not give that.

The CHAIRMAN. I would like to have the doctor place himself here at full length on the record.

Mr. VAN TRUMP. I want to do what is right.

The CHAIRMAN. I wanted to do what was right. I wanted to stop him from that speech and confine the doctor to my question.

The WITNESS. I could not answer it better to give the state of feeling and the purpose of the negroes.

The CHAIRMAN. I did not ask a word as to events prior to 1865. You insisted upon going back to a speech made before that. Will you now, if you please, finish what you want to say to put yourself right on the record in regard to the negro; and then I will insist upon an answer to my question. Finish what you want to say.

Answer. I understood you to ask me if the violence had not all commenced in 1868, and I wanted to show you that it had not, because the negroes had it in them as an instinct before the white men came here to tell them.

By Mr. VAN TRUMP :

Question. Do you want to say anything more on that subject ?

Answer. I went on and gave them some history of San Domingo and Jamaica.

Question. Unless the Senator wants that, you need not tell it.

Answer. I will be short. They did not interrupt me much. I had practiced among them all. I had lived in that region. They interrupted me some, and said, "You wish to make us out brutes." I told them no, I did not. He said they never had had the chance of the white people. I said why, in taking the chances, did not Africa take the chances and be civilized ? It was as old a country as any in the world, but you Africans have never done anything but what has been forced upon you, and it is my duty to tell you the truth, that you are running wild here. It is your duty, if you wish to prosper, to affiliate with the respectable white people. You are a small number of people here, only three or four millions, and there are on this continent forty millions of whites. This party division may last for a while, but in course of time it will drop through, and the lines of the State will be overrun, and they will play the same game on you that you are playing on us.

By the CHAIRMAN :

Question. Is that all you wish to have put on the record as to that speech ? If you are through, I desire an answer to my questions, and shall insist upon them.

Answer. I will endeavour to do so.

Question. Did you not say that the principal part of the trouble with the negro had been since 1868, when he began to vote and since he was armed ? Did you not say that ?

Answer. I do not think I said that. The most violent acts were since the arms were put in their hands ; but it was in them. I have always contended that it was in them before.

Question. I am not asking your opinions on that subject, but what you have given us as to the facts.

Answer. Since 1868, I think, the violence first commenced by organized force.

Question. Did you not go on to say their conduct had become unbearable, as they marched through the streets in an imposing manner, with their white fellows at their head, making an offensive demonstration ?

Answer. Yes, sir ; some of them would do it—not all.

Question. Was the appearance of the negroes in a public procession with white men along with them in itself offensive to the majority of the white people there ?

Answer. That depends upon the purpose ; on that occasion it would be. It would not generally.

Question. You went on to say when Stokes was making a speech, but not an offensive speech, although he was an erratic man, some difficulty arose—some trouble ?

Answer. They were interrupting him.

Question. What kind of a meeting was it Stokes was addressing ?

Answer. It was at night. I do not know exactly how it was got up. He struck out on his own hook.

Question. What year was that ?

Answer. Eighteen hundred and seventy.

Question. Who was Stokes ?

Answer. A candidate.

Question. For what ?

Answer. For Congress.

Question. Then it was an independent meeting, called by Stokes ?

Answer. Stokes put out that he was going to make a speech and anybody could come.

Question. Who was he running in opposition to ?

Answer. Both the other candidates. He was an ultra State-rights man, and rather crack-brained.

Question. Then this was not a meeting of democrats or republicans ?

Answer. No, sir ; it was a promiscuous meeting.

Question. The negroes were there ?

Answer. Yes, in large force.

Question. Were you there ?

Answer. Yes, sir ; at one side, looking on.

Question. You say he was an ultra State-rights man ?

Answer. Yes, sir ; he was.

Question. Advocating his views ?

Answer. Yes, sir.

Question. And the negroes responded ?

Answer. They hallooed at him, and used expressions, "We have got you down, and we'll keep you down."

Question. And they sang John Brown ?

Answer. Yes, sir.

Question. Did you have any violence?

Answer. No, sir; but we expected it constantly. They followed into his hotel singing John Brown.

Question. The next thing you came to was the meeting at which Judge Carpenter was interrupted. Who had spoken before Carpenter?

Answer. There were Butler and Chamberlain, who had spoken, and that old negro from Charleston had spoken, and I think Tomlinson had spoken too.

Question. Had another colored man, Purvis?

Answer. Yes, sir.

Question. Then Tomlinson and Chamberlain and Purvis, who were republicans, had spoke...?

Answer. Yes, sir.

Question. And Butler and this colored man, who were democrats?

Answer. Yes, sir, or reformers.

Question. So that there had been three republican and two democratic speeches made to the crowd before this difficulty?

Answer. Yes, sir.

Question. While it was going on you heard somebody say, "There is the man that slapped Wimbush?"

Answer. I did not hear that myself, but that is what they all say. I saw a crowd running and dust flying.

Question. Do you know whether Wimbush was slapped before or after the disturbance?

Answer. He was never slapped at all. They said I slapped him. I did not slap him.

Question. The allegation was that Wimbush was slapped by somebody?

Answer. Yes, sir.

Question. Do you know whether that was before or after the disturbance?

Answer. That was after it commenced. The negroes were like tigers, screaming, and I put my hand on Wimbush, knowing he could stop them.

Question. Did you hear this sentence, or any sentence which Judge Carpenter had uttered, immediately before the disturbance, or were you listening?

Answer. Yes, sir; I was listening.

Question. Carpenter was speaking?

Answer. Yes, sir.

Question. Who got to bandying words with him?

Answer. Wimbush.

Question. What did he say to him?

Answer. He hallooed to him something about a decision in Orangeburgh, or some place, that a negro woman could not sue a white man for bastardy.

Question. Did he ask him whether he had made that decision?

Answer. No, sir; he hallooed out, "What about it?" I do not know that that was the word, but that was the purport. Then they commenced bandying words.

Question. Who did?

Answer. Wimbush and Carpenter bandying words; and Carpenter went on to say that he had made no such decision, or something like that. He said there was no law. It had been neglected in some way. He said to Wimbush, "I wrote to you about it." I think he was on some kind of committee.

By Mr. VAN TRUMP:

Question. Wimbush was?

Answer. Yes, sir; he wrote to him to have some law passed, and I recollect Wimbush, who had been guilty of bastardy there, went and consulted Judge Thomas, and asked if he could not get clear, as they could not sue anybody for bastardy on a negro. That is what they commenced bandying words about; and Carpenter hallooed out and repeated it, and got very much excited. He appeared to be sick. He had a chill. There were interruptions and interruptions. There was considerable talk went on about interruptions, and at last something like this, "It is a lie"——

By the CHAIRMAN:

Question. Who said that?

Answer. Carpenter—"It's a lie, like a great many more you have been telling," or "telling on me," or something like that. Carpenter said that, that either he or that the party had been telling them on him. I do not remember exactly the word. They all got very loud and boisterous about that time, the negroes all jumping up.

Question. Was that the point where they jumped, when Carpenter said it was a lie?

Answer. Yes, sir; about that time Wimbush ran among them.

Question. Now, during the time that Mr. Chamberlain had been speaking, had there not been questions addressed to him?

Answer. Nothing of a rough character.

Question. But questions?

Answer. Yes, sir.

Question. When General Butler was speaking, had there not been questions addressed to him?

Answer. Yes, sir.

Question. Had there not been questions addressed to all the previous speakers?

Answer. Yes, sir.

Question. And the questions and answers had all been respectfully made until this time?

Answer. Yes, sir.

Question. And it was when this question was put to Carpenter on the stand, whether he had not made a decision that a white man could not be indicted and convicted for seducing or for fornication with a negro woman, that it was followed by the language between him and Wimbush, which finally resulted in Carpenter telling Wimbush he lied, or his party lied, in that, as in a great many more things, that a disturbance commenced?

Answer. Yes, sir; but there was great excitement before that. But there was this agreement, that no man without the permission of the speaker should be interrogated.

Question. Had permission been formally asked in all the other cases in which questions were put, or had the man risen up and left it to the speaker to answer or not?

Answer. I do not think there was any excitement before that; they rose up in a respectable manner and asked the questions.

Question. Then it was at the option of the speaker to answer or not?

Answer. Yes, sir.

Question. When Wimbush got up he asked Carpenter this question?

Answer. No, sir; not when he first got up. They were bandying words before that about other matters, but about that time Carpenter was very much excited.

Question. Carpenter became very much excited after these questions were put?

Answer. He was excited before that by their interrupting him so often. He says, "It was the understanding that I was not to answer questions without my permission, unless I saw proper."

Question. At the second meeting were you present yourself?

Answer. Yes, sir.

Question. You say the negroes there had guns?

Answer. I did not go to it. I saw them going there with guns.

Question. Did you see any violence?

Answer. No, sir; I saw an old man, a quiet fellow, a candidate there, and they run him off, and they threw him over the fence.

Question. Who was that?

Answer. Will Walker, the reform candidate.

Question. Was that in the town of Chester?

Answer. Yes, sir.

Question. Did the negroes make any demonstration with their guns?

Answer. They threatened to shoot this fellow Purvis, who was a candidate.

Question. Was that the same man who had spoken?

Answer. No, sir; a different man—a Chester negro, who was a candidate on the reform ticket; but some of his friends got about him and took him off for fear they would kill him.

Question. Were there two negro reform candidates in Chester?

Answer. There were three.

Question. Were you advocating that ticket?

Answer. I was advocating the reform ticket, but directing my whole energy against Wimbush and Yocum.

Question. Was Wimbush a negro or a mulatto?

Answer. A mulatto.

Question. Was Yocum a white man?

Answer. Yes, sir.

Question. What three men on the reform ticket were negroes?

Answer. I may be a little confused. I know there was one white man, and the remainder negroes.

Question. You were advocating the reform ticket?

Answer. Yes, sir; I had not gone into it.

Question. You were willing to try the experiment of negro legislators?

Answer. Yes, sir; I wanted to try to get the bad fellows beaten, and negroes advised that we should nominate negroes or they would not vote with us. They told us we would split the ticket if we ran white men on our side, and we only ran one white man.

Question. Now, as to the subject of burning: You say there have been more burnings here since the war than ever before?

Answer. Yes, sir,

Question. Were there some before?

Answer. Machines, and sometimes cotton, were burned, but less here than in almost any other place in the State. There was less burning than in almost any other quarter in the State.

Question. Then you remarked that the negroes alleged that it was only where they did not get justice that these burnings occurred?

Answer. This was a negro man, George, said that—a very clever fellow who works on my place, but he is extreme and goes with the negroes. I says to him, "George, do not put so much cotton under the screw"—

Question. I have heard that he closed with a remark to you.

Answer. Yes; he said, "You will give justice, and they do not burn out people who give justice."

Question. Was that allegation from a negro that you put confidence in?

Answer. I put confidence in him in everything except about voting.

Question. Did you believe that reason which he gave you as coming from colored people influenced them, when they did this burning?

Answer. That appeared to be his opinion; I do not know how he got it up. He did not belong to the League, and his private opinion is rather poor of the negroes.

Question. In these cases of burnings was anybody prosecuted?

Answer. We could never catch them.

Question. Was anybody prosecuted for Johnson's case?

Answer. No, sir.

Question. Or Crane's case?

Answer. No, sir.

Question. And the widow you named—Hinston—was anybody ever prosecuted in that case?

Answer. No, sir; it was a quarter of a mile from the house.

Question. Or Mrs. Rainey's case?

Answer. No, sir.

Question. Nobody knows who burned them?

Answer. No, sir; but they were satisfied. There was a kind of quarrel or dispute about the cotton. They were satisfied that they did burn it, for they were very angry.

Question. Then do you assert that these burnings were to be charged to the negroes, though nobody knew who did it?

Answer. That was the impression there.

Question. If that be the case, that these negroes are charged with the burnings, and men of their race say they only do it where they do not get justice, how do they differ from the Ku-Klux in your estimation?

Answer. I have no opinions of Ku-Kluxing at all. I do not think that is any remedy for anything.

Question. Do you think it more probable that the negroes burn these gin-houses than the Ku-Klux did it?

Answer. There are no Ku-Klux there.

Question. None about Chester?

Answer. No, sir; I never heard of them there, except that after that fight there were some fellows came across a road down there that night.

Question. Is it your opinion that there are no Ku-Klux at Chester?

Answer. I do not know.

Question. Do you know who they are?

Answer. I really do not know. There is a man way up in this corner did it.

Question. Who?

Answer. I think, probably, it was Wick Smith. They professed to have his coat.

Question. You spoke of Major Eaves?

Answer. Yes, sir; an old man. The negroes were working his place, and the supposition would be that they took all the cotton. They were working on shares, and they burned the house to conceal it.

Question. You say the Ku-Klux are over in the dark corner, next to Spartanburgh; what do you mean by dark corner?

Answer. If I used the expression, it is meant for a corner up where there has been more disturbances than other parts. It is up in the direction of Union, rather a rowdy country.

Question. What do you mean by dark corner?

Answer. I might have said rough corner.

Question. Are the people more ignorant and unenlightened there than elsewhere?

Answer. I think so.

Question. Do you include in it any part of Chester County?

Answer. Yes, sir; the extreme northwest corner.

Question. You told us it was your belief that there was no respectable man in the Ku-Klux party, unless it was some man who had suffered losses?

Answer. Some desperate man, I thought, probably so. I really had no knowledge in any way. As for this fellow Smith, I just suspect him.

Question. Had you anybody in your eye when you spoke of somebody who, by losses, had become desperate?

Answer. No, sir.

Question. What leads you to think that there are that stamp of men among them at all?

Answer. I know there are very desperate men who have drank and lost fortunes. I had no man in particular in my eye. I thought probably there were so many over there that such characters would be likely to be among them.

Question. You believe there is such an organization in that corner?

Answer. Yes, sir; an organization. I think probably they club together.

Question. You went on to say that two white men were whipped for living in adultery with negro women, and that a white woman was whipped for living in adultery with a negro man?

Answer. Yes, sir.

Question. I want to know how it is that you reconcile your theory that this Ku-Klux organization is made up of lawless and ungovernable men with your statement that they undertake to punish crimes?

Mr. VAN TRUMP. Let me advise the doctor. You say "They are made up." He says "There may be such men among them."

The CHAIRMAN. I understood the witness to say he did not believe any respectable men are among them, except there are some reckless men. I will put the question, and I do not want any evasion. You say you do not believe there is any respectable man among the Ku-Klux, unless he is some man who has lost all and become desperate?

Answer. Yes, sir; I judge so; that is my opinion.

Question. You gave instances that you say have occurred of the punishment of white men for living in adultery with negro women, and of a white woman for living in adultery with a negro man?

Answer. Yes, sir.

Question. How do you reconcile that theory of the position of the men who compose the Ku-Klux with your statement that they are punishing crimes?

Answer. These low characters, although guilty of such conduct themselves, might whip others for it. I have seen it done in my time.

Question. Then you think the motive is not to reform society?

Answer. I would judge, from what I have heard of them, that they have not much idea of reforming anybody—not much idea of reform about them. I think there is not much reform in any Ku-Kluxing work that I see. There might possibly be some who are better. Their object might be to stop it.

Question. I come down to the riot at Chester prior to that riot or fight—I do not want to give any name it does not deserve—that difficulty at Chester. Can you give the date of it, for you gave the whole history without fixing the time?

Answer. I cannot give the day of the month, but I can give the day of the week.

Question. What month was it?

Answer. April, I think. I am not positive. My memory of dates is very bad.

Question. I think you must be mistaken, for I have an account of it or reference to it in a paper dated the 8th of March, so that I infer it must have occurred before that. I do not ask this to test your memory of dates, but to fix the date. Have you any recollection of the month?

Answer. I cannot fix the month; it was last spring.

Mr. STEVENSON. Here is a letter in the Yorkville Enquirer, dated March 15th, which speaks of the affair as having occurred in the previous week?

The CHAIRMAN. As you have stated that you have given a great deal of time to ascertain the truth of this thing, I will ask, did you never learn that two weeks before that a body of disguised men in the upper part of Chester County had gone to the house of three colored men, taken them out and beaten them badly, and taken from them three muskets which belonged to this company of State militia?

Answer. I do not know. I recollect talking to this gentleman, the captain of the troops at Cheser.

Question. You had not learned of it before, but in your inquiries you have made since, did you not ascertain that that was the fact?

Answer. I have never found out. Here is the conclusion I found out and wrote to Wallace. I learned that Abner Holly had been whipped, and also these white men in intercourse with negroes. That is all I could find, but it is twenty miles off to that corner.

Question. Did you not hear anything about three men, or some of them, going to the house of a man named Crawford, whom they charged with being one of the men that had whipped them?

Answer. No, sir; I have no recollection of that.

Question. And finding in his house some of these guns in a broken condition?

Answer. No, sir; I never heard of that. I know just what I stated in that letter.

Question. Did you not hear about three disguised men going to the house of a colored man named Jim Woods?

Answer. I have no recollection of hearing of him previous to the fight.

Question. Was not he a colored man who had got three or four friends in the house with him anticipating an attack, and was it not they who fired on that crowd and killed that horse?

Answer. I do not know Jim Woods.

Question. Had the killing of the horse occurred before the fight at Chester?

Answer. I think it occurred a day or so before.

Question. Several days before?

Answer. It may be—that is, the killing of the horse in the night.

Question. Was it not understood that several men were wounded in the fight, and that the colored men captured one or two of their masks?

Answer. I never heard that they were wounded, but they had a mask, and brought it down to Cheseter, and said they had Wick Smith's mask, and they had killed him. They reported at Chester, and carried the mask about on a pole, and said it was Wick Smith's mask.

Question. Did you not hear further that, on the Sunday night after the killing of Wick Smith, the party came back again in larger force to Jim Wood's house and were again repulsed?

Answer. I do not know Jim. I know I heard the negroes telling it. Of course these white fellows would not tell. I have heard negroes say they came there on Saturday or Sunday night.

Question. What day of the week was it the militia company came to Chester?

Answer. On Monday.

Question. Was it not the Monday following that attack that this militia company came to Reister, the major, and asked for more ammunition to protect them?

Answer. Yes, sir; I think it was Monday.

Question. Did not that company say they came in for protection?

Answer. Yes, sir; as I have said before, I was informed by Walker that Jim, the captain, said so, but the other negroes did not. They talked violently.

Question. Then it was said the fight had begun?

Answer. Yes, sir; a very responsible man, Williams, told me, and others did, that the words were said, "The fighting had commenced; to come on."

Question. Taking that view of it, who began the fight; was it not the white men, the disguised men, who attacked the negroes in their own houses?

Answer. This Abner Holly, so far as I know, was the only man I heard of that had been whipped. So far as that is concerned, I did not consider it an attack.

Question. Do you not think that if more of the colored men had taken the ground that these men did in the case of Jim Woods, and shot these scoundrels when they came to attack them, you would have had little trouble in Chester?

Answer. I suppose so.

Question. Were they not defending themselves?

Answer. I suppose they were defending themselves. I may have the dates confused. One of their attacks was after Darby was shot. He was shot either Friday or Saturday.

Question. When?

Answer. Previous to the Monday.

Question. Where?

Answer. He was visiting one of his neighbors, and going home, dressed in common clothes, he and the two other men, by moonlight, and the negroes lying in the corner of the fence fired on him.

Question. Was there any investigation into that?

Answer. They found the tracks in the morning.

Question. Did they see them?

Answer. They saw the tracks in the morning.

Question. Do you know they were negro tracks?

Answer. Yes, sir; by the negro's foot.

Question. Were they arrested?

Answer. No, sir; they could not find them.

Question. Could you tell the character of the men by the foot-prints?

Answer. They could distinguish the negro's foot in the plowed ground.

Question. Have they different tracks from the Ku-Klux?

Answer. The negroes may have done it.

Question. It would depend upon whether they were barefoot or not?

Answer. These negroes are very timid.

Question. Darby was shot on Saturday?

Answer. It was one of those nights; Friday or Saturday previous to the Monday that these fellows, I understood, made a demonstration down there. The white fellows never

told anything about it. We heard there was a demonstration. The white fellows did not tell. The disguised men did not.

Question. Was there anybody with Darby when he was shot?

Answer. Yes, sir; two fellows.

Question. Was he killed?

Answer. He was shot in the hip, and the last I heard he was confined to his bed.

Question. Was anybody identified with that affair as white or black, except by the tracks?

Answer. No, sir.

Question. That was put on the negroes?

Answer. Yes, sir. He was within a few feet of him.

Question. On Monday the negroes came into town. At that time was it not agreed that if Reister would get the colored men to leave the town the citizens would guarantee that nothing should happen to them?

Answer. Yes, sir; I think so. I do not remember particularly the terms, but something to that amount.

Question. They left the town on that day?

Answer. No, sir; they kept promising, but waited until night.

Question. Then did they go out?

Answer. They just went out and staid in the woods in the suburbs.

Question. On that night the intendant notified your citizens that as there might be danger of a fire, there should be a patrol?

Answer. Yes, sir; and danger of an attack.

Question. Was it not at this point that Reister, the major of the militia, proffered to the intendant of the town that if there were any apprehensions of fire he would take out his company and protect it against it?

Answer. No, sir; I never heard that, and I know Devaga denies that John Lee came up after he had his men martialled and asked if his services were needed.

Question. On Monday night somebody had proffered to assist in guarding the town, either Reister or Lee?

Answer. I never heard that Reister proffered. Lee came up to Devaga and said "Do you need us here to-night?"

Question. Then on that night, Tuesday, the men came down from Rock Hill and Wimsborough?

Answer. Yes, sir; eight or ten or twelve.

Question. That was after the company had gone out of town?

Answer. Yes, sir; but they knew they were lying in ambush.

Question. How in ambush?

Answer. In the woods.

Question. Were they waiting for anybody?

Answer. They were in the woods.

Question. Were you excited?

Answer. I am generally pretty cool, but that report came, and they said they looked around and saw them lying around there.

Question. Notwithstanding the negroes had been attacked in their own houses in this way, you are fully impressed with the idea that the negroes were going to make war on the white men?

Answer. I think that they did. I do not pretend to say that they probably might not have been urged. These fellows might have urged it and given it a start, but they had been domineering in that quarter.

Question. According to your theory, is the negro aggressive upon the white race, in presence of that great superiority which you mentioned?

Answer. They will not do it unless they are armed, but these were armed.

Question. Do you not believe that these negroes came in there honestly, apprehending that they were in danger in consequence of these attacks?

Answer. I know myself that Reister and Jim Wilkes—

Question. I want your opinion, not anybody else's.

Answer. My opinion was that Jim Wilkes's intention was to make an assault, to meet their companies and assault and take the provisions in the town, and massacre the whites and commence massacring from the cradle up. I could give a number.

By Mr. VAN TRUMP:

Question. What do you mean by number?

Answer. I said number; I meant I could give a number of instances or illustrations of proof or facts.

By the CHAIRMAN:

Question. The question is, whether your honest belief was not that the negroes themselves were apprehensive of danger to them, and you have turned off to Wilkes's move-

ments and intentions. I want to know your opinion about the body of negroes who came there

Answer. My opinion was, that they believed the fight had commenced, and they were ready for it, and anxious to get these fellows to unite, for their words were—three of Wilkes's men told us so. They were armed.

Question. On Monday morning, was it not your information that one of the men from Rock Hill did attack a negro at the depot?

Answer. No; they said it was not an attack. They said this man from Rock Hill had attacked the negro, but Dr. Jordan said the man went up and asked the negro "Is your gun loaded," and put his arm on it, and the negro ran back, and it went off.

Question. You said yourself the man was drunk.

Answer. No, sir; I said I supposed he was drunk; he might have been; I do not know.

Question. Knowing, as you do, the feeling of the white man toward the negro, and supposing this man drunk, have you any idea that he went up offensively, demanding his gun?

Answer. No, sir; I think the negro did not intend to shoot. He was so frightened, he just ran back like a coward.

Question. That was magnified again into an attack by the negroes upon the white men?

Answer. No, sir; they commenced shooting generally—the negroes did.

Question. Was not that magnified into an attack by the negroes upon the white men?

Answer. No, sir; I did not say it was.

By Mr. VAN TRUMP:

Question. You say they shot into the hotel?

Answer. Yes, sir; a large number of them—a very great number of them—and only eight or ten white men. The balls rained through the glass everywhere.

By the CHAIRMAN:

Question. It was agreed on Tuesday or Wednesday morning that the company of militia was to go out of town, and the armed whites from Winstonsboro to leave?

Answer. Yes, sir.

Question. Was that carried out?

Answer. Yes, sir; they went out of town, but did not disperse or scatter.

Question. Was it not further stipulated, as the negroes said they were afraid to return in the direction of Carmel Hill unarmed, that they were to go off in that direction with their guns?

Answer. No, sir; there was no understanding that I heard of, only that they were to disband.

Question. I find a correspondent writing a letter to the Yorkville Enquirer, from Chester, dated the 15th of March, 1871, in which he makes that explicit statement, and this is written after the occurrence: "As they professed to be afraid to return in the direction of Carmel Hill unarmed, they were permitted to move off with their guns, under the agreement (as your correspondent is informed) that they were to march out five miles, and there disband and disperse."

Answer. Yes, sir, to disband. They were to go out and disband. They went out with their guns, but were to disperse when they got out.

Question. What time of day did they go out?

Answer. In the morning about 6 or 7 o'clock; quite early.

Question. They remained there that day?

Answer. No, sir; they marched out about five miles above and encamped.

Question. When they were there, the occurrence took place resulting in the killing of three negroes?

Answer. No, sir; John Wilkes, the white man, came down with Dr. McCallum and persuaded them to disband and go home, and nobody would trouble them, and they would not agree to do it. He went back and met these fellows coming from Union and other neighborhoods, and they came on down to see what it was.

Question. Did they move on further up there?

Answer. Yes, sir; next morning. Wilkes said that ten or twelve of them went ahead, as I understood, for the purpose of giving them another talk, and they had moved up about two miles.

Question. You have given that whole narration, and you say you have given that subject a great deal of study to get it right, and all through it you have omitted the name of a man named Gist?

Answer. I have heard of him, but I do not know that I know him when I see him.

Question. Did you not hear that he was in command of that party?

Answer. No, sir; I heard that he claimed to be in command of the party from Union.

Question. You say you have taken a great deal of trouble to ascertain the facts on this subject?

Answer. I do not know Gist.

Question. Did you hear that Joseph Gist from Union was in command of the party which was fired on by the negroes?

Answer. No, sir; I always heard that John Wilkes was. Gist, I was under the impression, was behind with a company.

Question. Either you have not correct information or Gist has not.

Answer. I never heard his name mentioned as among that ten or twelve.

Question. In making your inquiries did you inquire exclusively of white men, or did you go to Jim Wilkes?

Answer. I did.

Question. To Jim Wilkes?

Answer. No, sir; never in my life.

Question. Did you inquire of the negroes?

Answer. I tried to find out from the negroes if they knew of anybody killed.

Question. Who told you forty were killed?

Answer. That was Tom Hyatt, a near neighbor, for fun.

Question. Did he live in the neighborhood of the fight?

Answer. Yes, sir.

Question. Did he talk about burying them?

Answer. Yes, sir; he said he saw the burying of some two or three, and that the buzzards were about.

Question. He said there were thirty or forty killed?

Answer. Yes, sir. I took him off privately and asked him about that.

Question. Who is Hyatt?

Answer. A man living in that neighborhood.

Question. Was he one of the parties along with the Chester men engaged?

Answer. I do not think he was.

Question. Do you know?

Answer. I do not know positively. He is a very busy kind of man.

Question. How far distant is his farm?

Answer. Right by there—a mile or less.

Question. You think he was not in the party?

Answer. Maybe he was.

Question. Who was he telling this to?

Answer. A large crowd at the lawyer's office.

Question. He was telling the crowd what occurred there?

Answer. Yes, sir.

Question. To a crowd of white men?

Answer. Yes, sir.

Question. Was he telling them what you have stated?

Answer. Yes, sir.

Question. Boasting?

Answer. Yes, sir.

Question. How many did he say?

Answer. He talked about a great many being killed and the buzzards being about.

Question. How many did he say were buried?

Answer. Only two or three.

Question. How many did he say the buzzards were at?

Answer. They could not get them buried.

Question. Did he not say he saw buzzards flying about?

Answer. He was a kind of humorous fellow, and I knew him well enough to take him off with Captain Jeffrey Hardin, who chose this Jim Wilkes, and I told him I was required to write the facts to Washington, and he told me he was just telling it for sensation or something of the kind; but he only knew of two or three buried or killed. He could not hear of more than two or three. From all I could hear, three were killed. I heard of another, but not definitely—probably four were killed.

Question. Was this man who gave this account, in sympathy with the whites or blacks?

Answer. With the whites.

Question. Then if there have been exaggerated statements sent abroad of the evils inflicted on the negroes, they are as likely to be traceable to such men as this one you have named as any others?

Answer. It may have been, but he was joking.

Question. It was a publicly made statement?

Answer. Yes, sir.

Question. On the same night of this disturbance was not Reister's house visited?

Answer. That was after Reister went away.

Question. What was done with his house?

Answer. I do not know. I heard that stated; there was some report that his house was gutted.

Question. Was it so?

Answer. I think not, for I heard his wife say they had lost nothing, or little or nothing.

Question. How did the word get to those men at Union?

Answer. I don't know. I heard somebody had sent word that the negroes were marching on Chester, or something of the kind. Would it be permitted to tell Reister's statement before he went away?

Question. You can ease your conscience by telling all you know.

Answer. I assisted Reister's family and had befriended him. Some drunken fellows were disposed to plague and tease him. I was attending his wife and was intimate with him. On the morning he started away, he sent for me and said to me, "I am about to leave here. I think I have been treated badly by the citizens. I cared nothing for their good will. They accused me of instigating this matter;" but he said his course had always been different, and he had lost the confidence of the negroes. He says, "If I would tell you the number of efforts to butcher you that I have put down, or the times, it would startle you." They intended to butcher. He says, "If you men have good sense you will know I have a fat office here. I could not get more, and why should I want to start a fight where I would get killed?"

Question. And yet the public charge was made that Reister was the instigator of this disturbance?

Answer. Yes, sir; but I have always said he did not do it.

Question. Was he not compelled to leave?

Answer. Yes, sir; he got alarmed, and I think it would have been dangerous for him to have staid.

Question. How many persons have been whipped in Chester County that you have heard of, and of whom you believe it?

Answer. It has been done away off in that corner, twenty miles out, and I do not know.

Question. Have you given attention enough to know the number?

Answer. No, sir; because the negroes did not let it leak out very much.

By Mr. STEVENSON:

Question. You say you ran three negro candidates there last year?

Answer. I will say this, that Alexander Purvis was the candidate for the senate. I am now a little confused. I do not remember how many candidates we had, but three or four. Only one of them was white.

Question. Were the negroes who ran remarkable for intelligence and education?

Answer. This Purvis was considered so. He had been sent by the negroes to the convention, and was considered about as intelligent as any.

Question. Was he a slave before the war?

Answer. Yes.

Question. Could he read and write?

Answer. Yes, sir.

Question. How about the others?

Answer. The other was a pretty ignorant fellow—naturally smart—that is Will.; and then I think the other one also could read.

Question. Were the others slaves before the war?

Answer. All were slaves.

Question. In this fight near Carmel Hill Church—

Answer. It was not at Carmel Hill Church.

Question. Well, near there.

Answer. Yes, sir; it is three miles below there. It is in that neighborhood; it is on the same road.

Question. A large body of the negroes were driven away toward York?

Answer. I heard something like twenty were.

Question. Who pursued them?

Answer. There was Captain Jeffrey Hardin was one I recollect.

Question. You call him Captain Hardin?

Answer. Yes, sir.

Question. Who was he?

Answer. A citizen of the district.

Question. A white man?

Answer. Yes, sir.

Question. Why do you call him captain?

Answer. He went, I believe, as a captain once.

Question. Was he in the army?

Answer. O, no; perhaps he was in the army as a private, but not a captain in the army—a militia captain.

Question. You understood one or more negroes were said to have been killed at the river ?

Answer. No, at Turkey Creek bridge.

Question. Is that over Turkey Creek ?

Answer. Yes, sir. They were first talking about a good many being killed, but after examining around the neighbors, they did not appear to know any; but, at least, probably one was killed.

Question. How far was that from the scene of the fight in Carmel Hill neighborhood ?

Answer. I think it was four or five or six miles.

Question. How far is it from the York line ?

Answer. It must be near about the line; I do not know, but it is in York.

Question. Were not these negroes coming here to York to get the protection of the garrison ?

Answer. No, sir; they were going the other way—going down for reinforcements.

Question. Then this was a separate fight ?

Answer. It was no fight.

Question. Men could not be killed without a fight ?

Answer. Going down, there may have been some words passed.

Question. What became of that band of about twenty men who fled from the point where the fight occurred toward York ?

Answer. They came on here. I think they put them in jail here. I do not know exactly how many. They took their arms away and put them in jail.

Question. Who pursued them ?

Answer. Jeffrey Hardin was one—the only man whose name I ever heard.

Question. Who killed the man at the bridge ?

Answer. That was a different affair altogether.

Question. Was it the same day ?

Answer. Yes, sir.

Question. How far was that from the road these other men took—Jeffrey Hardin ?

Answer. It must have been several miles. That is over toward the river in the direction of Union.

Question. Do you remember who this correspondent "X" is who writes to the Yorkville Enquirer from Chester ?

Answer. No, sir; I don't know. A good while ago I recollect of reading some piece here—

Question. No matter about that.

Answer. I never write for that paper.

Question. He says in this letter :

"The number of negroes killed in the skirmish and pursuit has not been definitely ascertained by your correspondent. That there are some new-made graves in the western side of the county, and that the buzzards have been observed circling around and about in a very inquisitive and mysterious manner, he thinks there can be no doubt."

[Handing the witness the Yorkville Enquirer of March 16, 1871, in which appears the following letter, which the witness examines :]

[*"Correspondence of the Yorkville Enquirer."*]

"LETTER FROM CHESTER.

"CHESTER COURT-HOUSE, *March 15, 1871.*

"From the state of excitement and commotion in which everything was here last week, we have returned to our normal condition of peace and quiet. How long to remain so, your correspondent, not being of the school of prophets, does not undertake to say.

"To go fully into a detailed account of all the local causes which led to the culmination of last week's shooting and bloodshed would far exceed the limits your kindness allows me. Suffice it to say that the whole occurrence is but the legitimate fruit of the seed sown last fall by Governor Scott and his despicable tools in this county, Wimbush, Yocum, Saunders, Humphries, Reister, &c.

"The western side of Chester county is its main cotton-growing region, and is divided up, for the most part, into large plantations, worked by large gangs of negroes. It is a well-known fact that negroes are more ignorant, vicious, and debased where they are gathered thus into large gangs than where they are subdivided into smaller parties, and are brought more immediately into contact with the white race. Carmel Hill, the point from which Captain Jim Woods's company hails, is about the center of this system of large plantations. Last fall a militia company was organized there during the canvass for governor, and duly supplied by Governor Scott and Adjutant General Moses with a full equipment of those breech-loading muskets, with full supply of ammunition, in which the latter is supposed to have made so handsome and so

dishonest a speculation. Since the organization of the said company, the conduct of the negroes in that section has been insulting and bullying in the extreme, while forbearance, in the hope that somehow or other the condition of things would be bettered, has marked the action of the white people. Three or four weeks ago, under the pretext that they were about to be attacked by the Ku-Klux, and with open threats of their readiness and desire to exterminate that mysterious organization, the members of this company began to picket the highways and byways, and, in many instances, stopped and turned back unarmed white men who were moving about the county on legitimate business.

"On Saturday night, the 4th instant, as three gentlemen were returning together about 10 o'clock from an evening party at the house of Mr. David Seely, they were suddenly fired upon from the corner of a fence, and one of them, Mr. James Darby, a young man of the most quiet and inoffensive character, so badly shot as to be made a cripple for life, if, indeed, he is not mortally wounded.

"The negroes claim that on the same night, at a late hour, the house of 'Captain Woods' was attacked by the Ku-Klux, and that they drove them off, followed them, and succeeded in killing one horse. This your correspondent believes, from the best information he can get, to be false.

"On Sunday morning the militia company turned out under arms, and continued through the whole day to march and countermarch upon the public highway, behaving in the most boisterous and indecent manner, and indulging in the most violent threats. On Sunday night they claim that the house of their captain was again attacked by a larger force of Ku-Klux, and that they again succeeded in repulsing them. Of the truth of this your correspondent has no evidence, and his respect for the valor of the Klan (provided always that there is such a thing) forces him to discredit it, unless, indeed, the attacking party consisted of the gang of negroes who went about on the same night, and in the same neighborhood, committing depredations at various places. In that case there may have been an attack and repulse, as stated, all preconcerted among themselves. This gang of negroes went to the house of Mrs. Atkinson, an unprotected widow of the highest respectability, demanded all the arms on the premises, found an old rifle, which they took out and broke, and were guilty of other acts of outrage and violence.

"On Monday morning the militia company, about eighty men in ranks, started at an early hour to march on this town, and at the same time runners were sent through the country to notify the negroes on the plantations that the fight had begun; that the militia company at the court-house was ready to help, and that large reinforcements were coming from Newberry and Union. They reached here about 9 o'clock, marched into the corporate limits, stacked arms, placed sentinels upon the street leading toward Union, and refused to allow peaceable and unarmed citizens to pass. The sheriff of the county, being notified of their presence, went to them, told them their assemblage was an unlawful one, and ordered them to disperse. They professed that they had no unlawful or evil purpose in view; that they had left their homes because they could not stay there in peace and safety; and that they had come here to seek peace and protection. Reister, their major and friend, professed the same thing. How much truth there was, either in their statements or his, can easily be determined by the account furnished to the Union by the said Reister. This account says, 'The members of the company of militia came to the major of the regiment, in the town of Chester, for more ammunition, which he gave them.'

"After considerable parleying and negotiating with them on the part of the civil authorities, they finally agreed to go off and disperse at 4 o'clock in the afternoon. At that hour they did move off in the direction of Carmel Hill, and it was at once thought that the disturbance was at an end. Soon afterward, however, it was discovered that their pretended going was all a trick; that they had retired about a mile from town and concealed themselves in the woods till dark, and had then marched round the town to the Methodist Church (colored) on the York Road, in which they had secreted themselves.

"The citizens of the town promptly turned out and placed themselves at the disposal of the civil authorities. It was determined by the latter, in view of the condition of affairs and the responsibility resting upon them, to confine their action to guarding the town through the night, and to await for daylight to develop the situation. Dispatches were sent to Rock Hill and to Winnsboro that the negroes seemed bent on bringing on a collision. On the half past ten train twelve men came from Rock Hill, and at once reported to the intendant of the town, stating that they were here for the purpose of assisting the civil authorities. About 1 o'clock, Tuesday morning, a detachment composed of six or eight men, out on guard duty, met near the depot a colored man armed with one of the rifles of the militia. He was asked if it was loaded, and replied that, 'It was none of their d——d business.' One of the detachment approached him, when he stepped back and leveled his gun. He was fired at with a pistol, but not struck, and immediately a volley was fired from a point up the railroad opposite to the house of Reister. This firing was kept up for some time, a good many of the balls

from the negroes' rifles striking Nicholson's hotel, one of them going into Mr. Nicholson's room and hitting the wall dangerously near to him.

"As soon as this disturbance occurred between the town guard and Reister's body-guard, (composed of a detachment of Captain John Lee's company of militia,) the Carmel Hill company, secreted in the church, about half a mile distant, moved down to Reister's house and formed in and around the turn-table of the King's Mountain Railroad.

"The citizens (white) were at once under arms, and could in a very brief space have given the militia some ideas in manœuvering and attacking that their officers haven't yet taught them. With great forbearance, however, and with an earnest desire not to shed the blood of a single one of these miserable dupes of such knaves as Reister and others in higher stations, the civil authorities again determined to defer any action whatever till morning. About sun-up the body of white men moved to the depot, and there they found the negroes drawn up in line of battle, their center and main force extended in the turn-table, and their wings entrenched about fifty feet on each side. The afore-said colored folks were immediately *advised* to 'git.' After some little 'standing upon the order of their going,' they agreed to 'go at once.'

"As they professed to be afraid to return in the direction of Carmel Hill unarmed, they were permitted to move off with their guns, under the agreement (as your correspondent is informed) that they were to march out five miles and there disband and disperse. They thus secured the object of their coming to town; that is, they got a fresh supply of ammunition, and were ready for the skirmish of Wednesday morning. Treacherous, as by nature they are, instead of disbanding upon reaching a point five miles from town, they moved on and took up a very strong position at New Hope Church, and sent runners out to bring in rations and reinforcements.

"On Wednesday morning, as some gentlemen from Union, together with some from this county who had joined them after they crossed the river, were coming to this town, they were suddenly, and without any warning whatever, fired upon by this band of outlaws concealed behind the trees and rocks near the said church. The result of this fire was that John W. Waters was shot in the knee, and has since had to have his leg amputated. The whites at once returned the fire; and after a brisk skirmish of a few minutes the militia turned and fled in every direction. The largest band, nineteen in number, took the direction of Yorkville, for the purpose, we suppose, of seeking the protection of the garrison there. We learn that the sheriff of your county promptly turned out and arrested the whole gang. Of this, though, and all the particulars connected therewith, your local is better informed than we are.

"The number of negroes killed in the skirmish and pursuit has not been definitely ascertained by your correspondent. That there are some new-made graves in the western side of the county, and that the buzzards have been observed circling around and about in a very inquisitive and mysterious manner, he thinks there can be doubt. With this skirmish ended open hostilities.

"On Tuesday night, while the wind was at its highest, the store of Mr. P. Nail, situated in the center of what is left of the business part of the town, was set fire to, and if it had escaped discovery ten minutes longer, the people of this town would to-day be houseless and homeless.

"On last night an attempt was made to fire the private residence of Mr. A. H. Davega, the intendant of the town; the incendiary was pursued and shot at by some of the guard on duty, and fired back at them in return; but he succeeded in escaping to the woods.

"On Tuesday morning last, after the threatened collision at his house was over, Reister sent and asked the fourteen gentlemen who had come up from Wimsborough, and whose number his cowardly fear or intuitive fondness for lying magnified into fifty, if he would be safe in going on the cars with them. Upon his being answered that they had no purpose to harm a hair of his head, he proceeded on the cars to Columbia. On Wednesday evening he returned with a company of United States infantry; but on Thursday morning left again. Whether his last departure was occasioned by a conviction on his part that the climate of Chester was not 'good for his wholesome,' or whether he was needed in Columbia to do the necessary lying for the radical party, so as to make for the administration at Washington, your correspondent does not undertake to determine. No matter which was the motive, the contingent fund of some of the head thieves will have to support him while he plays the heavy role of martyr.

"The garrison here was reinforced during the week by other companies of the eighteenth infantry, and now the eternal and infernal rattle of the kettle-drum is scaring away all the birds from around town. The voice of the turtle is no longer heard in the land.

"On Saturday afternoon, one Captain Kennedy, of the State militia, arrived here from Columbia, with orders from Governor Scott to collect all the arms from the militia in this county. He is now employed at the work.

"A reporter of the New York Herald arrived here on yesterday morning to write up

the occurrences of the past week. I suppose the true history of all that has happened will not be known till his imagination has had time to play around the subject.

The Chester Reporter office is to be sold for cash, to the highest bidder, on the first Monday in April. Except that of the Enquirer, there is not a country office in the State as well equipped as the Reporter office. Chester presents as fine a field as there is in the State for the establishment of a first-class weekly.

“X.”

Answer. I think I know who wrote that. It is written for a sensation.

Question. Is that the way the people down there treat these things?

Answer. I do not think it is right; I do not approve it.

Question. Who wrote it?

Answer. I really don't know. I just recollect —

Question. You say you think you know?

Answer. I think, probably, McLure wrote it.

Question. Who is he?

Answer. A lawyer.

Question. A respectable man?

Answer. Yes, sir; an editor of the paper there now.

Question. Do you call him judge?

Answer. No, sir; it is his brother that is a judge.

Question. It is a brother of Judge McLure, the man who was here yesterday?

Answer. Yes, sir. I am satisfied, though, that if he wrote it he did it for a sensation. I do not justify it.

By Mr. VAN TRUMP:

Question. Just like Tom Hyatt spoke?

Answer. Yes, sir; I know the man.

By Mr. STEVENSON:

Question. Has anybody been punished in Chester for any of the killing done there?

Answer. I do not know of any killing except in that fight.

Question. Any in that fight?

Answer. No, sir. They do not know who killed them.

Question. Do they not know who were in the fight?

Answer. Yes, sir; they know who were in the fight, but the negroes fired first.

Question. The others fired last and pursued them for eight or ten miles?

Answer. Yes, sir; some of them.

Question. Do you call that self-defense?

Answer. Well, I do not know what you might call it. I do not know whether you would call it self-defense. If you will allow me to say, I do not think Harden got to the ground where the fight was or met these fellows. He heard there was a fight and just pitched in and pursued these fellows.

Question. It was not self-defense on his part?

Answer. No, sir; he might think there was a fight and naturally pitch in.

Question. Has he been tried?

Answer. No, sir.

Question. Has he been accused?

Answer. I have never heard anything of it.

By Mr. VAN TRUMP:

Question. Were any of the negroes killed that came toward Yorkville?

Answer. No, sir.

By Mr. STEVENSON:

Question. How do you know?

Answer. I have inquired of him. I have every confidence in the man.

Question. You inquired of Harden?

Answer. Yes, sir. They said they could not keep up with their mules.

Question. The negroes were on foot?

Answer. Yes, sir.

Question. And they were on mules and they could not keep up in a race of ten miles?

Answer. Yes, sir; they took high cuts in the fields. They did not see them. They found they were coming in that direction. The negroes did not run in the road.

Question. Has Captain John Wilkes been prosecuted?

Answer. No, sir; nobody has been prosecuted. I do not know as Wilkes fired a gun. He tried to calm the matter.

Question. Yet you understood he led the whites?

Answer. No, sir; he was going forward to advise them to stop.

Question. You understood him to be the leader?

Answer. So far as there was any leader. He did the talking the evening before, and there were a good many of his negroes in that party.

Question. Who is Captain John Wilkes?

Answer. A citizen, a farmer, a wealthy man, with a great many acres—five thousand acres, and many negroes.

Question. Why did you call him captain?

Answer. I believe he is some old militia captain.

Question. Was he in the war?

Answer. I do not think he was. Some of these fellows that had a good many slaves staid at home.

Question. Did they call him captain because he had slaves?

Answer. No, sir. I was mistaken. He is not captain, but Major John Wilkes.

Question. You do not even know that this man from Union, Joe Gist, was in that fight?

Answer. I never had my attention directed to him. I heard General Walker say they talked with him in the village, and he was pretty drunk.

Question. Who was drunk?

Answer. Gist.

Question. Was Gist drunk?

Answer. Yes, sir. He was drunk when he came down with the crowd to the village. They did not pursue the negroes. They just came down with their horses to get something to eat and then turned around and went back.

Question. Your understanding was that they had nothing to do with the fight?

Answer. No, sir; I do not know exactly who was in the fight. I have inquired particularly and I have always understood that there were about ten or twelve only in the fight, and they went to try to negotiate a peace.

Question. That was your information, after much careful inquiry?

Answer. Yes, sir; the best information I could get. I do not remember of Wilkes mentioning his name.

Question. Has this man from Rock Hill who shot the negro militia man been arrested or tried?

Answer. No, sir.

Question. No proceedings against him?

Answer. No. Really I do not remember who he is.

Question. You did not find out who he was?

Answer. I may have heard it. He asked him to let him look at his gun. He said, "Is that gun loaded? let me look at it;" and the negro, who was a terrible coward, ran back and the gun went off, and he shot him with his pistol and wounded him.

Question. You say the people of Chester have no objection to selling lands to negroes?

Answer. I do not think they have.

Question. Do you mean that if a negro was able to buy a gentleman's plantation and pay him for it, the gentleman would have no objection to sell?

Answer. I think so.

Question. But are your owners willing to sell lands to negroes in such quantities and upon such time as would suit the negroes' abilities to pay?

Answer. There is very little ability. The people are all hard-pressed.

Question. Is there any disposition to sell lands in small quantities for homesteads?

Answer. I know I want to sell some, and McLure.

By Mr. VAN TRUMP:

Question. Is there not plenty of land for sale?

Answer. Yes, sir; in the village, I think, a good many people let these people have lots. I let them have several lots and never got any pay for it. They got tired of it, and went off.

By Mr. STEVENSON:

Question. Is there a disposition among the land-owners to let the negroes have homesteads to cultivate on such terms as would suit them; that they could buy them—selling the lands in small quantities on time?

Answer. I do not think they would. They think it would be most fatal to the interests of the country. To tell the truth, if you ever get the negroes on these little homesteads they will starve. I counted forty-two buildings the negroes squatted in down there, and they are nearly all vacant now. They will settle down awhile and steal and burn fences, but they have no disposition to thrift. With regard to any particular mode of dividing homesteads, it has not been discussed there. That is the last kind of lands to be put into homesteads. The wealthy slave-owners have taken all the best lands, and the woods are away off.

Question. You have no knowledge of any secret societies, commonly called Ku-Klux in the county, except that, in your opinion, they exist up in that corner?

Answer. I do not say positively. I know of none, and I never could find out anything about it. I have watched about the village. After they got that fellow's

uniform and brought it down I thought some existed up there, but the impression prevails in Chester that it is rather a local order.

Question. Where is that corner?

Answer. It borders Union and York on the west.

Question. It runs up near to Pinkney's Ford?

Answer. Yes, sir.

Question. Do you know whether any people from Chester went over to the raid at Union?

Answer. I never heard an intimation of it.

Question. Do you know whether any secret societies have existed before this?

Answer. I do not know of any at all.

Question. Was there not a secret society in South Carolina as early as 1860?

Answer. No, sir; all I ever heard was that there was in Columbia what was called the Vigilance Committee of the State.

Question. In 1860?

Answer. They acted politically. It was not secret, but open. There was a vigilance committee there.

Question. Was that not what worked up the secession movement in 1860?

Answer. I think it assisted to hasten it.

Question. It "precipitated it," as they called it?

Answer. Yes, sir; I think so.

Question. You seem to have been a very moderate man, and have been so all your life?

Answer. Yes, sir.

Question. Are there any extreme men in Chester County?

Answer. In regard to politics?

Question. Yes, sir; old secessionists—rebels in the war—men of that sort?

Answer. I was thinking—

Question. I do not ask for their names. Are there any such men there?

Answer. Yes, sir; I could give the names who are considered so. There is an old fellow in the village who was always considered an ultra secessionist.

Question. Are there not a number of men in different parts of the county considered extreme men?

Answer. Yes, sir; of ultra opinions.

Question. Are they active politicians?

Answer. Not many politicians. They have died out or gone off.

Question. I do not mean the old men. Are there not a good many active politicians there—democrats?

Answer. No, sir; it appears to have caved in. The old secession fellows have caved in of their notions, and vote for any party that will relieve them.

Question. You spoke of elderly men, but have you not some active democratic leaders in that county?

Answer. I do not think so in regard to that party. I suppose there may be.

Question. Have you not got some active white men in politics?

Answer. Moderately, sir; but they do not undertake to lead much since the war—not to be active since.

Question. Do you mean to say that you are one of the most active men there, and one of the most bitter politicians?

Answer. No, sir; I am in a minority generally. I opposed their views of State politics all through. I never agreed with them. I simply acted without any policy.

YORKVILLE, SOUTH CAROLINA, July 26, 1871.

B. F. BRIGGS sworn and examined.

By the CHAIRMAN:

Question. Do you reside in this county?

Answer. Yes, sir.

Question. How long have you resided here?

Answer. I have been a citizen of York County for the past eighteen months.

Question. Are you a native of the State?

Answer. I am.

Question. What is your occupation?

Answer. I am a farmer now, sir; I have been engaged in manufacturing.

Question. Are you at present a member of the State senate?

Answer. I am a member of the house, sir.

Question. Something has been said before the committee, Mr. Briggs, with reference to an organization, in the year 1868, called Ku-Klux, or known as such popularly, and we desire to get from you your account of that organization—whatever you know of it.

Answer. Well, sir, in 1868 there was some kind of an organization here; I do not know whether it was Ku-Klux or—— I presume that it was something of the kind. I do not know really what to call it. It was an organization of something of the kind; there was such a thing here.

Question. Were you connected with it?

Answer. I was.

Question. What position did you hold in it?

Answer. Well, sir; I was—— I have always had curiosity enough to join almost any secret organization that came up, if I had an opportunity to do so. I have been a Mason, an Old Fellow, a Son of Malta, a Loyal Leaguer, and everything else that there is, and my curiosity led me to see what it was as well as the rest. I was initiated into the order.

Question. By whom?

Answer. That I do not propose—— I have obligations in that particular that I am not disposed to violate. I do not think I am obliged to violate an obligation if I do not desire to do it.

The CHAIRMAN. It is proper to say that Congress has provided that questions that arise in investigations like this shall be answered, and that no witness shall be released from answering.

The WITNESS. Where it criminales a man?

The CHAIRMAN. Where it criminales a man. If you desire it, I will show you the law and the penalty for refusing.

The WITNESS. I would like to hear it.

The CHAIRMAN. I will read you first the act of Congress of 24th January, 1857, section second:

“That no person examined and testifying before either House of Congress, or any committee of either House, shall be held to answer criminally in any court of justice, or subject to any penalty or forfeiture for any fact or act touching which he shall be required to testify before either House of Congress, or any committee of either House, as to which he shall have testified, whether before or after the date of this act; and that no statement made or paper produced by any witness before either House of Congress, or before any committee of either House, shall be competent testimony in any criminal proceeding against such witness in any court of justice; and no witness shall hereafter be allowed to refuse to testify to any fact or to produce any paper touching which he shall be examined by either House of Congress, or any committee of either House, for the reason that his testimony touching such fact, or the production of such paper, may tend to disgrace him or otherwise render him infamous: *Provided*, That nothing in this act shall be construed to exempt any witness from prosecution and punishment for perjury committed by him in testifying as aforesaid.”

The act of 1862 reads thus:

“*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the provisions of the second section of the act entitled ‘An act more effectually to enforce the attendance of witnesses on the summons of either House of Congress, and to compel them to discover testimony,’ approved January twenty-four, eighteen hundred and fifty-seven, be amended, altered, and repealed, so as to read as follows: ‘That the testimony of a witness examined and testifying before either House of Congress, or any committee of either House of Congress, shall not be used as evidence in any criminal proceeding against such witness in any court of justice: *Provided, however*, That no official paper or record, produced by such witness on such examination, shall be held or taken to be included within the privilege of said evidence so to protect such witness from any criminal proceeding as aforesaid; and no witness shall hereafter be allowed to refuse to testify to any fact, or to produce any paper touching which he shall be examined by either House of Congress, or any committee of either House, for the reason that his testimony touching such fact, or the production of such paper, may tend to disgrace him or otherwise render him infamous: *Provided*, That nothing in this act shall be construed to exempt any witness from prosecution and punishment for perjury committed by him in testifying as aforesaid.’”

It is proper for me to say to you, of course, that if any witness before this committee shall decline to testify, our power will consist in reporting that fact to Congress, for him to be brought before Congress to receive such penalty as Congress shall see proper to impose. I repeat the question: By whom were you initiated into that organization?

Answer. Well, sir, my recollection was that—who was the gentleman in authority I suppose you would desire—the Cyclops, which was the name, as well as I recollect, sir; as well as I remember, I think it was McElwee.

Question. What is his first name?

Answer. His name is A. S. McElwee.

Question. Does he reside in this county?

Answer. Yes, sir.

Question. In this village?

Answer. Yee, sir.

Question. What was the tenor of that obligation?

Answer. The obligation I do not remember. I can only say that it was, as I understood, a society for self-protection—protection of homes. I can say emphatically that I never knew an illegal act of any kind in my connection with it.

Question. Give us the substance of the oath.

Answer. I can not remember it.

Question. Give us the substance of it.

Answer. It was to stick to each other, and protect each other, in case of necessity, where intruded upon in any manner or mode. At that time our country was in a commotion here.

Question. What time in 1868 was it?

Answer. I think it was some time before the election of 1868.

Question. Do you refer to the political commotion existing in the presidential election?

Answer. It was prior to that.

Question. You say the country was in commotion. Was that the commotion you refer to?

Answer. It was just at the close of the war. Our country was in an unsettled condition generally. It was at the time when there was a good deal of disturbance in the country from various causes.

Question. Had the organization any reference to the political campaign?

Answer. I cannot say that it had, the organization that I belonged to at that time. I can't say that it had a political bearing; that was not my understanding, at least. My understanding was this: The political proposition then was, of course, democracy mostly here. Well, I never was a democrat.

Question. With which party were you acting?

Answer. I was acting really on my own hook. There was nothing, of course, but democracy here. I was an old-line whig before the war.

Question. Were you for Seymour and Blair or for Grant?

Answer. I was for Seymour and Blair. I voted for them, but very hesitatingly.

Question. You say the man who initiated you was called grand cyclops?

Answer. Yes, sir.

Question. What other officers were there?

Answer. I do not remember. I think there was a clerk, or something of the sort.

Question. Who was he?

Answer. I can't say for my life; I do not remember.

Question. How many members were there in the place here?

Answer. I can't give you that. I do not think there were more than twenty or twenty-five, as I recollect; something like that.

Question. Was Mr. Tomlinson one of them?

Answer. Yes, sir.

Question. Did you initiate him?

Answer. No, sir.

Question. Who did?

Answer. I do not know.

Question. Were you present when he was initiated?

Answer. I was not.

Question. You know he was a member?

Answer. Yes, sir.

Question. How do you know?

Answer. Because I saw him there.

Question. Where?

Answer. I have seen him, I think, as well as I can recollect. I never was in more than three or four meetings in my life—perhaps four; I do not think exceeding four—of the order.

Question. Was one of these meetings at which you were present the meeting at which he was initiated?

Answer. No, sir.

Question. How often did you meet him in the meetings?

Answer. I told you I never met him more than three or four times at the farthest.

Question. How often did you meet him—Tomlinson?

Answer. I do not remember. I do not remember that I ever met him more than once. If I did, I do not remember it.

Question. Were there means of recognition among the members?

Answer. Yes, sir.

Question. What were they?

Answer. I have forgotten. I can give you what I was taught—the grip. Give me your hand, [taking the hand of the chairman.]

Question. Describe the grip.

Answer. I can give you no further description than that.

Question. Describe it in words, so that it can be put down.

Answer. It is with the little finger, between the little finger and the next finger, and the thumbs crossing each other in that style. It was the simple common grip of a shaking of hands, except that the little fingers are in there together.

Question. Interlocked ?

Answer. Yes, sir, interlocked.

Question. That was the grip in 1868 ?

Answer. Yes, sir.

Question. Were there any pass-words ?

Answer. I do not remember, but I think there were. I took so little interest that I do not remember.

Question. Were there any signs ?

Answer. Well, I remember two signs, and that is all.

Question. What were they ?

Answer. One was this : I am not certain whether it was the right, but I think it was the right hand, on the flap of the pocket there and the thumb over, [illustrating.]

Question. What was the purpose of that ?

Answer. For a member to recognize another.

Question. Was that an original or hailing sign or a response ?

Answer. I do not remember ; but I remember that was one of the signs. And this was another : [illustrating by raising the hand to the head and tapping, as further described.]

By Mr VAN TRUMP :

Question. On the top of the head ?

Answer. No, sir ; on the side of the head.

Question. Over the top of the ear ?

Answer. Yes, sir.

By the CHAIRMAN :

Question. Have you any distinct recollection of these signs now ?

Answer. No, sir, nothing more than that.

Question. How long did you continue in that organization ?

Answer. As I remarked, a very short time. I may have met them three or four times ; not more than four times.

Question. What became of that organization ?

Answer. I just simply left it by default, and never knew any more of it. I saw nothing in it interesting to me, nothing that I admired in any way, and I simply had nothing further to do with it.

Question. Do you know whether it continued in existence or disbanded ?

Answer. I never heard of it. I never made any inquiries.

Question. Did you occupy any official position in it ?

Answer. I will tell you when I was first initiated, the very first night I was initiated, they tendered to me the cyclops position. I thought it very strange. I know there was a very thin audience, very few, and I rejected it, but they urged it on me and made me the cyclops, I think.

Question. What were your duties ?

Answer. To call meetings whenever I felt like it, or there was any occasion for it.

Question. What were the duties of the members ?

Answer. The duties were to meet there together and see and report to each other.

Question. To what extent were they to protect each other ?

Answer. Nothing more than to act on the defensive ; nothing offensive.

Question. Who did they expect would attack them ?

Answer. Any person might attack them in any difficulty that might arise ; in anything that might occur.

Question. What was anticipated that was to be guarded against by this organization at that particular time ?

Answer. The negroes were turbulent and rather troublesome in character. It was for the protection of our property and people, women, &c. That was my understanding.

Question. That was the purpose as you understand it ?

Answer. Yes, sir.

Question. Did you ever understand that the purpose of the organization changed to any extent ?

Answer. I never have. I have heard since that it did, but I do not know.

Question. Have you never gone into the organization within two years ?

Answer. No, sir.

Question. How did you get out ?

Answer. Simply by default. I never was in the order but four times at the most, and let my part go to the dogs.

Question. Did you become dissatisfied ?

Answer. I could see no purpose in it. I did not admire it.

Question. Were there any propositions made in the organization which you could not sanction?

Answer. I do not remember anything, sir, at that time; no proposition.

Question. Were there no propositions to carry out the purposes of that organization by violence, while you were in it?

Answer. No, sir.

Question. Was there any written or printed code of rules or by-laws?

Answer. There were some written by-laws.

Question. What was the name of the organization?

Answer. My understanding was it was the Ku-Klux.

Question. Can you give us a copy of these printed rules and regulations?

Answer. There were no printed rules. There was some little thing drawn up—a little affair.

Question. Who has that?

Answer. I do not know.

Question. Who is the secretary?

Answer. Upon my word, I do not remember.

Question. Can you not call to mind the secretary of your own organization?

Answer. Upon my word, I cannot.

Question. How extensive was the organization?

Answer. As I remarked, there were, as well as I remember, twenty or twenty-five members.

Question. That was in this place?

Answer. Yes, sir.

Question. Were there other organizations in this county?

Answer. If so, I do not know it.

Question. Were there in the State?

Answer. If there were, I do not know it.

Question. Did Mr. McElwee, when he initiated you, tell you where he got his authority?

Answer. He did not, sir; but there were the by-laws. They had a book—I don't remember there was more than a sheet of writing in it.

Question. Did Mr. McElwee have that book?

Answer. No, sir; he did not.

Question. Who had it?

Answer. The secretary or treasurer, or whoever it was; they had it.

Question. Can you not recollect who they were?

Answer. I cannot. I cannot recollect an officer who was in it.

Question. Ku-Klux was the name of the organization?

Answer. That was my understanding, as well as I remember. We called it Ku-Klux.

Question. Had you no curiosity to know where it had its origin?

Answer. Upon my word, I did not.

Question. Or who were the controlling officers of it?

Answer. I did not. I thought so little of it, as I told you, when they put me in the first night, I became disgusted with the affair.

Question. Were you sworn?

Answer. Yes, sir.

Question. Did that oath require you to make opposition to the republican party at that time?

Answer. I think not, sir. I do not think there was anything of the kind incorporated in that oath that I took.

Question. Have you any recollection of the terms of the oath?

Answer. I have not. I do not remember even the oath.

Question. Your idea, then, was that this was an organization for self-protection?

Answer. That was my understanding.

Question. What is your idea of the present Ku-Klux organization?

Answer. I believe the present Ku-Klux organization, from what I can learn, is a political organization.

Question. Is it a continuance of the same organization for different purposes?

Answer. I cannot think it is. I do not think it is a continuance of the organization I had to do with. I think it is a separate and distinct organization.

Question. Have you known anything of its operations in this county?

Answer. Only from hearsay; from personal knowledge I know nothing of it. I have heard a great deal, but know nothing of my own knowledge.

Question. You had no communication with any superior officers while you were in that position?

Answer. I never had, sir.

Question. Was he named secretary? Was that the name of his official position? Was he called secretary?

Answer. I think so, as well as I can remember.

Question. Was he the scribe?

Answer. No, sir; I think it was the secretary, if I recollect aright.

Question. Had he a roll of the members?

Answer. He had a book, as I remember, with the page that had the by-laws, and there was not more than a page of it; and on the other side, as I remember, were the names. That was all that was in the book, and all I ever saw in reference to the organization.

Question. Were any funds contributed to the organization?

Answer. I think so.

Question. Weekly or monthly?

Answer. If a fellow was absent he had to pay such an amount.

Question. How were they procured for self-protection?

Answer. My recollection is that every fellow furnished his own.

Question. Were they to be armed?

Answer. I think so; every man had a pistol, as well as I remember.

Question. How were they to be assembled in case of an emergency?

Answer. They had a little whistle; that was a fellow's arms; he was to have a pistol and whistle; I recollect I had one.

Question. What was to be understood when that signal was given?

Answer. That we were to meet, and it was an understanding that there was something wrong and they wanted the protection of some one of the members; in case of emergency it was to call each other together, or something of the sort.

Question. Could white men only be admitted into that organization?

Answer. I never saw any negroes in it.

Question. Could they be admitted?

Answer. I do not remember that anything was said about it.

Question. Were there any in it to your knowledge?

Answer. Never to my knowledge.

Question. Were any republicans in it at that time?

Answer. No, sir.

Question. Were they all members of the democratic party?

Answer. Yes, sir; there were no republicans here at that time.

Question. In 1868?

Answer. No, sir.

Question. Did nobody support Grant?

Answer. I do not think there was a white man; perhaps Squire Wallace did; with that exception, I do not know that anybody else did.

Question. Were there no votes cast for that ticket in this county?

Answer. The colored votes were, but you spoke of white people I supposed.

Question. All who went into it were white men and democrats, according to your recollection?

Answer. Yes, sir.

Question. Have you never had any conversation with any of these men who were associated with you in that organization as to whether that organization has continued and is now used for the purpose of these Ku-Klux operations?

Answer. I do not think I ever have; I have had conversations with various gentlemen on the subject; I do not know whether they knew anything; these gentlemen informed me that it was a different thing entirely.

Question. Have you and Mr. Tomlinson ever conversed with each other as to whether the present Ku-Klux organization is the same as that which you and he were members of?

Answer. I have had no conversation with him on the subject.

Question. Will you give us a list, as far as you can remember, of the persons who composed that organization in 1868?

Answer. Well, sir, there was McElwee.

Question. What is his first name?

Answer. I think it is A. McElwee.

Question. You have already given Tomlinson; what is his first name?

Answer. John Tomlinson.

Question. Who else?

Answer. I think there was Robert Galbraith.

Question. That makes four; you said twenty or twenty-five.

Answer. There are a number, but I cannot remember the names for my life; I do not remember of ever seeing more than five or six at a time on any occasion; I do not remember of meeting on more than four occasions at the outside with them; W. R. Murphy also—I think it is W. R.

Question. Was Mr. McCaffrey a member?

Answer. Yes, sir; you are right.

Question. What is his first name?

Answer. E. E. McCaffrey, I think.

Question. Was Mr. John Hunter in this place at that time?

Answer. If he was I did not know it; I do not remember him.

Question. Was Mr. Avery a member of it at that time?

Answer. I do not know myself, sir.

Question. Do you recollect any other persons?

Answer. That is all I remember.

Question. Was Scott Owens a member?

Answer. No, sir.

Question. That makes six?

Answer. That is all I remember at this time; I recollect that my son was one—W. D. Briggs.

Question. Did you ever meet any persons whom you recognized as members of this order outside of those?

Answer. I never did, that I recollect.

Question. Did you get disgusted with the order?

Answer. I saw nothing in it; nothing to be derived from it.

Question. Did any emergency arise for calling it into exercise in this county?

Answer. No, sir.

Question. In the campaign of 1868?

Answer. There never was.

Question. What danger were the members to be protected against?

Answer. Any disturbance that might occur here between them and the negroes or any disorderly persons.

Question. Did it look like disturbance between whites and negroes then?

Answer. Yes, sir; most undoubtedly.

Question. Did it contemplate the assistance of one white man against another; if one man attacked another, a member of this organization, were the members bound to go to his relief?

Answer. No, sir; I did not understand that it was anything of that kind.

Question. Had there been, before that, any organized attacks by negroes upon the whites?

Answer. There had been some threats in matters of that kind.

Question. Anything more than that?

Answer. I think not; I cannot think of the exact time or what might have occurred then; I know there were a great many disturbances here at various times, as the negro had just got to freedom—been emancipated; as a matter of course, we had a good deal of trouble.

Question. Had your organization any reference to the Union Leagues?

Answer. No, sir; I do not remember of Union Leagues having been spoken of; as I told you, I never was at but few meetings in my life.

Question. As you understood the organization at that time, it was entirely for the protection of the members against anticipated violence by the negroes?

Answer. It was for the protection of any person against an outlaw or anything of the kind, or any good citizen that might need protection.

Question. Were not the authorities sufficient for the protection of the people at that time?

Answer. There was not much authority at that time.

Question. Who was governor of the State then?

Answer. I do not know; I believe, if I mistake not, it was Governor Orr, but I do not remember.

Question. Who was your presiding judge?

Answer. We had no judges—no courts.

Question. No courts?

Answer. No, sir; no law nor order; no courts.

Question. With that understanding of its origin, let me know what your actual knowledge is of the present Ku-Klux organization; have you any actual knowledge of it at all—of the existence of it?

Answer. I only know from hearsay and what I have seen in the country. I believe myself, emphatically, that there is a Ku-Klux organization now.

Question. Is it not possible that this organization which you say you abandoned, so far as practical attendance upon it was concerned, is kept up with a perversion of its original intention?

Answer. It may be, possibly; I cannot say as to that. I know, as far as the organization I was in was concerned, that it had nothing in it pertaining to what I consider the present organization. I can conceive that there was nothing about it that is connected with this.

By Mr. STEVENSON:

Question. Do you recollect any of the signals agreed upon by taps?

Answer. I do not; I do not think there were any. I know there was none; if there was I never knew it.

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Question. Nothing by making taps in this way? [Illustrating, giving one tap, and, after an interval, two.]

Answer. No, sir; I do not remember it. I do not think there was.

Question. You were elected cyclops?

Answer. Yes, sir; the night of my initiation.

Question. Did that put you above the man who initiated you?

Answer. He, of course, resigned, or gave up the position to me.

Question. Was there not a grand cyclops?

Answer. If there was I did not know it.

Question. And a great grand cyclops?

Answer. I knew nothing of it.

Question. You knew nothing of any county organization?

Answer. I did not.

Question. Were you living here?

Answer. Yes, sir; at this place.

Question. You knew nothing of the organizations in the country?

Answer. No, sir; I did not know of one.

Question. Did you not hear it said during that fall that the Ku-Klux were committing violence in the country?

Answer. I heard of it only in distant States; I heard of no violence in this State.

Question. Did you not hear of their making raids in the neighborhood of Ebenezer?

Answer. No, sir; not a word. I heard of no outrages in the county at that time.

Question. Do you know Mr. J. L. Watson?

Answer. Yes, sir; very well. A citizen of this place.

Question. Let me refresh your recollection if I can.

Answer. Do, if you please.

Question. I find in the contested-election case of Wallace against Simpson, Forty-first Congress, second session, Miss. Doc. House of Representatives, No. 17, part two, the following testimony of John L. Watson. He says he lives at Ebenezer.

Answer. I remember that he did.

Question. It is in this county?

Answer. Yes, sir.

Question. [Reads.] "Q. Did you ever see the Ku-Klux in your neighborhood?—A. I saw them pass my house in Ebenezer, in disguise, having their horses also disguised."

Answer. I think I did hear of that, since you speak of it.

Question. [Reads.] "Q. Was that the same night that your neighbor, Captain Ferris's house, and that Governor Fowel was attacked?—A. It was not the same night."

Did you hear of that attack on their house?

Answer. I remember, since you refresh my memory, of hearing of something of a Ku-Klux outrage down there.

Question. [Reads.] "Q. Did you ever see the Ku-Klux at Rockhill depot after night?—A. I saw men who I believed, from their actions, belonged to the Ku-Klux."

"Q. Were the Ku-Klux generally organized throughout your county, and did they succeed in frightening away from the polls very many republicans?—A. They were, and did."

You do remember now hearing of those circumstances?

Answer. I do, since you have brought it to my mind.

Question. Did you know Iredell Jones?

Answer. I did.

By Mr. VAN TRUMP:

Question. Does the witness understand that he is reading of several circumstances?

Answer. I heard of it in this particular place mentioned.

Question. But not all over the county?

Answer. No, sir; only this particular place.

By Mr. STEVENSON:

Question. You knew Iredell Jones?

Answer. Yes, sir; I had no particular acquaintance with him.

Question. Do you know whether he was connected with the organization at that time?

Answer. No, sir; not to my knowledge.

Question. Was it before or after this occurrence that you ceased your connection with the society?

Answer. I can't say as to that; I do not remember.

Question. Was it before or after the election that you ceased to cooperate with them?

Answer. It must have been after the election; I think so.

Question. Was there anything in the oath which required secrecy of the members?

Answer. I think there was, sir; I know it in fact.

Question. What was there in the oath or any other part of the ceremony?

Answer. I do not remember.

Question. What was there in it as to discipline ?

Answer. I do not remember, sir ; I cannot inform you.

Question. Do you not remember whether the members were required to observe the commands of the officers ?

Answer. I rather imagine they were, but I do not remember the particulars now.

Question. Your impression is not distinct about that ?

Answer. Not distinct.

Question. You think they were ?

Answer. I think so, but I do not remember positively.

Question. Was Mr. Graham here at that time ?

Answer. I think not, sir.

Question. Was Major Berry here ?

Answer. He was.

Question. Do you recollect whether he was a member ?

Answer. I do not know ; not to my knowledge. He was not a member of mine I know ; if he was a member of any other I do not know it.

Question. Did Mr. Tomlinson join before you, or afterward ?

Answer. My impression is that he was a member when I joined.

Question. Are you sure that you did not persuade him to join ?

Answer. I am very certain of it.

Question. Did you not take him to be initiated ?

Answer. I am very certain about that, that I did not.

Question. You are clear about that ?

Answer. I am very clear about that.

Question. Was he then acting with the democratic or republican party ?

Answer. As I remarked this morning, there were no white republicans here at that time.

Question. He is a white man ?

Answer. Yes, sir.

Question. The inference is that he was a democrat ; was he or not ?

Answer. Yes, sir ; I judge so. I take it for granted he was.

Question. You yourself are not now a democrat, are you ?

Answer. I am not, sir ; I am a national republican, anti-radical. I want it distinctly understood I am not a southern radical.

Question. When did you become a republican ?

Answer. Well, sir, as I remarked, I originally was an old-line whig. I was opposed to the war and everything of the kind, secession and everything. Allow me a preliminary remark. When the war commenced I went into it ; after the war I came back here and joined in with the party, any party, as I supposed. I had no preference for any party, indeed did not desire to be connected with them, but I joined in with them. When they formed, two years ago, a new party here, terming themselves—I forget the name, (reform party, I believe they called themselves the reform party,) then I split with them and took issue with them.

Question. Two years ago you united yourself with the republican party ?

Answer. Yes, sir ; with the republican party.

Question. Are you a land-owner here ?

Answer. I am, sir.

Question. Were you in the rebel army ?

Answer. I was, sir.

By the CHAIRMAN :

Question. Were there any disguises provided in your organization ?

Answer. My recollection is that they were spoken of, but I never saw them

Question. They were spoken of ?

Answer. Yes, sir ; but I do not think they were——

Question. They were intended to be provided ?

Answer. I think so, sir.

Question. For what were they to be used ?

Answer. I suppose they were to be used as disguises if necessary. They were spoken of, sir.

YORKVILLE, SOUTH CAROLINA, July, 26, 1871.

Colonel LEWIS MERRILL sworn and examined.

By the CHAIRMAN :

Question. Are you the officer in command of the post at this place ?

Answer. Yes, sir.

Question. At what time did you come here ?

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Answer. Within a few days of the 26th of March, 1871. I assumed command on the 26th.

Question. What is your rank in the Army?

Answer. Major of the Seventh Cavalry, and brevet colonel.

Question. I have requested you to present to this committee a statement of the condition of affairs in this county at the time of your arrival here, and of such violations of law as you found to have occurred. Have you complied with that request and prepared such a statement which you can lay before us?

Answer. Yes, sir. I have here my notes which I have prepared in accordance with your request. These were taken from a variety of notes which I have made from time to time.

Question. Will you proceed to read it, with such remarks as you deem proper, and giving such explanation as members of the committee may desire to ask of you as you proceed?

Answer. The following statement covers, as succinctly as possible, such facts as you have inquired of me in regard to, and which have come to my notice in the course of the discharge of my duty as commanding officer of the United States troops at this place. Preliminary to a recital of these, I should say that one company of infantry, now a part of this garrison, reached here about the end of February last, sent here from Columbia, in view of the seriously-disturbed condition of this county previous to and at that time. On the 26th of March following I arrived—I say here I arrived. I happened to notice in my order book, a moment before I came into this room, that that was the day I assumed command. It was within a day or two of that time that I arrived here with one company of cavalry, and assumed command of the troops here. At the date of my arrival, the people, both white and black, of this county, were still very much excited; but the condition of affairs was better than it had been for some time previous, and the excitement and bitterness, exhibited in acts of violence appeared to be rapidly subsiding. The hope that this state of things would continue, and even decidedly improve, proved to be delusive. Within a week or two the Ku-Klux organization renewed their acts of outrage and violence, which for some time became nightly more aggravated and numerous. This state of affairs continued until some few weeks since, since which time the number and aggravation of acts of outrage have decreased, and are now few. I do not, however, consider this the result of the abandonment of the organization, but believe it comes from other and transient causes, and that the outrages and violence will, in the near future, be renewed with more vigor than ever. My duty here was to aid the civil authorities of both the State and the United States, should they call upon me for assistance, and I was instructed by my commanding officer to exercise all the moral influence possible to bring about a better state of things here, and in any case to protect individuals against mob violence or illegal arrest, should they seek the shelter of my camp. It was necessary that the commanding general of the department should be kept advised of the true state of facts here, and in order that my reports might be accurate, I took pains to keep myself well informed of what was transpiring, and to investigate with care such cases as offered any opportunity to get at facts. In what follows I have distinguished the outrages noted into three classes:

First. Those in which such large numbers of persons were engaged that they assumed the proportions of mobs of considerable size, and in which, in addition, the objects sought by these persons appeared of more serious import than in most of the other cases.

Second. Those cases of outrage which, occurring subsequent to the passage of what is called the Ku-Klux bill, I found on the first investigation of them reason to believe that sufficient trustworthy evidence of identification could be found to bring the perpetrators to justice. This class of cases, in the absence of any United States civil official, I investigated with care, in order that they might be, if possible, brought to trial.

Third. Those cases in which, upon their being reported to me, I found that, for various reasons, no good would come of going beyond sufficient investigation to satisfy myself that the outrages had been committed. These reasons were in the main such as the inability of the witness to identify the parties who committed the acts, or the absence of confirmatory circumstantial evidence, when the parties were identified; or, in numerous cases, the unwillingness, through fear of its consequences, to testify to the facts of the case; and in numerous other cases, the fact that the acts occurred before the passage of the Ku-Klux bill, and would come for trial before the State courts, where I believe it impossible to convict a member of the Ku-Klux order for acts done as such. The following list comprises only a small number as compared with the whole of the acts of violence which have been committed in this county. By far the greatest number of cases, even of those which occurred after I reached here, were never reported to me at all.

By Mr. VAN TRUMP:

Question. How do you know that?

Answer. I mean that I never had a report of the kind I refer to in the other cases which I know of; that is, I would be told of a case which had occurred, and told of individuals who had been whipped, but I never followed the matter any further to satisfy myself, beyond reports of that kind, that these cases had occurred. I did not examine the individuals whipped, or individuals who were present on those occasions.

Question. Then how did you ascertain any fact that could make you say that that number was even larger than those which you did know?

Answer. It would be necessary to explain somewhat in regard to that. For instance, reports have come to me of a whipping having been committed in a certain locality on a certain night upon an individual.

Question. Before you got here?

Answer. No, sir. In some instances that was the case also; but I am now talking of a case arising after I came here, in order to make this explanation. In investigating a case I would hear of some party of Ku-Klux passing through the country in various directions, on the same night, and subsequently hear that they had committed a number of other outrages on that same night—whipping or otherwise; and it would happen that, beyond the fact of having a report from individuals who knew the fact that such things had occurred on that night, I would know of only one case from a special investigation.

Question. How did you ascertain the number of cases; from common report or from special report, made personally to you?

Answer. These that I refer to here are from special report.

Question. And that class belongs to the cases which occurred subsequent to your arrival?

Answer. Not all of them. Others are from common report and special mention of the facts by persons present, or through the sheriff or other county officers. I have had numerous statements of occurrences that came to the knowledge of the sheriff, and have had conversations with various persons out through the county on various occasions, which gave me an idea of the number of the outrages that occurred, besides those that I know of myself.

Question. You say you received many cases from the sheriff. Did he specify the name of each victim, or was it merely a report of general violence by the Ku-Klux in the county?

Answer. I might say that in most instances the names were specified in his cases.

Question. How many cases did he report to you altogether?

Answer. I could not say, that is to call it a report. These were conversations. I was for a long time in almost daily communication with him on that subject.

Question. Were not a portion of the cases you received from the sheriff, or from any other person reporting them to you, cases in which the names of the victims were not given?

Answer. That was the case sometimes, but very rarely. In most instances the names were given.

Question. A portion, however, was of that class I speak of?

Answer. Yes, sir.

Question. How can you tell whether or not cases are not duplicated over and over again in the general summing up?

Answer. I tell that by their occurring in different portions of the county. I was going to explain when I read these cases that they were all confined within a small circle, in about four different localities, those that I have given here. What I speak of outside of that is the general character of conduct in the rest of the county. For instance, in this part of the county I have made no investigation, except in one case. In the southeast part of the county there is only one case to which I have given any investigation at all.

By the CHAIRMAN:

Question. Will you now proceed with your statement?

Answer. Many were reported to me at times when so many reports of the kind were made to me that I had no time to note them, and of some the notes taken are lost or mislaid. Of those, I have taken no notice in the following list. From the best information I can get, I estimate the number of cases of whipping, beating, and personal violence of various grades, in this county, since the 1st of last November, at between three and four hundred, excluding numerous minor cases of threats, intimidation, abuse, and small personal violence, as knocking down with a pistol or gun, &c. The more serious outrages, exclusive of murders and whippings, noted hereafter, have been the following: Tearing up a small portion of the King's Mountain Railroad, and preventing the bringing here by a particular day of a company of United States infantry, known to be *en route* to this place, and which otherwise would have arrived here in time to prevent the raid on the county treasurer. The company reached Chester, *en route* to Yorkville, on a Saturday night, the last Saturday in February. I happened to look at a calendar a few moments ago, and I found the date of that Saturday

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was the 25th; that night two rails were torn up, but no serious damage done the road, about two miles below the town of Yorkville; the following evening (Sunday) the raid on the county treasurer's office was made; the following morning (Monday) the railroad train went from here to Chester and brought up the troops, being occupied, not to exceed half an hour, in putting back and respiking the rails which had been taken up. There was no reason in the nature of the damage done the road to prevent its easy repair, in not to exceed twenty minutes, on the day previous, when several employes of the railroad ran an engine down to the place where the rails were torn up, and after remaining a short time, returned without attempting a repair of the track.

By Mr. VAN TRUMP:

Question. If the rails could be found, that would probably be correct.

Answer. They were right there; they had never been removed.

Question. Then if anybody has testified or has given an opinion that these rails were put where they could not be found immediately, is it a mistake?

Answer. From my information it is, and my information is from one of the officers of the road.

Question. You are speaking from information?

Answer. Yes, sir.

Question. Who is your informant?

Answer. One is Mr. Galbraith, the conductor of the railroad, and the other a colored man employed on the railroad as a wood-cutter. I do not recall his name.

Question. Who brought the train down on that Sunday?

Answer. Of that I am not positive, as to the whole number, but my impression is that of the persons present, General Law, the president of the road, was one; I am not certain. Mr. Thomas, the engine-driver on the road, was one of the party. I do not remember that I have any definite information as to who the others were at all, but there were a number of employes of the road—four or five.

Question. You say your information is that the rails were right there in sight?

Answer. Mr. Galbraith told me that when he came to the place where the road had been taken up one of the rails was stuck up in the track. He did not mention anything of the other rails.

Question. Where does this Mr. Galbraith live now?

Answer. He is right here in town.

Question. Still employed on the railroad?

Answer. He is the same gentleman who brought you up—the conductor of the railroad train.

Question. When did he tell you that?

Answer. He told me that when I was on my way up here.

Question. You got here on the 26th?

Answer. Yes, sir; it was told in the course of ordinary conversation, as I was coming up the road. He was conductor.

Question. What day of the month did the night occur when the track was torn up?

Answer. As I learn from looking at the calendar, it was the 25th of February when the road was torn up, and the raid on the county treasurer on the 26th, and on the 27th Colonel Christopher, in command of the infantry, arrived here.

Question. You saw Mr. Galbraith a month afterward?

Answer. Yes, sir.

Question. He told you that, coming up here?

Answer. Yes, sir.

Question. How did the conversation arise?

Answer. It arose perhaps from some question of mine in regard to the road being torn up. I was on my way here to take command; he being conductor of the train on which I was coming with troops, was conversing with me. I knew nothing of him except his position on the road.

Question. He told you he saw the rails?

Answer. He said he saw one of the rails; that he saw it sticking up in the track.

Question. Where was the other rail?

Answer. I was going to say to you, I learned from this employe of the road, the colored man—

Question. Where is he?

Answer. He is a wood-cutter on the road.

Question. Do you know where he is?

Answer. He was here in town recently. I don't know where he is, but, if you desire, I will hunt him up.

By the CHAIRMAN:

Question. What did he say?

Answer. He said the other rail was lying right by the track.

By Mr. VAN TRUMP :

Question. Did Mr. Galbraith say that too ?

Answer. No, sir; the negro man said that. There is no difficulty in finding the men here who went down and repaired the track on Monday morning.

Question. Mr. Galbraith spoke of but one rail ?

Answer. Yes, sir; of his having seen one rail stuck up in the track. If I recollect the tenor of his remarks, I had made some remark calculated to impress him with the idea that I supposed the people here were more or less responsible for that, and I had the impression that the intention here was to throw the train off the track with the troops on it. I did not then know anything of the circumstances, and did not understand that the engine was here, and the discovery was made in going down to Chester for the troops. Mr. Galbraith then remarked that no such thing was the fact, but that this rail was stuck up apparently to give them full notice that this break was there. The remark was made in that connection; it conveyed that impression to me.

Question. Were you not curious enough to inquire about it ?

Answer. Yes, sir; about the destruction of the road.

Question. Did you ask him where the other rail was ?

Answer. No, sir; I did not.

Question. Why did you not ?

Answer. Because of the impression I had that a large part of the road had been destroyed. It was a long time afterward that I learned that only a few rails were taken up.

Question. Did he say how many were taken up ?

Answer. No, sir; there was no conversation as to that question whatever.

Question. He merely said that the only one he saw was this one sticking up ?

Answer. The spoke of one rail only, which he said was sticking up in the track. Nothing was said by either of us about any other rails.

Question. Go on with your statement.

Answer. There was no reason, in the nature of the damage done the road, to prevent its easy repair in not to exceed twenty minutes on the day previous, when the several employes of the railroad ran an engine down to the place where the rails were torn up and, having remained a short time, returned without attempting to repair the track.

Question. What do you mean by that, Colonel ? Do you mean to convey the idea that the managers of this road were concerned in that thing ?

Answer. I remark here in my notes a moment afterward—it was my intention to do so—that the evidence appeared to me conclusively to establish the fact of complicity between the railroad authorities and the people who were concerned in tearing up the road; that the tearing up of the road was merely a pretext for not running the train.

Question. Will you give us all the facts that gave you that peculiar impression ?

Answer. The facts are these. I learned from one of the employes of the road that only two rails were taken up. I have since looked at the place where it occurred in passing over the road. They were both taken up from the same side of the road, and in observing that place I noticed that much greater damage might easily have been done had they chosen to do so.

Question. Then you base your impression, which you have stated, upon the vagaries of those, whoever they are, who tore up that road ?

Answer. No, sir; you do not let me finish the statement of facts upon which I base my impression. The ties for a considerable distance were very rotten, and a great many rails there might easily have been torn up. I have observed that since, having had the locality pointed out to me by a brakeman on the road. I learned from one of the employes of the road, and I know the fact officially from my records—official records—that Captain Christopher's company, which was to have arrived here on Sunday, did arrive at Chester on Saturday, and was to have come up on that Sunday morning. They lay at Chester all day Sunday, because this train did not come down for them.

Question. What was the object of that train starting out on that morning from Yorkville ?

Answer. To bring these troops up—that is, it would have been the object had it been the real intention to bring them. It was expected at Chester that it would have brought them up. You understand how this road is operated. This place is the headquarters, the terminus, and they run the train down from here and back.

Question. What is your information as to the purpose of running that train down at all on Sunday morning ?

Answer. My only information is that a number of persons—employes of the road—went down to the break and came back without attempting to repair it.

Question. You do not know the purpose of running that Sunday train ?

Answer. It was not a train; only an engine.

Question. That could not have carried the troops, could it ?

Answer. No, sir, certainly not. I would infer that there was no intention of carrying the troops. It was certainly a matter of common rumor on Sunday morning here that the railroad had been torn up the night before.

Question. Ordinarily was a train run on Sunday?

Answer. No, sir.

Question. What arrangement was there with the commander of the soldiers there and the railroad authorities here?

Answer. The arrangement made previous to his leaving Columbia was that the Yorkville train should meet them and bring them here on Sunday afternoon, and that arrangement was broken up by this tearing up of the track.

Question. What knowledge have you of that arrangement?

Answer. I have it from the quartermaster who made the arrangement, and from the officer in command of the troops, who was to come here, and inferentially I have it from my conversation with Mr. Galbraith, the conductor on the road.

Question. As you were seeking knowledge on all these points, why did you not go to the president of the company?

Answer. I never met him. He has never called upon me since I have been here.

Question. Is that the reason you have not called on him?

Answer. The reason I have not called on him is because he is considered one of the first gentlemen of the town, and I consider it his duty to call first on me.

Question. That is a matter of etiquette?

Answer. It may be so considered.

Question. Did that prevent you from investigating this matter?

Answer. No, sir.

Question. Did you let this question of etiquette interfere with your proper business, when engaged in the investigation of this act, and prevent you from going to General Law and asking about it?

Answer. No, sir; you misunderstand me. You assume that it was my proper business to make a careful investigation of this matter.

Question. I understood that you were doing that.

Answer. No, sir; I simply wanted to learn the general facts, because I was required to report whatever occurred here, and I did not care, in such a matter as that, to report with so much minuteness as to make it necessary or advisable that I should go to see General Law.

Question. In trying to get at the general facts it did not strike you that you should get the particular facts of the case?

Answer. Had I considered it at all necessary to go into a minute investigation of the matter, I should certainly have gone to General Law.

Question. If there was any business communication between the quartermaster at Columbia and the railroad authorities here, it must have been with General Law?

Answer. No, sir; I think not. It would be with Mr. Galbraith.

Question. He is a conductor?

Answer. Yes, sir; but you must recollect that this is a very small road, with a very small force. General Law is the president, and Mr. Latta is the clerk and auditor and secretary, and there are no other officers of the road, you may say, except Mr. Galbraith, who is conductor, and mail agent, and express agent—in short, the factotum of the road.

Question. Does General Law pay any attention to it?

Answer. If he does, I do not know it—what kind of attention I do not know.

Question. Proceed with your statement.

Answer. These facts, and various others which have come to my notice, have compelled me to believe that the damage done to the road was merely a pretext for not bringing the troops here on the day after they reached Chester, and that if the railroad authorities had chosen to do so this might have been very easily effected. The damage done the road by the Ku-Klux appeared to have been only enough to furnish a pretext, and not enough to do any serious harm.

Question. You are giving your impressions, or suspicious rather. You are aware that you are under oath in regard to that paper?

Answer. Yes, sir. I give my conclusions from facts on this point, and you will observe that there is a distinction made constantly between things I speak of as from my own knowledge and the results of my investigation. Such information—and I believe it trustworthy—as I have been able to get shows that only two rails were removed from their bed, but not taken away or injured, and that no other damage was done. The attack on the county treasurer's office was made on the Sunday night following the tearing up of the rails, of which this act appears to have been a part, in order to secure the necessary time before the arrival of the troops. Mr. Edward Rose, the county treasurer, was alleged by common rumor to have been the instigator of various incendiary fires which had occurred at intervals for some time previous. Whether it is the fact that he had any connection with them I do not know, and have had no evidence on the point either way.

Question. Did you investigate that point?

Answer. In a general way I did—that is, simply to satisfy my own mind whether these charges were correctly made.

Question. How were you satisfied?

Answer. My mind was simply satisfied of this fact, that I could get no evidence to point either way, except one fact, which did not lead my mind to any conclusion; that was the firing of a large number of shots from the porch of this building shortly previous to a number of fires breaking out.

Question. On the same night?

Answer. Yes, sir, the same night; a number of them—six or seven.

Question. Did you find the fact to be that he had fired a revolver?

Answer. That he did it I do not know, but it was beyond question that the shots were fired from this building, and were quite a number.

Question. Did you inquire of any inmate of these military headquarters, where we are now sitting?

Answer. This building was not at that time occupied as such. You will remember that this occurred previous to the arrival of the troops; this building was occupied at that time, however, as the county treasurer's office.

Question. You occupied it immediately afterward?

Answer. It was more than a month afterward. There were no occupants when I got there.

Question. Do you know there is a man now in this house who knows that Rose did fire that volley?

Answer. If he does know that fact, I do not know it.

Question. Have you inquired?

Answer. I have inquired generally of both of these men here.

Question. Did you inquire of Mr. Russell?

Answer. I had the intention to inquire very minutely of Russell into that whole matter, and asked him to come to my office.

Question. Did you know that he was an occupant of this very building at the time the volley was fired?

Answer. If it had occurred to me to think about it, I suppose I should have thought so, although I did not know the fact.

Question. Who did you inquire of as to that fact?

Answer. I do not feel sure that I could mention the name of an individual I inquired of in regard to it. I had conversation with a number of persons on the subject—among others Colonel Witherspoon. I had a conversation with him in this very office on that point.

Question. What was his belief?

Answer. He was merely talking of the matter.

Question. You were not inquiring about it, then?

Answer. I was inquiring for his impressions and any facts that he knew.

Question. What was his impression as to who fired that volley?

Answer. To the best of my recollection, and I say I am in doubt as to whether this particular conversation occurred with Colonel Witherspoon or not, though I recollect a conversation with some gentleman in town, in which the remark was made that this volley had been fired, and it was a signal for the incendiary fires to commence.

Question. It was a very important fact to find out who fired that volley?

Answer. I was not investigating these incendiary fires to any considerable extent at all.

Question. Ought you not to investigate both sides of this question?

Answer. You will recollect the fact that they had extended over a very considerable number of months previous to my arrival, and I was concerned in the events immediately connected with and succeeding my arrival. You will see the reason why I should not give the same attention to the investigation of previous events.

Question. I will ask you whether the three or four hundred cases of whipping in this county, which you mentioned, did not include many that occurred away beyond the time when you came here?

Answer. It only does in the estimate of the general number, giving the date or about the time they commenced.

Question. The reason you give now as to why you did not inquire into the incendiary acts was because they occurred before you came?

Answer. No, sir; that was not the only reason.

Question. Well, what did you mean was the reason?

Answer. It was because they were acts that did not so immediately concern my own affairs.

Question. Are you not here for some purpose?

Answer. Yes, sir; to preserve public order so far as lies in my power.

Question. Is it a violation of public order to burn houses and barns?

Answer. Yes, sir; unquestionably.

Question. Why did not your mind run in that direction and investigate those things?

Answer. I have endeavored to explain to you the facts and circumstances connected with these incendiary fires that came to my knowledge incidentally, as I have gone along.

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Question. Incidentally to the main purpose you had of ascertaining the violence on the other side of this question. Is that what you mean?

Answer. Perhaps partially so only.

Question. What are your politics, Colonel?

Answer. I am an officer in the Army, bred up in a school which taught me that officers of the army were not proper persons to mix in politics.

Question. Are you not known here as a pronounced republican?

Answer. If I am I do not know it.

Question. Are you not a republican?

Answer. Perhaps in the main my political opinions coincide more nearly with the republican than with any other party on questions relating to public affairs.

Question. Do you vote the republican or the democratic ticket?

Answer. I have never cast but one vote in my life. I have never had any connection or association with politics. I went to West Point when sixteen years of age, and my life has been in the Army ever since.

Question. I know it is a rule that the officers of the Army take little or no interest in politics—

Answer. I do not say that I take no interest in politics. I take a deep interest in the affairs of my country; but I do not take an active part in politics, and am not decided in expressing political opinions, except it be in social or domestic conversation.

Question. You do not know whether you are a republican or not?

Answer. In one sense I am not a republican; that is, there are many parts of the policy of the republican party which I would object to as a citizen; but I do decidedly and much more decidedly object to a great many parts of the policy of the democratic party.

Question. With which party, the democratic or republican, do your affiliations and sympathies go?

Answer. Mostly with the republicans—more decidedly with the republicans than with the democrats.

Question. You say you are not a partisan?

Answer. I am not at all, sir.

The CHAIRMAN. Let me suggest that the general statement be received from the colonel, and that any extended cross-examination be deferred until he gets through with that.

Mr. VAN TRUMP. I will make it as brief as I can.

Mr. STEVENSON. I suggest that any general cross-examination—that is, any cross-examination affecting the general weight of the testimony—be reserved until he concludes his general statement; and that any particular fact, where it may be desired, may be inquired of in passing.

Mr. VAN TRUMP. I will endeavor to make my questions pertinent to the very part of the paper the colonel is reading.

The CHAIRMAN. I requested Colonel Merrill to prepare this paper in order to shorten his examination—not, of course, to lengthen it. You will please to proceed with your statement, colonel.

Answer. I will ask permission to say one word with reference to the last question which has been put—the question whether I was not known as a pronounced republican. I wish to be allowed to state that I have engaged in no political discussion of any kind whatever since I have been here, and the reason for doing so was that I consider my position such that it would be unbecoming in me to engage in political discussions, particularly in the excited state of public feeling here. Referring to Mr. Rose, I will proceed with the statement.

Whether it is the fact that he had any connection with the incendiary fires I do not know, and have had no evidence on that point either way. From what I can learn he was not a good character, and has since absconded, a defaulter to a large amount. His conduct in various ways, and his political relations to the negroes, had made him very obnoxious to the white population of the county; I am bound to believe justly so in many regards. On the Sunday night referred to a Ku-Klux mob, numbering probably one hundred or more, came into the town and broke open his office-room, sleeping-room, and various other rooms in the same building, including a whisky shop kept in the building. He escaped the mob, and fled to some place of concealment, where he remained until the evening following, when, on the arrival of the United States troops, he sought and obtained protection in their camp. After some days he was sent by the commanding officer of the troops to Chester, whence he went to Columbia, and shortly disappeared. In the building and to its contents considerable damage was done by the mob after their failure to secure Rose. It is alleged that a considerable quantity of liquor from the whisky shop was drunk and destroyed by persons engaged in the mob. His office safe, which, he alleged, contained a large sum of money, was not broken open, though defaced considerably, and is now in use by my post quartermaster, and is as secure as it ever was. Some money contained in a wooden drawer of the counter in the office was taken. The amount so taken was not known, but I believe it to have

been comparatively insignificant. Some few notes of \$2 and smaller were found scattered on the floor the following morning, aggregating probably \$10. The money in the drawer was probably only what was left there to make change. The object of the mob, I think, was the killing of Rose and not robbery, and whatever money was taken was what was grabbed by some minor characters when the breaking of the drawer scattered it. From this point the larger part of the mob went to the north end of the town in a vowed search for Thomas Wright, a colored preacher, one of the county commissioners. They visited his home, and not finding him, and having a couple of shots fired at them from a neighboring field by some negroes, they left, and presently left the town.

I believe there would be no difficulty in identifying and proving the presence and participation of a large number of the individuals concerned. They were seen by a great many persons, both white and colored, and I have no doubt the majority of them could be indicted if any effort were made to that end by a grand jury that really wished to find the facts, assisted by a zealous State's attorney.

By Mr. VAN TRUMP:

Question. Do you not understand that all these men were disguised?

Answer. Yes, sir; they were during some portion of the time. At others they were not, according to my information. A considerable number of them reached the corner below here, and were not there disguised, and were there recognized by a number of colored persons. A number of them were recognized at various stages in the proceedings by various colored persons, and, I am told, also by various white persons. In one case I have especially in mind at this moment, and which I recall, the recognition was by a young medical student, and was apparently one of his own comrades.

Question. Who was he, the one who recognized the other?

Answer. Doctor Closson.

Question. Is he here yet?

Answer. Yes, sir. He is a young medical student.

Question. Did you talk with him about it?

Answer. No, sir.

Question. Was not he the very person to go and see and talk with about it? Was there any other person on earth more fit to see than Closson himself on that particular point of his recognition of the men?

Answer. As to the identification of an individual, it was only the identification of one more out of probably twenty or thirty who, in my own mind, I was satisfied could be identified and were identified. I proposed to give the means I had to the State's attorney whenever he chose to ask for them.

Question. The point of another man being discovered amounted to nothing?

Answer. I reached the point that I had no difficulty in satisfying myself of the identity of the larger part of the crowd.

Question. But you never saw Closson?

Answer. I did not.

Question. You saw divers negroes?

Answer. I saw only two negroes.

Question. Did you go to see them?

Answer. No, sir; I sent for them.

Question. Why did you not send for Closson?

Answer. I heard of Closson's identification of this fact—of that party—long after, quite recently—after I had ceased to take any further special interest in this particular raid.

Question. I thought you stopped inquiring because you had already enough?

Answer. I had stopped inquiry on that, but I heard of Closson, and I speak of him now. I heard of his connection with this identification long after I had ceased my special investigation of the matter.

Question. Go on with your statement.

Answer. There has been no session of the court at this place since this occurrence and so far as I can learn, no move has been made by the civil authorities in this matter except to take action on the defaulting, absconding treasurer. About two or three weeks subsequent to this, the office of the county probate judge was broken open and a box of ammunition for breech-loading muskets belonging to the State, and which had been turned in to the sheriff by the negro militia, was taken and carried off; most of the ammunition was subsequently distributed to a clan of Ku-Klux, which is armed with the muskets, to which it is adapted. Having a reason to believe that a quantity of this kind of ammunition was in the hands of certain Ku-Klux, I endeavored to trace the facts in this case, and found no difficulty in getting at evidence, circumstantial and oral, which clearly to my mind traced this crime to its authors. Preceding these events, and during the time covered by them, there occurred a large number of incendiary fires in buildings of various grades and kinds—generally gin-houses and the like—which are alleged, and I believe in most instances correctly, to have been the work of the negroes in attempting to retaliate for real and supposed grievances brought

upon them by the whites. As is likely to be the case in such instances, most of these fires entailed loss upon persons who, it might reasonably be believed, were not the authors of the outrages which it is supposed provoked them. From the best information I can obtain, I find that this class of incendiary fires, from about December last to the present time, number twenty-two, or about that, besides those which are, with reasonable certainty, to be imputed to the negroes. There have been burned and torn down some three houses or cabins, and several negro school-houses and churches—about four or five—which was the work of the Ku-Klux. I know of no instance of punishment, and only one instance of arrest of the parties concerned in any of these fires. One, which occurred within ten or twelve days, resulted in the arrest of a negro supposed to have been the author. Since about the 1st of last December there have been six murders by the Ku-Klux. I have examined the official records relating to these cases with considerable care, and find that they show as follows:

1st. Tom Roundtree, alias Black, a negro, murdered by a Ku-Klux mob of some fifty or sixty persons, who came to his house at night, on the 3d of December last, took him out, shot him, and cut his throat. In this case three persons were indicted, tried, and acquitted of participation. An examination of the official record of the trial, evidence, and findings in this case does not encourage much the hope—if it can be entertained—that acts of Ku-Klux violence can be punished in the State courts in the present diseased state of public sentiment in this part of the State.

Question. You say you examined the evidence. Is it written evidence?

Answer. It is the judge's notes taken on the trial. In this particular case, that is the only knowledge I have of it at all, except that the statement of the fact that such a murder had occurred, and that men had been tried for it, was common talk. What I have here is derived from the official records which I obtained from the county clerk's office.

Question. Are you an educated lawyer?

Answer. I am not, but my whole family have been lawyers, and perhaps I have learned something in that way, and I have had much experience on courts-martial. During my Army service I have often been judge advocate of courts-martial, and for a long time I was judge advocate of a department; so that I am more familiar with legal points than officers generally are.

Question. That is, so far as the laws of evidence received in the civil courts apply to trials by court-martial?

Answer. They are identical, sir.

Question. That is more than I know. Proceed with your statement.

Answer. 2d. Anderson Brown, a negro, shot and killed February 25th, by a party of Ku-Klux numbering six or seven; being called from his house at night and killed. Coroner's inquest held; no clew to the murder appeared in the evidence before the coroner's jury; and no arrests or, so far as I can learn, no subsequent efforts to discover the murderers have been made.

3d. James Williams, (I would here remark, parenthetically, that he is the man sometimes referred to here as James Rainey,) a negro; captain of one of the negro militia companies disbanded in this county; taken from his home at night and hung, by Ku-Klux numbering about forty or fifty; occurred about March 6th. I think that is the exact date. Coroner's inquest developed nothing, except the fact of death as stated. No clew to the murderers found in the evidence, and no arrest made or subsequent investigation or effort, that I can learn of, to trace them. Various facts in regard to this case are attainable which promise detection of the parties if properly investigated and followed up.

4th. Alexander Leech, a negro; member of the militia company disbanded; taken from his house at night, about March 7th, by a party of Ku-Klux, about twenty or thirty in number; shot, and his body thrown into Bullock's Creek, where it was found some two weeks afterward. Record of coroner's inquest shows that no evidence was produced leading to detection of the murderers. In this case it was stated to me by two different persons—one of them a very intelligent white man, who was present at the inquest—that one of the witnesses had first stated that he did not dare testify to what he knew regarding it for fear of the consequences to himself from the Ku-Klux, and, receiving no encouragement or assurances of protection, afterward stated that he knew nothing about it. This fact does not appear in the record of his evidence. This witness has since disappeared and is reported to have fled the country.

Question. What is the name of the gentleman who told you that?

Answer. Mr. Hope, deputy United States marshal here. He is in town now. The name of the other person is Henry Lathan, a colored man and member of the coroner's jury which held the inquest.

5th. Mathew Boyce, a negro; taken out at night from the house where he was living and shot through the head and elsewhere, by about ten or twelve of the Ku-Klux; occurred March 1; shot on the door-steps.

Question. Do you know the alias of Boyce?

Answer. I did not observe that any alias was referred to in the papers. I have

always heard him mentioned as Matthew Boyce. Roundtree has an alias—Black. The inquest developed nothing further than the fact of death as related. I know of no subsequent action or attempt at investigation.

6th. Lot Campbell—he is also called Lot Miller—a negro, shot in daylight while at work on the plantation of Hon. B. F. Briggs, member of the State legislature. This man died of his wounds after lingering some eight weeks. In this case no inquest has been held. From what I can learn of the facts there would be strong evidence pointing to two men, who live in that locality, as the perpetrators, if an investigation were had. The report in this case is made from inquiry in regard to the facts. There are no official records in the county office in regard to it.

Question. Give us the sources of your information.

Answer. Major Briggs is one of my informants.

Question. Benjamin Franklin Briggs?

Answer. The gentleman who was here a few moments ago as a witness. Another informant is the sheriff. Another informant, as to some of the reputed facts, is a negro who lives out near the plantation. And I learn the fact from several persons that it is a common rumor that the two individuals who did the shooting were recognized by several persons who were in a field close by where it was done.

Question. Are the persons who recognized them known?

Answer. Yes, sir, and are accessible. The impression I have, from such investigation as I have given to the case, is that there would be no difficulty in finding sufficient evidence to base an indictment upon in the case of the two persons.

Question. Can you state briefly the facts?

Answer. The facts are, the man was at work on a log-chopping, in the edge of a wood.

Question. Was it in daylight?

Answer. Yes, sir. He was shot from a distant hill nearly four hundred yards. He was struck through the leg, and was at first expected to recover, but eventually died. Two persons, one of whom fired the shot, passed persons in going to the field, and returning passed those same persons, who recognized them. These persons saw the smoke from the shot and heard the explosion, although the shot was fired at some considerable distance from them. It is stated to me by Major Briggs that two persons, who are supposed to be the murderers, when on their way back, stopped at a house within, say, five hundred yards of where the thing occurred, and made the remark that Lot Miller had been killed and they were very much afraid they would be suspicioned of the murder.

Question. Because they had been passing along?

Answer. For what reason I do not know. I tell the fact as it was reported to me, that they made the statement that they were apprehensive of suspicion. The additional fact was stated in the case that the people at the house, although living within five or six hundred yards of the thing, had, at that time, not heard of Lot Miller having been shot at all. I believe these are about the facts in the case.

Question. Did Mr. Briggs give any reason why he did not commence a prosecution on these facts?

Answer. Mr. Briggs is merely the owner of the plantation on which this man lives.

Question. Was the man living on his plantation?

Answer. Yes, sir.

Question. A tenant of his?

Answer. Either a tenant or employé; I do not know which. I say *living* on Mr. Briggs's plantation. I use that word because the people, in speaking to me of it, have spoken of it as having occurred on Mr. Briggs's place.

Question. Is Mr. Briggs a republican member of the legislature now?

Answer. Yes, sir.

Question. And this man was a tenant on his farm?

Answer. A tenant or employé.

Question. How long ago did you understand that Mr. Briggs ascertained the facts?

Answer. I did not ascertain anything about that. It is, perhaps, three weeks since I learned the fact from him.

Question. How long since you learned that?

Answer. Substantially the same facts have been repeated to me at various times within the last three months.

Question. Do you believe them to be true?

Answer. I do not know that I have had any belief in regard to the truth of the statement; but I have looked at them simply as furnishing sufficient light for a coroner's jury to commence investigation.

Question. Did it not strike you that this was very direct circumstantial evidence?

Answer. Yes, sir.

Question. Then you have a belief?

Answer. No, sir; I have not. Assuming the facts to be true, I should locate the murder at once upon these individuals.

Question. Is there any impediment to your prosecuting these individuals?

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Answer. I have taken this course: I have twice spoken to the coroner as to the propriety of an inquest. On the first occasion he told me he had not heard of the death; on the other he told me he had only heard of the death a week previously.

Question. How long after the death did you first speak to the coroner about it?

Answer. I think it was perhaps three or four weeks.

Question. The body had decomposed then, perhaps, in the weather as it then existed?

Answer. Possibly; but I did not suppose that offered any obstacle to holding an inquest. I understood it to be the coroner's duty to hold an inquest where there was a supposed case of murder. That was my object in speaking to him, because I believed him to be the proper officer.

Question. Who is the coroner?

Answer. Mr. Fayssoux. One case of attempted murder has been reported to me—Fed. Williams, a negro, who was shot through the lungs in daylight, while at work with his employer in the woods. He recovered from his wounds, and, I understand, has left the country. No official investigation of this case was made beyond a visit of the sheriff to the locality, and some questioning of parties who could tell him nothing beyond the evident facts.

Question. That was understood to be by the Ku-Klux?

Answer. Yes, sir.

Question. Was it by disguised men?

Answer. I do not think the persons who fired the shots were seen at all, but it is understood, as a matter of common rumor, that it was an attempt at a Ku-Klux murder. The following cases of whipping I have investigated with very considerable care, to the end that they might be brought to trial, the parties having been identified by the witnesses, and otherwise connected by evidence with the acts of violence:

1st. Creecy Adams, a negro woman, severely whipped, May 12, by a party of nine Ku-Klux.

Question. Who know them?

Answer. The party whipped and the next party who is named here, and two other persons who were inhabitants of the house at the time of the whipping; and the circumstantial evidence connected with the case is the tracing of the horses of these parties, or a portion of them, to their houses by the negro women who were whipped, on the following morning, on the way to town. Also the seeing of one of the horses known to belong to one of these parties, covered with red-clay mud, the night previous having been a very rainy night.

2d. Phebe Smith, a negro woman, whipped at the same time and place by the same party.

3d. Martha Woods, negro woman, whipped April 27, greatly beaten and abused, had been abused previously.

Question. Are the parties known?

Answer. Yes, sir.

Question. By whom?

Answer. By her, by her sister, by her brother, and items of identifying evidence by two men, Addison Woods and Jack Garrison, who were in the house when the parties came there, and by a long series of circumstantial evidence, establishing the fact that these parties were on an expedition of this kind that night, and connecting them with various other circumstances of the kind that night.

Question. Were they disguised?

Answer. Yes, sir. The disguise of one of these men was torn away from his face by this girl while he was whipping her.

4th. Hamp Hicklin, a negro man, driven from his home in this county by continued persecutions, fled to North Carolina, just across the State boundary; whipped, beaten, and abused to an extent that compelled me to put him in my hospital for treatment on his arrival.

Question. Are the parties known?

Answer. In each case, if you will have the kindness to let me finish the statement, you will probably get it in a more connected form. He would no doubt have been killed, but escaped on the road away from the place where they captured him. It was done by a party of Ku-Klux from this county. The parties are not absolutely identified by having been recognized by any person, but to my mind they are by a very strong chain of circumstantial evidence. Two persons were distinctly identified on the road returning from the place where it occurred, and within a mile of where it occurred, by two different persons, who saw them at two different places. They are clear as to both of these two parties.

Question. That is, if they were coming from the whipping?

Answer. Yes, sir; and from the other circumstances connected with it; for instance, the identification of the horses. That case depends entirely upon circumstantial evidence connecting them with the outrage. There are several of the following cases in which I am inclined to think, from the investigation given so far, that the authors of the violence can be indetected. They are not included in the foregoing because the investigation has not been as minute and complete as the above. With these exceptions

the following are cases of whipping, beating, &c., in which little investigation was made in any case beyond the fact of whipping :

1st. Tony Wallace, colored, and called also Tony Hill, Wright's Ferry Road, eight miles from York, about January 10 was whipped and his watch stolen and house ransacked for money. Does not know the parties.

2d. Charley Barron's wife, same neighborhood, shortly after the above, knocked down with a gun and beaten because she would not tell where her husband was. She still (July 13) shows marks of beating. Parties not known.

3d. Andy Kitear, (March 11,) whipped on the same night as the last; beaten and abused severely and robbed of \$40. Had a school-house on his place which they tore down. I learn from that boy that he recognized nearly all the parties who were engaged in it.

Question. How does he say he recognized them ?

Answer. I did not question him very closely in regard to that because it was a case in which I had made up my mind not to make any particular investigation.

4th. Sam Simmrell, cross-roads, Wright's Ferry road, eleven miles from York; got after him a number of times; caught him about the middle of February and whipped him severely; about the middle of May burnt down his house and robbed him of some of its contents.

5th. Sam Simmrell's wife was whipped and ravished at the same time they whipped him.

6th. Jordan Tate, same neighborhood, was caught about the middle of February, while the gang were looking for Hamp Hicklin, and beaten severely.

7th. John Tate, son of the above, about the end of February, was whipped and beaten.

8th. Martha, a colored girl living at Jordan Tate's, was whipped about the 27th of May, the same night that Martha Woods was whipped. That is the case spoken of a moment ago and those acts were committed by the same parties who were engaged in her case.

Question. In all these instances we are to infer that these men who perpetrated these wrongs were disguised ?

Answer. Yes, sir.

9th. Abraham Webb's daughter was in Jordan Tate's house the same night; was whipped and made to dance.

10th. Peter Watson, whipped the same night that Jordan Tate was whipped.

11th. Sylvester Barron, same night that Martha Woods; struck on the head with pistols and beaten with clubs and pistols. He is a boy. I will explain, though perhaps it is not necessary, that these are taken, as you will observe, in many cases from hasty notes made frequently on scraps of paper, and they are repeated here in almost the language in which I took them down.

Question. When you commenced to make a statement of these affairs you had intended to make a record ?

Answer. Yes, sir; in each case.

Question. You commenced with an idea of forming a list like this ?

Answer. No, sir; but with the idea of reporting correctly to my commanding officer, as I am required to do, the cases that had occurred, and also the cases where there was any hope at all of instituting civil proceedings or any promise of bringing the parties to justice.

Question. Why did you not take a more permanent form—something like a little book ?

Answer. I have done so.

Question. I understood that the list is made up from a great variety of loose papers ?

Answer. In great part it is. This is a general list of cases, as I stated to the committee, in which I had abandoned, in most cases, any intention to pursue the investigation in the individual cases further.

Question. You say that at one time a portion of these very cases which you now report you concluded to abandon ?

Answer. That is the case at the present time with most of these I am reading now—all, in fact, with the exception of five or six.

Question. When did you conclude to revive them again ?

Answer. I have not come to the conclusion to revive them.

Question. I understand you to mean, in regard to a certain number of cases on hand, that you at one time concluded to abandon them and not run them through the examination ?

Answer. I concluded to make no further examination because I had reached a point which satisfied me that it was useless to proceed with the investigation, as the parties could not be brought to justice.

Question. Then at one time you concluded to abandon this whole thing ?

Answer. No, sir; only in regard to certain classes of cases.

Question. Do any of these cases, now reported, belong to that class of cases ?

Answer. I do not understand you.

Question. I understood you to say that at one time you abandoned a certain portion

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of the cases you had on hand, because you did not think it worth while to run them through their entire examination?

Answer. In a certain portion of the cases I abandoned any further investigation because I had reached a point in the investigation which satisfied me that no good, in the way of bringing parties to justice, could be effected by any further investigation which I could make; and this is by far the largest number of cases.

Question. You do not throw them aside?

Answer. I do not throw away my records in the case, although I find that some of them have been mislaid and I cannot put my hand on them.

Question. How do you know that? Had they been numbered?

Answer. No, sir.

Question. How do you know they are lost?

Answer. There is no difficulty, with any gentleman who has a good memory, in remembering the character of his papers. I have no difficulty of that kind.

Question. Were any of the papers that were lost so particularly marked that you now remember them?

Answer. I remember that a certain paper contained a record of the case of a certain man, and now I don't find that paper. I find this is so in a number of cases.

12th. Addison Woods, beaten with a gun, and escaped before anything more was done; have followed him ever since until he was compelled to seek Yorkville for shelter.

13th. Sam Partlow, lives at Sahn's Mill, ten miles from York, on Wright's Ferry road; about the middle of May.

14th. Minor Bailey, same time, same neighborhood.

15th. Elias Hill, a few nights after Addison Woods.

Question. Give us the facts about Elias Hill?

Answer. The principal facts in regard to him I have in a letter which he addressed to me and which is now in possession of one of the committee. I think I handed it to Mr. Stevenson at Spartanburgh.

Question. Can you recall the general facts?

Answer. The party came to his house that night; they put a strap around his neck and dragged him from his bed.

Question. Did they put a strap around his neck in the bed?

Answer. Before they took him from the house, and dragged him into the yard, and in the course of the whole performance he was severely beaten with a pistol and, if I recollect rightly, with some other weapon. His wife was cursed and abused.

Question. Is he a married man?

Answer. That is my impression; certainly I understood that a woman who was in the house was abused. I may have simply inferred, from the fact of there being a woman in the house, that it was his wife. Perhaps it was his sister. She was also beaten and cursed and struck, several times, probably, from my recollection now, and they abused some other member of the family; I think either a child or quite a young person, who was also in the house.

Question. With what violence?

Answer. The extent to which the violence went in that case I do not recollect, if any actual violence was done. They broke several articles of furniture.

Question. Will you mention the articles?

Answer. My recollection is now that his letter speaks of a clock—either his letter speaks of it or one of the persons who was telling me of his losses spoke in regard to it. You understand his crippled condition. I had not seen him previous to his being brought here.

Question. From what Elias said in regard to it, you think it was a clock. If there was any other pregnant fact that you recollect state it.

Answer. I do not remember anything further than his physical condition, which was evident enough.

Question. We saw that.

Answer. I do not now recall any other special fact.

Question. Did he say anything in his letter that they required him to do?

Answer. I have a recollection of his mentioning some conversation in connection with their hunting a letter, supposed to be in his possession, from Mr. Wallace, a member of Congress. I remember his mentioning that fact in his letter. I do not remember distinctly any other conversation that he mentioned, except the general impression that I have of it now is the cursing and abusing that he received.

Question. You do not remember any condition that they put upon him that he should fulfill?

Answer. Yes, sir, I do now. I think he mentioned in his letter that they required that he should not hold any more Union League meetings. I am not sure but that the prohibition applied also to religious meetings, perhaps it may have been only general League meetings and meetings of negroes at his house. Beyond that I do not recollect any special prohibition.

By Mr. STEVENSON:

Question. I have this letter here.

Answer. I can identify it.

Question. Is that the letter?

Answer. This is the letter, (examining a letter below given.)

By Mr. VAN TRUMP:

Question. Do you know whether this is his handwriting?

Answer. I might say that it is, for this reason: there are only two negroes in that country I know of who are able to write, and this is not the handwriting of the other one.

By Mr. STEVENSON:

Question. Have you seen him?

Answer. Yes, sir; here.

Question. What does he mean by the expression "prize stick?" (pry.)

Answer. I take it to mean a stick with which he helps himself about in some way or shifts his position in the chair. He has some curious way of moving himself with this stick.

(The letter is as follows:)

Rev. E. Hill's report of abuse, to Major Merrill.

"CLAY HILL PRECINCT, YORK COUNTY,
"SOUTH CAROLINA, May 9, 1871.

"To whom it may concern:

"I sorrowfully and truthfully tell by lines the following facts: It is known by all that know me for the last forty years, to be among if not the worst afflicted person known on earth still living; not only unable to walk, sit, or crawl, or to turn over in the bed without a prize-stick, lying all the time on my back, so drawn by the rheumatic pain of legs, feet, hands, and jaws, mouth, head—all drawn by such pain out of all human shape; jaws so clinched that he cannot open his mouth, and can only feed himself through a broken-out tooth or two; and has been in this condition for the last forty-five years; now fifty-two years old; was taken out of his bed by two disguised men, laid very roughly on the ground in his yard and surrounded by five or six ruffians disguised, and asked and accused and lied on for what I never said, done or thought of; and struck two or three times with their fist on the nose, head, and in the eyes, and on the breast, and once on the head with a pistol; and dragged over the yard by his legs and by straps around his neck, and whipped with a horsewhip some seven or eight lashes. And when they had exposed him for about one hour out in the cold and on the hard ground, with the said abuse, and had broke my clock and ransacked my house, viz: beds, boxes, bookshelves, &c., inquiring for a letter that came from Mr. A. S. Wallace, member of Congress, in reply to my inquiry about Liberia, and how to get there, and of a promise of better and safer times, &c., &c.; threatening my life with pistols, and straps around my neck, warning me with a threat to quit preaching and holding Union Leagues; and also to put a card in the county paper to publish that I renounced all interest or connection with the republican party, now and forever. And on this they left me, with a threat if I did not cease preaching and holding Union Leagues, and put such a card in the county paper this week, they would be back to kill me sure. And while here they abused my sister-in-law by jerking her out doors, and hitting her five or six lashes with a strap or whip to make her tell what she would not, as to where her husband and son was hid at; breaking down and through two doors and locks to get into both houses.

"The above is facts all done on the night of the 5th instant, between 12 and 1 o'clock.

"N. B.—As many of my color have been killed for reporting what was done to them by K. K. K., I, the above signed and reported, beseech the authorities, through which this may pass and be executed, not to make known or expose his name, lest he be sacrificed for the truth.

"P. S.—Will inquire of the bearer of this, verbally, if the above-named subject, viz, E. Hill, is not in the above afflicted, pitiful, and sad condition, as described above, though so abused; and the named sister-in-law, who is his own dear aunt, who raised him up in place of a mother."

Question. Proceed with your statement.

Answer. 16th. Preacher Foster, a Methodist preacher, about May 15.

17th. Wife of the same, at the same time.

18th. June Moore was pursued frequently; never caught; his wife abused and cursed because her husband could not be found.

19th. John Tate, son of Jordan Tate, full grown, beaten at Moore's house, and es-

aped while being beaten; was fired at, but not hit, as he was running away. Word was left at June Moore's with his wife, by these people, that he would have until the next Sunday to leave the county; if he did not, they would kill the whole of them; occurred about April 10.

20th. Peter Phillips, Clay Hill.

21st. Jack Garrison, persecuted and followed until he had to flee the country; never whipped, because never caught. I may say, in my opinion, never killed, because never caught.

Question. What particular circumstance in that case puts it in so strong a light?

Answer. Because he has been pursued with a persistency that has satisfied me of their desire and intention to kill him if they could get the opportunity; and I am influenced somewhat also by the fact that all the negroes in that country are fully convinced, from the conversation generally, that they would kill Garrison if they could get the opportunity.

22d. Sol Hill was compelled to publish a card; never caught him; got after him several times; his wife struck with a gun on one of these occasions; whipped and beat one of his children, and threatened the other.

23d. Elias Hill's mother whipped same night that Elias Hill was whipped.

24th. Francis Johnson; his house was attacked and dog shot; his wife whipped, and generally cursed and abused.

25th. Jesse McGill beaten and abused about the head, and knocked with pistols and guns, same night that Addison Woods was whipped.

26th. Pink Johnson, or Pink Hill, pursued and persecuted, and house visited several times.

27th. Lucinda Hill, wife of the above, was whipped at Bailey Barron's about the middle of May.

28th. Julia Barron whipped at same time and place.

29th. James Pressley, colored, was visited and threatened the same night that Andy Kitear was whipped. Was not at home; came back while the Ku-Klux were tearing down the school-house.

In these cases following I cannot give dates with any accuracy, and so omit them.

Question. Do you know whether they occurred before or after you came here?

Answer. Some of them I can specify as to date, and some of them, as, for instance, in the case of Dover and Hambright—

Question. Answer generally, if you can.

Answer. Out of eleven cases there are six that I recognize as having occurred since I came here.

1st. William Wright, colored, whipped and house burned. That case is in the northwest part of the county. Before I go any further I wish to say that all the cases I have given, up to this point, occurred in what is called the Clay Hill country, which is a small part of the northeast portion of the county. It begins about twelve miles from here, and extends to the Catawba River, covering a space of probably seven by nine miles, or that scope of country, irregularly. All of these previous cases occurred in that part of the county. All of these eleven cases occurred in the northwest part of the county, in the immediate vicinity of King's Mountain.

Question. That being a mountain region?

Answer. Not particularly so, except the mountain itself, which appears to be a sort of isolated peak.

2d. Wilson Thompson, colored, whipped, same part of the county.

3d. Edward Patterson, colored, whipped, same part of the county.

4th. John Wright, colored, and Jacob Wright, colored, whipped.

5th. John Moss, white, whipped near King's Mountain.

6th. Polly Weaver, white woman, whipped in same locality.

7th. Abner Hambright, white, whipped and partly hanged, but let down. Near the head of King's Creek.

8th. Crowder Dover, white, whipped.

9th. Richard Davis, colored, whipped.

10th. D. D. Hullender, white, whipped near King's Mountain.

11th. Robin Black, colored, whipped near the west part of the county.

I now come to a different locality, which is specified.

1st. Lang Bratton, Witherspoon's place, five miles from Yorkville east, on what is called the Government lands, purchased from the Government. That was about March 1. He was whipped on the same night that Wallace was, probably by the same party.

2d. John Wallace, white man, taken from his house and knocked down and abused. He is a respectable man of position and means. Reason given at the time was his connection with the State government, his being a republican, and his corresponding with Hon. A. S. Wallace, M. C.

By the CHAIRMAN:

Question. What was his connection with the State government?

Answer. I believe they call the office "land commissioner;" at any rate, his duties are in some way connected with the purchase of land by the State for taxes. I do not precisely understand what the office is.

By Mr. VAN TRUMP:

Question. Is he a white man or a negro?

Answer. A white man of considerable prominence.

3d. Andy Barron, colored, Thorn's Ferry road, eight miles east of York. It was about the end of April. He was whipped and beaten; a quiet and civil old man; no reason given for the whipping. He was visited and beaten and abused once before, about two months previously.

4th. Green Sanifer, at Brown's tan-yard, between Rock Hill and Thomas's Ferry road, ten miles from town, about the end of April or beginning of May, was whipped.

5th. John Rawlinson, colored, about three miles from Brown's tan-yard, about the end of April, was whipped.

6th. Rial Rawlinson, on the Rock Hill road, at John Barron's plantation, about the 1st of May, whipped.

7th. Louis Wright, on Garrison's plantation, about eleven miles from Yorkville, whipped badly about the end of March.

8th. Andy Barron No. 2, near Thorn's Ferry road, about the end of February, whipped. There is a previous Andy Barron mentioned, who was a different person.

9th. Bully Avery, a colored man, Dutchman's Creek, was whipped about the end of February. A colored man was said to have been one of the party.

Question. One of the whipping party?

Answer. Yes, sir; the man says he is sure of it.

Question. Did he say he knew the balance were white men, or was that the only one he discovered as belonging to their race?

Answer. He spoke of it in this way: that no white man ever could make his hand have the appearance of light color inside and dark on the back of the hand by any pigment; and that he did not believe there was a man in York County that could have handled him so much like a negro, if he had been a white man.

Question. What did he mean? Did he say?

Answer. No, sir; I could only judge generally that they have, in their fighting, a strong tendency to butt, somewhat like a ram.

Question. Did he say that?

Answer. No, sir; I infer it.

Question. Did you see the man himself?

Answer. I talked with him and he used about that language.

Question. Did you not feel an interest to investigate that extraordinary proposition by asking him what he meant?

Answer. No, sir; nothing further than that. I had investigated to the point that satisfied me that he knew none of the parties, and that there was no reasonable chance of identification.

Question. The substance of what he stated was that he found one was a negro, without knowing whether the balance were negroes or not?

Answer. That he was perfectly satisfied one was a negro, and he gave that reason in reference to the complexion of the hand.

Question. But he did not know whether the balance were negroes or whites?

Answer. No, sir; there was no question or explanation on that point.

10th. Doc. Patton, Rock Hill, whipped about the middle of May.

11th. Francis M. Davie, Rock Hill, a magistrate, about the middle or end of February. In that case there has been an affidavit sent to me since this record was made or these notes.

By the CHAIRMAN:

Question. I will submit that affidavit and let it appear in the record here.

Answer. This affidavit I received yesterday in a letter from General Anderson, from Columbia, with a request that I would hand it to Senator Scott if he was still here. This is the affidavit of the man I have referred to, and I will read it:

"F. M. DAVIE sworn:

"Have been a trial justice; on the night of March 30, 1870, three disguised men came to my house at Rockhill, in York County, and inquired if Francis Davie was at home, and ordered my wife to open the door. She asked them who they were, saying she was not in the habit of opening the door to any person unless she knew who they were. They replied, 'Tell Francis to open the door; I want to see him.' I said I wouldn't do it. They said if she did not open the door they would kill her. I, lying in bed, said to my wife, 'We can't defend ourselves, you had better get up and open the door.'—One of them came in and asked, 'Where is Francis?' She said, 'There he is, in bed.' I was then

rising up, when he approached the bed. Says he, 'Francis, where are you?' He had his hand on the little table near the bed, and grabbed with his left hand, saying, 'Come here; I want to see you.' I said, 'Do let me get my shoes; I will walk with you.' He said, 'No; damn it, come on, I want to talk with you.' My wife said, 'O! ain't you going to let him put on his clothes?' He replied, 'Never mind his clothes; come on,' and pulled me on as fast as possible outside of my gate, and turned to the left, up the lane. A man with a white handkerchief tied around his neck, and a handkerchief over his face, whom I believe to have been Park Wilson, the marshal of the town of Rock-hill, walking before me, advancing some eight or ten steps, turned around and knocked me down with a club. The man who had hold of me also had a club, and after I was knocked down commenced beating me with it over the arms and legs. My wife, back in the door, when she heard them beating me, screamed 'Murder!' They called to her to keep quiet, and one of them shot off a pistol to frighten her into quietness. The one who shot the pistol I am satisfied was William May, a clerk in Ivery & Roach's store. After he fired the pistol he went up the lane a few steps and returned again, saying something to the man who was beating me. The other man stopped beating me, and he commenced beating me, saying, 'God damn you, I'll let you know who is in command now.' After that another man of the party came around from the door and said something, when they all ran away, and left me lying there. I don't know either the last-mentioned man, or the one who came into the house after me. The man who took me from my bed also took my pocket-book off the little table near the bed. It contained twenty-five dollars and some receipts. My wife found the pocket-book at my gate where I was taken out, the receipts lying on the ground and the money gone.

"F. M. DAVIE.

"Sworn and subscribed before me this 1st day of April, A. D. 1871.

"M. J. CALVAN,
"Notary Public."

Question. Will you proceed with your list?

Answer. 12th. Edmund Rainey, about April 1. He lives in Ebenezer.

13th. Hiram Alexander, white man; lives at Irvin's plantation, Armstrong Ford road; was whipped and compelled to publish a card in the Yorkville Enquirer renouncing the republican party, April 1.

By Mr. VAN TRUMP:

Question. Did you see that white man?

Answer. No, sir; I sent for him a number of times, but he refused to come and see me.

Question. Did you know him?

Answer. No, sir; I did not. I do not know him when I see him

Question. Do you know the facts? If so, how?

Answer. From the negroes. The same party that whipped him whipped a number of negroes.

Question. Did you see that card.

Answer. Yes, sir; I am pretty sure I did.

Question. Do you recollect the form of it?

Answer. My recollection is that this is the language or tenor: "that I hereby renounce my allegiance to or connection with the republican party," and I think it goes on to say something about the League. It did not specially attract my attention. If you will look at the newspaper for the date following April 11, you will probably find it in the paper.

14th. Dick Wilson, Lowry's plantation, April 11; reason given, not bringing up his son properly, and allowing him to make republican speeches; severely beaten and whipped. His son is thirty years old, and they were after his son; but failing to catch him, caught and whipped the old man, giving that as a reason.

15th. Charles Joseph, April 11; whipped, but not severely; reason given, his being a republican.

16th. John Dymun, a white man; severely whipped and compelled to publish a card in the newspaper. In that case I have several times sent for the man to come to me that I might fully investigate his case, but he has not done so.

Question. Did you notice that card?

Answer. I have seen it, but do not recall its character. I remember seeing that he had published a card.

17th. James Steele, Rock Hill road, fourteen miles from York; a white man, generally supposed to have been whipped for getting drunk and beating his wife.

Wesley Thomason, Limestone road, about three miles from Yorkville, about the end of January. Ku-Klux came to his house and his father-in-law's house, took his gun and shot Wesley through the thigh while he was standing in the door of his house.

Question. Are all the names there negroes which are not designated as white?

Answer. Yes, sir.

Jerry Clowney, same neighborhood, same night; whipped and beaten so that he was confined to his bed for several weeks. Reason given, he had a gun, was a preacher, and a sort of leader of the negroes.

Dave Bryant, lives on Herndon's place, same neighborhood, five miles from York; whipped and abused about the 1st of April. No reason stated. Is a republican.

Harry Miller, an old man, same neighborhood, lives on Brigg's plantation; was whipped and beaten until he died from this treatment; a harmless old man, with no particular influence.

Question. What were the particular facts? How soon did he die?

Answer. I do not know. This statement was made to me by three different negroes who came in here to inform me of a whipping that had occurred the night previously, in which the two women I mentioned as having been whipped were two of the party, and this man Dave Bryant was another. This was referred to as having occurred something like a month or more previous, and that Harry Miller had recently died. I find simply the note made that this thing had occurred.

Joseph Porter, white, beaten and whipped by the mob who attacked the county treasurer's office.

Question. On the same night?

Answer. Yes, sir. He is one of the bar-keepers in the saloon below here in this building.

Henry Lathan, negro, severely beaten; is still partially disabled by his beating and whipping.

Rainey (I have not got his full name) and his wife, near Pinkney road, about six miles from town, was beaten and abused, and it is charged that his daughter was raped at the same time. That ends the list.

Question. Do you know what number you have got catalogued there?

Answer. No, sir; I can look over it and see. [Counting the cases.] If I have not miscounted them, there are sixty-eight cases.

By the CHAIRMAN:

Question. Some reference has been made in the testimony taken by this committee to an apprehended attack upon your camp, and a request made of you by citizens of this town for such information as would enable them to proceed against the parties that were believed to be or suspected of being concerned in that apprehended attack, which information, it is said, you declined to give. I want from you such explanation or information on that subject as you have.

Answer. Briefly, the facts are these: I had reason to believe that a few young men belonging to one of these Klans intended to fire into my camp; I would not call it an attack. It was their intention, from the word I heard of it, to simply fire into it by way of raising a row. The information I had, and my own observation of the facts in the case, led me to believe it was possible that they might try it on, which induced me to take no other precaution beyond the ordinary than to have some additional men to sleep at the stable; that is, more than the ordinary stable-guard, in order that I might have them at hand in case I wanted to use them during the night, and I put in the vicinity from which they were expected to approach what we call a "silent sentry," whose instructions were, that if anything of the kind did occur he should quietly fall back and let them come on. The next morning when I came out on the street I heard and saw a good deal of stir, and learned, very much to my amazement, that the story had been carried about the town that I was expecting an attack on the camp; that the troops had been in line all night, and tremendous preparations made for this attack. Without paying much more attention to it I went on to attend to some business at the court-house, and while there Colonel Witherspoon came up and told me there was a meeting of gentlemen with whom I had previously had a conversation here in this office; that they had intended writing me a letter on the subject of this affair, but seeing me there, they asked that I would come over there and talk with them. I went over and explained to them the facts. When I heard what they had to say, explaining what the facts in the case were, a very general conversation ensued in regard to it, in the course of which various remarks were made to the effect that these men ought to be punished, to which, of course, I assented. But I am too fast. I have a recollection that one of the gentlemen did ask me the names of the parties, but I declined to give them. Several persons indicated a very strong desire to know the name of my informant. On that point I told them I had certain information, of course from a person, in the matter, but that the information on which I acted was principally my own observation and that of my officers, and that I could not give the name of this person and would not do so; that I was then in daily expectation of the appointment of a United States commissioner, and as soon as that appointment was made these men would be arrested on other charges, and if I found the evidence sufficient to include this, that it, also, would be included as a violation of the Ku-Klux bill.

Question. Reference has been made in this examination, this afternoon, to your political sentiments. Have you taken any action here at all which could be considered as

having any political bearing whatever in itself, unless it be your action in endeavoring to detect the Ku-Klux?

Answer. None at all. On the contrary, whenever the subject has been discussed between myself and other persons here with whom I desired and hoped to exercise an influence as looking toward good in this matter, I have persistently insisted that, so far as South Carolina was concerned, party divisions have no relation to the party divisions at large, but that here it is purely and simply a question of social order.

By Mr. STEVENSON:

Question. I desire to ask with what impressions you came here in regard to this organization generally?

Answer. I came here from Kansas, where I had no knowledge at all of anything connected with these matters, except such as one gets in an ordinary reading of the newspapers, and up to the time when I reached Louisville, the headquarters of this department, I fully believed that the stories in circulation were enormous exaggerations, and that the newspaper stories were incredible. To satisfy my curiosity on that point more than anything else, in the course of my official conversation with General Terry, commander of the department, I asked him how much truth there was in the newspaper stories. He replied, "When you get to South Carolina you will find that the half has not been told you." Still, I came here with the idea that they were sporadic instances of mob violence, fully impressed with the notion that they were a few occasional cases that might be regarded rather as vigilance committee matters than anything else. When I first came here I was impressed for a number of days with the idea, from my conversation with the principal people here, and from the appearance of things, that there was every probability, and I so reported, of a speedy termination of these acts. But very soon, from the facts brought to my notice, I had occasion to change my mind, and I became convinced that the Ku-Klux organization was not only a very large one and exceedingly well organized, but a very dangerous one, and that their purpose was to persist in this whenever opportunity favored them. I am now of opinion that I never conceived of such a state of social disorganization being possible in any civilized community as exists in this county now. Although quiet, it is now very little better than it has been previously. There appears to me to be a diseased state of public sentiment in regard to the administration of justice. The outrages which have occurred in the Clay Hill region, I feel confident, could be controlled by the white people there very readily, if they chose to bring the force of public opinion against them. But until I endeavored to stimulate that opinion myself against acts of this kind there appeared to be no effort of the kind made by the people; and certainly it was the fact that public sentiment was silent; if not sustaining these acts it was silent in regard to them. In all my conversations with people, I have been met constantly with the palliative remark in regard to these outrages—conceding that they are wrong and all that—almost always the conversation has contained the substance of this remark, "But you cannot but acknowledge that they have done some good," as if lawless violence could ever do anything but harm. It is that point in the conversation of the best men of the community here which has so startled me as to the demoralization of public opinion.

Question. If I understand you, then, you came here predisposed to doubt the extent and serious character of this Ku-Klux organization and its proceedings?

Answer. Let me put it stronger even than that. I was absolutely incredulous, not only of its extent, but of the possibility of such a state of facts as exists here.

Question. Did you state whether Mr. Porter, who was taken by the Ku-Klux in their raid on the treasury, was whipped or not?

Answer. Yes, sir, his name is down in the list.

Question. Did you include, in the list of cases of violence, one which happened here last Saturday, after the arrival of the committee?

Answer. No, sir.

Question. Do you know about it?

Answer. If you will recollect, in my testimony I referred to cases of outrage, which I spoke of as Ku-Klux outrages; that case on Saturday night had a somewhat different complexion. I do not know that that had any immediate relation to the Ku-Klux, although it is an outgrowth of the same feeling which produced the Ku-Klux organization.

Question. Did you see the man who was shot on that night?

Answer. Yes, sir; after he was shot.

Question. How was he injured?

Answer. One wound in the back, and the ball left in the shoulder-blade, on the under side; one wound through the hand, ranging through to the wrist, and the ball taken out of the back of the arm, embedded between the elbow and the wrist of the left arm; on the left elbow was a grazing wound by a ball, and on either the right or left side of the face—I am not certain of the place where it entered—but one side of the nose; the ball entered and ranged diagonally across the head, and lodged in the jaw; and

one shot, in addition to this, was a flesh wound in the right arm. There were five wounds.

Question. Did you hear the firing?

Answer. Yes, sir.

Question. What time of night was it?

Answer. I am doubtful about that. I should say between 9 and 11 o'clock. It must have been after 10 o'clock, I think. The firing attracted my attention by reason of my hearing the shooting of a long arm. The first shots I heard were pistols. I was sitting talking to Senator Scott. I first heard pistol shots, when I heard the discharge of the long arm, I apprehended trouble, and jumped up; that proved to be the shot fired by my sentinel to alarm the guard. He fired two shots.

By Mr. VAN TRUMP:

Question. Not that I approve of that terrible act of violence —

Answer. Of course not.

Question. But because my mission here is to get at the truth, I will ask you one question in regard to it. I have understood that this negro had before that knocked down the white man who shot him, and who was a policeman?

Answer. That is stated. I do not know the fact. The negro himself states very positively that he did not.

Question. You have sixty-eight cases stated on your record. How, to your satisfaction, have you made up the balance of the three or four hundred cases of whipping in this county?

Answer. In this way, that I have heard of whippings from one portion of the county—I may say from every portion, except Fort Mills, which is on the other side of the river.

Question. You keep no record outside of these sixty-eight cases, which you have read?

Answer. No other than you understand the fact that a portion of my notes were mislaid. Other than that I have kept no records.

Question. Then this is just a jumping conclusion of your mind?

Answer. No, sir; it is a reasonable conclusion.

Question. Give us the reason.

Answer. With the exception of Fort Mills, down on the other side of the Catawba River, I have heard of numbers of whippings and violence in every part of the county. These sixty-eight cases lay principally in the Clay Hill region, which I described a moment ago, and in the neighborhood of King's Mountains, at the head of King's Creek in a very circumscribed district there, not to exceed five by two miles, and in the neighborhood of about four miles from here, on the Lincolnton road, and there in a locality not to exceed a mile in radius from the center; and in localities directly east of here, and along toward the road to Rock Hill, and very few cases of these are noticed here; and in a locality toward the southeast toward Lowry's plantation; and there the cases noted are within the radius of half a mile—cases that all occurred the same night; southwest of here there is only one case. These are the recorded cases in which I made official notes. They number sixty-eight, and they cover probably not one-twentieth part of the area of the county.

Question. Then, do I understand you that you have made a geographical average of the county instead of a numerical average or estimate of the number of cases?

Answer. Partially so.

Question. Do you suppose that because sixty-eight occurred in these small limits, there must have occurred three or four hundred in the greater limits of the county?

Answer. That is partially the reason. The rest of the reason is that, seeing that number of cases occurring within six miles, and knowing or believing from rumor and from what was told me or came to me in various ways, that the number in this locality was not above the average number elsewhere, or at least not greatly above it, I estimated the number. Further, and besides that, I took the pains to ask the sheriff of the county, who, next to me, I suppose, is best informed as to the number of whippings, and the man best able to judge of the number, and he estimated them at from three to three hundred and fifty.

Question. Had the man kept a record?

Answer. No, sir; his was merely a rough estimate.

Question. Is it not a fact that Clay Hill region is the marked spot of this county?

Answer. It has been so for only a very few weeks—not to exceed three weeks; scarcely that long.

Question. Whatever the time, it was a constant thing there?

Answer. It was the fact that they were constantly occurring there during that time. They were innumerable almost.

Question. What proportion of these cases belong to Clay Hill?

Answer. I should suppose about one-third.

Question. Then the difference between the reported cases on the paper you have read and your general estimate would be about either two hundred and thirty or three hun-

dred and thirty, and consists of those general cases, of which you have no record, as you say three or four hundred cases of whippings have occurred in the county.

Answer. Between three and four hundred, I said, speaking in the general way in which one does when saying such a thing is between three and four hundred.

Question. You report on paper sixty-eight cases, and these and whatever might have been added, had you not lost your memoranda, were cases of which you have had authoritative information?

Answer. Yes, sir.

Question. They are all by actual knowledge or information from these parties?

Answer. Yes, sir.

Question. Have you any means of estimating what number of cases were on these memoranda that you lost?

Answer. I should say not to exceed twenty-five; probably not that number. I should say, as an estimate, and a reasonably correct one, I am sure, between twenty and twenty-five.

Question. Having the fact that these cases are limited to small circles in the county, like Clay Hill and others, some of them having a radius of not more than a mile, is not that conclusive to your mind that this is merely an exceptional explosion of violence, and not the result of a general county organization of the Ku-Klux?

Answer. No, sir; it is directly the other conclusion I would reach from it.

Question. Have you reasoned on that subject?

Answer. Yes, sir; my reasoning is this: From what I have been able to learn in regard to the organization of the Ku-Klux they are organized in small Klans, consisting in this town of ten, and in the county or in the country, I should say of from ten to seventeen or eighteen, and that these Klans operate in particular localities. The particular Klan which was operating in Clay Hill for a while would stop, and the Klan next to it, or another Klan close by, would break out just north of here, for instance. That would be on one particular night. About the time my attention might be supposed to be sufficiently attracted to that locality to make an attempt to capture them they would suddenly break out below here.

Question. Were they never simultaneous?

Answer. In no instance that I recall were they simultaneous.

Question. How would these negroes discover that they were from abroad?

Answer. How do you mean sir?

Question. If I understand you, it is the same Klan traveling about?

Answer. Not at all; but one Klan would go and kick up their devilment for a day or two, and when it might reasonably be expected that they had attracted my attention as military commander, they would suddenly stop, and at that time another Klan in another part of the county would commence their operations.

Question. You draw upon your imagination for all that?

Answer. No, sir, I do not, because my information in regard to the matter was tolerably complete in most cases, and in some instances I am satisfied it became known to the Ku-Klux that a plan had been concerted between the sheriff and myself to capture these fellows while in their operations—to go out upon them some night when they might be expected to carry on their operations. I found, by observation, (and the sheriff was also convinced by his observation,) that they were in the habit of carrying on their operations on successive nights of Friday, Saturday and Sunday. The intention on our part was that, if they should break out, for instance, in Clay Hill on Friday night, on the Saturday night subsequent we would be present with the necessary force to capture them. The result of a knowledge of our plan getting out was, that they would break out in Clay Hill on one night, but the subsequent night would break out below, and the night subsequent to that on King's Mountain, and the subsequent night would be in Clay Hill, and then in Rock Hill, and then down below here to the south.

Question. What sort of reasoning is that? If these fellows committed a depredation in Clay Hill on one night, they would be dispersed long before you got there, and it would make no difference whether they broke out in another place or not, there would be no possibility of your capturing them. Suppose that to-night Ku-Klux violence is done in Clay Hill; you would get the news to-morrow, and you would have no chance of capturing them then?

Answer. Not of capturing them last night, certainly, if I go out to night.

Question. Why should these parties reason in the way that you have mentioned?

Answer. For this reason: If they had been in the habit, for a long time, of going out on three successive nights of the week, they might reasonably infer that that would attract my attention, and, when I undertook to capture them, by going out at night and waylaying them on the roads, as was the intention, that I would go on the night subsequent to the one on which they had appeared, if it was Saturday or one of those three nights of raids.

Question. I do not see the force of your position.

Answer. I might explain it more fully. If I find people engaged in certain conduct,

who are in the habit of enacting that conduct on three particular nights of the week, when they once begin it in a locality, and I have a desire to capture them, and I hear of their beginning it on a particular night, I would make the effort in that locality on the subsequent night.

Question. If they feared you at all, they would be governed by a different rule from operating on three consecutive nights in any one locality?

Answer. That is the very thing I was explaining; that when this plan came to their knowledge, as I had reason to believe it did, then the system of operating on three consecutive nights, which has long been the practice, suddenly stopped and they broke out here and there.

Question. Suppose they had ascertained your idea. They would have attacked one night and stopped then and waited a week perhaps?

Answer. They did just that thing.

Question. What connection that has with an act of violence of some kind in another locality, I do not see.

Answer. It convinces me fully that they are an organized band, and act in concert, for this reason: if I were going to do mischief of that kind with a band organized for the purpose, I should certainly act in exactly the way in which they are doing, and I would mislead to as great an extent as possible any military officer sent to do anything with me.

Question. You say you are acting under instructions from your chief. Who is your chief?

Answer. Brigadier and Brevet Major General A. H. Terry.

Question. Have you written instructions from him?

Answer. I have some, but principally verbal instructions from him, given to me on my way here.

Question. Have you the written instructions with you?

Answer. There is a great deal of correspondence between us, but nothing specially in the form of instructions on this point—nothing special and formal. There is a printed circular, and there are instructions scattered through my official correspondence.

Question. You have no special instructions, beyond these printed ones, applying to cases where the civil authorities ask your aid?

Answer. No letter that I might call by itself a letter of instructions on that point. My instructions were principally received in a verbal conversation with the general on my way from Louisville.

By the CHAIRMAN:

Question. To what extent do you know that the violence in this county has had the effect of causing the people to lie out in the woods, or have you any knowledge of that subject?

Answer. The knowledge I have is derived from inquiry made of negroes. I have at various times inquired of them in regard to their lying out in the woods, and only give my estimate from what was told me. I suppose that for a number of weeks—say beginning a week after I arrived here—four-fifths of all the negroes in the disturbed part of the county slept out of their houses at night; I mean the males. Generally the women did not.

By Mr. VAN TRUMP:

Question. Outside of these particular localities you have mentioned?

Answer. Yes, sir; in other localities. When the outrages began in Clay Hill, the darkeys below here were all frightened and slept out. The darkeys in town here even would not sleep in their houses. I have known darkeys on many occasions to sleep in my yard for protection.

Question. Did the fact that you were collecting this kind of information come to the knowledge of the negro population generally?

Answer. If it did, I did not know it. I do not think it did. There were certain negroes on whom I relied, but the generality of them I did not rely upon at all, because I found them entirely too untrustworthy to confide anything to them; and that if I would be successful in capturing these Ku-Klux, I must keep my own counsel.

Question. Then you had special colored agents to get up this information?

Answer. Yes, sir, in certain cases; not to get up this information that I speak of here in regard to the whipping particularly.

Question. Why not?

Answer. Because there was no occasion for it. These people came to me.

Question. They must have understood somehow that it was proper for them to come to you?

Answer. They regarded the United States troops as having been sent here for their protection; and having sought the civil authorities, as they considered in vain, when they came to town with a complaint of any kind, they naturally drifted to me.

Question. What was the office then of the special negro agents?

Answer. It was to give me information, when it was possible to get it, concerning

the parties, the men who I was satisfied belonged in the Ku-Klux organization, by watching their movements, in order that if any operations were contemplated I might possibly catch them in the act.

Question. Did the discharge of this duty necessarily take them from the county ?

Answer. No, sir ; not at all.

Question. They lived through the county ?

Answer. Yes, sir.

Question. How many of that kind had you ?

Answer. Not over four or five in whom I reposed any special reliance ; but it was the fact, that any negro anywhere throughout the county would bring me information if he had reason to believe it would be valuable to me.

Question. Do you not know they would be very proud to do it ?

Answer. Yes, sir, I suppose they would.

Question. There is that disposition, and might they not get up many fictitious cases if they were not honest ?

Answer. Of course that is possible.

Question. They would have had considerable vainglory in swelling up the list ?

Answer. I think there is not much tendency to doing that.

Question. Did not these agents, whose special office it was to watch Ku-Klux movements, understand that they were to get up information in regard to violence committed ?

Answer. No, sir.

Question. Not at all ?

Answer. Not at all—not in any case. In the case of Elias Hill I was very solicitous to get information of all the outrages in that region, because there were three or four nights in succession in which many occurred on the same night, and I had reason to believe that if the parties could be identified in any one place, knowing all that they had done, I could follow them through and bring them to punishment. In the case of Elias Hill I sent him word to investigate, in that particular neighborhood, all the outrages committed—to have full reports of these outrages. The investigation was directed particularly to the cases of Hamp Hicklin and Martha Woods.

Question. Whether you intended it or not, if the negroes got the word that you were collecting this information would they not go to work to get it up ?

Answer. No, sir ; I do not think so. I do not think they could have got any such impression as that I was getting up such information.

Question. Do you not think the negro race, knowing you were here for the purpose, would take considerable vainglory in getting up such information as they could ?

Answer. I do not think there would be. Their temper, I think, from the conversation I have had with the negroes generally, is to ask that justice may be done them, and they may be secured in quiet lives, and in case any action should be taken here-toward that end they would honestly and humbly go to work.

Question. You are a Pennsylvanian, are you not ?

Answer. Yes, sir.

Question. You do not know much about the negro character ?

Answer. Yes, sir, I do.

Question. The Pennsylvania negro character ?

Answer. No, sir. You must remember that I left Pennsylvania at the age of sixteen years, and have been in the South a good deal of my life. In regard to a militia parade, if it were proposed, or a public procession here for these negroes, they would then put on all the style imaginable ; but in regard to matters which really and seriously affect their lives and their homes they are honest.

Question. But I ask as to those colored men engaged to hunt up information, if any such existed ; undoubtedly they got knowledge of the fact that you were collecting this information ?

Answer. I have no reason to know that they did.

Question. Is not the negro a vainglorious animal if intrusted with any authority ?

Answer. I do not think that that is so generally true that I would say it was the fact.

By Mr. STEVENSON :

Question. How did you find the case of Elias Hill ? You say you requested him specially to investigate certain cases. Did he make an investigation ?

Answer. He did to a certain extent. I did that because I knew him to have a very great influence among the negroes, and I knew him, from the accounts of white men, to be a man of very pure character and excellent sense, and I relied upon him, being unable to go out there myself. It would have been impracticable for me.

Question. Was that overdone ?

Answer. On the contrary, it was very much underdone. He did not begin to do all that I wished.

Question. Do you find that as a general rule the negroes are very anxious to communicate these facts, or do they appear to keep quiet ?

Answer. They are not very anxious to communicate, and frequently I have the greatest difficulty in getting information; that is, in getting them to come out, in getting it from them; they have such apprehension of the consequences.

Question. To what do you attribute that?

Answer. To their fear of the consequences. In almost every instance of outrage they have been threatened with death if any statement was made by them in regard to it. They were threatened with death in many instances if they simply told the fact that it had been done.

Question. I see mentioned in the Yorkville Enquirer, of January 19, 1871, what I think is connected with the case which you say was prosecuted here, but failed.

Answer. The case against Seapaugh.

Question. Was that the case prosecuted for the outrage on Roundtree?

Answer. My recollection of the names of the men tried in the Roundtree case is that they were Randall, Hicks, and Byars. I do not think Sapaugh was the name. I have the impression that at the January term of court a case was tried for a Ku Klux whipping, in which the parties were acquitted. I am not sure that that was the fact. [Examining papers.] It seems that I mistook the names of the parties prosecuted. At any rate, I see here by the paper that at that term of court, in January, a man named Seapaugh was charged with Ku-Kluxing, or had been charged with Ku-Kluxing, and that one William Wright, colored, was tried and convicted of perjury, said to have been committed at the trial of Seapaugh.

Question. Have you any knowledge of the case?

Answer. I have no knowledge other than the fact having been mentioned to me as a fact, a considerable time ago, that a case of that kind had occurred here; that a man had made a charge of Ku-Kluxing against certain parties, who had been acquitted, and then the man making the charge had been tried for perjury, and convicted and sent to the penitentiary for it. I dismissed the story at that time as being incredible. It was only yesterday or day before that the matter was recalled to my mind by the remark that the newspaper record of it showed the fact.

By the CHAIRMAN:

Question. Have you any knowledge of wherein the perjury was said to have consisted; was it in identifying the party?

Answer. So I understand. I have no knowledge of the case at all. The records of the county are easily accessible and would show.

Mr. STEVENSON. This item from the Yorkville Enquirer of January 19, 1871, which I desire to have inserted, is as follows:

"THE CIRCUIT COURT.—The circuit court for York County commenced its sitting on Monday last—Judge Thomas presiding. The time of the court has been wholly occupied with criminal business, and the probability is that the remainder of the term will be consumed in the same manner. On Tuesday, Jesse Meek, Carlisle White, and Charles White, all colored, were tried and found guilty of larceny. On the same day, William Wright, colored, was tried and convicted of perjury in connection with a suit tried at the last term of the court against Seapaugh, charged with 'Ku-Kluxing.' At the time of going to press the court is engaged in the case against James Caveny, for the murder of James Martin, in October last."

YORKVILLE, SOUTH CAROLINA, July 26, 1871.

WILLIAM SAHMS sworn and examined.

By the CHAIRMAN:

Question. Where do you live?

Answer. Clay Hill, ten miles east of here, on the Charlotte road.

Question. How long have you lived in this county?

Answer. Since the surrender—six years. I came here shortly after the surrender.

Question. Are you a native here?

Answer. No, sir; I am a native of Germany. I was raised in Philadelphia.

Question. Do you carry on a mill?

Answer. Yes, sir; I have a mill and other machinery.

Question. The subpoena which was served on you required you to bring a book here which was alleged to have been gotten by your wife from a person named Pressley, alleged to contain a register of a Ku-Klux band. Have you that book?

Answer. No, sir; that book was stolen that same night it was left there.

Question. What do you know about that book?

Answer. Only that it contained the constitution and by-laws. I simply took a glimpse of it.

Question. Did you see it ?

Answer. Yes, sir ; I saw it and had it in my hands.

Question. How was it procured ?

Answer. It was like a blotter.

Question. How did it get into your house ?

Answer. Mr. Pressley fetched it there and threw it down.

Question. Who ?

Answer. Benjamin Pressley. He came there drunk and threw the book away. He was doggedly and brutish drunk. He threw it down, and my wife picked it up and put it in her dress pocket. He staid all night, and when we went to bed she left it in her dress pocket, and somebody came in in the night and took it off.

Question. Did you examine it ?

Answer. Only a glimpse.

Question. What was it ?

Answer. It was only the constitution and by-laws.

By Mr. VAN TRUMP :

Question. Was it a printed book ?

Answer. No, sir ; all written by hand.

By the CHAIRMAN :

Question. Constitution and by-laws of what ?

Answer. Of the Ku-Klux Klan, as it is called.

Question. Did you learn from it who were the members ?

Answer. No, sir ; there was not a name in it I could see.

Question. How much of the constitution did you read ?

Answer. Very little of it.

Question. How much ?

Answer. I read the first clause of it like—the way it commenced ; that was about all. It commenced like what the order was, and the by-laws.

Question. What did it say ?

Answer. I do not mind very little about it to my knowledge. I did not charge my memory with it particularly. They said they were all bound, sworn by oath, or something to that effect, to be true to one another. That was about the amount of it. I don't suppose I read more than ten or twelve syllables of it. I didn't want to have much to do with the book.

Question. Did you understand that Pressley was a leader of the Ku-Klux ?

Answer. So he expressed himself while he was drunk. He used some very bad language there, too.

Question. Did he never come back and demand that book ?

Answer. No, sir ; he never has been to my house. I never saw him but once since, and that was at a church.

Question. How do you know it was stolen ?

Answer. It was gone. We had a negro woman sleeping in the room where my wife and me sleeps ; we kept her there to wait on the children. She waked me up when the man was gone, and the man had carried the dress off.

Question. Was the dress taken ?

Answer. Yes, sir ; but it has been found again—at any rate it came back to the house. I don't know how it come there.

Question. Have neither you nor your wife been threatened about that book ?

Answer. No, sir ; not that I have heard.

Question. You say it had no list ?

Answer. No, sir ; no name in it that ever I saw.

Question. Is your wife here ?

Answer. No, sir ; she is in the country now, and my family is sick in the country. I have a note from the doctor about it. She is with her sister, over here at Mary Duff's.

Question. Was she subpoenaed to bring the book ?

Answer. Yes, sir ; but she is not at home ; she left Sunday.

Question. Was she at home when the subpoena came ?

Answer. No, sir ; it came Monday ; she went on Sunday. She would have been here if she had been at home ; she didn't try to come here ; for that matter, I could bring her to-morrow.

Question. You say you have not the book ?

Answer. No, sir ; I tell you honestly the book is not in the house. I wouldn't tell a lie. I would have brought it if I had it. I would rather you should have it than to have it where it is. I don't know where it is.

Question. Did you understand it to be the constitution and by-laws of the Ku-Klux ?

Answer. Yes, sir.

Question. What is the full name of the man who brought it there when drunk ?

Answer. I don't know whether Pressley has two given names or not ; we always call him Ben.

Question. How far does he live from you ?

Answer. About two miles.

Question. Have there been many Ku-Klux operations in that neighborhood ?

Answer. No, sir; not about me.

Question. How far away ?

Answer. I have heard of some a mile, a mile and a half, and two miles, where they have traveled through the country.

Question. What do they do out there ?

Answer. I can't tell you nothing except from report.

Question. What is the character of their operations ?

Answer. They whip the black ones and the white ones that don't do right. That is about the most I know.

Question. Have you ever heard this man Pressley's name connected with them ?

Answer. No, sir; only what he expressed himself there at my house.

Question. Did he say he was a member of the Ku-Klux ?

Answer. He said he was a Ku-Klux; that is all.

Question. That is all you know about it ?

Answer. Yes, sir; that is all I know about the whole affair

By Mr. VAN TRUMP:

Question. Do you live in Clay Hill ?

Answer. Yes, sir.

Question. Is it a township called Clay Hill ?

Answer. No, sir; it is a village. It is my own place like. We have a post office there. and it gives the name.

Question. How near the river is it ?

Answer. About a mile and a half.

Question. You have heard of few cases ?

Answer. Very few around me. They have never pestered me while I have lived there.

Question. How far do you live from Elias Hill ?

Answer. Two miles or two and a half.

Question. Which side of the river ?

Answer. This side of the river. The creek is between us.

Question. The most of it—whatever has been done in whipping negroes—has been on this side of the river ?

Answer. Yes, sir.

Question. And Elias Hill lives on the other side of the river ?

Answer. No, sir; he lives the other side of the creek, but we all live this side of the river.

Question. What creek ?

Answer. Elison's Creek.

Question. A large stream ?

Answer. No, sir; my mill is on it. It runs four runners—a saw-mill.

Question. Does Clay Hill Township run the other side of the river ?

Answer. No, sir; it is the name of the post office. We call it that around there.

Question. What river is it ?

Answer. Catawba River.

Question. Is it the county line ?

Answer. Yes, sir; the line between South and North Carolina.

Question. Elias Hill lives on the other side of the creek from you ?

Answer. Yes, sir; the creek is between us.

Question. How many cases have you heard of up there ?

Answer. I declare, to be candid, I can't tell you that. There has been several. They were there several times, but I can't say how many. I wouldn't like to say, for I don't know. I have generally staid at home nights, and in fact I have always had my own black ones about me, and I protected them and bothered about no one else.

By Mr. STEVENSON:

Question. Do you know Govan Hopper ?

Answer. Merely know him. He lives up six miles above on the creek.

Question. Is he in town to-day ?

Answer. Yes, sir; his son is here.

Question. Govan ?

Answer. Yes, sir; I think that is his name.

Question. What is he doing here; do you know ?

Answer. No, sir, I don't know; but he was subpoenaed like I was and had to be here.

By Mr. VAN TRUMP:

Question. You say you read ten or twelve syllables of that book ?

Answer. Yes, sir; the first of it.

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Question. What makes you think it was a Ku-Klux book ?

Answer. He called it that anyhow.

Question. He called himself a Ku-Klux, too ?

Answer. Yes, sir.

Question. A drunken man ?

Answer. Yes, sir. I didn't consider him a rational man anyhow. When he was drinking he has not got a bit of sense.

Question. You did not see the word Ku-Klux in that book ?

Answer. No, sir ; only he said it was the Ku-Klux book.

Question. And he said he was a Ku-Klux ?

Answer. Yes, sir ; he said he was a Ku-Klux or something like that.

Question. You didn't see a word of Ku-Klux in it ?

Answer. No, sir ; nothing about it. I saw very little in it. I was excited any how ; he was cutting up some nasty shines there, Sunday evening, and it was as much as I could do to manage him.

By the CHAIRMAN :

Question. Have you any idea who stole that book ?

Answer. No, sir, no more than the dead, because they came there when I was asleep

YORKVILLE, SOUTH CAROLINA, July 26, 1871.

LANGDON CHEVES McCALLUM sworn and examined.

By the CHAIRMAN :

Question. Where do you live ?

Answer. Ten miles from here, at Clay Hill.

Question. Clay Hill Township ?

Answer. Yes, sir.

Question. How old are you ?

Answer. Eighteen years old.

Question. What business are you engaged in ?

Answer. Farming.

Question. Are you living on your father's farm ?

Answer. Yes, sir, my father's.

Question. Do you know a woman named Martha Woods ?

Answer. No, sir.

Question. Never heard of her ?

Answer. No, sir.

Question. Do you know anything of a negro named Hamp Hicklin ?

Answer. I have seen him to-day. I don't know anything of him.

Question. You never heard of him before ?

Answer. No, sir.

Question. Were you with the party that whipped him ?

Answer. No, sir.

Question. Where were you the night he was whipped ?

Answer. At home.

Question. What night was he whipped ?

Answer. I can't tell you the night he was whipped.

Question. Then how do you know you were home ?

Answer. I know, because I heard he was whipped.

Question. When did you hear he was whipped ?

Answer. I heard he was whipped on Sunday night. I can't tell the night.

Question. What month ?

Answer. I can't give the month.

Question. Was it February ?

Answer. I don't know the month.

Question. Was it March ?

Answer. I don't know the month.

Question. April ?

Answer. I don't know the month ?

Question. How do you know you were at home ?

Answer. I know I was at home. I heard he was whipped. I heard he was, but I don't know.

Question. When did you hear it ?

Answer. I can't tell you.

Question. How long after he was whipped before you heard it ?

Answer. It was after he came here to the Yankees.

Question. When did he come here to the Yankees?

Answer. I don't know.

Question. How long after he was whipped did he come here to the Yankees?

Answer. I don't know.

Question. Was it a week or a month?

Answer. I don't know.

Question. You never heard of his being whipped until he came in to the Yankees?

Answer. No, sir.

Question. How do you fix, then, the night you were at home?

Answer. I heard he was whipped on a Sunday night, and I know I had been at home on Sunday night while he was whipped, all this year.

Question. All the Sunday nights of this year?

Answer. Yes, sir; and I heard he was whipped this year.

Question. What part of this year?

Answer. I don't know.

Question. Are you sure it was this year?

Answer. I don't know, I don't know he was whipped.

Question. You do not know whether it was this year or last year?

Answer. No, sir.

Question. Still you think you were at home the night he was whipped?

Answer. Yes, sir.

Question. Have you seen the Ku-Klux?

Answer. No, sir.

Question. Do you know anything about their existing out in that region?

Answer. No, sir.

Question. Did you never hear of their riding in Clay Hill?

Answer. No, sir.

Question. You never heard of the Ku-Klux being out in the Clay Hill Township or region?

Answer. No, sir.

Question. Who did you hear whipped Hamp Hickling?

Answer. I didn't hear nobody.

Question. White or black?

Answer. No, sir.

Question. You have lived in Clay Hill how long?

Answer. Ever since I was born. I live in the house I was born in.

Question. You never heard of the Ku-Klux being in that township?

Answer. No, sir.

Question. Did you ever hear of there being a Ku-Klux in any place?

Answer. No, sir.

Question. You never heard the name before?

Answer. No, sir. I don't know that there is any such thing as Ku-Klux.

Question. This is the first time you ever heard the word Ku-Klux?

Answer. Yes, sir, I have heard it here.

Question. On what occasion?

Answer. Since I came here.

Question. Since you came to town this time?

Answer. Yes, sir.

Question. You never heard it before?

Answer. No, sir.

Question. You never heard the name before you were brought here as a witness?

Answer. I have heard the word Ku-Klux.

Question. What does it mean?

Answer. I don't know. I have heard the negroes talk about Ku-Klux.

Question. When?

Answer. At different times.

Question. What did they say?

Answer. I heard the Ku-Klux was riding.

Question. I thought you said awhile ago you never heard that they were riding?

Answer. I heard the negroes say it.

Question. Then you had heard of their riding, had you?

Answer. No.

Question. What did the negroes say?

Answer. Nothing that I know.

Question. You say you heard them talk. What did they say?

Answer. They said they were riding through the country.

Question. Then you did hear the negroes say that the Ku-Klux were riding through the country?

Answer. Yes.

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- Question.* Now, you did hear that the Ku-Klux were riding through the country ?
Answer. I didn't say they were riding. I say I heard the Ku-Klux was going through the country.
- Question.* You did not say they were riding through ?
Answer. No, sir.
- Question.* Did you hear they were walking through ?
Answer. No, sir. I heard they were going through ?
- Question.* What negro told you ?
Answer. I do not know what negro it was.
- Question.* Did you hear any negro at all ?
Answer. I don't know ; I might have heard it. I don't know.
- Question.* You do not know whether it was a negro told you ?
Answer. No, sir, I don't.
- Question.* Was that a white man told you ?
Answer. I don't know.
- Question.* Who was it told you the Ku-Klux were going through the country ?
Answer. I don't know.
- Question.* You cannot mind the man ?
Answer. No.
- Question.* Where were you the night this Martha Woods was whipped ?
Answer. I don't know.
- Question.* Did you never hear of her being whipped ?
Answer. No.
- Question.* What night did you hear Hamp Hicklin was whipped ?
Answer. I don't know.
- Question.* What night of the week ?
Answer. I don't know.
- Question.* What night of the week did you hear he was whipped ?
Answer. I don't know.
- Question.* How long is it since you said you did hear it was Sunday night ?
Answer. I heard people say he was whipped Sunday night.
- Question.* What Sunday night ?
Answer. I don't know.
- Question.* Did you hear what month ?
Answer. No.
- Question.* Was it Sunday ?
Answer. I don't know when he was whipped.
- Question.* How far does Hamp Hicklin live from where you live ?
Answer. I don't know.
- Question.* Do you not know where he lives ?
Answer. No. I never heard of Hamp Hicklin before.
- Question.* Until to-day ?
Answer. No.
- Question.* Until I mentioned his name ?
Answer. Until to-day.
- Question.* Who told you about him to-day ?
Answer. I saw a negro they called Hamp down here to-day.
- Question.* Who showed him to you ?
Answer. I don't know.
- Question.* You never have heard of Hamp Hicklin until to-day ?
Answer. No, sir.
- Question.* Then when did you hear he was whipped ?
Answer. To-day.
- Question.* You said awhile ago you heard it soon after he came in to the Yankees, did you not ?
Answer. No.
- Question.* Did you not say a few moments ago that you heard it a short time after he came in to the Yankees ? [No answer.] That you heard of Hamp Hicklin soon after he came in ?
Answer. Yes, sir.
- Question.* Yet you never heard of him until to-day ?
Answer. No, sir.
- Question.* Where ?
Answer. I don't know.
- Question.* Were you not along when he was whipped ?
Answer. No, sir.
- Question.* Who did whip him ?
Answer. I don't know.
- Question.* Who did you hear whipped him ?
Answer. I never heard of no person.

Question. At the time you heard of him as having come in to the Yankees, who told you ?

Answer. I don't know.

Question. Did you hear who whipped him ?

Answer. No.

Question. Did you hear whether they were white or black ?

Answer. No.

Question. Ku-Klux or negroes ?

Answer. No.

Question. Not a thing about it ?

Answer. No.

Question. How far do you live from Govan Hopper ?

Answer. I don't know—six or seven miles.

Question. Do you know him ?

Answer. I know him when I see him.

Question. Have you ever given that sign ? [Three taps on the left ear.]

Answer. No.

Question. Do you know what that sign means ?

Answer. No.

Question. Was that never given to you ?

Answer. No.

Question. Have you never heard of it ?

Answer. No.

Question. Were you ever sworn before you took an oath here ?

Answer. No.

Question. In any place ?

Answer. No.

Question. In a court of justice ?

Answer. No.

Question. Or any place else ?

Answer. No.

Question. Do you know what an oath means ?

Answer. It means to tell the truth.

Question. Where did you receive that instruction ?

Answer. I have received that instruction from the Bible.

Question. You had taken an oath here to tell the truth, you understood ?

Answer. Yes.

Question. I want to know which is true: that you heard some time ago, immediately after Hamp Hickling came in to tell the Yankees that he had been whipped on Sunday night, or that you never heard Hamp Hicklin's name until you came into this town to-day ?

Answer. I heard Hamp's name.

Question. But which was true ? Which time did you hear it ? We have both these statements in your testimony now: one, that you did hear it soon after Hamp Hicklin came in to tell the Yankees he had been whipped on Sunday night; the other, that you never heard Hamp Hicklin's name mentioned until you came into town to-day.

Answer. I have heard Hamp's name.

Question. But which of those statements is true ?

Answer. Which of the statements is true ?

Question. Yes.

Answer. I don't understand.

Question. They cannot both be true ?

Answer. Explain it to me another time.

Question. I will. You said a short time ago, that soon after Hamp Hicklin came in to tell the Yankees about it, that you did hear that he had been whipped on a Sunday night. Now, you say that you never heard Hamp Hicklin's name until you heard it to-day, after you came into town. Now, do you understand that both those statements cannot be true ?

Answer. I never heard it until I came into town.

Question. Then you now say that you did not hear that he had been whipped on a Sunday night ?

Answer. No. Now explain that again, please.

Question. I will try to.

Answer. The last part of it.

Question. I am glad you are anxious to be conscientious about it. You said a few moments ago, that you did hear, soon after he came in to tell the Yankees about it, that Hamp Hickling had been whipped on a Sunday night. You understand that ?

Answer. Yes, sir.

Question. Then you said to us afterwards, that you had never heard Hamp Hicklin's name at all, until you came into town here to-day as a witness. Do you understand that ?

Answer. Yes.

Question. If you did never hear his name until to-day, then the other statement you made about hearing it soon after he came up to tell the Yankees, could not be true, could it?

Answer. I never heard Hamp's name until to-day.

Question. Understanding the nature of an oath, and that it binds you to tell the truth, I want you to listen to this oath:

"I do solemnly swear that I will support and defend the Invisible Circle; that I will defend our families, our wives, our children and brothers; that I will assist a brother in distress; that I will never reveal the secrets of this order, or anything in regard to it that may come to my knowledge, and if I do, may I meet a traitor's doom, which is death, death, death:" so help me God, and so punish me my brothers."

Have you ever heard any part of that oath before?

Answer. No.

Question. Have you ever heard of the Invisible Circle before?

Answer. No.

Question. Do you know what it is?

Answer. No.

Question. Did you ever hear of the Ku-Klux before?

Answer. No. I have heard there was such a thing. I don't know.

Question. Do you know what they do?

Answer. No.

Question. When did you first hear of the Ku-Klux?

Answer. I don't know.

Question. Did you ever hear of them before to-day?

Answer. I heard the negroes.

Question. Did they tell you what they did?

Answer. No.

Question. Who asked you to join the Ku-Klux or Invisible Circle?

Answer. I never was asked to join them.

Question. Nobody ever asked you?

Answer. No.

Question. Have you never said to anybody you were a member?

Answer. No.

Question. Never given its signs?

Answer. No.

Question. You swear here that you are not a member of any secret organization at all?

Answer. No.

Question. And never took an oath in one?

Answer. No.

Question. Who did you go to when you came to town to-day?

Answer. I don't know as anybody.

Question. When you came in here as a witness?

Answer. Who did I go to?

Question. Yes, and talk to about being a witness?

Answer. Nobody.

Question. Did you see John Hunter?

Answer. I saw him—just spoke to him, that was all.

Question. Did he tell you anything about being a witness here?

Answer. He asked me if I was summoned as a witness.

Question. You told him you were?

Answer. Yes.

Question. What then?

Answer. That was all that passed.

Question. Did not he tell you to remember what the penalty was for telling anything in this committee about the Ku-Klux?

Answer. No.

Question. Do you not know him as a commander-in-chief of the Klan?

Answer. No.

Question. Do you not know him as a Ku-Klux?

Answer. No.

Question. How came you to go to him?

Answer. He is a man from our country, and I hitched my horse in his lot and spoke to him.

Question. He is a clerk in a store here?

Answer. Yes.

Question. He asked you if you were summoned?

Answer. Yes.

Question. What made him think you would be summoned?

Answer. He saw me in here and I hardly ever come to town.

Question. Do you not come in to the store sometimes ?

Answer. Hardly ever come into town—haven't been here since last winter.

Question. The first thing he asked was if you were summoned ?

Answer. No; we talked a little, and then he asked me if I was summoned.

Question. What led John Hunter to suppose a young man like you, that hardly ever comes to town, would be summoned before this committee as a witness ?

Answer. I don't know.

Question. You cannot imagine that ?

Answer. No.

Question. You had not said anything about it ?

Answer. No.

Question. And he thought at once that you were here as a witness ?

Answer. I don't know.

By Mr. STEVENSON:

Question. What do they whip the negroes out there about ? What are they doing ?

Answer. I don't know.

Question. What is the matter with them ?

Answer. I don't know.

Question. Have the negroes been doing anything wrong out there ?

Answer. I don't know.

Question. Have there been any burnings there ?

Answer. I don't know; not that I ever heard of; not right close there.

Question. Have you heard of any in the township ?

Answer. I don't know exactly the lines of the township.

Question. So far as you know, have you heard of any in the township ?

Answer. I have heard of some burnings.

Question. Where ?

Answer. Mr. Nelius Miller's and Mr. Warren's.

Question. What was burned ?

Answer. His gin-house.

Question. Who did it ?

Answer. I don't know.

Question. Who was supposed to have done it ?

Answer. I don't know that.

Question. Did you never hear anything about it ?

Answer. No.

Question. Was it a white man ?

Answer. I don't know.

Question. Is that the only burning you heard of ?

Answer. And Mr. Warren.

Question. Where was Mr. Warren—who did that ?

Answer. I don't know.

Question. Did you hear who did it ?

Answer. No.

Question. Did not the Ku-Klux do these burnings ?

Answer. I don't know.

Question. What do you think of it ?

Answer. I don't know.

Question. Are they not the fellows who do this burning ?

Answer. I don't know who do it.

Question. Have you no opinion ?

Answer. No.

Question. You live with your father ?

Answer. Yes.

Question. Have you any brothers ?

Answer. Yes.

Question. Older or younger than you ?

Answer. Older. I am the youngest.

Question. How many older brothers have you ?

Answer. Three living.

Question. All living there ?

Answer. No, sir.

Question. One older living there ?

Answer. Yes, sir.

Question. Have you a gun ?

Answer. No; I have no gun.

Question. Has your brother a gun or pistol ?

Answer. Well, he has a pistol that father gave him last spring when he went to Mississippi. He moved off to Mississippi last spring, but did not stay very long; he

staid seven months and come back, and the pistol is out of repair, and has been for a good while.

Question. Is he as well informed as you are ?

Answer. Well informed—what ?

Question. Well informed about things ?

Answer. I don't know.

Question. He went off to Mississippi ; did he go by himself ?

Answer. That was last spring, a year ago.

Question. Did he go by himself ?

Answer. He went with Mr. Finley.

Question. He went with another man ?

Answer. Yes, sir.

Question. Did he come back by himself ?

Answer. Yes, sir.

Question. He did not get lost ?

Answer. No.

Question. What sort of a man is this negro named Hamp Hicklin ?

Answer. I can't tell you anything about it. I don't know anything about him.

Question. Does he seem to be a good quiet man ?

Answer. I don't know.

Question. Did you ever hear anything against him ?

Answer. No.

Question. What did they whip him for ?

Answer. I don't know.

Question. Do you belong to any military company ?

Answer. No.

Question. Do you belong to anything ?

Answer. I belong to my father, of course, until I am twenty-one. That is all ; I belong to him. I belong to God, I reckon, if he will have any part with me. I don't know that.

By the CHAIRMAN :

Question. Whose place did Hamp Hicklin live on ?

Answer. I don't know.

Question. How far does he live from where you live ?

Answer. He lives—I don't know.

Question. Do you not know ?

Answer. No.

Question. Who was it you said lived about two miles from you ?

Answer. I did not say.

Question. You mentioned it about somebody—who was it ?

Answer. I can't tell you. I said Govan Hopper lived about four or five miles.

Question. I thought you said somebody lived about two miles from you, and I got the idea it was Hamp Hicklin. You do not know where he does live ?

Answer. No, sir.

By Mr. STEVENSON :

Question. What is Govan Hopper doing here to-day ?

Answer. I don't know.

Question. Did he come with you ?

Answer. No.

Question. Did you see him on the way ?

Answer. No.

Question. Did you see him here ?

Answer. Yes.

Question. Where is he ?

Answer. He is out there ?

Question. Outside of that door ?

Answer. Out on the stairs.

Question. Out in the hall ?

Answer. Yes.

Question. With you and all the rest of the witnesses ?

Answer. Yes, sir.

YORKVILLE, SOUTH CAROLINA, July 27, 1871.

I. D. WITHERSPOON sworn and examined.

By the CHAIRMAN :

Question. Do you reside in this place?*Answer.* Yes, sir; I am a native of this place.*Question.* What is your age?*Answer.* I am thirty-eight.*Question.* What is your occupation?*Answer.* I am a lawyer by profession.

The CHAIRMAN. I will request Judge Van Trump to examine this witness.

By Mr. VAN TRUMP :

Question. Were you here when Major Merrill first assumed command in this place?*Answer.* I was, sir.*Question.* Will you state if you were a party to a certain conference between the citizens of Yorkville and the major, when he came here, as to the disturbances in the county?*Answer.* Well, sir, I was very favorably impressed. My first interview with Major Merrill was at a little trial here at the court-house, and I became acquainted with him. I called to see him, I think, once—it may be twice—and was very favorably and kindly impressed with his demeanor, and a few days—probably a week or ten days after that—he, with Captain Hale and the sheriff of the county, came to my office inquiring of me, as a lawyer, as I understood, to know relative to the affairs and the duties of the sheriff with reference to calling out a posse, and to what extent the sheriff could delegate his powers to a deputy. I referred to the act of 1839, bearing upon that point, with which he expressed himself satisfied, and with the views I expressed with reference to it. He was about to leave, when he stated to me—I am going into details if you desire it.*Question.* Yes, sir; go on.*Answer.* He stated, "Mr. Witherspoon, I would like to see a number of your good citizens—your elderly citizens—to have a conference with them. I am satisfied that some means could be devised by which these disturbances would cease, and the necessity of military intervention or interference would be entirely avoided;" and he frankly stated that he had no desire to have any military intervention at all. I told him that if that was his object, I would, in the same spirit of candor, get up a conference with the citizens. I asked him when it would suit his convenience. He said next day at 11 o'clock would satisfy him. The next day, about 11 o'clock, I called along as I came down from home—I gathered up, probably, twelve or fifteen citizens. I brought them down here and introduced them to Major Merrill, and he asked me the question if those were the gentlemen I had brought at his instance.

By Mr. STEVENSON :

Question. Can you name those citizens?*Answer.* Yes, sir; I think I can name them all. I think I can name them relative to their seats here in the room. There was Judge Beatty, Mr. B. P. Boyd, R. S. Moore, L. M. Grist, the editor of the paper.

By Mr. VAN TRUMP :

Question. Then editor of the paper?*Answer.* Then, and at this time, also, Mr. S. R. Moore—there are two Moores—Major J. W. Avery, Dr. Bratton, W. I. Clawson, and myself. I think those are all that I now remember.*Question.* Please state the position of those several gentlemen in the town here, if you can.*Answer.* In what respect?*Question.* In respect to their occupations, for instance.*Answer.* Judge Beatty is the oldest lawyer and one of the most conservative and one of the best men in the community. Mr. Boyd is—do you wish me to canvass them all?*Question.* Yes, sir; give any item of character.*Answer.* Mr. R. S. Moore has been the president of this railroad, and is not in any employment, as I am aware, now. He is an old merchant who has failed, but a very good man. Mr. Boyd is a grocery-keeper—a man in whose integrity of purpose I have a great deal of confidence. I selected these men with reference to the fair and candid men of the community. Mr. Grist is the editor of the Yorkville Enquirer. Mr. S. R. Moore is a retired merchant, one of our best citizens. Avery is a merchant, and Dr. Bratton is a practicing physician, one of our leading citizens. Mr. Clawson is a lawyer, a registrar in bankruptcy.*Question.* Under the Federal Government?*Answer.* Yes, sir. I omitted one gentleman in the first enumeration, Dr. J. F. Lindsey, a physician, and one of the best I know. In fact he is my family physician.

By Mr. STEVENSON :

Question. Where is Major Avery now ?

Answer. I have no knowledge ; he is not here ; where he is I have no knowledge at all.

Question. Has he been here since he has been subpoenaed to come to Washington as a witness ?

Answer. I think not, sir ; I have never seen him since.

By Mr. VAN TRUMP :

Question. Go on and give us all that was done there.

Answer. Well, sir, Major Merrill stated to me, or asked me, if these were the gentlemen I had brought here at his request. I told him they were. He stated to them that his object in bringing them together was to devise some means to prevent any acts of violence in the community ; that he was not at all surprised that the American people were restive under military law ; that he was not disposed to unnecessarily force it upon them ; that there was no reason or necessity for it, because this community were competent to attend to their own civil matters. We agreed with him. He said, how do you propose to do it—by what action ? He stated that there was no necessity for a military interference ; that he was satisfied, if the proper men would take charge of the matter, the civil authorities were competent to attend to their own business. In that we agreed ; we assented to that. Then a general discussion arose as to how that could be best accomplished. Some of the parties proposed that there should be a public meeting in the court-house. I think, probably, I objected to that ; some of us did. My objection was that in a public meeting—I have seen it so often—if we attempted that, a few men would do the talking and the work of the meeting, and perhaps others would not consider themselves bound by the action of the meeting. Then some one suggested that we should come out in a card, and make that card very strong and to the point. That was generally agreed upon—there was not a dissenting voice—that that should be the mode adopted. I understood Major Merrill to entirely concur in that. That card we then drew ; met together and adopted the card. I drew the card myself. Mr. Clawson, the registrar in bankruptcy, also drew a card. They were submitted to these gentlemen, and I think mine was adopted almost entirely.

Question. Look at that article in the Yorkville Enquirer of May 18, and say whether that is a fair statement of the proceedings of that conference.

Answer. I recognize the article, and remember it. In reference to that article, if you have no objection, I will state just what belongs to it. The editor of the paper, in passing down one day, and we both being parties to this conference, showed me the outlines of this piece. I told him I thought, in justice to Major Merrill, that he ought to show it to him. He said he would do so ; of course he had no idea of publishing it without his consent. He afterward told me he had shown it to Major Merrill, and Major Merrill had told him it was correct.

[The editorial in the Yorkville Enquirer of May 18, 1871, referred to above, is as follows:]

“A CONFERENCE—THE KU-KLUX LAW.

“A number of our citizens, by invitation, visited Major Merrill, post commandant at this place, on Saturday last, to confer upon the subject of the disorderly and turbulent spirit which has prevailed in this section of the State.

“Major Merrill expressed his regrets that bands of disguised men had recently been whipping and otherwise maltreating white and colored citizens of this section. He mentioned incidents connected with each of the most recent acts of violence, which impressed those present with the idea that he is kept informed as to the operations of disguised persons in this county. He stated that he had in his possession the names of a number of the parties who had engaged in these lawless acts ; and was also in possession of proof amply sufficient to convict some of the persons before any impartial jury. He seemed to be amused at the idea that the names of the guilty parties were not known to the people, and asserted that he could furnish them, and could also have such persons arrested in a few hours. He expressed the belief that the reason why these parties persisted in such acts was the certainty they felt that no person would dare to testify against them ; and, in this connection, he exonerated the civil officers of what would appear to be dereliction in the discharge of their duties, by not arresting and bringing to trial the guilty persons. For the reason that victims are afraid to make complaints, no warrants are issued, and consequently the sheriff or other proper officer is powerless to make arrests.

“Major Merrill frankly stated that his sole object in asking a conference was that he might induce the influential citizens of the county to adopt prompt and decisive measures to suppress any further disturbance, and thereby avoid the consequences of

military interference; that he much preferred that the civil authorities should regulate their own affairs; and that he was satisfied that if the people opposed to lawlessness would unite and sustain each other and the civil authorities in suppressing such acts, domestic disorder would cease at once. He referred to the fact that a large number of the laborers in the northeastern section of the county were afraid to sleep in their houses, and that such a state of affairs could not longer be tolerated; that he was daily expecting notice that the writ of *habeas corpus* had been suspended in this county, but still hoped, by the timely action of the people, the necessity of declaring martial law would be avoided.

"It is now left with our people to say whether or not they intend to regulate their own civil affairs. To succeed in restoring quiet and order, men must no longer withhold their expressed and unequivocal disapprobation. Can we longer permit the best interests of society to be imperiled without a protest, when the remedy is so plain and obvious? All unlawful acts are wrong in principle, and the only difference can be as to the remedy. In this case that remedy lies in public opinion. Let public opinion condemn violent acts as wrong, and society will no longer be afflicted with domestic disorder.

"Any further repetition of acts of violence in this county, we feel assured, will be regarded by the military authorities, under the Ku-Klux act, as a denial of the equal protection of law to all of our citizens. The military will proceed, by arresting the supposed guilty parties, to suppress acts of violence, as directed under the Ku-Klux act; and parties, when arrested, will be delivered over to the United States marshal, to be tried before the United States court at Columbia, Charleston or Greenville. Under such circumstances it will be next to impossible to procure bail. The innocent as well as the guilty are liable to be suspected, and the expense of trial in the United States court will necessitate costs in procuring witnesses, counsel fees, &c., that few of our citizens can meet.

"The Ku-Klux act comprehends all persons found in disguise, or in unlawful assemblies on the highways, or on the premises of another. This act will be enforced, and rigidly enforced; and unless our people at once determine that there must be no further acts of violence in the county, we will soon have occasion to observe the practical operations of the law in its utmost severity and with all its unpleasant consequences."

The WITNESS. I can, with your permission, explain why that card and that article do not appear in the same paper. We attempted at first to have them appear together—at least to have the card published in that issue of the paper, but we wanted to get as many signatures as possible, and it was afterwards concluded among all the parties interested that we could not go around the district and get signatures enough by the next Tuesday evening, the paper being published on Wednesday. The paper purports to be on Thursday, but it is struck off Wednesday.

Question. What day was this conference?

Answer. Friday or Saturday of the previous week. I know we discussed whether it was possible to get the card in the next paper, but it was concluded, and it so struck the editor, that we would require until the following week.

Question. Look at that card and the signatures [submitting a paper] and say whether that is one of the publications, and whether it appeared in the next Wednesday's paper after the conference meeting.

Answer. This is the paper of the 25th. That corresponds with my recollection of it.

Question. Is that the card?

Answer. This is the card, sir.

Question. You say you drew that up?

Answer. Yes, sir.

Question. That Mr. Clawson also drew up one?

Answer. Yes, sir. There was very little difference, but I think mine was adopted as being stronger. That is my candid impression, because I know it was suggested.

[The card referred to as published in the Yorkville Enquirer of May 25th, 1871, is as follows:]

To the citizens of York County:

"The undersigned citizens of York County, earnestly desiring the preservation of the public peace, and for the purpose of guaranteeing to all citizens the protection of life and liberty, respectfully urge it as a common duty for every citizen to discourage all acts of violence. We do not desire to dictate to others, but are convinced that a repetition of violence must disorganize society and result in a spirit of general insubordination, the consequence of which may be deplored when too late to be remedied. As members of the community whose common interest is imperiled, we pledge our individual efforts and influence to prevent further acts of violence, and will aid and support the civil authorities in bringing offenders to justice. We respectfully solicit a

1500 CONDITION OF AFFAIRS IN THE SOUTHERN STATES.

heartly coöperation of our fellow-citizens throughout the county in our efforts to preserve the peace and to prevent further acts of violence and domestic disorder.

James Mason,
Alfred Moore,
E. G. Byers,
R. E. Guthrie,
Jas. M. Lindsey,
Wm. Burris,
R. J. Withers,
J. F. Oates,
W. Y. Jones,
T. P. Whisonant,
W. S. Plexico,
S. L. Adams,
J. O. Crawford,
James A. Wallace,
W. C. Beatty,
Miles Johnson,
I. D. Witherspoon,
W. C. Owen,
J. A. Owen,
J. M. Rawlinson,
R. F. Clark,
John May,
J. L. Clark,
Thos. O'Farrell,
R. Nichols,
Ira Hardin,
G. R. Whisonant,
T. C. McMakin,
W. N. Crawford,
Thos. Falls,
Josiah Henry,
A. J. Matthews,
R. A. Matthews,
Zimri Carroll,
A. C. Purseley,
W. E. Sanders,
W. D. Leslie,
T. H. Leslie,
John Wood,
Edwin Wilson,
Wm. Wood,
Smith Sanders,
Ezekiel Fewell,
Joseph Wood,
A. J. Stewart,
A. Hardin,
A. H. Seapock,
J. H. Dickson,
W. M. Fulton,
J. W. Avery,
A. I. Barron,
S. R. Moore,
James B. Allison,
John S. Crosby,
W. A. Moore,
John Barron,
T. W. Clawson,
W. B. Williams,
S. M. Sadler,
S. C. Sadler,
R. M. Burris,
John J. Smith,
A. J. McCarter,
James Fitchet,
W. M. Walker,
J. P. Hood,
J. R. Wallace,

W. P. Hobbs,
J. M. Harvey,
D. C. Turner,
W. F. Garvin,
F. M. Walker,
J. W. Grigg,
H. Dillingham,
Franklin Robison,
Lawson Howell,
J. T. McMackin,
O. S. Jones,
Joel McCarter,
Harvey Wallace,
Henderson Border,
Jackson Wisher,
John Harris,
W. M. Stephenson,
John Caldwell,
W. Y. Love,
L. A. Johnson,
M. R. Smith,
R. M. Allison,
R. T. Allison,
Jona N. McElwee,
N. Hullender,
J. E. Seapock,
M. S. Earles,
Rev. L. H. McSwain,
John C. Kuykendal,
R. S. Moore,
Richard Haro,
P. B. Darwin,
J. A. Wray,
J. R. Parish,
W. H. Snider,
R. D. Parks,
S. A. McElwee,
J. R. Schorb,
H. C. Conner,
J. P. Herndon,
Geo. T. Schorb,
S. G. Hemphill,
J. B. Lowry,
Solomon Quinn,
Anzi Hope,
E. N. Davidson,
J. W. Neal,
J. Beatty Williams,
A. Sylvanus Wallace,
T. M. Dobson,
J. Herndon,
B. P. Boyd,
J. F. Wallace,
W. B. Metts,
A. Coward,
J. H. Barry,
J. H. Fayssoux,
E. E. McCaffrey,
A. W. Ingold,
John M. Thompson,
Eusly Elliott,
Milton Purseley,
T. D. Grist,
J. G. Ferguson,
D. C. Walker,
W. L. Grist,
J. A. Falls,

Wm. Caldwell,
J. E. Moore,
J. J. Garvin,
J. L. Gaffney,
J. H. Adams,
W. B. Smith,
John A. Campbell,
J. C. Phillips,
D. T. Partlow,
T. W. Campbell, M. D.,
E. S. Thompson,
M. A. Bigger,
Levi Lambly,
James M. Bigger,
W. H. McCorkle,
J. A. McLean,
A. G. Dover,
L. A. McGill,
J. L. McGill,
E. A. Falls,
R. A. Purseley,
J. N. Thomas,
W. C. Thomas,
A. P. Campbell,
W. J. Neely,
James Simril,
A. D. Choat,
Wm. Choat,
T. A. Douglas,
J. H. Douglas,
J. C. Hicklin,
E. F. Bell,
J. H. Clawson,
D. C. McKinney,
John Smith,
T. G. Wylie,
J. J. Wylie,
W. B. Allison,
S. M. Gillespie,
John R. Massey,
E. L. Glenn,
R. F. Hall,
F. H. Brown,
P. Hoover,
W. F. Lomas,
T. S. Neely,
R. Lathan,
B. R. T. Bowen,
W. R. Wallace,
James Jones,
D. R. Neely,
W. E. Neely,
Thos. W. Neel,
J. C. Black,
T. S. Choat,
D. W. Barron,
S. D. Simril,
T. H. Simril,
J. M. Wallace,
Jas. A. Gill,
G. E. M. Steele,
M. A. Faris,
J. A. Davison,
W. A. Partlow,
F. T. Timberlake,
W. D. Barnes,
J. J. Barnes,

T. P. Whitesides,
E. A. Crawford,
B. T. Wheeler,
Wm. Parseley,
E. T. Faris,
A. F. McConnell,
John J. Hunter,
T. M. Graham,
W. H. Colcock,
D. C. Williams,
Frank C. Harris,
John T. Grist,
C. Whisonant,
D. B. McCarter,
Felix Quinn,
M. Whitt,
J. W. P. Hope,
L. M. Grist,
R. M. Kerr,
J. J. Wilson,
J. W. Lawrence,
J. C. Watson,
M. Watson,
J. R. Faulkner,
Wm. McGill,
T. C. Henry,
Wm. Forbes,
J. M. Jenkins,
J. E. Love,
Andrew Jackson,
Felix Dover,
W. Hardin,
Ira Hardin, jr.,
James Carroll,
L. A. Hill, M. D.,

E. B. Faris,
F. L. Miller,
J. A. McMakin,
Arch. Dillingham,
C. F. Smith,
H. E. McFadden,
E. T. Avery,
J. B. Tate,
S. Saddler, sr.,
J. C. Miller,
J. J. Miller,
Dempsey Cook,
James R. Cook,
D. T. Cook,
Wm. Sahms,
R. H. McCully,
J. F. Carothers,
J. B. Partlow,
Jas. L. Bigger,
E. A. Faris,
Wm. Youngblood,
T. Ferris,
J. A. Stewart,
R. C. Millen,
H. W. Aikens,
S. W. Aikens,
Robert Aikens,
E. T. Brandon,
S. H. Williams,
S. F. Faris,
J. J. Faris,
T. L. Barron,
D. A. A. Watson,
J. A. L. M. Stewart,
J. B. Stewart,

L. R. Williams,
S. W. Wallace,
P. McCallum,
J. T. McCallum,
L. C. McCallum,
W. A. J. McCallum
J. D. Harper,
A. A. Barron,
Wm. Wallace,
J. D. Currence,
H. M. Jackson,
J. A. Jackson,
B. C. Pressley,
R. M. Davis,
L. Davis,
J. W. Check,
R. T. Gillespie,
R. M. Pressley,
David G. Wallace,
J. W. Leach,
Jeff Smith,
J. D. Morrow,
J. M. Morrow,
T. B. Whitesides,
G. C. Leach,
J. T. White,
Henry Hope,
J. F. Campbell,
Joab Price,
John J. Miller,
J. H. Douglass,
B. R. Miller,
S. Neely Miller,
J. W. B. Miller,
James F. Hart.

The WITNESS. It was detained for that purpose one or two weeks. I cannot recollect the exact length of time, but it was detained in order to get as many signatures as possible before the publication. That card is contained in two or three different papers.

Question. Here is one under date of June 1.

Answer. That is the same card. I recognize among the signatures the names of some of the very best citizens in this county.

Question. How do you characterize the signatures to the other paper of May 25?

Answer. They are men of the highest respectability in the county.

The card above set forth is repeated in the Yorkville Enquirer of June 1, 1871, and thereto are appended the following additional signatures:

E. G. Feemster,
S. M. Feemster,
W. G. Dowdle,
Thos. Dowdle,
D. W. Fowler,
S. L. Davidson,
D. J. Good,
J. B. Good,
John R. Patrick,
Robert Patrick,
J. L. Guy,
W. K. Hamilton,
G. L. McNeel,
C. M. Check,
J. W. Moore,
J. J. Ash,
T. K. McKnight,
E. N. Crawford,
H. P. Halsell,
J. M. Moore,
J. P. Moore,
R. L. Love,

Wm. R. Burris,
T. C. Burris,
A. F. Lindsay,
Dickson McKnight,
John D. McConnell,
John Burris,
C. K. Williams,
J. R. Williams,
E. P. Love,
Martin Moore,
J. E. Carroll,
M. L. Thomasson,
S. B. Carroll,
A. W. Osborne,
T. K. Mickle,
Charles Kidd,
Robert Hamilton,
E. Innman,
John McCarley,
Jeff Garner,
J. R. Jenkins,

Robert Lindsay,
M. S. Lindsay,
W. N. Ash,
P. W. Lindsay, jr.,
R. W. Love,
S. D. Lindsay,
J. B. McConnell,
S. M. Love,
P. W. Lindsay, sr.,
J. M. Wallace,
R. McConnell,
N. J. Roberts,
S. B. Lathan,
J. L. Carroll,
R. W. Burris,
W. F. Moore,
P. E. Moore,
W. B. McConnell,
Jas. Gourley,
F. M. Galbraith,
W. P. Brannon.

1502 CONDITION OF AFFAIRS IN THE SOUTHERN STATES.

The WITNESS. The object was to get the very best men in the county to lend their influence. I exerted myself personally to accomplish that end. I think the card appeared in as many as three or four different papers.

Question. Here is one of June 8, 1871.

Answer. That is the same card with additional signatures. I see here the name of the former comptroller general and other names.

The additional names appended to the card published June 8, 1871, in the Yorkville Enquirer, are as follows:

John G. Black, M. D.,	H. Turner,	J. B. Wilkins,
O. R. Guntharp,	H. D. Duncan,	A. S. Hopper,
T. B. Depriest,	J. P. Moss,	R. H. Moss,
T. J. Bell,	R. P. Morgan,	H. H. Hicks,
J. D. F. Duncan,	J. S. Mintz,	A. S. Bridges,
John L. Parker,	John Hicks,	J. K. Smith,
W. W. Gaffney,	Asberry Duncan,	W. S. Byars,
Wm. C. Black,	Capers Duncan,	John M. Sarratt,
E. H. Bridges,	H. F. Adiekes,	Martin Turner,
W. L. Bridges,	J. W. Isom,	J. B. Mintz,
R. E. Porter,	J. F. Isom,	John G. Bridges,
Silas Moss,	B. F. Talbot,	M. L. Ross,
W. D. Camp,	Lee Wylie,	H. K. Nash, jr.,
J. W. Moore,	J. C. Crawford,	R. P. Folkes,
W. D. Gastou,	R. W. Moore,	Jesse Blanton,
John Moore,	D. Gaston,	John C. Smith,
H. P. Hopper,	E. J. Mintz,	Adolphus Smith,
D. M. Williams,	R. A. Blanton,	Elias Johnston,
A. H. Moore,	H. W. Holt,	W. E. Cantrell,
G. C. M. Moore,	A. F. Moore,	Terrel Smith,
W. L. Hopson,	Jona. Moore,	Joseph Black,
G. L. Moore,	J. G. Webber,	G. W. White.

Question. Here is one of June 15, 1871; is that a duplicate of that card?

Answer. Yes, sir; with additional signatures.

The additional signatures published June 15, 1871, in the Yorkville Enquirer, are as follows:

W. M. Adams,	J. T. Davis,	J. M. Ford,
S. E. Jackson,	J. A. Adams,	J. E. Adams,
J. A. Hill,	Z. S. Hill,	J. H. Neeley,
J. B. Jackson,	R. T. Smith,	Wm. A. Henderson,
W. N. Abernathy,	W. S. Adams,	J. F. Jackson,
J. J. Thomas,	A. M. Hill,	D. M. Ford,
S. W. Jackson,	H. M. Hill,	J. H. Hill,
W. K. Pursley,	D. J. Jackson,	J. L. Jackson,
John M. Jackson,	J. R. McCully,	S. M. Jackson,
M. Stearnes,	S. B. McCully,	Wm. Drennen.
L. J. Parker,		

Question. You have no doubt that these are proper signatures?

Answer. I know a great many of these men personally. Some of them I only know by family connections. I presume I do; but the majority of them I know personally. I had no instrumentality in circulating these outside cards. They were circulated by country people. They came in here and got copies of it, and circulated them in their respective neighborhoods. They stated that their object was to enlist the whole community in the matter. My impression is that these papers embody about four hundred names.

Question. Have you any impression about what was the entire number?

Answer. My impression is that they rise five hundred or six hundred. I do not state it definitely. In the first paper I think I counted three hundred and four, five, or six, and if I am not mistaken some cards came in which were not published. I think the editor told me so, but I will not state that positively. I got that impression from him or some one else.

Question. Then the plan and terms of that conference with Major Merrill were faithfully carried out?

Answer. Yes, sir; after that card had appeared, I was on a committee of three or four or five to present that card to Major Merrill, and ask him whether it was satisfactory. I came and presented it right in this room, and he stated that it was satisfactory, and he was gratified at the spirit manifested; that he would forward a copy of it to General Terry, to show him the steps that had been taken here to preserve the peace. I do not know that those were the very words, but that certainly was the purport of his statement.

Question. From your information of the reports of violence through the country generally, state what relative amount of these violences occurred after the 18th of May, as compared with what occurred before, and what effect this paper had, if any.

Answer. I think it had a very positive and salutary effect. I have heard, since the publication of that card, that there was some disorder, but have never been able to trace a single instance. I heard in the Clay Hill country—in fact, Major Merrill told me—of some local trouble out there. I never heard of the particulars at all to this day. I do not pretend to say they did not occur; understand me upon that point.

Question. Please state what you know of an alleged raid that was about to be made upon Major Merrill's camp at any time.

Answer. All that I know is this: on Monday—I suppose it has been four or five or six weeks ago; say within the last two months, and pretty far back in the last two months—I came down the street, and discovered there was some little exhibition of anxiety or excitement. I soon found that there had been some demonstration about the camp, through the citizens.

Question. That is, you learned it through the citizens.

Answer. Yes, sir; that there had been some demonstration about the camp. One gentleman said a soldier came to him that night, and there asked, or demanded—I will not say which—but requested the use of his lane, and please not to lock it—it seems he had been in the habit of locking it; that that Sunday night they might have occasion to want to carry the horses, or have some access between the camp and the stable there. I heard furthermore that a good many horses were saddled. This was hearsay to me, for I was in bed, and only knew it next morning. Some gentlemen of this place came to me and insisted that inasmuch as I had been the means of getting up this conference, I should try to see Major Merrill, and know the cause of this disturbance, that the parties might in good faith ferret it out and know what it meant. I told them that I declined to do it; that I did not want to become personally officious; that Major Merrill might so regard me. They then met. Several gentlemen, a number of those in the first conference and others who were not in the conference—I could mention their names—came to my office. Judge Beatty was among them. He was rather the chairman of the first meeting,—one of the oldest and best citizens of the town. They came over to my office. At first they suggested that they would address a very respectful note to Major Merrill, inquiring into the cause of this disturbance.

Question. That was Monday?

Answer. Yes, sir, early in the morning; I do not think it was later than 8 or 9 o'clock. The matter was agitated; but by 10 or 11 o'clock these parties came to my office, and first discussing the propriety of addressing a note of inquiry, in a respectful manner, to Major Merrill. When Major Merrill appeared in the clerk's office, which is not more than forty or fifty feet probably from my office, and in full view—you can look through the window and see it—some one discovered him there, and they stated, "It is no use to be formal in this matter." Mr. Boyd, I think, said, "Witherspoon, if you have no objection, I will bring in Major Merrill, and we will talk this matter over." I told him I had not the least. He brought Major Merrill in, and some one asked him in reference to the rumored disturbance at his camp. He made light of the matter, and said it was altogether a mistake; that there was really no disturbance at all; that he had had an inspection that night, and had put a double guard over his stable, but that was all that was unusual; that he had heard that two or three reckless young boys or young men intended to fire into his camp, and that he or somebody else on Sunday evening had discovered one of the men inspecting or supervising—looking around about the camp—and that he was a little more vigilant that night than usual, but at the same time he stated that he really had no apprehension of an attack himself, but still adopted these precautions. He said he would have given them a warm reception if they had come. They then asked him—Dr. Bratton, and Mr. Boyd, and two or three interested—"Now, Major, you know the pledge and obligation we have taken in this regard. We propose now, in this meeting, no more or less than to ask you to please to furnish us such information as you have, to enable us, in compliance with these pledges, to bring those parties to justice."

Question. Had Major Merrill stated that he had the names of certain parties before that?

Answer. Yes, sir, he stated that he knew the names.

Question. Was Mr. Avery one of the parties in that conference?

Answer. Yes, sir; he was in that conference. The major did state that he knew who they were.

By Mr. VAN TRUMP :

Question. About how many?

Answer. About three, I think. He said that he had learned or know that three had threatened, and that only one had been seen observing about the camp.

Question. Did he not say something about a list of names that he had, that belonged to this organization?

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Answer. Yes, sir; he stated that here in the conference; he said he had the names.

Question. Of how many?

Answer. He did not say how many, but he said he had several names, and could have them arrested, just as that notice states there, in a very short time.

Question. Go on.

Answer. He stated that he knew who those three men were, I understood; and those gentlemen said, "Give us the names, and we promise you, in good faith, that we will see that these parties are brought to justice." He said, "I must decline for considerations of public policy," or something of the kind. He declined to do it, and stated that he had no doubt that these parties meant what they said.

Question. That is, the gentlemen present?

Answer. Yes, sir. He would accord to them the sincerity of purpose in this matter, but for reasons best known to himself he thought it imprudent, under the circumstances, for him to reveal the names. Some of the party, old Judge Beatty among others, insisted that we ought to know the names; that it was not right; that these parties might or might not be very irresponsible; that if he would let us into a conference with him, with reference to the supposed attack on the camp, we might be able to give him some light on the matter.

Question. Do you recollect whether Mr. Graham was there?

Answer. He was.

Question. Was he one very earnest?

Answer. He was. I recollect he got up and, in quite an animated manner, not unkindly at all, insisted that Major Merrill ought to give us the names. I remember he got up from his seat and went up and talked with Major Merrill, saying he was misapprehended.

Question. Is that about all connected with it?

Answer. Yes, sir. I know nothing else connected with it, only Major Merrill declined to give the names, and we broke up in a pleasant humor, but still the parties insisting that they thought he ought to have given the names, and stating that their purpose was to use every exertion to put these men through without fear or favor.

Question. You are a practicing lawyer here?

Answer. Yes, sir.

Question. What are your means of knowing what has transpired in the county generally?

Answer. Well, I suppose, judge, you have a pretty good idea; I am a practicing lawyer here, doing a pretty fair practice, mixing up, more or less, every day with the people from all parts of the county.

Question. Give us your best judgment, from your information; you have been pretty constant in the county since the last election?

Answer. Yes, sir; I have not been out of the county, except on two occasions to go up fifteen miles to see my wife's father, who was quite sick; otherwise I have not been out of the corporate limits for six months.

Question. Give us your best information with regard to the disturbances in this county at the last election by men in disguise?

Answer. Well, sir, there is no doubt about the matter. There have been several men killed since the last election.

Question. Can you give the names and circumstances?

Answer. I will give them to the best of my recollection. The first killing I remember was Roundtree, up in the upper side of the district.

Question. A negro man?

Answer. Yes, sir.

Question. Give the next name.

Answer. I cannot say it is next in order, but I will go around the county as they occurred. The other was a man who took the name of Boyce.

Question. What other name?

Answer. I do not know his other name; it is in the Bethel country. He formerly belonged to Preacher Boyce. I talked to Boyce about it. The next man was a man named Anderson Brown, about three or four miles above here, one Saturday. An old man in the upper country I heard was shot; I think his name was Lot Campbell.

Question. Shot in the field?

Answer. Yes, sir; I have learned since that he died. I take it for granted that is so; I do not know it. Then there is a man named Jim Williams, below here, who was said to have been hung.

Question. That makes five.

Answer. I think, as well as I remember, a negro man named Leech disappeared, and was afterward found with evidence of violence upon his person. Now, sir, that is all the killing I know of, or have heard of, that I now remember. I know nothing personally of it, but I have never heard of any others.

Question. Have you paid some attention to this whipping business, said to be by men in disguise, of negroes and a few white men?

Answer. In a general way I have. As names have come into my office that I did not know, I asked, because I felt interested in the matter. I would ask a man who came into my office as to the condition of affairs in his part of the county, if parties were quiet and orderly, and in that way I could hear now and then that certain men had been whipped.

Question. Have you any honest impression, and if so, what is it, in regard to the number of whippings in this county by disguised men since the last October election?

Answer. Now, judge, I should have to estimate them just in a lump. Under my general impression, I would say, sir, that they could not exceed forty or fifty. It might possibly be beyond that, but that is my impression.

Question. Those are cases you are satisfied, from actual information which you got, took place?

Answer. Yes, sir; there is no question in my mind that there are a great many rumors that are groundless with reference to these things. I have never had occasion to specially investigate the matter, but I have heard, in a general way, of reports and rumors that have been made with reference to cases. I do not remember the distinct cases which proved to be groundless, but I really say, as to my general impression, and I have thought and reflected over the matter, that they are not to exceed forty or fifty, all told; and that is a very large number, because, as a general thing, from what I can learn, they would, on a plantation where there were thirty or forty colored persons, scare or whip one boy, but probably that would be all you would hear of in a night's raid or a night's transaction. Occasionally they would go from one place to another.

Question. What is the fact in regard to the negro population in this county, as to whether they bear more than one name?

Answer. They do.

Question. Is that common?

Answer. Yes, sir; the tax-collector cannot find half of them.

Question. What?

Answer. The tax-gatherer here told me the other day that a great many of them evaded the taxes by changing their names, starting out with their former owner's name, and changing it occasionally to John Brown or John Smith, or something else.

Question. Outside of temporary change, is it a fact that a large proportion of the negroes in this country ordinarily go by two names—one the name of the old master, and the other a name assumed since freedom?

Answer. A great many have done so. I will give an instance. I was asked by a United States census-taker, and it showed how loosely he attended to his business, with reference to the names of the colored persons on my lot. I told him I did not know—to go up and find out. He said he would take my recollection. I gave him the name of a girl, Louisa Miller, whose former owner was Miller. I found, on going up home, it was wrong—it proved not to be the name she then went by at all. Among my own family servants—that is, my father's estate—I would not know where to find them at all.

Question. I will call your attention to some special cases. Have you, as a lawyer, frequently acted by request of others, and among the rest Major Merrill, in assisting in the prosecution of cases in this county?

Answer. Well, sir, I think probably I have represented the solicitor in his business more than any other man here. I cannot say more, but as much so as any other man here.

Question. What was done in regard to trying to get the perpetrators of the killing of Roundtree punished?

Answer. A man named Byars and one named Hicks, in this county, were arrested and lodged in jail, and a man named Randall, from North Carolina, over the line, was also charged with the homicide of this man.

Question. Was he arrested?

Answer. No, sir; he came down and surrendered himself as a prisoner. The day he surrendered himself an application was made, under writ of *habeas corpus*, for bail. The solicitor of this circuit, Mr. Brawley, of Chester, requested me to represent him. I did so before Judge Thomas.

Question. Let me ask you there, is it the system in this State to have circuit solicitors or prosecutors instead of for the counties?

Answer. No, sir; they have a circuit, and the judge has the authority to select out the solicitor.

Question. There is no official prosecutor, except for the circuit?

Answer. No, sir.

Question. And that includes several counties?

Answer. Yes, sir. He is the solicitor of four counties, and whenever any legal questions arise he has to substitute some one, if it is inconvenient to attend himself.

Question. Proceed.

Answer. We went before Judge Thomas, and to my mind—as I expressed to Judge

Thomas in the case of the two parties charged, Byars and Hicks—it was as clear and satisfactory an *alibi* as I have ever known established.

Question. Give us the particulars.

Answer. It was proved, by disinterested parties, clearly that these men were at home. One of them was sick; one of them was quite an invalid—a boy that looked like it would be almost dangerous for him to go from home. I think he was sick on his trial at the court-house. The other two were young men of good constitution, stout young men. I told the judge as soon as the defendants made out their showing, that so far as those two parties were concerned I could not ask a conviction, for I had nothing to go upon. I had the deposition of the coroner's inquest charging these parties. I told him I could not see how I could ask for the conviction of two of those men, Byars and Hicks. But as to Randall, of North Carolina, partly as I knew nothing of him personally, and there was a circumstance of suspicion, according to his proof in proving his *alibi*, there had been a gathering of two or three men at his house that night, and the evidence was that some of them were under the influence of liquor; I presented that as a matter for the consideration of the judge. The result was the discharge of three of them. He increased the bond, I think, of this North Carolinian, Randall—it was \$1,000.

By the CHAIRMAN :

Question. He discharged them on bail?

Answer. Yes, sir, under the writ of *habeas corpus*. Do you want me to go on with the statement of the case?

Question. Yes, sir; we want the facts.

Answer. When that case was presented at the next term of the circuit court the solicitor had an interview with me with reference to the matter, inasmuch as I had appeared for him in the preliminary examination, and I told him if I were he I would direct my attention especially to Randall, and I thought it was very doubtful, in fact almost improbable, that he could make anything out of the Byars and Hicks cases, but he might make something out of the others, and I directed his attention to this very point to make him explain that. I happened to be present in the court-house during the trial, and they did explain it to the satisfaction of the jury and, I think, of the judge, from his charge. But in the investigation of that case the important witness was Harriet Roundtree, the wife of Thomas, and the daughter. The daughter was a half-grown girl, quite ignorant and very much embarrassed in the investigation. The mother, however, was very composed. She made a very direct charge on these parties. I think the evidence was about this: That she heard one of the parties in his house that night tell this fellow Randall to come out of a trunk that he was pillaging, I suppose. With reference to the other two, she said they were neighbor boys, and she saw them there and knew positive they were there. Her daughter came up next and testified in reference to this man—I think it was Randall—one of them, anyhow, who was named out by the others to come out of that trunk. She also stated that she thought she knew the other two who were charged. I suppose that there were twenty or thirty witnesses in the case; certainly parties who were not connected with the accused in any way. Hon. William C. Black was one of them. He has been a member of the legislature from this county—an aged man.

By the CHAIRMAN :

Question. Who is he?

Answer. He was one of the witnesses in this case. This girl had belonged to him—probably she and her husband both. They established, I think, very satisfactorily—in fact, the evidence was criminative on that trial in reference to the innocence of Byars and Hicks, and, according to the proof, this gathering, the only circumstance of suspicion that I saw upon the preliminary examination, was explained by this man Randall: that he was a man that drank, and that he had a gathering of two or three boys there—not Hicks nor Byars, but some neighbor boys—and that they got on a drunk. A man named Sam Hunter, quite an intelligent freeman, I think an old freeman, too, got up on the stand and swore that he knew Randall from childhood; that he was a harmless, inoffensive man, and, from what he knew of him, that he would not suppose that he would be guilty of an offense of this character. The very same man, corroborated by three or four other colored persons, got up and unequivocally stated that they would not believe Harriet Roundtree upon her oath; that she was a very bad, spiteful, malicious woman. He gave the reasons. This man was a Baptist preacher.

Question. Who was?

Answer. Hunter, who discredited her. Hunter's intelligence and general appearance struck me at the time.

Question. He is a negro?

Answer. Yes, sir; he said he could not believe her upon her oath. He was asked the question, and was corroborated by two or three others. They gave reasons; I do not remember them now. The result of the matter was that he was acquitted. It was there stated in that investigation, by a white man, whose name I have forgotten, that

Harriet Roundtree, on the day of the murder, had told him that a man named John C. Laris, who has since left the country, and a man named Hugh Roberts, who is now on the board of county commissioners, had told her to charge these three men with it. They, however, got up and denied it. In justice to them, I state that. (See Appendix No. 2.)

Question. Were you connected in any way with, or had you any knowledge of, the case of a man named Wright?

Answer. Bill Wright?

Question. I think that is his name.

Answer. Yes, sir. I was not immediately connected with his case. He came to me and employed me as a lawyer in his perjury case that grew out of his charging a man named Sapaugh with having Ku-Kluxed him—one of the best men in this county—a man utterly incapable of anything of the kind. Mr. John Bolton Smith, an attorney here, the oldest one at the bar, represented Wright in prosecuting Sapaugh, and my former partner, Colonel Wilson, represented Sapaugh.

Question. That is the man whose name is spelled S-a-p-a-u-g-h?

Answer. Yes, sir.

Question. Is there not an alias Sapaugh and Sapoch? it is so in the indictment. (See Appendix No. 3.)

Answer. I do not know about that; his name is Abraham Sapaugh, I understood from my partner who attended to the matter. I had no connection with the case, and did not hear it; my partner told me the circumstances. The point relied upon to identify Sapaugh was his long white beard, and the appearance of his hair. Sapaugh proved, first, he had been in the habit for probably a year or so of wearing a long beard—he is a gray-bearded man when his beard is out; but on account of some ulcer or ring or tetter on his throat, he had had his beard off for some months before that—certainly for some time. He furthermore proved that, on the day before the night upon which this whipping was alleged to have been done, he was returning from Rock Hill home with a load of lime; that he met Bill Wright in the road, and was friendly; that Wright asked him what was the news from Rock Hill, and how much he got for his lime; that he continued his journey home, and there found his daughter dangerously ill, so that they staid up the whole night with her. I think his physician, Dr. Black, was there also. Upon that trial the defendant's attorney selected, I think, four black men on the jury, one of whom is a member of the board of county commissioners.

By the CHAIRMAN:

Question. Are you speaking of the trial of Sapaugh or Wright?

Answer. The trial of Sapaugh—no, I am wrong. I was running back into the Roundtree case. In the Sapaugh case it was a preliminary examination before Miles Johnson, a magistrate, and the case was there thrown out, and never came up to the court upon the proof below. With reference to Wright, he had taken out a warrant before H. K. Roberts, then a trial justice, and a very ignorant one.

By Mr. VAN TRUMP:

Question. A black man?

Answer. A white man.

By the CHAIRMAN:

Question. What was his full name?

Answer. Hugh K. Roberts. He had taken out a warrant charging this man with having whipped him. This was away up in the county. How, I know not; the case was brought down here before Miles Johnson. In his affidavit before Roberts he swore positively and unequivocally that this man Sapaugh had whipped him. He came down here, and on his oral examination, after having been cautioned, I think—the party told me—he swore again. The party told me he cautioned him because he knew the character of the testimony, and was afraid the boy might have been influenced in the matter. I do not know anything about it. The case ended there, as far as the prosecution of Sapaugh was concerned.

By Mr. VAN TRUMP:

Question. Did he swear differently?

Answer. He swore still a second time.

Question. Positive?

Answer. Yes, sir; but the verdict of the jury acquitted Sapaugh.

By the CHAIRMAN:

Question. He swore to the same thing in court that he had sworn before both the magistrates?

Answer. Yes, sir; a preliminary court—the magistrates.

Question. Was it a trial before a jury?

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Answer. No, sir; before a magistrate. It never went to the circuit court to my recollection.

Question. The information against Sapaugh was thrown out without going to a jury, before the magistrates?

Answer. No, sir; I am not certain whether there was or was not a jury. My impression is, there was a jury before the magistrates.

Question. The trial of Wright was before a magistrate also?

Answer. Yes, sir; I am speaking of the trial of Wright.

Question. Did either of them get into the superior court?

Answer. Yes, sir, Wright did.

Question. You stated that Wright made an information before a justice, Roberts and it then came before another justice, Johnson, and he made the same information in both cases, swearing positively?

Answer. Yes, sir, I understood so.

Question. When it came to court did he swear positively there again?

Answer. No, sir; he was not sworn in court. His counsel told me he was afraid to put him upon the stand for fear that through his ignorance he might blunder and make the matter worse. His counsel told me he intended to appeal to the jury in his behalf without putting him up.

By Mr. VAN TRUMP:

Question. Which case are you talking about?

Answer. The Wright case. The Sapaugh case ended before the trial justice, and Wright having sworn positively before Roberts, and having come down here and sworn again before Johnson, and Sapaugh, being acquitted, turned around and indicted Wright for perjury.

Question. How could Wright be a witness in his own case?

Answer. We all testify in our own behalf here.

Question. In a criminal case?

Answer. Yes, sir; the young man who defended him told me "if I put him up there, of course it is a case of perjury. He knows nothing about it; he does not understand the character of the charge at all, and if I put him up there his demeanor may prejudice his case."

Question. Your law in regard to a criminal testifying in his own behalf is as in Ohio, that he may or may not do it?

Answer. Yes, sir; and in half the cases we do not do it. I took the broad ground before the jury that that is a matter of course putting him up; I have asked the jury not to believe anything he says, anyhow, unless it is strongly corroborated outside. For the same reason, I understood this young man said he would not put this man up because he knew nothing at all about his intelligence, or anything of the kind, and it would be a dangerous experiment, and he thought nothing could be made against him by his not putting him up. Because the simple question was whether or not he had willfully and falsely sworn in swearing positively to Sapaugh. The strong ground I suggested to him to take was this: If there was criminality, the trial justice ought to have instructed him how to frame his affidavit; in other words, that the trial justice had framed the affidavit, and by the framing of the affidavit he had probably prejudiced the case.

By Mr. STEVENSON:

Question. Wright could not read or write, could he?

Answer. I should say not. I do not know, though.

By the CHAIRMAN:

Question. Was he convicted?

Answer. Yes, sir; and sloped before the sentence—ran off.

By Mr. VAN TRUMP:

Question. Is that the last of him?

Answer. Yes, sir; I have never heard of or seen him since. He had the reputation of having been driven from North Carolina—because he came to me and I talked to him about his case, and I inquired of him, and about him, and he told me that he had had the reputation of living with two white men in North Carolina and that he had fled from there.

By Mr. VAN TRUMP:

Question. Is there any other case you have any knowledge of or have been connected with that will throw light on the investigation here?

Answer. I have marked on my memorandum the Barrott case—that is the case in which my first acquaintance with Colonel Merrill began.

Question. Give us the history of that?

Answer. Barrott's case was this: Some disguised parties went to Barrott's house,

some five or six miles north of this place, and made a considerable noise and violent demonstration, but, according to his testimony, did him no personal harm. Barrett came down here and told me he saw Colonel Merrill, and his idea was to get the colonel to send him up a guard there. There had been a guard above him there—a State militia guard, stationed on the line for the protection of the immediate locality. He stated to me that Major Merrill had heard his tale and said, "Is there no civil law?" He said, "Yes, I reckon." The colonel said, "You then make affidavit to what you have stated before me and we will see whether this civil law will take hold of it." Barrett did make his affidavit, and made it very cautiously, stating that it was only his general impression, and charging three of his immediate neighbors, either of whom lived within the sound of a voice, almost, to himself—very near. Their names were Caldwell, Smith, and Barber. A preliminary examination was had before Trial Justice Williams, in this place, in a few days. Barrett came to me to prosecute for him. I had a good deal of office business in my office that day, and told him he must excuse me; that I had attended to two or three of these cases without any profit at all, and I thought some of the other members of the bar ought to take their share of it. He insisted, and I told him if he could not get any one else, to try the other members of the bar—I named several others—to come back. He went off. After a while he came back with the sheriff of the county and stated that he had seen Major Merrill and Major Merrill had told him to tell me, inasmuch as he asked me to represent the case for him, that it would be very bad for the case to go unrepresented; that it would show a state of things here that probably did not exist. As soon as he stated it in that view, I dropped my pen and took my hat and walked to the court-house and took charge of the case. I was introduced to Major Merrill in the court-house, and two or three other officers were there.

Question. That was your first acquaintance with Major Merrill?

Answer. Yes, sir.

By the CHAIRMAN:

Question. What was the date of that?

Answer. I could find out by the papers.

Question. What term of court was that?

Answer. It was a preliminary examination, I think.

By Mr. VAN TRUMP:

Question. Proceed.

Answer. I stated to Major Merrill, in a low tone, after I had told him I had taken this case, that I was very much afraid that it was too indefinite; that it would be almost impossible to make any showing at all.

Question. Here is the date in the newspaper, April 4.

Answer. That is the date.

Question. It was a few days after the major got here?

Answer. Yes, sir; it was while he was at the hotel, before he moved to his house. I stated to Major Merrill that from what the fellow had told me in my office, though I had not paid special attention, I was satisfied he was too vague in his testimony. He said, "I reckon not; he swore very positively to me." I said, "Major, you will find that on the stand that he is going to flinch."

Question. Is Barrett a negro man?

Answer. No, sir; a white man. I said you will find him entirely too general. I did put him up and asked him the question if parties were there, &c.; went through the preliminary examination as to there being a raid at his house; if he knew any of the parties. He said he did know these three men. I asked him, "How did you know them?" He said, "Just from their general appearance." I asked him, "Are they your neighbors." He answered, "Yes, sir." I asked him, "Did you know them by your faces?" He answered, "No, sir, I do not swear that." These were his words. I asked him, "How do you know they are the parties?" He said, "Well, sir, I just know from their general appearance." I could not get him out of that, and the fact that he had tracked horses in the direction of one of these men's houses, which was a by-path or road that led by his house. I could not get along at all. The trial justice, after he had heard the testimony in reference to the defendants, dismissed the case.

By the CHAIRMAN:

Question. You mean the testimony of the defendants?

Answer. Yes, sir; and their witnesses.

Question. They offered testimony?

Answer. Yes, sir; and their witnesses. We do that in preliminary examinations here—both sides. You will understand, Senator, that these preliminary examinations are to ascertain the probable chance of innocence or guilt, with a view to carrying them on to the upper court.

Question. The matter was discontinued by the trial justice?

Answer. Yes, sir.

By Mr. VAN TRUMP :

Question. Who was the magistrate ?

Answer. W. B. Williams.

Question. A white man ?

Answer. A white man.

Question. A democrat or republican ?

Answer. He is a democrat, I believe. He has been appointed here recently under the reformed system of Governor Scott.

Question. Is that all of that case ?

Answer. As I went home that day I met Major Merrill at the hotel, and he expressed himself entirely satisfied with the investigation I had made of the matter.

By the CHAIRMAN :

Question. What was the defense set up ?

Answer. They proved an alibi.

By Mr. VAN TRUMP :

Question. Colonel, I will ask you, in case a charge of guilt is made against a person or persons who are alleged to have been in disguise, is there any other possible defense hardly ?

Answer. I know of none, sir; as an honest lawyer I know of none; in the examination I knew the prejudice in reference to this general and wholesale use of the alibi, and I did everything in the world that I could, to the utmost of my capacity and ability, to thoroughly sift any pretext that might be used to establish an alibi in every single case, because I was guarded upon that very point, and I never have yet been able to defeat them. So natural and reasonable were the circumstances linked together that I have never yet defeated them.

Question. If there is a violence committed by a party of disguised men who are unknown, and the charge is made against an innocent person, is there hardly any other possible defense than the alibi ?

Answer. There is none that I know of. It may be greatly misused, of course. He must prove his innocence—how can he best prove it? By the fact that he was not there; that he was elsewhere and could not have been a participator in the offense. It may be abused, as you see, but if I were charged with an offense to-night, what other defense could I set up ?

Question. You were about to speak of going up street ?

Answer. Yes, sir; I went to Major Merrill, and he told me he was satisfied, and moreover that the affidavit that the man had made on the trial and the statement he had made to him did not correspond at all; that the statement made to him was much stronger, and was positive. Now, in reference to that trial, the question was asked whether I would permit a question to be asked Barrett on the stand. He was on the stand. I asked the defendant's counsel to know what the question was. He told me privately what it was: "If Barrett had not stated long before that that the white people of this country ought to look upon him with favor, inasmuch as he prevented the negroes out there from burning out eight miles square." It was a monstrous tale, and I did not attach any importance to it at all. I asked Barrett if he had any objection. He said he had not; that he had used the language, and that the people ought to look upon him with more favor upon that ground. The next day after that he was then in Major Merrill's camp down here, I think—

Question. As a sort of refugee, for protection ?

Answer. I take it so. He told me he was there for protection.

Question. Did he stay there after the trial ?

Answer. I do not know; he did before the trial, between the complaint and the hearing. The next day, or the second day after the trial, I saw a number of colored persons coming into town; I asked one of them what was the matter. He said, "We came in to see Duff Barrett about that lie he has told." "What is the matter?" I asked. He said, "We hear that he states that he has prevented the negroes of the country from burning out eight miles square, and we have come in to establish that that is a lie." I use their own expression. One boy came up and said, "I met him three miles from here, leaving town, not in the direction of his own home." I never heard of Barrett from that day to this; where he lives I know not.

Question. Barrett eloped then ?

Answer. Yes, sir; and this negro met him three miles west of here, but his residence is north. He suspected him; he says: "After telling that tale he is going to leave, for he can't stand up to it."

Question. Did he say there were any soldiers with him ?

Answer. He said he met soldiers between there and here.

Question. What is the fact as to the current information here whether Barrett was escorted by soldiers out of town ?

Answer. I do not know that there is any decided impression here, but he met soldiers coming back, between Barrett and this point.

By the CHAIRMAN :

Question. Not with Barrett ?

Answer. No, sir; that was their conclusion and their impression. Now, with reference to Barrett, as we are on that subject. The question was raised by the defense in that investigation, as Major Merrill knows, as to bringing in Barrett's bad character. I knew his character was very bad, not since the war, but before the war. I stated to the defense that that was not fair, and I should not submit to it, although I told them I had only seen him that morning, and knew very little about his case; yet as he was prosecutor and I represented the State I must protect him; that the spirit of the law would be defeated if I were to permit the defense to go into an attack upon the prosecutor's general character on a preliminary examination. I went to Barrett and asked him what he thought about it. I said, "Now you see the fix you are in. They are wanting to assail your general character; I can prevent it." He says, "Squire, that's just what I was afraid of. Don't let them do it." I said, "They shall not do it."

Question. Is that all of Barrett's case ?

Answer. Yes, sir; I have on my memorandum here Tom Black's whipping.

Question. What is that ?

Answer. That is another case which I prosecuted at that time, early in the fall of last year. I think just after the election a negro magistrate, one we had in town, came to me and said he had a very important case and he would like me to attend to it. I told him I must decline. He said, "It is a peculiar case—Ku-Klux whipping case. If you will attend to it I would be obliged to you, and I know there would be a general interest connected with the investigation." I said to him, "I know nothing about your business matter, and if you lay aside all feeling and take up the case, and where we find a fellow guilty turn him over to the court, and where innocent, discharge him—if you will do that I will attend to the cases." He said he would. We went in, and four or five men were charged with the whipping.

Question. Do you recollect the names ?

Answer. A young man named Sapey, Depriest, Goforth—one or two Goforths. In the first case that we took up we examined the witnesses. I was satisfied that he was not there.

Question. That what ?

Answer. The first party arraigned in the preliminary examination. I was satisfied by the showing that he made he was not there. He proved it by some travelers passing through the country.

Question. In what way was the charge made ?

Answer. In this general way, that they were there. He gave no special reasons—that they were there and whipped him.

By the CHAIRMAN :

Question. When was that whipping ?

Answer. In the early part of last fall.

Question. Proceed.

Answer. I was satisfied in my own mind that it would not be right, with the testimony then before me, to bind over the first party that we arraigned, and I told the trial justice so. He hesitated a good while and said, "It does look so, but I cannot decide this matter. We had better just bind him over." I said, "Just bind the whole of them over;" and that ended the case, and it went up to the court, and was there managed by the solicitor.

Question. The whole were bound over ?

Answer. Yes, sir.

Question. Did you go into the facts with the remaining parties ?

Answer. I found he was indisposed to regard the first man as innocent, whom I regarded as entirely innocent. The defendant's counsel insisted; they proffered bail for the whole, and they were bound over.

Question. What became of them ?

Answer. They had a trial and the parties were acquitted.

Question. What was the defense there ?

Answer. The alibi was used there too, but with strong corroborating circumstances outside.

By Mr. VAN TRUMP :

Question. Colonel, it appears from the general tenor of the testimony in this county of York that most if not all of those acts of violence have been committed since the last October election; what was the character of that election in this county ?

Answer. It was a very fraudulent one. I base my opinion upon just reading the election law. The powers that are conferred upon the commissioners to retain the

box for one week and manipulate it; that is giving them the power to manipulate it among themselves.

Question. Who have the majority in this county, the negroes or the whites?

Answer. I think, upon a fair test vote, the whites have.

Question. What was the result in the October election?

Answer. I think the republican party claimed it by about seven hundred majority.

Question. You think, upon a fair election, the whites would carry the county?

Answer. Yes, sir.

Question. Are there many white republicans in this county?

Answer. No, sir; I think not.

Question. Are there any, hardly?

Answer. Well, sir, yes; I know some.

Question. Is there any body of them?

Answer. No, sir; they are scattering here and there. I think there may be polled thirty, forty, or fifty votes—it may be more.

Question. Right there I will ask, because I understand it from other parties to be a fact that Mr. Wallace got a considerable portion of the white vote. Is that true?

Answer. He went far beyond his ticket.

Question. He was an exception?

Answer. Yes, sir; he had been kind to the community, opening mail routes, and one thing and another, and distributing favors, and a great many were disposed to break off for him.

Question. Do you know Squire Bennett?

Answer. Yes, sir.

Question. Was he an advocate of Wallace's election?

Answer. Yes, sir; he was a personal friend, but how he voted I do not know. I presume he voted for him; I might almost state so.

Question. But in the national contest of parties the republicans carried the county by seven hundred?

Answer. Yes, sir; I think it was the rise of six hundred. They had a very objectionable ticket in this county, a very objectionable county ticket, and I have often heard, just in moving about—

Question. In what sense?

Answer. There were personal objections.

Question. To competent men as candidates?

Answer. Yes, sir; and bad men. The probate judge was very obnoxious.

Question. What is his name?

Answer. Hall—S. B. Hall.

Question. Where is he?

Answer. He is absent. I do not know where he is.

Question. When did he go?

Answer. Last Friday. It is alleged that he went to North Carolina. How true, I know not. He is not here, for he is probate judge, and I am through the court-house every day.

Question. Go on.

Answer. As I was remarking, he was very obnoxious. A number of white republicans told me they were not going to vote for him. I saw a number—several of them told me so. A great many of the colored people spurned the idea of voting for him. There is no mining the matter. That is the truth; you will find it so anywhere. Notwithstanding all that, in the general result he was up to the ticket.

Question. Do you know or not individual cases of fraud in regard to the boxes?

Answer. No, sir; I never investigated the matter. I was so thoroughly disgusted that I never inquired anything about it. It was a fixed fact in my mind; it was a stupendous fraud.

Question. Were any of the managers of this election colored, in this county?

Answer. Yes, sir; and this fellow Rose was one. That is the character of the managers. They had occasionally a good man. Mr. Richfield was a very respectable man.

Question. Were there quite a number of colored managers last year?

Answer. Yes, sir; on every box; a slave that formerly belonged to my father was on the general managing ticket for the whole county, a very good man—Reece Joiner. He was one of the commissioners of the election—managing the whole thing. They appointed, I think, a colored man at every box, at least one.

By the CHAIRMAN:

Question. One colored man?

Answer. Yes, sir.

Question. There were three men at each box?

Answer. Yes, sir. I do not think there was more than one democrat at any box, outside of this. That is my recollection.

Question. Was there one here ?

Answer. I do not think there was one here. There are six of them ; and two boxes here. I remember Wagner, a colored man, was one, and Rose was another. I think Nelson Davis was one. I am giving from my general recollection of the matter now.

By Mr. VAN TRUMP :

Question. Were there many instances of precincts in the county where even one democrat was all ?

Answer. No, sir ; they were the exception.

Question. Even where there was a democrat on, there were two others, republicans, either white or colored ?

Answer. Yes, sir ; at least one colored, according to my recollection.

Question. Where there was a democrat, he would not have the charge of the box for eight or ten days after the election ?

Answer. No, sir. I think I know one instance where a democrat had ; that was Mr. Guthrie.

Question. But I spoke of the case ordinarily ?

Answer. O, no.

By the CHAIRMAN :

Question. Guthrie was a democrat, and had charge of the box ?

Answer. Yes, sir ; I think he had charge of that one.

By Mr. VAN TRUMP :

Question. Notwithstanding this violence by disguised men, which is deplored by all good men, or ought to be—

Answer. I think it is.

Question. Do you know of any resistance to the service of judicial process in this county ?

Answer. No, sir ; I never have known the civil law to be resisted in this county.

Question. Is it your opinion that these men, if found out, could be prosecuted like other criminals ?

Answer. I think they could. We have a solicitor that would fairly and impartially prosecute, Mr. Brawley. Just upon that point, with reference to matters to show how far the courts are affected by political bias, in 1868 a man named Simmons killed the brother of the sheriff, a man that was far his superior. He came to me to defend him. He was an avowed republican, one of the few in the county.

Question. A white man ?

Answer. A white man. The circumstances were aggravated, I thought, generally, but somewhat mitigated by the fact that his politics were somewhat mixed up in it. They were drinking, too. He was acquitted. My partner and myself defended him, for which we never received one cent. I believe he received \$25. I know I received nothing. All the lawyers will believe that his acquittal of manslaughter was due to the sympathy in the minds of the jury on account of his politics, thinking that he was probably a little persecuted in this difficulty ; that the difficulty was thrust upon him by reason of his politics. I believe there was a sympathy on the part of the jury, and that they somewhat overlooked the aggravated features of his offense. They brought him in not guilty and acquitted him.

Question. Was he a republican ?

Answer. Yes, sir ; we used that.

By the CHAIRMAN :

Question. Was that in an open brawl, or by disguised men ?

Answer. No, sir.

Question. It was an open brawl ?

Answer. Yes, sir ; in broad day-light. It was just about the turn of day. There is another case I will mention, tried at the last term of court. A man by the name of Cavin, who was regarded as a republican, and killed a man who was regarded as an ultra democrat, named Martin, was tried. Mr. Wilson and myself defended Cavin. He was acquitted, and it was not more due to any effort we made than the fair intention of the jury to do right between man and man.

By Mr. VAN TRUMP :

Question. When was that ?

Answer. Three or four months ago, at the January term of court.

Question. Have you any reliable information as to whether the negroes are in the habit of going in disguise to commit wrongs ?

Answer. Yes, sir ; I know one instance. I prosecuted in that case.

Question. Give us the history of that.

Answer. In fact two of them. It was a case of some negroes led on by one Bill Garrison, who, if he had his just desserts, would be in the penitentiary.

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Question. A white or black man ?

Answer. All black. Bill Garrison, who has been pardoned from the penitentiary, came home here and organized a band, and raided, at night, Douglass's store, some nine miles out here.

By the CHAIRMAN :

Question. Give us the dates, if you please.

Answer. I think it was in January. I know it was just during the court, because he was tried. The grand jury had not been dismissed when they brought them in, and the indictment was immediately given out. About six or eight colored men went in disguise with meal-bags and flour-bags, armed with double-barreled guns and pistols, to Douglass's store, and rapped at the side of the house and ordered the clerk out. He asked who was there. They told him it was none of his business, but to come out, and they would give him so many minutes to come out, or they would kill him. According to the proof, while two or three rapped at the door, four or five were stationed out and concealed in the pine woods, with instructions to kill any one passing along that interfered. This young man got up. He took them at their word and went off. They went in and rifled the store; took tobacco, shoes, &c. This fellow (Bill Garrison) took the train and got out of the way; he told the boys to lie quiet; that he would provide to carry them off and secure labor for them elsewhere. Three of them going to Rock Hill, not hearing from Garrison down here, to take the train, were seen upon the road with some of the shoes, and they went on to Rock Hill. Suspicion was excited, and a young man asked them where they were from. They said they had been on the Air-Line Railroad, and were from Gaston, and that they were on their way home. He told another man the circumstance, and he said as soon as he saw them, "Those boys are from the neighborhood. I know them, and I believe they have shoes and plunder there. I would not be surprised if they were some of the party that broke into Douglass's store a few days ago." So he went on to Rock Hill and notified the police, and they arrested these men and found the stolen goods in their possession. Three were arrested, and three are still at large, with Garrison at the head of them. I allowed one of them to turn State's evidence to get the full proof. The solicitor had to go home, and he left the case in my charge, directing me, in order to secure the full testimony, to *not pros.* as to one, and to consult the employer to know which boy was entitled to the privilege. He indicated one as being the most intelligent, and one of the best of the boys. He made it clear. They had him off while the other witnesses were being examined. I had him kept apart. He made a clear statement, in every respect singularly coinciding for him, a negro man, with the statement he had made in my office. It left no doubt of their guilt. They are now in the penitentiary.

Question. Do you know any other instances ?

Answer. I know an instance of not exactly negro Ku-Kluxing, but the instance of a trial justice out here last summer, just before the election. This man Hall, now probate judge, became offended with a man named Stewart, a white man, for telling some tales on him. He wrote him a very vicious, abusive letter, threatening him with a large force if he did not retract. This fellow sent him word that he had not made use of the language.

Question. Is this the same man now probate judge ?

Answer. Yes, sir; so he takes a negro man and directed him and others, armed, to wake up three white men in the neighborhood, and these three white men submitted to being wakened up and put in line, and they went up to this man's house at midnight, and took him out at 2 o'clock, and marched him six or seven miles to the trial justice's headquarters.

Question. Which trial justice ?

Answer. Hall himself. He took him with a warrant. The negroes carried him with this armed guard, after he had been seized, with the three white men, he protesting, but he knew no redress at all, and submitted. They carried him five or six miles to Hall's, and Hall bound him over in a pretty heavy bond to appear before Francis Davy, a negro, at Rock Hill. I know this matter in detail, for the young man applied to me for redress. I told him it was the greatest outrage I had ever heard of upon civil liberty, and if I were him I would present the matter to the solicitor. He went to the solicitor and got out a bill, and the man was indicted for official misconduct. According to the law of the State, parties indicted for official misconduct are denied the right to traverse. The court was held just before the general fall election, and the solicitor took the ground that he would give him the benefit of the continuance, as he was a candidate. He gave him the benefit of the continuance, notwithstanding the law was positive, because if he tried and convicted him, which was certain, it might have some political effect upon the pending election.

By Mr. VAN TRUMP :

Question. Was Hall then the candidate for probate judge ?

Answer. Yes, sir.

Question. He was elected ?

Answer. No, sir.

Question. But since elected ?

Answer. Yes, sir.

By the CHAIRMAN :

Question. Who was that solicitor ?

Answer. Mr. Brawley.

Question. Go on.

Answer. It is still a matter of record in the court.

By Mr. VAN TRUMP :

Question. You say these negroes went to these white men armed and waked them up ?

Answer. Yes, sir ; the white men told me they submitted to it. They knew of no redress. The negroes had the guns and were armed with authority, and if they resisted they would kill them. I never had known a greater degree of forbearance exhibited by any community in my life under any circumstances than was manifested by the community here before the election. The militia were parading here constantly with fixed bayonets, ball, and cartridge ; they had political harangues. The white people had applied to Governor Scott for the privilege of having a company armed from this place. He positively refused it. I know of another instance, below here, where this man Jim Rainey detailed a set of men, and they arrested a fellow for something that they alleged he had done—probably an assault and battery—and brought him up here to a trial justice.

Question. The militia did that ?

Answer. Yes, sir ; under the orders of the captain.

Question. You said something about political meetings—have you attended them ?

Answer. They generally have them in the court-house yard, and I heard them to some extent. My office is right by the yard ; I have heard some violent harangues there. Upon one occasion I saw the negroes were very much excited, and I quit my office and went home.

Question. Give us an account of that ?

Answer. That was an occasion when Mr. Neagle, the present comptroller general, made a harangue, a very violent harangue. He reminded the negroes that they had been once tortured and lashed here in slavery, but that day was over. They had a military parade that day. They were around with guns. He said, "The republican party have given you those guns and the white people are mad about it. We do not care about that. We intend you to keep them and defend yourselves with them, and if the whites attempt to molest you in any way you will have those arms to defend yourselves. If they ever attempt such a thing here, property will be laid in ashes in this town, and the streets of this town may run with blood." A part of that I heard, and part I did not hear. I heard the part with reference to the lashing. I have been told by responsible gentlemen that he uttered the other. I know of an instance in which he singled out a man here—this is from hearsay—and derided and abused him for sticking up a notice to keep trespassers from passing. In this country they now have a habit of going all through a man's plantation, making paths through cultivated ground. This man had been annoyed by it, and had stuck up a notice forbidding parties. Mr. Neagle, as I understood, stated that he had learned that such a man had the notice stuck up. He said, "I have heard he had the impudence to stick up a notice." This I did not hear myself, but I believe it to be true. There was another political meeting here, in which the reform candidates for the government spoke here. On that occasion six or seven white persons were present, and right in the midst of General Butler's speech, in which the crowd seemed much excited, the colored band struck up—right here in the piazza, and these constables were making speeches and the darkies were out there huzzaing and annoying the upper audience very much, I think. They exhibited a great deal of toleration. I heard no one counsel any resort to violence.

Question. I see there was a public meeting held here, an account of which is given in the Yorkville Enquirer, under date of April 6, 1871. It seems that a meeting had taken place on the previous Saturday.

Answer. Yes, sir.

Question. And a committee had been appointed, composed of the following gentlemen, whose names I will read and ask you whether they are leading men of respectability here, or otherwise. Colonel Cad. Jones, chairman, W. B. Wilson, Dr. J. R. Bratton, J. L. Adams, J. C. Phillips, Wm. McGill, W. W. Gaffney, W. C. Black, Jno. W. Mitchell, J. P. Hood, S. C. Youngblood, S. G. Brown, Rev. R. A. Ross, J. P. Moore, L. P. Saddler, Jno. S. Bratton, John Rattaree, F. H. Barber, W. B. Allison, D. T. Bartlow, M. L. Ross, and Henderson Martin. What are the characters of those gentlemen in this county ?

Answer. They are among the most influential, respectable, and intelligent gentlemen that we have.

Question. I see they passed the following resolutions :

Resolved, That a chief object in holding this meeting was to urge the people of the county to be quiet, and, by all means, to preserve the peace of the State. We earnestly express the hope that peaceful relations between the races may be reëstablished; that there will be no further violence; and we respectfully invoke all law-abiding men to coöperate with us in the attainment of these ends. We know not the remedy for the troubles that are upon us, but know that violence is not that remedy. To those especially who have engaged in acts of violence we earnestly raise a warning voice and assure them that force, if persisted in, will be suppressed by the power of the Federal Government.

Resolved, That the resolution adopted by the colored race at their meeting indicates such a spirit as commends them to our confidence, and that we will use our best efforts to secure to them protection of life, liberty, and property, and the enjoyment of all their rights."

Answer. Yes, sir; those resolutions were adopted.

Question. What, in your opinion, is the public feeling among the best men of the county and the country in regard to the Federal Government at this time?

Answer. I don't think there is any hostility toward it. I have never seen any hostility manifested toward the General Government since the surrender.

Question. Their hostility, if any, is to what?

Answer. Is to the corrupt administration of the State government

Question. What do they most complain of?

Answer. Ignorance, incompetence, thieving, plundering, and waste of the public money.

Question. What was the effect upon the public mind, in this county, of the arming of the negroes by the State government and furnishing them with ammunition?

Answer. It was accepted almost as a declaration of war between the races.

Question. Did the white people become alarmed?

Answer. Very much, sir, and several efforts were made by the citizens here to get the government to reconsider the matter as unwise and almost suicidal to the peace and happiness of the country.

Question. Governor Scott, I understood, has partially retraced his steps in that regard, by recalling some of the arms?

Answer. Yes, sir; with reference to that I will remark that, in the latter part of January, I think, or some time in February, a very bad feeling sprung up here from the issue or rather from the abuse of carrying about those arms, and the governor sent up here a man named General Anderson to take up the arms. General Anderson issued his orders here for those colored captains to deliver up their arms at once. My understanding and impression always has been that one of the captains, George Adams, for a long time refused to obey the order, such was their determination to hold on to the guns. The captain of one of the companies at first refused to deliver up the guns, when the governor's private secretary or adjutant general or something came up here and, in the name of the governor, issued an order for their return.

Question. Has there been very much complaint and dissatisfaction at the almost unlimited exercise of the pardoning power by the governor?

Answer. Yes, sir; I spoke of this man Bill Garrison as connected with the raid on that store; I think he was the ring-leader in that, according to the testimony. He broke into Watson's store a year or two ago and stole a good many goods out; was pursued over into North Carolina, and the goods found in his possession. He was brought here, tried, convicted, and sentenced, I think, for three years; I don't think he stayed there long. I don't remember how long; but the records will show.

Question. I have a list here of a few cases in this county; I find a man named Pinkuey Johnson pardoned—who was he?

Answer. A man who lives up on the river—a colored man—who was charged with, tried, and convicted of stealing corn from Mr. Akins's crib. The corn was found in his possession.

Question. I see by the record that he was sentenced to eighteen months' imprisonment on the 22d July, 1869, and on the 15th of January succeeding he was pardoned. There is a case here from York, sentenced for larceny, eighteen months, on the 2d of November, 1869, and pardoned the 22d of December, 1859, having been in prison only fifty days. Isaac Hiney, who is he?

Answer. He was a boy convicted here for stealing. I do not remember the circumstances of the larceny. I remember the name well and the conviction. I had nothing to do with the case.

Question. Here is a man, Garrison, convicted March 12, 1869, sentenced for three years, and pardoned March 4, 1870, having been in prison eleven months and twenty-one days.

Answer. Yes, sir.

Question. Did the people complain of the taxation?

Answer. I can give you an instance of the oppressive character of taxation. I have some property, a house and lot here, and some lands lying around here, I suppose about one-hundred and fifty acres—thin lands. They valued that, if my recollection is correct, at \$3,000.

Question. How many acres?

Answer. I would say near a hundred and sixty acres. The house is the valuable part of it. I do not object to the valuation, it is the per cent. of the tax I am going to speak about. I do not remember accurately, but I suppose I return six or seven or eight thousand dollars of personal property. I paid to the county treasurer \$209 33 tax.

By Mr. STEVENSON:

Question. What is your real estate valued at?

Answer. I think \$3,000.

Question. That is \$16,000 in all?

Answer. That is about it. I could be accurate by going to the returns.

Question. Do you think your personal property is six eight or ten thousand or what?

Answer. If I could have access to the books I could make the return as it is, but I will say eight or nine thousand dollars. I paid to the treasurer, Rose, before he left and absconded, \$209 33. I have my bank account here. I would like to correct my statement of personal property, if mistaken, if you will give me that privilege.

Mr. STEVENSON. I merely want to compare the amount of property with the tax.

By Mr. VAN TRUMP:

Question. Have you finished that part of your statement?

Answer. Yes, sir.

Question. Among the intelligent portion of the community here, is there any hostility against the negro as a negro?

Answer. I think not.

Question. Or as a citizen?

Answer. I think not. I think the better class of our people want the negro educated if he is to remain here, to alleviate our own condition. It is a matter of necessity.

Question. There is no hostility, then, to the school law as a law?

Answer. No, sir; I think not.

Question. What has been the administration of that law in this county?

Answer. I can only speak from general reputation in reference to that, Judge. There has been a great deal of complaint here recently. I know of a good many ladies who are entirely dependent on the school fund, and who have been disappointed from time to time in receiving their money. I know of several instances that have come under my personal observation where they have been put to a good deal of inconvenience by disappointment.

Question. Notwithstanding the large appropriations made to the school-fund by the legislature?

Answer. Yes, sir.

Question. Who is the school commissioner in this county?

Answer. Miles Johnson.

Question. A white or colored man?

Answer. A white man.

Question. How does he discharge his duties?

Answer. I think he is a very good man, but totally unfit for the position.

Question. Colonel, I have prepared, during my sojourn in South Carolina, several abstracts, but could not get them into the testimony as yet. I will ask you if I have submitted this abstract of salaries to you, and if you have compared it with official documents to see if it is correct?

Answer. Yes, sir; I examined this and compared it with the records. I see here my own figures where I added it up.

Question. Is it correct?

Answer. Yes, sir.

Question. You also examined that for 1855?

Answer. Yes, sir.

Question. Showing the difference between the salaries of the year 1855 and the year ending 31st of October, 1870, of \$125,989 18?

Answer. Yes, sir; I have examined it and compared it with the official report of the comptroller general.

[The paper is as follows:]

Salaries in South Carolina for the fiscal year ending October 31, 1870, as per report of comptroller general for 1870.

Paid for November, 1869.....	\$15,620 90
Paid for December, 1869.....	7,146 64

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Paid for January, 1870.....	\$12,885 85
Paid for February, 1870.....	20,603 65
Paid for March, 1870.....	20,761 64
Paid for April, 1870.....	25,883 08
Paid for May, 1870.....	18,096 62
Paid for June, 1870.....	14,851 96
Paid for July, 1870.....	24,344 42
Paid for August, 1870.....	11,706 40
Paid for September, 1870.....	9,285 06
Paid for October, 1870.....	4,144 03
Salaries of State constables.....	20,608 84
	<hr/>
	205,439 18

Salaries in South Carolina for the fiscal year ending September 30, 1855, as per report of comptroller general for 1855.

Governor.....	\$35,00 00
Governor's private secretary.....	500 00
Governor's messenger.....	250 00
Chancellors and judges.....	30,000 00
Attorney general and solicitors.....	5,600 00
Clerks, &c., court of appeals.....	1,700 00
Librarians of court of appeals.....	400 00
State reporter.....	1,500 00
Comptroller general.....	2,000 00
Two treasurers.....	3,600 00
Commissioner of public works.....	150 00
Adjutant and inspector general.....	2,500 00
Quartermaster general.....	500 00
Arsenal keepers and physician.....	1,900 00
Secretary of state.....	800 00
Port physician.....	800 00
Comptroller's clerk.....	750 00
Assessor of St. Philip's and St. Michael's.....	800 00
President and seven professors South Carolina College.....	20,500 00
Officers of South Carolina College.....	1,700 00
	<hr/>
	79,450 00
Difference.....	<hr/> <hr/> 125,989 18

Question. I have here another abstract which I have submitted to you already. I will ask you if it is correct?

Answer. Yes, sir; I examined this also. It is correct. There is a slight inaccuracy in the comptroller's report in giving the appropriations.

[The paper submitted is as follows:]

Power given to, and the amounts disbursed by, the several departments of the government of South Carolina, as contingent funds, for the year ending October 31, 1870.

Contingent fund, executive department.....	\$49,512 87
Contingent fund, secretary of state.....	1,000 00
Contingent fund, comptroller general.....	992 70
Contingent fund, auditor of State.....	1,309 45
Contingent fund, state treasurer.....	926 60
Contingent fund, superintendent education.....	900 00
Contingent fund, attorney general.....	992 98
Contingent fund, adjutant general.....	2,500 00
Contingent fund, chief constable.....	500 00
Contingent fund, legislative library.....	395 50
Contingent fund, contingent accounts.....	31,434 65
Contingent fund, supreme court.....	1,035 15
	<hr/>
	87,499 99

Question. I have here the Yorkville Enquirer of April 6, in which appears an editorial article, "Be prudent." Have you read that article?

Answer. Yes, sir.

By the CHAIRMAN :

Question. Did you write it?

Answer. No, sir.

By Mr. VAN TRUMP :

Question. It is an editorial article of advice and warning to the people.

[The article is as follows:]

“BE PRUDENT.

“Every one who is at all conversant with the political and social condition of this country needs no warning as to its troublesome aspect. A spark may kindle a flame that will consume the little peace and quiet which we now enjoy, and make this land, from the mountains to the seaboard, nothing but a yawning wilderness. We are not frightened, but we cannot but feel serious when we look into the future. We may be mistaken, but transpiring events seem to indicate a rising storm. The winds and clouds forebode some atmospheric change. The present status of things cannot remain long. The social confusion and political corruption which exist in this country must soon come to an end. It will work its own destruction, and unless, in some way or other, reformed, may work the utter ruin of everything that is fair and lovely in the land. No people were ever placed in more critical circumstances than those by which the southern people, at the present time, are surrounded.

“That we may emerge from this strange and portentous state, great prudence is necessary. One rash and unwise step may prove ruinous. Ultra views must be discarded and ultra acts avoided. The whole country is incensed at the acts of roguery which have been legalized and practiced to the great detriment of the good and staid inhabitants of the country. Not to see these acts is simply to give a tacit assent to their perpetration; to resist them is the duty of every man who loves peace and order. But great prudence must be exercised that this resistance be made in an honorable and just way. One bad deed will never make it right to do another. Let our people remember that our all depends upon prudent conduct, and let them act accordingly.”

By the CHAIRMAN :

Question. What is the date of the first outrage you know of in this county?

Answer. The first killing was Roundtree.

Question. I ask for the first outrage of any character that you know of?

Answer. I do not know whether Black was whipped before Roundtree was killed or not. I do not think there was a great deal of time between the two; no, Black was first, I remember now.

Question. How much of this killing had occurred before the conference with Colonel Merrill?

Answer. I think every one of them.

Question. How much of the thirty or forty whippings which, in your opinion, have occurred in this county?

Answer. I said forty to fifty.

Question. Of the forty to fifty how many had occurred before the conference with Colonel Merrill?

Answer. All that I have any recollection of. I know of none since.

Question. Why had not the citizens of the county taken measures before Colonel Merrill requested this conference to suppress them?

Answer. I am not able to state.

Question. Did you not see and feel that the people here who acknowledged the danger and the great enormity of these crimes had not the moral courage to speak out against them?

Answer. At one time the feeling was so great—

Question. Was not that the fact?

Answer. Yes, sir; at one time.

Question. That the terrorism was so great?

Answer. Yes, sir; there was a time here when the men who were opposed did not express their opinion because they did not know who they were expressing it of.

Question. Was not that your own feeling?

Answer. Yes, sir; my own feeling of the matter was, I would have spoken of it much sooner if I had thought public sentiment was prepared for it.

Question. Was not the public sentiment of this town and county, whatever it may have been in private, was it not suppressed and kept quiet until the arrival of the troops at this place?

Answer. I do not know that it was suppressed. I speak only of my own individual case. I spoke to Major Merrill of my individual case. I did not speak of actual force.

Question. Did not people keep quiet so far as condemning these outrages was concerned?

Answer. No, sir; I think so far as they felt that they could do it safely they expressed themselves, so far as that expression would have been safe.

Question. What was your own opinion?

Answer. My opinion was that I could not guide or quell this storm, and I did not know where I was going in putting myself in it.

Question. Did you not feel apprehensive that if you denounced these outrages, you would encounter personal danger?

Answer. I did not know but what I would. I did not know whether I would or not. I did not know but what I might.

Question. The apprehension that you might imperil yourself induced you, as a prudent man, to keep your own counsel?

Answer. I kept my own counsel, and have studiously avoided having anything in the world to do with this matter.

Question. When did it become the case that you felt at liberty to denounce it?

Answer. Some time prior to the adoption of that card, because I then found others to sustain me in it.

Question. That was in May?

Answer. Yes, sir.

Question. Colonel Christopher arrived here with United States troops about the 26th of March?

Answer. I do not remember, but I take it for granted that that is correct.

Question. It was after the troops had been here six weeks or nearly two months that the conference took place?

Answer. I cannot tell the date.

Question. It was the 18th of May?

Answer. I do not remember exactly the date. That paper shows it.

Question. Of that conference you say Judge Beatty was a member?

Answer. Yes, sir.

Question. When the statement was made in that meeting that the time had arrived when these outrages must stop, was there no dissent to that opinion?

Answer. No, sir. I remember not a single dissenting voice. I think the committee unanimately concurred that they must stop, and expressed themselves so, very decidedly.

Question. That this must stop?

Answer. Yes, sir.

Question. As to condemning outrages that were past, was the sentiment unanimous in that meeting?

Answer. Colonel Merrill stated in that meeting that he cared nothing for the past; that it was not the past that he had to do with, but the future.

Question. That was his desire, to operate for the future?

Answer. Yes, sir; he said the past was past.

Question. Was not a resolution offered by Mr. Avery at that meeting which was intended to recognize the good done by the Ku-Klux?

Answer. No, sir. I say emphatically no.

Question. Can you procure a copy of the resolution that Mr. Avery read there?

Answer. No, sir; I do not remember that he offered a resolution.

Question. Did you hear it?

Answer. No, sir; I do not remember it.

Question. Had you any idea that any one of these gentlemen were members, or that Mr. Avery was the chief of the Ku-Klux in this county?

Answer. No, sir. I do not know what idea others had; I had none.

Question. Is he a respectable member of the community?

Answer. He is, sir.

Question. It would rather surprise you if the revelation should be made that he sustained that relation to the Ku-Klux Klan?

Answer. It would, sir.

Question. Had you no information as to his offering a resolution or expressing such a sentiment there?

Answer. As to approving what had been done?

Question. As to recognizing the fact that the operations of the Ku-Klux Klan had done good in the county?

Answer. I have no information of that fact.

Question. Was there no dissent on the part of Dr. Bratton to the statement that it was time that public opinion should be brought to bear to suppress these outrages?

Answer. Dr. Bratton so stated, that these disturbances must be stopped, in the most emphatic terms, too.

Question. You felt that it was time for your own safety that they must be stopped?

Answer. Not my own personal safety.

Question. But of persons in the aggregate?

Answer. Yes, sir; the object was to restore peace and harmony to the country. I did interest myself very deeply.

Question. Was the danger of the situation conceded at that time?

Answer. Certainly; it is in the resolution.

Question. What was that danger believed to be?

Answer. That a set of irresponsible men were riding around, and we did not know what protection there was from it. Right there, if you will permit me in reference to these disorders, I would respectfully suggest that my impression is that they are the result more of personal prejudice to the individual that has been punished or disturbed than from any regular organization.

Question. We have had that opinion very frequently.

Answer. I say it very conscientiously; I can give my reasons, if it is needed.

Question. Why was it you made the expression a short time ago that you were unwilling or had felt an unwillingness to give vent to your own feelings, as you did not know to whom you might be talking on the subject?

Answer. Simply for the reason that I did not then know, and do not now know, who were engaged in it; I did not know who I was talking to.

Question. Did you suspect then that there was a secret organization, and you might be talking to a member of it?

Answer. Not as an organization—a regular organization throughout the county, at all; I never suspected that.

Question. You knew your own personal friends?

Answer. Yes, sir; but I did not know whether they were in secret sympathy or not.

Question. You did not suspect general sympathy with an organization?

Answer. But in such a time anything a man might do or say might be readily perverted and misrepresented.

Question. I notice that the language in that card is that the pledge given is as to stopping further operations?

Answer. Yes, sir.

Question. I want to know whether that was the language of the paper as originally drawn by you?

Answer. I cannot state, sir. My impression is that the word "future" was stricken out, and it was made "general."

Question. Your recollection is that the paper as first drawn did not confine the pledge to future operations, and that was stricken out?

Answer. I think some member of the committee objected to that, and by general consent it was stricken out—the future clause as to the future—upon the ground that the implication would be that we were not objecting to the past, but to the future. For that very reason it was erased. When the different papers were handed in and printed, I discovered that that future clause was in them, and called the attention of the editor to it, and I told him my impression was that the future clause was stricken out by general consent. Some of them had the future clause, and some of them did not have it as originally given out, and we accounted for it in this manner: Dr. Lindsay's son—as I was busy at the time—was handed the original, and different parties from the country got copies from him, and I suppose that word—whether distinctly or not I cannot say—that word "future" got in the paper I handed to him.

Question. Do you not know the fact that, when the cards got to the country, the people would not sign them unless this pledge was confined to future cases?

Answer. No, sir, I do not know the fact. Right there, I heard some one say that inasmuch as Major Merrill had confined his efforts to the future, why not express it so; but who that is I cannot tell. I heard that on the street, and that is the only person I ever heard say it.

Question. You were not out with these cards through the county yourself?

Answer. No, sir.

Question. Was there any effort after that time made to discover and bring any one of the persons who had been guilty to justice for past offenses?

Answer. No, sir; but the reason why there was none was this: If we had been furnished with the evidence, or put upon any plan by which we could have got the evidence—I do not know whether there was any effort made to discover or get the evidence, I do not know that there was any special effort made. The matter was generally discussed. I never heard any party named myself or any names mentioned as being the author of these past offenses.

Question. You say the outlines of this account of the proceedings of that meeting were shown to you by the editor?

Answer. Yes, sir.

Question. Had you written any part of that yourself?

Answer. Yes, sir; a portion.

Question. Were you not the author of the article yourself?

Answer. No, sir; I wrote a part of it, and he ran over it and changed it.

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Question. So that to a considerable extent you are the author of that article?

Answer. Not entirely; to some extent.

By Mr. VAN TRUMP:

Question. The editorial article?

Answer. Yes, sir; Colonel Merrill approved it.

By the CHAIRMAN:

Question. You never heard of any outrages since then?

Answer. No, sir, except from Colonel Merrill.

Question. Have there not been outrages committed in the county and reported to him or by him to you, which you believe, since that time?

Answer. I do not know. He told me a man named Dick Wilson was whipped since that, but I am not certain whether it was before or after. I inquired in regard to him afterward.

Question. Were you not impressed with the belief that it was Major Merrill's sincere desire to avail himself of whatever public sentiment existed here against the Ku-Klux?

Answer. It was.

Question. And secure the remedy through the civil authorities?

Answer. Yes, sir; he stated so.

Question. Were you impressed with his sincerity?

Answer. Yes, sir.

Question. When it came to the alleged or expected raid on his camp, whatever preparation was made, was not that immensely magnified in the town here?

Answer. It was; they had it reported that he had his headquarters guarded, and some gentleman, Mr. Boyd, I think, asked him if that was possible.

Question. It was rather resented here in town that he had made such preparation?

Answer. No, sir; the feeling was this: the people here had no idea that any one would be foolhardy enough—any larger number of men, let alone three men, however drunk they might be. The remark was made in this meeting that they did not believe any man in York district, drunk or sober, could have made any such declaration, because the sentiment is to avoid collision with the United States Government.

Question. You say gentlemen came to you and inquired about this next morning?

Answer. Yes, sir.

Question. Who were they?

Answer. Dr. Lindsay, Mr. Graham, and Mr. —; but I do not remember distinctly.

Question. You say they came to you to inquire about the cause of this disturbance?

Answer. Yes, sir.

Question. What disturbance?

Answer. The alleged disturbance in the town, according to the rumor.

Question. The disturbance in the town?

Answer. No, sir; the town rumor as to the disturbance in the camp.

Question. Had there been any disturbance?

Answer. That was what we wanted to find out. Colonel Merrill says there was none.

Question. The rumor that there was an immense disturbance?

Answer. Not immense, but the camp had been threatened and cartridges issued, &c.

Question. He told you in that conference, to which he was accidentally called —

Answer. Yes, sir, it was accidental.

Question. That he believed, from information that he had and observation, that some reckless men intended to fire on his camp—two or three men?

Answer. No, sir; he stated that it had been reported to him, and he knew the men's names. My recollection is that he never had believed they would do such a thing.

Question. But he had the information?

Answer. Yes, sir; and that one man had been down there surveying.

Question. And that he thought it prudent to make these preparations?

Answer. Yes, sir.

Question. Did he not make a further statement that he had put a silent sentinel there, hoping that if any such men came there they would go so far as to try it, and he would capture them?

Answer. Yes, sir; he said something about sentinels. I will not say silent sentinels; I do not think he used the word—but that he had made arrangements by which, if they attempted it, they would be captured.

Question. When asked for the names of these men he declined to give them?

Answer. Yes, sir; from public policy.

Question. We ask you as a lawyer, taking this whole case as he stated it—taking the application made to him to bring these men to justice—for what offense would you have indicted men who were simply suspected of having intended to fire on the camp?

Answer. We would have investigated the matter, and it might have been that an offense could have been made out of it; I cannot tell.

Question. Upon his statement of it, was there any offense for which men could be indicted ?

Answer. It was a conspiracy to do an unlawful act.

Question. If it actually existed ?

Answer. Yes, sir ; and if it was boisterously done, with threats, it would have been a riot.

Question. If actually accomplished ?

Answer. Yes, sir.

Question. But his information to you was that it had not been accomplished ?

Answer. Yes, sir ; if we had carried out the investigation and proved that fact to exist that threats and boisterous language had been used, it would have made it a riot according to the laws of this State.

By Mr. VAN TRUMP :

Question. Or a conspiracy if not boisterous ?

Answer. Yes, sir.

By the CHAIRMAN :

Question. Mr. Avery was in that same conference ?

Answer. Yes, sir.

Question. If Colonel Merrill had information at that time that Major Avery was not only a member but commander-in-chief in this county of the Ku-Klux, do you not think his reasons of public policy were very good for withholding the names of these men ?

Answer. Yes, sir, of course it would have been prudent.

Question. But there was a feeling of resentment toward him for withholding the names ?

Answer. No, sir ; I did not say there was resentment. Certainly Colonel Merrill was enjoying the utmost confidence of every man present, and therefore it could not certainly be any resentment. That is my distinct impression.

Question. You passed on from that to the list of persons killed, and the number that, in your estimation, had been whipped. I shall not examine on that further than to ask, have you ever sat down to make out a list of names of persons you had heard were whipped in this county ?

Answer. Never. I state my general impression and recollection.

Question. And that impression is without ever having undertaken to make an actual estimate with pen and paper ?

Answer. I never have made a list with pen and paper.

Question. You have never taken it up township by township ?

Answer. No, sir ; but I am confident in my own mind that it could not have exceeded that many.

Question. How can you tell that without going over it by townships ?

Answer. It is an impression. I do not state it as a fact within my own knowledge. It is my opinion.

Question. I come to the cases of Byars and Hicks ; you say that on that trial the defense was an alibi ?

Answer. Yes, sir, by disinterested persons—by parties not connected with the case.

Question. Not connected by blood or marriage with the men ?

Answer. Yes, sir.

Question. Was the question put on the trial, to these men, whether they were members of the Ku-Klux Klan ?

Answer. Yes, sir.

Question. How did they answer ?

Answer. My impression is that they positively denied it. In one of these cases the witnesses were separated, so that there could be no sheltering among them.

Question. Were the defendants put upon the stand ?

Answer. Yes, sir ; that is my impression.

Question. Byars, Hicks, and Randall ?

Answer. That is my recollection. You will remember that in the trial the solicitor managed it.

Question. Your professional connection with it ceased before the trial justice ?

Answer. Yes, sir.

Question. Were those three men asked that question, whether they were members of the Ku-Klux Klan ?

Answer. I cannot remember whether they were or not.

Question. The defendants, you think, were probably acquitted on the testimony ?

Answer. I do, sir.

Question. Have you looked at the notes of the testimony taken by the judge and on file ?

Answer. No, sir.

Question. What is your impression as to whether the notes disclosed the fact that at least one or two witnesses, who proved the alibi, were dismissed without a word of cross-examination?

Answer. My impression is that there were so many witnesses that some of them were. The alibi was proved by so many witnesses that in some cases the State made no effort.

Question. Are you sure that those are men not suspected of being members of the Ku-Klux Klan?

Answer. I cannot think so.

The CHAIRMAN. I have asked to have a copy of the whole record of that trial made for the proceedings of this committee.

Mr. VAN TRUMP. I would prefer much to have that done, as Major Merrill stated it only from his recollection.

[A certified copy of the record in the case above mentioned is attached to the testimony of this witness, marked Appendix No. 2.]

The WITNESS. I never saw the judge's notes, and I only speak from my recollection of the testimony as given on the trial.

By the CHAIRMAN:

Question. One other part that I understood occurred in that trial; one boy, you say, was an invalid?

Answer. Yes, sir; he struck me as an invalid.

Question. Did not these facts occur with reference to that boy, that his father stated that he went to bed in the evening; that soon after he went to bed he heard a noise out among the horses; that he did not know what that meant; and that the next morning when he got up he met that same boy, and the first thing the boy said to him was, before he or anybody else in the neighborhood knew it, that Tom Roundtree had been killed the night before?

Answer. Not that I recollect. My recollection was that there was a disturbance in the barn lot. That occurred to me as a circumstance of very great suspicion at first.

Question. Was not that a part of the evidence to prove the alibi; that he was the first person to communicate the news in the neighborhood?

Answer. No, sir; I don't remember that. I remember distinctly they were aroused at the house by the barking of the dog about the stables. The old man suspected something was wrong about the barn or horses.

Question. I come to the case of Wright. You commenced by saying that Sapaugh was a respectable man, and, in your opinion, incapable of such an offense?

Answer. Yes, sir.

Question. You commenced your investigation of the case, acting as the counsel of Wright, with that impression?

Answer. No, sir; my former partner—not now my partner—conducted the Sapaugh case.

Question. That is, he conducted the case against Sapaugh?

Answer. No, sir, for Sapaugh. Mr. Smith against him.

Question. But when the subsequent case came up for perjury, you were counsel for Wright?

Answer. Wright applied to me, but failed to get up a fee.

Question. Did I misunderstand you when I thought you said that you did defend him?

Answer. Yes, sir.

Question. It was in the Barrett case that you acted at the request of Major Merrill?

Answer. Yes, sir. I did not act as Wright's counsel.

Question. In that case Wright made information first against Sapaugh, charging him positively with being one of the parties who had whipped him?

Answer. Yes, sir; that was before Roberts.

Question. Wright was an ignorant negro?

Answer. Yes, sir.

Question. He could not read or write?

Answer. That is my opinion.

Question. Do you know whether, in his verbal statement before the magistrate, he had made any qualification, such as that he believed this was the man?

Answer. I was not present at the magistrate's examination.

Question. Do you know whether, in the second information before the other justice, he did so?

Answer. I do not know that there was any hearing before the first; somehow it was turned over.

Question. I am speaking of the information, not the hearing. I understand that no hearing occurred before the first justice.

Answer. No, sir.

Question. Was that done by a new information, or have you a practice here of taking a man from one trial justice to another?

Answer. In fact, the practice is so loose you can take a man anywhere. Almost any-

thing would be recognized as conforming to practice before the trial justices in this county last year.

Question. So that it is possible that the officer charged with the execution of the warrant, instead of taking him before the justice before whom the information was made, went to another justice, and the hearing occurred there?

Answer. Yes, sir; Miles Johnson.

Question. Was there any evidence as to whether the negro, in his verbal statement before Johnson, had qualified it by saying that he believed this was the man, or had sworn positively?

Answer. I was not there.

Question. How were the facts as developed in the upper court; did it appear there that his testimony before the justice was positive?

Answer. My recollection is, that the trial justice could not be positive whether it was or not.

Question. Then we come into court, and the means, after this information, whether positive or qualified, by which Wright undertook to identify Sapaugh, was a white beard and something about the appearance of his hands. He gave that as the ground of his belief.

Answer. No, sir; the ground upon which he made the accusation.

Question. On that trial before the court he was convicted of perjury in swearing to Sapaugh as being the man.

Answer. Yes, sir.

Question. The preliminary investigation having decided, whether properly or not I am not prepared to say, that this man Sapaugh was innocent, Sapaugh himself was a witness against Wright in the prosecution for perjury, and swore that he was not there at the time?

Answer. Yes, sir.

Question. He did swear, however, that he had previously worn a beard of the kind described by Wright?

Answer. Yes, sir. I have seen the beard myself.

Question. And it was his testimony that he had met Wright the evening before this whipping was alleged to have occurred?

Answer. Yes, sir; in perfect friendship.

Question. Now, was Sapaugh asked whether he was a member of the Ku-Klux Klan?

Answer. I do not remember.

Question. It was on that testimony that Wright was convicted of perjury in having identified Sapaugh?

Answer. No, sir; I have forgotten whether there was any more testimony except the record of Wright's testimony and Sapaugh's testimony or not, but the jury were satisfied that it was a falsehood.

Question. Of course, the issue would be as to whether he had sworn willfully or not?

Answer. Yes; but according to a statute of our State under which he was indicted it is not necessary to prove "the willful."

Question. Can a man in South Carolina be convicted of perjury for having sworn to what he in good faith believes, even if it turns out that he is mistaken?

Answer. Not if he swears according to his belief.

Question. Suppose he swears according to his belief at the time?

Answer. You are correct about that. It is "willfully and falsely." I was in error. There has been some reform in the practice—some change in the statute; but that is not the point.

Question. Now, in Barrett's case, Caldwell, Smith, and Barber were all charged before the trial justice with this offense of Ku-Kluxing Barrett?

Answer. Yes, sir.

Question. Were they all three put upon the stand in their own defense?

Answer. Yes, sir, I think they were.

Question. Is that the practice before a trial justice?

Answer. Yes, sir.

Question. That he hears not only the testimony as to whether there is sufficient cause to bind a man over, but what he has to offer in his defense?

Answer. Yes, sir; that was the practice by the trial justices last year. The trial justice at this place now is not doing that. He only hears the State's representation of the case, which is the correct practice, I think.

By Mr. VAN TRUMP:

Question. Is that according to a statute or practice?

Answer. Our magistrates have very large jurisdiction, and on the preliminary examination they either acquit, discharge, or bind over.

By the CHAIRMAN:

Question. There was a discharge without binding over?

Answer. Yes, sir.

Question. And the trial justice was Mr. Williams, recently appointed, as a democrat, by Governor Scott.

Answer. I do not say he was appointed as a democrat.

Question. He was appointed?

Answer. Yes, sir.

Question. He is a democrat?

Answer. Yes, sir, and a good man.

Question. In connection with that you made this remark, that you felt that the charge would be made that that is another case of the wholesale use of alibis?

Answer. Yes, sir.

Question. From what has that arisen in your mind?

Answer. From the statement I have seen in the newspapers that it is necessary to get up an alibi in every Ku-Klux case, and I know the resort to an alibi has become prejudicial and almost disgraceful by the frequent use of it.

Question. Is it not the impression that the alibi is used in the Ku-Klux Klan by wholesale?

Answer. I do not say it is used by wholesale.

Question. I do not speak of this case, but any other where a man is charged with crime.

Answer. I do not see how he can exculpate himself except by it in such cases.

Question. Is not the impression general that the reason why the members of the Ku-Klux Klan make this wholesale use of the alibi is because the members of the organization are bound to exculpate each other when charged with crime, by coming to their defense with that kind of testimony?

Answer. No, sir, I do not know that.

Question. Is not that the impression?

Answer. I do not know that it is.

Question. Have you any such impression?

Answer. I have no impression that they would lie.

Question. You have given us three cases to which your attention has been called—Roundtree, Barrett, and Sapaugh, and, I believe, another?

Answer. Yes, sir; Tom Black.

Question. Was not the defense in the whole four cases the alibi?

Answer. Yes, sir; and the credit given to the alibi was from the character of the witnesses.

By Mr. VAN TRUMP:

Question. And other circumstances?

Answer. Yes, sir; corroborating circumstances, of course.

By the CHAIRMAN:

Question. In Barrett's case, however, you stated the fact that in regard to his character and other circumstances you yourself had no confidence in his case?

Answer. No, sir; I did not state that from his general character I had no confidence in his case.

Question. I inferred that.

Answer. No, sir; I stated that the defendants were about to assail his character, and I knew his general character was assailable, and it was my duty as prosecuting officer to protect him from this assault upon his character. It occurred to me, inasmuch as this demonstration had been made upon his character, to ask him privately whether or not he would subject himself to it.

Question. Then in regard to the election, how many precincts were there at which elections were held in this county?

Answer. I think some ten or eleven probably.

Question. You have remarked that it was a fraudulent election, and that your opinion of it was based upon the character of the election law?

Answer. Yes, sir.

Question. Had you made any examination of the poll in any single township in this county?

Answer. No, sir.

Question. Have you made any examination of the result with reference to any particular candidate in the county?

Answer. No, sir; I just stated that before.

Question. Now, do we understand you as saying that simply because there is on the statute-book an election law which is capable of great abuse, that you will swear positively that the election in this county was grossly fraudulent?

Answer. That and the unexpected result. I will state further, that at one box I heard respectable men say that they had every reason to believe it had been tampered with. I do not know this except from others.

Question. Has there been any contest in relation to county or State officers, so as to show the real state of affairs in this county in regard to the vote?

Answer. No, sir; they regarded it as hopeless.

Question. There has been no investigation?

Answer. No, sir; investigation was hopeless.

Question. You say there are only thirty or forty white republican votes in this county; how many votes did Mr. Wallace get?

Answer. I do not know. He ran a good deal ahead of his ticket, I believe.

Question. Did he not get four or five hundred white votes in this county?

Answer. I do not think he did.

Question. Notwithstanding you do not know how many he got, you put on record, in your testimony in chief, that the election here was, in your own words, a stupendous fraud?

Answer. Yes, sir, in my own mind.

Question. Without investigating a box in the county?

Answer. It is from my general information.

Question. How many officers of the election do you charge with having violated their official oaths?

Answer. I do not charge any of them.

Question. Is not that a general charge against all?

Answer. I say, from the results, there must have been fraud.

Question. Will you designate who would have been guilty? Take the three county commissioners.

Answer. Mr. Watson is one. I do not think him capable of such a thing. Reece Joiner, a good colored man; I do not know that he is; I don't charge it. The other is John Martin. He is a good enough man in his way.

Question. There are three managers of the election, the county commissioners, all of whom, so far as you know, are not capable of that offense?

Answer. Yes, sir.

Question. Do not they appoint all the managers of election through the county?

Answer. Yes, sir.

Question. Do you believe those three men would appoint knowingly men who would commit such an offense?

Answer. I say they appointed at that time partisans. I do not know that they had any regard either to their qualifications or disqualifications; but now I will, if you will give me the opportunity, modify that expression of "stupendous" or retract it. That was unguardedly used, and I am obliged to you for giving me the opportunity to recall it. What I have to say about the election law is this: that, from the character of the act governing elections; from the surrender of the powers pertaining to the management of the election to the managers, and their retaining the boxes afterward; and from the unexpected result of the election, not in this county only, but from what I have heard of their frauds elsewhere, I was satisfied that a fair election was not had in this county.

Question. Which party do you speak of as regarding the result of the election as unexpected?

Answer. The democratic party?

Question. Is it unusual for parties to be disappointed in the result of an election which has gone against them?

Answer. No, sir. Another thing, however, is, I knew the character and strength of the parties—the relative white and black vote in this county.

Question. Is that disappointment a basis on which to found a charge of fraud without investigation?

Answer. No, sir; I do not think it is. I do not charge fraud upon an individual, but I say these circumstances have prejudiced my mind in regard to the fairness of the election.

Question. Still you do not charge fraud on any individual?

Answer. No, sir; for I have not investigated.

Question. But it could not be committed without some individual had done it?

Answer. Of course; I am very glad you have permitted me to put myself right.

Question. You speak in this case of Hall, and say he is a probate judge, and is a very obnoxious man?

Answer. I say he was obnoxious during the canvass, and one evidence of it was this very circumstance which I related.

Question. Was not Mr. Wallace about equally obnoxious?

Answer. No, sir.

Question. He is a native of South Carolina?

Answer. Yes, sir.

Question. A Union man during the war?

Answer. He claims to have been.

Question. A property-holder?

Answer. Yes, sir.

Question. Is not the sentiment here against him, because of his political position, about as strong as that against Hall?

Answer. No, sir; I think they are from personal objections to Hall. There is a difference. There is no personal objection to Mr. Wallace; it is simply political. To Hall there are many personal objections.

Question. Is Mr. Wallace a man of good character?

Answer. So far as I know, he is.

Question. Respectable in his demeanor in society?

Answer. Yes, sir, so far as I know. He is a man who has not had the benefit of a first-rate education. If he had had, I think he would have made his mark.

Question. But his character is otherwise unexceptionable?

Answer. Yes, sir. I have nothing in the world against him. Personally, we are on kind terms.

Question. You say the difficulty about prosecuting these cases is that the men cannot be found out?

Answer. Yes, sir.

Question. How does it come that the only case which has arisen in which negroes have committed an offense in disguise resulted in their immediate arrest, identification, and conviction, all three of them, when it is impossible to find out white men who commit offenses in disguise?

Answer. I remarked at the time of this trial that that would be the view taken of it; but—wherefore I know not—such is the fact.

Question. Do you not believe that if there was a public sentiment here which demanded justice upon the men who committed these outrages in disguise, there would be such vigilance as would lead to detection, arrest, and punishment?

Answer. I think the public sentiment of this county at this time does demand it.

Question. Yet with all these murders, and from forty to fifty cases of whippings, not a man has been convicted?

Answer. That is so; but you must recollect that there has been a healthy sentiment in this county for the last six or eight weeks or two months, as I have stated, more so than I have ever before known in the county.

Question. I am glad to learn it.

Answer. And I am glad to state it and to know that it is so.

Question. This man Bill Garrison, whose character you have given, has been instanced once or twice before us. He was the leader of this band of disguised men?

Answer. Said to be so.

Question. How long was it after the offense that these men were followed and captured?

Answer. They were accidentally caught, sir, by the discovery of these stolen articles at Rock Hill one day, and brought here the next day. It happened to be during the session of court, and they were tried in a few days. They were taken up on Monday and tried on Friday.

Question. The outrage was committed Sunday night?

Answer. No, sir; I think it was on Thursday night. That is my recollection.

Question. They were arrested on the succeeding day?

Answer. No; the next Monday evening—three of them out of about eight; the rest fled to North Carolina, it is supposed.

Question. The three who remained were arrested on the Monday following?

Answer. Yes, sir.

Question. Brought to court that day?

Answer. No, sir; the next day—Tuesday.

Question. The grand jury was sitting?

Answer. Yes, sir.

Question. A bill was found against them during that week, and that week they were tried and convicted?

Answer. Yes, sir, that is so.

Question. Is there any more difficulty in identifying disguised white men than disguised colored men?

Answer. Well, sir, that is the only case of disguised black men I have ever known.

Question. Is there any more difficulty?

Answer. Taking general reasoning, there ought not to be; I would not think so except that the white man is capable of using better disguise.

Question. That is, he is more intelligent?

Answer. Yes, sir.

Question. White men can conceal their movements better?

Answer. Yes, sir.

Question. And do not all the movements of this Ku-Klux Klan betray a very superior degree of intelligence and organization?

Answer. Well, sir, I think not.

Question. You think they do not ?

Answer. No, sir; if that be the character of it, why should they go out and whip old Elias Hill? There is neither common sense nor intelligence nor anything else in such an act on an old prostrate negro.

Question. On that supposition, how do you account for it that out of these six murders and fifty whippings they have not blundered enough to be caught?

Answer. I do not know, but I cannot accord much intelligence or virtue to any man who is connected with an act of that kind.

Question. Certainly not much humanity?

Answer. No, sir, nor policy; I was much shocked at it.

Question. In regard to this Hall case, which you gave as part of the violence in the county, do I understand that more than one negro went to get the white men and arrest them?

Answer. Yes, sir.

Question. How many?

Answer. There were as many as three—three or more negroes.

Question. The letter which preceded the sending of these men was signed by Hall?

Answer. Yes, sir; signed by him as trial justice.

Question. There was no concealment about it?

Answer. No, sir.

Question. The men who went to arrest these men were without disguise?

Answer. Yes, sir; and armed.

Question. But openly?

Answer. Yes, sir. These men were drummed up out of their beds on what was claimed to be lawful authority.

Question. This man was using the color of lawful authority to arrest his enemies?

Answer. Yes, sir.

Question. And Hall was indicted for official misconduct?

Answer. Yes, sir.

Question. Is that pending?

Answer. Yes, sir.

Question. Do you think there will be any difficulty in getting a fair trial?

Answer. I do not think so.

Question. And certainly, if guilty of this, he ought to be convicted?

Answer. I think so.

Question. But it is not a case in which the law has been defeated thus far?

Answer. No, sir; but my impression is that he has got the matter settled in some way.

Question. That depends upon your prosecuting attorney, whether he will permit it to be settled?

Answer. I have not heard the case called at the last court at all.

Question. You expressed as your own sentiment that that was the greatest outrage you had ever heard of?

Answer. If you will permit me I will ask that expression be modified. I mean that that was the greatest outrage I knew of in this community during the election excitement.

Question. I wanted to ask you whether you considered that equal to the whipping of Elias Hill.

Answer. No, sir; it was under color of law and authority. I used an intemperate expression there.

Question. You have gone and given us the forbearance of the people toward the negroes who had been here as militia men?

Answer. Yes, sir.

Question. You have spoken in reference to pardons and taxation and schools. Do you give these as reasons why these outrages have been committed in the county?

Answer. No, sir.

Question. In what connection do you wish them viewed?

Answer. I only speak of the forbearance with which the white people have submitted to what they considered wrong.

Question. What connection have they with these outrages?

Answer. I do not know that they have any.

Question. Have you heard anybody give them as reasons why they were done?

Answer. No, sir.

Question. You only give them to show an inefficient or bad State government?

Answer. Yes, sir, a very bad one.

Question. Do you think they have influenced men to commit Ku-Klux outrages?

Answer. In my own private opinion they have. They have made men desperate who, perhaps, would not otherwise have been so under a better state of affairs.

Question. Do you believe the responsible men, the tax-payers of the State, through desperation, have entered into this organization?

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Answer. No, sir; I do not.

Question. Why has it led to these outrages by bad men, desperadoes, who do not pay taxes?

Answer. But they can take advantage of bad times.

Question. Is that your idea?

Answer. I do not deny that these things occur.

Question. Has it reached such a point that bad men have so much control over things that the good men have been afraid to speak out?

Answer. I could not speak of the fact; I speak only my own private feelings in that regard.

Question. If the military were withdrawn from this county, do you believe these outrages would again assume the same character as before?

Answer. I think not, because the public sentiment now has become so fixed and settled, and such a determined opposition to it, that I do not think it would ever arise.

Question. I met a negro last evening who came here to testify, and whom we will not have time to examine; who, within three nights, was visited by five men, shot at and driven out of his house?

Answer. It may be so.

Question. Is it possible that such a community can be regulated by anything short of martial law, with your good citizens wanting to suppress it and unable to do so?

Answer. I do not see any necessity for martial law so far as I can see the situation now. The state of feeling here now is nothing to be compared with what it was just after the election—nothing to be compared with it.

Question. Suppose another election comes on?

Answer. We deplore it. I do say this: I think the people have borne and forbore more heretofore than they will ever bear again. I do not speak of that in a boasting way at all; I deplore it.

Question. Is that confined to the State government?

Answer. Entirely so.

Question. Let me inquire, because I am glad to find a gentleman of your intelligence to inquire of. You gave the opinion that there was no hostility whatever to the Federal Government?

Answer. I do not think so; I neglected to state just now that I was president of the democratic club in 1868, since which time I have not had anything to do with it.

Question. In examining witnesses here, speaking of the military force, they use the term frequently, "coming to the Yankees;" is that used here as a term of reproach?

Answer. Not at all.

Question. Or is it simply one of the phrases of the war?

Answer. It is just as common to say you are from the North; it means the same thing.

By Mr. VAN TRUMP:

Question. They would call me a Yankee from Ohio?

Answer. Yes, sir; any one who is a stranger from the North.

By the CHAIRMAN:

Question. How are we to understand these expressions? We hear upon the street, as if purposely intended for our ears, speaking of them not only as Yankees, but damned Yankees and Yankee sons of bitches.

Answer. You have heard the heated expression of some man who had swallowed bad whisky, but, I venture the assertion, you have not heard a decent or respectable man use such language, or a man who is so regarded in this community.

Question. The language itself would indicate to me, whatever the man's social position, that he is neither a gentleman nor respectable; but I do not want it to appear here as a complaint on my part. All I desire is an explanation of the true state of feeling in this community, and I ask you for that, as a gentleman of standing, how are we to understand that feeling? To what extent does it prevail, treating with contempt all who represent the General Government?

Answer. They do not.

Question. We came here not asking personal consideration, but in a representative capacity.

Answer. We understand it and desire to show you respect personally and in the position which you occupy. That is altogether a mistake, and my impression is that the few office-holders of the South have done more than any one else to create that impression—us, for instance, that the use of that little expression meant that we dislike you with all the bitterness of our hearts. They do it to keep up strife and to keep themselves in position. I do think—now I am talking frankly to you, gentlemen—I do think we have some miserable specimens, whilst we have some perfect specimens of northern descent. We have some miserable specimens, judging by their acts and public reputation. On that point I believe, sir, that such is the anxiety here to bring in northern

thrift and northern enterprise to build up the waste places of this country, that I could to-day induce men to sell you land cheaper than they would sell to a neighbor.

Question. That may be the fact, but with the state of things existing here, you could not get me to live here if you gave me a thousand acres, or ever so much.

Answer. I believe that.

Question. Does such a state of feeling exist toward the negro that the people are unwilling to see him cultivate land—make good crops?

Answer. Yes, sir; I think the better portion of the community feel so. Let me give you my experience upon that. As executor of my father's estate, (and you will excuse my personal statement,) I sold to an old man, Perrin, all the personal property on the plantation. He has not paid for all of it to this day. He has paid all by dribblets. I sold to a boy, who my father raised—an excellent boy, named George—a mare, for forty dollars in specie. George has never paid me to this day, and I have told him that I never expected him to pay me. His wife has staid at my house for two months, she and two or three little children. That is all the pay I have got for it. Another thing, my father had a number of slaves—

By Mr. VAN TRUMP:

Question. How many?

Answer. I do not like to mention things which would appear like boasting. It was the rise of a hundred. I am his executor. I have never had any trouble with one of them. I have never failed to gratify them in anything in my power, and if I were taken down sick to-night I would call on my man Robert, and I am just as certain that he would come as I am that I sit here, and nurse me, and be faithful to me, and he knows if he was stricken down to-day I would reciprocate. He occupies a two-story house belonging to my family.

By the CHAIRMAN:

Question. While that is the feeling of gentlemen like yourself who sustain that relation to the negro, is it the feeling on the part of this uncontrollable population which composes the Ku-Klux parties?

Answer. No, sir; we come now to the point. It is that character of persons who feel that their privileges or status in society is somewhat infringed upon by the negro's freedom, who are jealous of him, and would condescend to take these little advantages of him.

Question. Until you punish and convict the men who murder upon that theory, and whip upon that theory, how is the negro to live amongst you, unless the strong arm of the Federal Government protects him by the military power?

Answer. I reply, give us a correct State government, and I will assure you that the law will be administered without fear or favor, impartially, from what I know, and I know this county is as conservative as any other. Squire Wallace, the member of Congress, used to speak of the altered condition of things—that there was a large Union element in this county, and I believe it.

Question. You are looking to a good State government as the only remedy?

Answer. I think so.

Question. Is it inculcated at the same time that a good State government is utterly impossible while the negro votes?

Answer. No, sir, I think not.

Question. I ask, is that inculcated?

Answer. No, sir; our only hope is by reform at the head, at Columbia; that by reformation there they will stimulate the negro to think and act for himself, and when he does that we have no fears; if you will just give the negro his individuality, and let him think for himself; and I will say, moreover, that the negro, while ignorant, which is due to slavery, (and we cannot complain of it in him,) is not vicious, but he has so little purpose and identity and individuality that he is capable of being manipulated like potter's clay in the hands of designing men.

Question. How does it happen that, with all this kindly feeling towards the former master, like yourself—

Answer. I feel some embarrassment in speaking of myself.

Question. I take it you are an exception?

Answer. No, sir, not at all.

Question. With that feeling, how is it that the former masters cannot influence them to their views of politics and government?

Answer. I will illustrate. I go to my man and say, "You are following bad men," and he will answer, "O, but in 1865, when we were left without a shelter, you refused to have anything to do with me." I will tell him that was a great blunder, but is that a reason for continuing to follow bad advice? The negro will say, "Well, I do not know—the other party freed us."

Question. Do they bring it down and add that the party that whips them and kills them is the same political party?

Answer. It is in the way I say—that the republican party has been their protector.

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Question. Do they bring that down to the Ku-Klux operations and say the same party is whipping and killing them?

Answer. I have reason to believe, from a statement by an old negro, that there has been some negro Ku-Kluxing.

Question. Undoubtedly, as they are an imitative race, and I wonder that there has not been much more of it.

Answer. I understand that a good old man that was whipped says he will go to the grave with the conviction that the man that knocked him on the head was a negro.

Question. We have heard of General Neagle's speech here from a number of witnesses, and I will inform you that you are the first gentleman who has reported him to us with the qualification that the negroes were informed that they ought to defend themselves in their own rights; if there was an attempt at molesting them by the whites, the property of this region would be destroyed.

Answer. That is what I understood from rumor.

Question. I wish to say that every other report of it has been without the qualification.

By Mr. VAN TRUMP:

Question. What is the effect on the negro of that sort of language?

Answer. A very bad one.

By the CHAIRMAN:

Question. What were you informed that he told them were their rights?

Answer. I do not know that I was specially informed as to how he classed their rights, or stated them.

Question. If a man came into this community and told the negro he had the same civil and political rights that the white man had, and was entitled to vote as he pleased, and that there are men in the community who want to oppress him and want to take those rights away from him, and that he ought to stand up like a man and defend those rights wherever they are assailed—is not that accounted rather inciting the negroes to mischief?

Answer. No, sir; by me it would not be.

Question. But is not that the ground taken here?

Answer. No, sir; I cannot say that; I believe that since last fall the people have made up their minds to accept negro suffrag voting, and juries, and everything, for the sake of peace and order.

Question. Looking at the negro as he is situated, and the number of murders and whippings in this county unpunished, do you not consider it remarkable that your community has been as safe from outrage at their hands as it has been?

Answer. I consider it of course very unfavorable to the law and order of the community.

Question. Do you not think that the negro has forborne far more than the whites have as to him?

Answer. I do, I do. You asked me a question, if I ever heard some one say that this had not done good; that these whippings had not done good. I have never said publicly that it has done good. I do not say I am going to speak any such sentiment of them, but I say that in this county this year there has been more peace and harmony—distinctly understand, I do not attribute it at all to these parties; I only speak of the fact—that there exists more peace and harmony and better working between the whites and blacks than I have known before since the surrender.

Question. Is it not a fact that that only commenced after the troops arrived?

Answer. Yes, sir.

Question. Had not the murders and whippings continued until that time?

Answer. But they had been working well ever since the last election.

Question. The negroes have?

Answer. Yes, sir; and there has been less thieving.

Question. The negroes' conduct has been better?

Answer. Yes, sir.

Question. And the conduct of these masked men toward them has been insufferably worse?

Answer. It has been, but what the occasion was for their conduct or the grievances I do not know.

Question. One question has been omitted, in calling your attention to the raid on the county treasury; was any effort made on the part of any of the citizens here to ascertain or bring to justice those who had perpetrated that outrage?

Answer. No, sir; I have never known that there was any serious effort or that information could be had. I believe if the source could be known from which that information could be had, that information would be acted upon.

By Mr. STEVENSON:

Question. You speak of a change—a favorable change in public sentiment here?

Answer. Yes, sir.

Question. You say that the state of public sentiment here is greatly better than it was last fall?

Answer. I do not know that I said it was greatly better; I said it is much more favorable to peace and quiet.

Question. You spoke of Mr. Wallace, too, as especially popular in this county, or as having been so?

Answer. No, sir, I did not say so.

Question. You said he ran ahead of his ticket very largely?

Answer. Not very largely, but I said ahead of his ticket. I say he claims it.

Question. Have you noticed any change in the feeling towards Mr. Wallace since this investigation commenced in the State?

Answer. I do not know that I have noticed any except that his conduct has been regarded as somewhat out of the ordinary line of what is conceived to be his duty.

Question. In what respect?

Answer. In going around with the committee, and the impression has prevailed here that probably he has been prompting the committee, and it may be that it has been dictated by his prejudices. I only state now that that impression does to some extent exist.

Question. Are you aware that there is now, and has been since we came here, a very strong feeling against Mr. Wallace in this county?

Answer. No, sir; nothing more than usual.

Question. Did you hear of the insult offered to him by Major Berry at the hotel table?

Answer. Yes, sir. I regret it.

Question. In which a pitcher of cream was thrown over him?

Answer. Yes, sir, and I will tell you another thing. The community regret that very much; at least I undertake to say it. It was a very unfortunate thing. That was on the night of the arrival of the committee.

Question. Is Major Berry a respectable man in this community?

Answer. He is when he is himself.

By Mr. VAN TRUMP:

Question. Is he a drinking man?

Answer. Yes, sir.

Question. Was it understood that he was in liquor that night?

Answer. I understand so; very habitually in liquor; and I do not believe, if he was sober, he could have been induced to have done such a thing.

By Mr. STEVENSON:

Question. Did you understand that Mr. Wallace had filed a complaint against him?

Answer. I understood that he made an affidavit.

Question. Did you understand whether Mr. Berry was arrested?

Answer. I did not. I presume he gave bond. That is a presumption only. I have seen him since.

Question. Did you hear the band which came to serenade the committee on the night of their arrival?

Answer. I saw it in the paper.

Question. Did you hear that after that band left the hotel a colored man, belonging to the party, was shot on the street?

Answer. No, sir, I did not. I heard that a man was shot, but not a member of the band.

Question. You did not know that he was a member of the band?

Answer. I do not think he is. I understood that the policemen got into a difficulty with one of the colored men, and he was shot.

Question. Did you understand that while the band was serenading the committee in front of the hotel it was surrounded by young men who were jeering and insulting?

Answer. No, sir; I very seldom go out at night, and knew nothing of that occurrence until next morning. I believe I did hear it, however. I was outside of my gate, and some one passing told me about Berry's difficulty, but I knew nothing about the band until I heard it in the morning, and about the shooting.

Question. How do you account for that state of things, so far as you have information—of the attack on the negro and the attack on Mr. Wallace?

Answer. That, I take it, was a personal matter, entirely between him and Berry. There is unkind feeling between them. As far as any apparent indignity to you personally is concerned, I have been assured by several persons, who profess to know, that Berry regrets it very much, and has tendered some apology.

Mr. STEVENSON. I am willing to put on record that he has made ample apology to me for what he threw on me.

The WITNESS. That is what I heard, and that has no political significance; and as

to the shooting, it is one of those things that may occur here any hour of the day or night.

Question. Has that man been arrested or prosecuted ?

Answer. I heard the council say the other day they were going to put him under bonds to appear. He is their officer—marshal of the town.

Question. Is it customary for the opponents of the different political parties to shoot into bands or crowds going with bands in serenades ?

Answer. Not at all ; I never heard of such a thing before. The band play here unmolested. It is a negro band—we have a white band also—they play out there. They frequently come opposite my house, and my neighbors' houses, and play very well, and we are always glad to hear them, too. As far as the shooting is concerned, I take it that it has nothing to do with the band, except that he was one of the stragglers following it—an outsider.

Question. You spoke of your taxes, and proposed to put in an exact statement of the assessment of your property ?

Answer. I propose, with the permission of the committee, to give an abstract of my return.

Question. Upon your statement your tax, \$209 33, is on about sixteen or seventeen thousand dollars worth of property ?

Answer. It was about eleven mills last year. I may not state it correctly. I ask the privilege or consent of the committee to make a correct statement as to my return. I merely mention that to show that I, who claim to be a peaceable citizen, do not know how I am to stay in this country if the taxes are increased, or even continued as they are. My house happened to be a very pretty place that I inherited, but it only covers my head.

Question. You do not complain of the valuation of your property ?

Answer. No, sir ; but the bulk of it is just to secure a home, and the taxes are about a full rent.

[The witness subsequently furnished the following memorandum :

“ I. D. Witherspoon, property returned for 1870, \$16,061 ; tax paid, \$209 33.”]

Question. In regard to this case of Wright I have here some of the original papers. Do you, or not, remember the hearing before the justice ?

Answer. I was not there.

Question. You have testified from information. Did Wright testify that two witnesses—Nancy and Fannie Carroll—were essential to his case ?

Answer. I never heard it before. I do not doubt it, though, if the notes show it.

Question. I have here the judge's note, from which it appeared that the two justices, the one who issued the warrant and the one who conducted the preliminary examination, were examined in addition to Abraham Sapo, (Sapaugh,) the man who was, or had been, charged. He was examined and testified that he was not present, but two miles off. A. P. Black was sworn and testified that Sapaugh was at home at 9 o'clock on the night alleged ; that he was there and he heard of the whipping ; that they sat up until midnight, and he, (Sapaugh, I suppose,) went to bed at 10 o'clock. It appears then, that, outside of the affidavit having been made and the oath taken by Wright, the only witnesses upon his trial were the man who had been originally accused and this man named Black. I am reading now from the judge's notes. The only facts proved, then, were that the defendant had made the affidavit and given testimony charging Sapaugh, and further proving by Sapaugh and another witness that he was not present ?

Answer. That is the judge's report, I suppose ?

Question. Now, I ask you as a lawyer, do you consider that upon that testimony a man can be properly convicted of perjury ?

Answer. I do not wish to state, because the jury passed upon that.

Question. I want your opinion ?

Answer. I do not wish to state, unless you insist upon it.

Question. There appears here no evidence whatever of willful or intentional perjury ?

Answer. My impression with reference to that case was that the white man was the culpable man—the man who issued the warrant ; and, if I had defended the boy, I intended to have rested the whole case on that ground ; that the white man had written out an affidavit for this poor creature to subscribe, about which he knew very little, and he had sworn to that ; that it was the duty of the white man, if competent, to put it in a proper form.

Question. I understand that. But I want your opinion as a lawyer upon this testimony. You may take the judge's notes and examine them yourself. [Handing the judge's notes to the witness.]

Answer. I remember testimony stronger -----

By the CHAIRMAN :

Question. Will you state, as a member of the bar, whether that is an official copy of the judge's notes ?

Answer. I do not know; that is his handwriting.

Question. Taking the run of papers in your office, would you say that was a copy of the judge's notes?

Answer. Yes, sir; I would say that was his handwriting.

By Mr. VAN TRUMP:

Question. Can you say that it is a full report of the testimony?

Answer. I do not believe it is. I intimated that before. I do not believe this is a full report of the case.

By Mr. STEVENSON:

Question. What I want to know is, whether you, as a lawyer, upon that case, as there made out, think that a man could be rightfully convicted of perjury?

Answer. I might give my opinion in reference to this. I think that the testimony which was before the jury was sufficient to convict.

Question. Do you think so, upon that paper?

Answer. I do not think so, and I will state at the same time that that is not a complete report of the case.

Question. Did you hear it in the court?

Answer. Yes, sir. I prompted a young friend of mine who defended him.

Question. In what respect is it deficient?

Answer. The testimony of Mr. Sapaugh, proved not only by himself but by others, was that he met this boy on the evening prior to the whipping a short distance from his house, not knowing that there was any sickness at his own home, and parted with him after having a long and friendly conversation.

Question. Are you not mixing up the two trials; was not that what occurred at the preliminary examination?

Answer. No, sir. Mr. Sapaugh stated that; but of course you see I am going into this thing from recollection only. I am almost certain that that was his testimony on the Wright trial.

By the CHAIRMAN:

Question. That that was Sapaugh's testimony?

Answer. Yes, sir. Wright was not examined.

By Mr. STEVENSON:

Question. Were Nancy and Fannie Carroll, either of them, examined on behalf of Wright?

Answer. No, sir; not in the court above. In Wright's case, with Sapaugh below, they may have been or may not.

Question. Then there was no testimony introduced on behalf of the defendant?

Answer. None that I remember, sir. The grounds relied upon were altogether legal.

Question. You speak of the election here, and the result of it. I think you said the republican ticket was carried by four or five hundred majority?

Answer. Yes, sir, or six hundred.

Question. Are you not mistaken about that?

Answer. That is my impression. I may be.

Question. Were not the majorities ranging from one hundred to one hundred and fifty?

Answer. O, no, sir; those were not the majorities announced, or they would have contested the election.

Question. You are clear upon that?

Answer. Yes, sir; my recollection is that it was several hundred, so far that it put it beyond all hope.

Question. There is a majority of colored voters in this county?

Answer. I think not, of registered voters. The last registration we had the whites were somewhere from fifty to one hundred ahead as to voting strength.

Question. When was that?

Answer. Two years ago.

Question. But you think there are more colored citizens than whites?

Answer. I think there is very little difference. I think that the colored voting population has diminished more rapidly than whites.

Question. Since when?

Answer. Since the registration two years ago. There has been very great demand for labor in here, two or three times as great as we could get.

By Mr. VAN TRUMP:

Question. On railroads?

Answer. Yes, sir, and west. They have been carried out by the cart-load; that has been going on for a year or two.

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By Mr. STEVENSON:

Question. Speaking on the subject of an alibi, you say you can suppose no defense in these Ku-Klux cases except an alibi?

Answer. I did not say that. I say that is an effectual defense, and one a man may have to resort to.

Question. I understand you to substantially say that?

Answer. I did not say that it is the only one.

Question. Of course there might be proof that there was no violence committed?

Answer. Yes, sir; and I might have half a dozen different circumstances that I could put together.

Question. And you might prove, by the men who did commit the violence, that the men charged did not do it?

Answer. I do not know that I could go to them.

Question. I am supposing possibilities. If they would tell the truth you would have no difficulty?

Answer. No, sir; but the impression seems to prevail that this Ku-Klux organization swear each other out. I find it in this committee even. If that is the general impression, it would be no credit to me to go to one of them.

Question. Do you know, when you are proving an alibi, that you are not proving it by a Ku-Klux?

Answer. No, sir.

Question. Do you know a single man in this county who belongs to the order?

Answer. I do not; most positively not.

Question. You do not belong to it yourself?

Answer. No, sir.

Question. In any shape or form?

Answer. No, sir.

Question. And never have?

Answer. I never have.

Question. You are utterly in the dark as to who does belong to it?

Answer. I am.

Question. How do you know, then, but that every witness, by whom alibis have been proved, are either members of it or closely connected by blood with members who are in it?

Answer. That is possible. I have just told you that I did not know any.

Question. What you mean by the alibi is admitting the fact that an offense has been committed on the man who alleges it to have been committed on him by a band of Ku-Klux, inasmuch as you cannot call the members of the Klan themselves; the only way you conceive of getting a man out is to prove that he was not there?

Answer. Yes, sir; I might prove an alibi by the parties themselves.

Question. Suppose, in the Tom Roundtree case, that I had been charged, and this woman had been fair enough to exculpate me, and know where I was; suppose she had been in a condition to show an alibi for me, as she might have done, so that I could have proved it by the State's own witnesses?

Answer. You might prove it by the witnesses of the State. It depends on the circumstances.

Question. Then that is the only practical defense in these cases?

Answer. I do not say the only practical defense.

Question. Well, generally, is an alibi?

Answer. Yes, sir.

Question. And that is by witnesses of whom you cannot know but that they are tainted with the same offense. If that is so, is there any effectual civil remedy against this order?

Answer. Yes, sir; I do not think there is any organized band of Ku-Klux here—any regularly organized band. I do not know, though; they are not so numerous as you suppose. That would imply that every male member of the community is a Ku-Klux. That is far from the fact, I know.

Question. There are enough of them?

Answer. Yes, sir; enough to keep up disturbances, and they may be one-tenth of the population.

Question. Enough to swear each other off?

Answer. I do not know that. This man Abraham Sapaugh, I would as soon think you or any other man capable of it.

Question. Would you think Major Avery to be one?

Answer. No, sir; I would not have supposed that from the property he has here and his general character, for he is a very cautious man. I would not suppose that, and yet he may be for aught I know.

Question. I will call your attention to an article in the Yorkville Enquirer, of February 9, in which this sentence occurs:

"Recent developments rather indicate that there is such an organization, and that it is made up of no mean material."

Question. What is the date of that paper?

Answer. February 9, 1871.

Question. Is that an editorial?

Answer. Yes, sir.

"It is evident, however, that there is some sort of complicity of action in the whipping and killing that has recently been perpetrated in this county, and which is going on at present all over the State, and, in fact, all over the South."

Do you, or did you, at any time concur in that opinion?

Answer. No, sir; I never have.

Question. Do you think yourself, or the editor, the better informed as to the condition of the country?

Answer. I do not know the source of his information. I take it, as an editor of a paper, he is pretty well informed. I do not profess to be informed of everything going on in the county. I am just giving you, gentlemen, my candid impressions.

Mr. STEVENSON. I will ask to have this article entitled "Whipping and House-burning," in the Yorkville Enquirer of February 9, 1871; and the article headed "Public meetings," in the paper of March 30, 1871; and the account of the public meetings of the whites, in the Yorkville Enquirer of April 6, 1871; and also a statement of the population of South Carolina, inserted as exhibits in connection with the testimony of this witness.

[The papers mentioned will be found at the end of the testimony of this witness, marked Appendix No. 1.]

[The hour of 1 o'clock having arrived, the committee took a recess until 3 o'clock, when the examination of the witness, I. D. WITHERSPOON, was resumed.]

By Mr. VAN TRUMP:

Question. To come to the trial of these persons charged with the murder of Roundtree, if the evidence in court was that the invalid boy was the first one to speak of the killing of Roundtree on the next morning at his father's stable, is it likely that you would have forgotten the fact?

Answer. Whilst I cannot positively deny it, it strikes me that a thing of that kind would have occurred to me. I cannot state that it is not the case, but it strikes me that a matter of that kind would have made its impression upon my mind.

Question. When Senator Scott asked you if you might not be mistaken in your estimate of thirty or forty white republicans in York County, he suggested that Wallace had received four or five hundred white votes as an implication that you were in error in your estimate. Was not Wallace's white vote largely swelled by democrats voting for him, and was not that thing an exception to the whole ticket?

Answer. It was; and I know that Major Bell, a man of considerable influence, exerted his personal influence at one of the polls for Major Wallace, but I cannot admit that he got a great many conservative votes beyond his party. I cannot concede that he got the number his majority indicates.

Question. You still think the number of white republicans fixed at about thirty or forty would be a fair estimate of what are in the county?

Answer. If there are more than that, I do not know them; at least it does not so occur to me now, and I am the attorney of some of them, and have had them come to me for advice freely.

Question. You were asked if the Ku-Klux must not be governed by men of ability and intelligence; does the character of the offenses they commit here indicate anything like that?

Answer. No, sir; that is the idea I intended to convey.

Question. What would induce men of ability and intelligence to whip a poor negro?

Answer. Well, sir, I cannot conceive.

Question. Most of these offenses in this country, up here in York, and, so far as you have heard, in Chester and Spartanburgh, are confined to negroes, are they not?

Answer. I do not know of a white man being killed in either this or Chester County.

Question. If this was an organization or occasional clubs, governed by men of ability and intelligence, and they had their political object in view, would they not visit their vengeance upon very different persons from the blacks?

Answer. My impression is they would remove the obnoxious source; they would strike at the white men who lead the negroes.

Question. You think they would strike at higher game—some of the State or county officials?

Answer. I do; because it is generally conceded that the negroes follow a herd, without reason why or wherefore.

Question. Is it not your opinion, from what you have observed of the nature of these

offenses, that they arise from a question of labor and social position or cast more than any other cause, any question of party?

Answer. I think I indicated that in my direct examination. That is certainly my impression, as I stated before. I think the irresponsible, non-property-holding whites, who have malice toward negroes, are often the perpetrators.

Question. Would not they have a more general malice than the other population toward the negro?

Answer. Yes, sir.

Question. Outside of personal motive?

Answer. Yes, sir; because they compete with them as mechanics, &c.

Question. And small tenants of farms?

Answer. Yes, sir. I have had negro tenants of farms, and have had white men apply for their places.

Question. They suddenly found that, by process of law, the negro, who, for a long period of years anterior to the war, had been a slave, was placed, at least, on equality with their class of white men, if not above them?

Answer. Yes, sir; whilst the higher order of men and the intelligence of the country are not annoyed or troubled with them at all.

Question. Is it not a fact that after the war and emancipation and the enfranchisement of the negro, had there been no disturbing influence by bad white men for sinister purposes, the natural condition of that class would have led the former masters and these negroes to assimilate together?

Answer. Yes, sir; as an evidence of that, every time one of my own people, or those I could control, have got into trouble, they have invariably come to me for assistance. I remember an instance, to carry out my idea and impression as to this being a contest of labor and the competing influence between the lower class of whites and the negroes; I remember an instance where I had a negro man a tenant on my mother's plantation, a mile below here, who came to me one evening, and stated that some man had rode up and asked him whose place that was. He told him it was mine or my mother's. He asked, "Who lives here?" He said, "I live here." He inquired, "Does no one live here with you?" He said, no. The man told him, "You ought not to be here; you must go away." The boy came to me in trouble. I told him I hardly thought the man could mean what he said; that perhaps he was drunk. He told me, no; his idea was, "I do not think he is much of a man, but, still, you can see he wants me out of the way and off the place." Circumstances like that have led my mind to that conclusion.

Question. As to this election law spoken of by you in your examination-in-chief and cross-examination by the chairman, what, in your opinion, was the design or motive of the South Carolina legislature in passing this peculiar election law, as now found upon your statute-book?

Answer. I think I saw that Mr. Corbin, at least I will say some prominent member of that party—I do not state this as a fact—alleged that many of these disturbances were in consequence of that election law. It was at the time they were having it up in the legislature, trying to have it appealed as unjust and oppressive.

Question. What object, as a matter of convenience or necessity, differing from the election laws in other States, could there be in retaining the box ten or fifteen days during which they were under supervision of these officers?

Answer. I say, without applying the remark, that it gives the party controlling the box an opportunity to tamper with it, and those are times of excitement when many unworthy men are in position.

Question. Is that the public impression, whether right or wrong?

Answer. It is, and you cannot convince one man out of five in South Carolina that the October election was a fair one. Every man has his own private opinion.

Question. One question I had forgotten to ask in regard to this Barrett case. Is it a fact that a very short time afterward, perhaps the next night, that Caldwell's fence was found on fire, and a large portion burned?

Answer. Yes, sir; Caldwell was one of the parties charged with the offense.

Question. Is it understood that Ed. Rose, the county treasurer, went away, a large defaulter?

Answer. Yes, sir.

Question. Did he escape secretly?

Answer. It was alleged, and I have never seen it contradicted, and it is generally believed, that he went off disguised, with a military guard, afoot, from here to Chester.

Question. Where did the military guard come from?

Answer. It was Captain Christopher's company. It was before Colonel Merrill came here.

Question. Do you know anything of the fact that a man named Benfield, who was examined here the other day, summoned by the Government, was arrested by two soldiers and brought here and delivered over to Major Merrill?

Answer. From hearsay. I heard a gentleman, who traveled with him in a wagon

state that when some distance from the town here, and on his way to town, as Benfield was in his wagon, they halted him, and ascertained by some means that was Benfield, and some one of this military escort claimed him to be a prisoner. They commanded him to lay aside his pistol and surrender it up, which he did; that two soldiers—I saw the soldiers passing through the town down here—brought him to this point. Afterward I understood that they brought him to Major Merrill's headquarters. I do not know whether that is so.

By the CHAIRMAN :

Question. Mr. Benfield was here, was he not ?

Answer. Yes, sir ; I understood so.

Answer. Examined as a witness ?

Question. I do not know.

Answer. You have this information that he was arrested from another man ?

Question. Yes, sir ; I think the officer in command of the military squad told me so.

The CHAIRMAN. I can only say that the military were instructed that the only use that could be made of them, if they went along with an officer who subpoenaed a witness, was to protect the officer—not to undertake to arrest the parties. Mr. Benfield has been examined, and if he had been the subject of an outrage, having been subpoenaed to show his connection with the Ku-Klux Klan, he would probably have stated that fact.

By Mr. STEVENSON :

Question. Were you informed that Mr. Benfield had been subpoenaed by the civil officer ?

Answer. There was a civilian.

Question. A deputy sheriff ?

Answer. No, sir.

Question. Was not this man who told you this fact a deputy sheriff ?

Answer. Mr. Finley, in charge of the guard, told it in my presence.

Question. Was he not acting as deputy sheriff ?

Answer. I do not know. I understood that he was acting under instructions from headquarters.

By the CHAIRMAN :

Question. He was the deputy sheriff. The sheriff brought him to me as his deputy ?

Answer. That may be. He is frequently used as a constable or as deputy.

Mr. VAN TRUMP. Does he generally take soldiers along with him to arrest civilians on the way to town ?

By Mr. STEVENSON :

Question. Do you deem it improper for a civil officer going to subpoena alleged Ku-Klux to take a guard along ?

Answer. I do not know. Mr. Findley told me—it is my impression he did—that he could have brought the man in.

By Mr. VAN TRUMP :

Question. He was coming in ?

Answer. Yes, sir ; but I do not know what for.

By Mr. STEVENSON :

Question. Would you not yourself, if it became your duty to go into that region to subpoena men charged with being Ku-Klux, deem it prudent to have a guard along ?

Answer. No, sir, I believe the sheriff could have gone out.

Question. I ask you whether you would deem it prudent, if you were going out yourself, to have a guard at hand to assist you if necessary ?

Answer. No, sir, I would not deem it at all necessary or prudent either.

Question. I neglected to ask you whether you were in the rebel army ?

Answer. In the southern army ?

Question. Yes.

Answer. Yes, sir.

Question. In what capacity ?

Answer. I was a lieutenant in a company on the coast. My health failed, and I was post quartermaster at Columbia.

Question. Have you looked at the election returns since you were examined this morning ?

Answer. Yes, sir. I will state for general information that just before the war I was a magistrate. I was appointed just for the convenience of my office, and I am, in consequence, disfranchised, or was so until recently. I never tried a case as a magistrate but I got my foot into it by having been a judicial officer.

Question. Your disabilities have been removed ?

Answer. Yes, sir. By Mr. Robertson's influence.

Question. Is this a copy of the election return? [Exhibiting a paper.]

Answer. Yes, sir; that is out of the county paper.

Question. I find from this return that Governor Scott's majority was about five hundred, in round numbers, and Wallace's about seven hundred?

Answer. Yes, sir.

Question. Have you examined those figures?

Answer. Yes, sir.

Question. How do you find them—Scott's majority about 500 and Wallace about 700?

Answer. Yes, sir; it was 696.

Question. Will you state from that the majorities, including Mr. Hall's?

Answer. Governor Scott's majority, 513; Mr. Wallace's, 696; Mr. Hall's, 446.

By Mr. VAN TRUMP:

Question. Are there any others widely different from that? Is Mr. Hall's the least majority on the ticket?

Answer. Yes, sir.

APPENDIX No. 1.

[From the Yorkville Enquirer, February 9, 1871.]

WHIPPING AND HOUSE-BURNING.

The state of things which exists in many sections of our country is alarming. Scarcely a night passes but some outrage is perpetrated against the welfare of some community. Houses are burned, persons are whipped, and in some instances killed, by parties unknown, and for causes which no one can decipher. These things are not right; they are not prudent. They are grave crimes against God and the best interest of the country.

By common consent, the house-burning is charged upon the colored race, and the whipping and killing upon the so-called Ku-Klux. This is not certainly known to be the case, but the probability is that the supposition with regard to the perpetrators of these deeds is correct. One thing must be evident to every observing man: there is concert of action both in the house-burning and in the whipping and killing.

For some years there has been, and still is, we are informed by one who claims to know, an organization known as the Union League. Of this we know nothing, save what we have learned by observing its workings. From what we have been able to learn, we are convinced that the Union League is a secret political organization, and on this ground alone, if we knew nothing about its operations and results, we would condemn it. We take the broad ground that all secret political organizations are nothing but conspiracies against the established government of a country, and as such are ruinous to the peace and quiet and prosperity of the people.

Of the Ku-Klux we know even less than we do of the Union League. Sometimes we are disposed to believe that there is no such organization; at other times we think differently. Recent developments rather indicate that there is such an organization, and it is made of no mean material. This is mere conjecture on our part. We do not know one single individual who holds connection with the Ku-Klux. It is evident, however, that there is some sort of complicity of action in the whipping and killing that has recently been perpetrated in this country, and which is going on at present all over the State, and, in fact, all over the South.

We do not believe, from what we know of the political party which is opposed to the Union League and the political tenets of the dominant party in South Carolina, that the Ku-Klux is a political organization, in the strict sense of that term. Whatever may be its object, we are convinced that the Ku-Klux is doing much harm. To be honest and frank, we charge the Union League with the shameful state of things which now exists. It has placed its members in a predicament which is anything but enviable. The ostensible purpose for which the thing was organized was, we suppose, to protect the freedman; the real purpose, however, was, as is acknowledged by some of its members, to consolidate the votes of the freedman, that designing men might be elevated to positions of honor and profit. There is no doubt but the Union League has done the colored people a great injury. It has been the means of arraying them in hostility against the white man, and the result always has been that in every conflict between the white man and the colored man, the condition of the latter has been materially injured. We do not blame the colored people for joining the League; but we do blame those designing white men who enticed them into this snare of destruction.

However much we may reprobate the Union League, this does not cause us to love or approve of the Ku-Klux. Two wrongs never can make one right. Both the Union

League and the Ku-Klux are founded upon dangerous principles, and are working the ruin of this county. We have no disposition to make prediction, especially while so unsettled a state of things continues as exists in this county at present; but we will venture to say that if this house-burning and whipping does not stop soon, it will culminate in a conflict which will be fatal to some party.

What is the duty of every good citizen, under existing circumstances? It is the duty, we believe, of the leading colored people to influence their race to abandon the League and to refrain from acts of violence. On the other hand, it is the duty of the white people, especially the old men, to advise the young men not to engage in whipping and murdering the colored people. So long as the present state of things exists, no one is safe. The minds of the white people are filled with anxiety lest their houses may be burned down at any time, and no doubt the minds of the colored people are filled with dread lest they be dragged from their beds and taken to the forest and whipped, or, perchance, shot. We have no party purposes to subserve by what we say. All we desire is to assist in restoring peace and quiet to our county. These outrages must stop now, or worse will come. If a few more houses are burned, the public mind will be so exasperated that, in all probability, something will be done that will be very injurious to the public good. It is the imperative duty of every good citizen to discourage house-burning and whipping. We must be permitted to say that it is our impression that, so long as the Union League exists, some kind of an opposing party will also exist. The sooner all such organizations cease to exist, the better it will be for all parties.

[From the Yorkville Enquirer, March 30, 1871.]

PUBLIC MEETINGS

On Saturday last two public meetings were held at the court-house in Yorkville, for the purpose of adopting such measures as might be deemed proper to maintain order and quiet in the county. One of the meetings, composed of white citizens, was organized with Colonel Cad. Jones as chairman, and J. S. R. Thompson as secretary. The other meeting, composed principally of blacks, was organized by calling Charles Bessier to the chair, Dr. J. R. Bratton, by request, acting as secretary.

In consequence of the small number present, each meeting concluded that it was best to adjourn to another day, when it is hoped that there will be a more general attendance. The time agreed upon for the meeting of the blacks is Saturday next, the 1st of April. The time fixed for the meeting of the whites is the Monday following—sales-day. The proceedings of the meetings held on last Saturday can be found in to-day's paper.

While, so far as we have heard, there have been no acts of lawlessness committed in this county for several weeks, except the robbing of Douglass's store by negroes, we think it desirable that our people should assemble in public meeting, and, at least, give such an expression of their wishes in regard to maintaining law and order as the circumstances by which we are surrounded may appear to require. Persons residing in this county generally believe that there is no likelihood of any disturbances occurring at present, and it will certainly do no harm to give a formal expression of that opinion, in order that the exaggerated statements which are current abroad may be put at rest.

[From the Yorkville Enquirer, April 6, 1871.]

PUBLIC MEETING OF THE WHITES.

Pursuant to previous notice, a large number of the white citizens of York County met in public assembly at the court-house, in Yorkville, on Monday last. On motion, W. B. Wilson, esq., was called to the chair, and James F. Hart, esq., requested to act as secretary.

The committee appointed at a previous meeting, held on Saturday, the 25th ultimo, to prepare business for this meeting, consisting of Colonel Cad. Jones, chairman, W. B. Wilson, Dr. J. R. Bratton, J. L. Adams, J. C. Phillips, W. McGill, W. W. Gaffney, W. C. Black, John W. Mitchell, J. P. Hood, S. C. Youngblood, S. G. Brown, Rev. R. A. Ross, J. P. Moore, L. P. Sadler, John S. Bratton, John Rattaree, F. H. Barber, W. B. Allison, D. T. Partlow, M. L. Ross, and Henderson Martin, then presented their report, which was read, as follows:

Without intending to justify the acts of violence which have been committed in this county, it is proper to set forth the fact that the negro radical government of this State is responsible for all the evils that are upon us.

It will be recollected that the Union reform party, at the last elections, proposed to bury all political issues; to divide the offices of State and county and legislative seats with the colored race; to unite in an earnest effort to administer the government in the interest of no class or party, but for the benefit of all.

This reasonable offer was rejected—the antagonism of races was preferred; the black vote was massed against the white man, as an enemy to his race. The result is before us: A negro legislature, negro militia, negro justices, constables, and policemen—the whole power of the State committed to the hands of carpet-baggers and negroes. Men from all States, except South Carolina, govern and rule South Carolina. Men who own no foot of land in the State, and have no sympathy with our people, impose the taxes, make the appropriations, and fix their own salaries. The native South Carolinian, who pays the taxes and supports the government, is as powerless, voiceless, in its halls of legislation, as a marble statue. Shame upon the party that, with Federal bayonets, forced such a government upon such a people—upon men of their own race and country. The deed has butchered the civilization of the State. We are ruled by ignorance, and corruption worse than ignorance; and by sharp knaves worse than either.

Taxation without representation is the curse of any people, and we form no exception to the rule.

This party has been in power but three years. Already they have raised the taxes from \$684,000 in 1865, to \$1,395,017 in 1871; and worse than that, if anything can be worse, the public debt is increased from \$4,934,849 in 1868, when they took possession of the government, to \$9,865,908 in 1870. And that is not all. The legislature has canceled the lien which the State held as surety for \$4,000,000 guaranteed for the Blue Ridge road, and the lien for \$2,000,000 guaranteed for the Greenville and Columbia road. Add these amounts and we have the round sum of \$16,000,000 of public debt, against less than \$5,000,000 when this negro carpet-bag government was inaugurated. If this be the work of three years, what may we expect should the government be continued? What care they for the public debt, or the taxes either? The negro pays no tax but the poll, and that is limited to one dollar, and to the purposes of free schools to educate his children. Hereby hangs a tale. It is said \$90,000 of this poll-tax is unpaid—only \$40,000 collected. If true, the officials have not done their duty. Favoritism has been shown to their black friends. If not true, somebody has increased their bank deposits with moneys that belong to the school fund. In addition to all other taxes, an annual levy of \$480,000 is imposed under the sterling bill.

If this monstrous taxation was for the support of an honest government, we would stagger beneath its mighty burdens as best we could, without a complaint; but when imposed by adventurers, carpet-baggers, and negroes, for private uses, to be true to ourselves, we must say, *stop!* This is plunder—not taxation; robbery—not the legitimate expenditure of government.

We pass to other grievances. Our former slaves, headed by these carpet-baggers, have not only assumed all the civil powers of the State, but they are armed to the teeth as a military force, to the exclusion of any white militia. Thirty thousand black bayonets have been distributed. White men were not considered fit to be trusted with arms. Here we propose to ventilate a piece of petty tyranny that shocks the sentiments of every honorable person. A military academy, of long standing, has been reopened at this place. At the head of this institution is a most exemplary Christian gentleman. He is forbid the use of his own guns to drill his boys. The negro, armed by the State, with bull and rifle, is marched and counter-marched—the more the better, but white youths—school-boys—are not permitted to drill with empty guns.

Let another fact be set before the public. Just previous to the recent elections, the comptroller-general of the State, in the presence of a large concourse of his black followers, proclaimed that the "radicals would rule the State, or so fill the land with burning buildings that vegetation would not sprout!" The seed sown in madness and folly have germinated sooner than was expected.

In this county alone, twelve incendiary fires have consumed the buildings of peaceful citizens in as many nights.

An armed band—not of unknown persons—of disguised negroes, under cover of night, fired upon the store of T. A. Douglass, a merchant in this county, drove the clerk from the premises, and filled themselves with plunder. A part of these felons have been arrested—not put to death; but lodged in prison, tried in open court, convicted, and sentenced to the penitentiary. Here is an ease of marked lawlessness on the one side, conservatism on the other. Other examples of violence, and threats and lawlessness on the part of the negroes in this county, might be mentioned. It was only last week that an incendiary applied a lighted match to a store in the village of Rock Hill. He, too, is "a man and a brother," and has been arrested upon reasonable proof of his guilt, and committed for trial—not lynched.

Resistance on the part of individuals is the inevitable consequence of such outrages. Those who sow to the wind, let them take care lest they reap the whirlwind. Roused at midnight, by the repeated fires of incendiaries; threatened by the bayonet of our former slaves, insultingly and defiantly marching by night and by day, in squads, and

by companies, through the peaceful county and in the thronged streets; taxed until the last dollar is wrung from an oppressed and impoverished people; tormented to madness by a thousand acts of injustice and tyranny; retaliation must commence—it has commenced. The guilty perpetrators of crime and outrage have been overtaken and scourged. It was the result of their own aggression.

If blood has been spilled by one race, let it not be forgotten that arson and robbery had first been committed by the other. There have been "outrages," but they have been on both sides.

We come now to consider a different state of affairs in this county. Those are of the past. We speak now of the present. His excellency the governor, well knowing the unmixed evil and injustice of arming one race of men to the exclusion of the other, has happily withdrawn his glittering bayonets—ball, powder, cartridge-box, and all. Again, with becoming regard for the civil government of the county, he has removed several incompetent and vicious trial justices, and, in their stead, appointed intelligent and respectable men, who enjoy the confidence of the community.

We propose to meet him more than half way in these paths of peace—to sustain him when he is right: Therefore,

Resolved, That his excellency the governor, for the disarming of the militia and removal of incompetent officials in this county, and for his veto of the appropriation of \$265,000, has by these acts, to this extent, entitled himself to public commendation. We cannot better comment on the enormity of that appropriation than by adopting the very language of the veto message, to wit: "I regard the expenditure of the money already appropriated, and the sum included in this bill, amounting, in the aggregate, to \$400,000, as simply enormous for one session of the legislature. It is beyond all comprehension how the legislature could legitimately expend one-half that amount."

Resolved, That the existing negro government of South Carolina is a reproach to the civilization of the age; a stain upon the manhood of an intelligent and gallant people, who have so long and so patiently endured and submitted to be ruled by their former slaves. We are tired of it, and will exert every legitimate and constitutional means to effect a change.

Resolved, That next to the character of our government, the wasteful expenditure of the public money, the alarming increase of the public debt, the robbery and plunder of the public funds, demand our most earnest consideration, and excite a well-founded fear of an indefinite extension of our taxes.

Resolved, That a chief object in holding this meeting was to urge the people of the county to be quiet, and by all means to preserve the peace of the State. We earnestly express the hope that peaceful relations between the races may be reëstablished: that there will be no further violence; and we respectfully invoke all law-abiding men to cooperate with us in the attainment of these ends. We know not the remedy for the troubles that are upon us, but know that violence is not that remedy. To those especially who have engaged in acts of violence we earnestly raise a warning voice, and assure them that force, if persisted in, will be suppressed by the power of the Federal Government.

Resolved, That the resolution adopted by the colored race at their recent meeting indicates such a spirit as commends them to our confidence, and that we will use our best efforts to secure to them protection of life, liberty, and property, and the enjoyment of all their rights.

Resolved, That we approve the call of the Chamber of Commerce of Charleston for a convention of the State, to meet in Columbia on the second Tuesday in May, and that the chairman appoint two delegates and two alternates to attend the same.

After considerable debate and various objections to the second resolution, the report and resolutions were declared adopted.

On motion of General E. M. Law, the following resolutions were also adopted:

1. *Resolved*, That we, property-holders and tax-payers of the State, residing in the county of York, do hereby deem it our duty to declare that the bonds heretofore issued without legal sanction, and the so-called sterling loan, or any other bonds or obligations hereafter issued purporting to be under and by virtue of the authority of the present State government, will not be held binding on us; and that we shall, in every manner and at all times, resist the payment thereof, or the enforcement of any tax to pay the same, by all legitimate constitutional means within our power.

2. *Resolved*, That we deem it our duty to warn all persons not to receive, by way of purchase, loan, or otherwise, any bond or obligation hereafter issued, purporting to bind the property or pledge the credit of the State; and that all such bonds or obligations will be held by us to be null and void; as having been issued in derogation of the rights of that portion of the people of this State upon whom the public burdens are made to rest.

On motion, it was resolved to request the publication of these proceedings in the Yorkville Enquirer.

The meeting then adjourned

W. B. WILSON, *Chairman*,

JAMES F. HART, *Secretary*.

1544 CONDITION OF AFFAIRS IN THE SOUTHERN STATES.

POPULATION OF SOUTH CAROLINA.

Senator Robertson has furnished the Columbia Union with the subjoined table, showing the population of South Carolina by counties in 1870 :

Counties.	Native white.	Native colored.	Indians.	Foreign white.	Foreign black.	Chinese.	Total population of counties.
Abbeville	10,833	20,202	.....	83	11	.....	31,129
Auderson	14,377	9,588	.....	79	5	.....	24,049
Barnwell	13,418	22,130	.....	161	15	.....	35,724
Beaufort	5,175	29,026	.....	134	24	.....	34,359
Charleston	23,248	60,522	56	4,956	81	.....	88,863
Chester	6,175	12,512	.....	113	5	.....	18,805
Chesterfield	6,196	4,307	.....	79	2	.....	10,584
Clarendon	4,638	9,363	12	25	.....	.....	14,038
Colleton	8,873	16,482	9	35	10	.....	25,409
Darlington	10,031	16,141	.....	66	5	.....	26,243
Edgefield	16,909	25,390	29	130	27	.....	42,485
Fairfield	5,670	14,099	.....	117	2	.....	19,888
Georgetown	2,723	13,379	.....	50	9	.....	16,161
Greenville	14,798	6,906	.....	110	5	.....	21,819
Horry	7,465	3,234	.....	21	1	.....	10,721
Kershaw	3,760	7,935	.....	49	10	.....	11,754
Lancaster	6,134	5,920	4	25	4	.....	12,087
Laurens	9,832	12,026	.....	72	6	.....	22,536
Lexington	8,420	4,529	.....	32	7	.....	12,988
Marlborough	5,131	6,666	.....	15	2	.....	11,814
Marion	11,379	10,732	.....	48	.....	.....	22,159
Newberry	7,308	13,309	.....	149	9	.....	20,775
Oconee	7,983	2,421	.....	131	1	.....	10,536
Orangeburgh	5,654	11,148	.....	55	8	.....	16,865
Pickens	7,721	2,537	1	9	1	.....	10,269
Richland	7,192	15,155	5	646	22	1	23,025
Spartanburgh	17,298	8,405	1	78	2	.....	25,784
Sumter	7,360	17,797	.....	103	8	.....	25,268
Union	8,661	10,522	.....	57	8	.....	19,248
Williamsburgh	6,311	10,141	.....	35	2	.....	15,489
York	12,012	12,160	5	105	4	.....	24,286
Total	281,689	415,284	122	7,768	296	1	705,160

With regard to the above table, the Union says:

"In 1860 the total population was 703,708, so that the increase during the past ten years has been only 1,952. Many of our counties show large losses. Abbeville loses about 1,000, Beaufort 5,500, Orangeburgh 8,000, Fairfield 2,000, Georgetown 5,000, Laurens 1,000, and Spartanburgh 1,000; while Charleston gains 18,000, Edgefield 3,000, Darlington 6,000, Richland 5,000, and York 3,000. Several other counties show small gains. The races are divided as follows: 281,689 whites and 415,284 colored."—*Yorkville Enquirer*.

APPENDIX No. 2.

[The following is a certified copy of the record in the case of Randall, Hicks, and Byars, tried for the murder of Thomas Black, alias Roundtree, colored, killed by Ku-Klux:]

THE STATE OF SOUTH CAROLINA, County of York :

To J. G. Baber, Special Constable of County of York :

Whereas, by inquisition by me, held on 5th day of December, A. D. 1870, at the house of the late Thomas Black, colored, it was found that the said Thomas Black, colored, came to his death by gunshot wounds, and by having his throat cut with a knife, on the morning of the 3d instant, in the hands of parties unknown; but it was in evidence

before the jury that Samuel Randall, of North Carolina, and John Hicks, and Mack Byars, of South Carolina, York County, were in the crowd who committed the felony; and so the jurors aforesaid, upon their oaths aforesaid, do say that the aforesaid parties, to the jurors unknown, accompanied by Samuel Randall, of North Carolina, and John Hicks, and Mack Byars, did, then and there, feloniously kill the said Thomas Black, against the peace and dignity of the State aforesaid. These are therefore to command you forthwith to apprehend Samuel Randall, John Hicks, and Mack Byars, and bring them before me, to be dealt with according to law.

Given under my hand and seal this 5th day of December, A. D. 1870, at York Court-house.

[SEAL.]

J. H. FAYSSOUX,
Coroner York County.

DECEMBER 6, 1870.—Mack Byars, one of the defendants named in this warrant, was this day arrested by J. G. Baber, special constable, and brought before me, and I committed him to jail.

J. H. FAYSSOUX, *Coroner.*

JANUARY 2, 1871.—Samuel Randall and John Hicks have this day come to the jail and surrendered themselves to me, and I have confined them in jail.

R. H. GLENN,
Sheriff York County.

STATE OF SOUTH CAROLINA, *County of York :*

Be it remembered that, on the fifth day of December, in the year of our Lord one thousand eight hundred and seventy, personally appeared Harriet Black and John A. Faris before me, J. H. Fayssoux, coroner in and for said county and the said State, who acknowledged themselves indebted to the State of South Carolina; that is to say, the said Harriet Black in the sum of one hundred and fifty dollars, and the said John R. Faris in the sum of one hundred and fifty dollars, like money to be levied of their separate lands, tenements, goods, and chattels, respectively, to and for the use of the said State, if the above-mentioned Harriet Black shall fail in performing the condition underwritten.

The condition of this recognizance is such that if the said Harriet Black shall personally appear before the justices of the State aforesaid at the next term of the court of general sessions for York County, to be holden at the usual place of judicature, on the third Monday in January next, then and there to testify on behalf the State in an indictment to be preferred against parties unknown and Samuel Randall, of North Carolina, and John Hicks and Mack Byars, of South Carolina, for murder, then this recognizance to be null and void, or else remain in full force and virtue.

^{her}
HARRIET + BLACK. [SEAL.]

^{mark.}
JOHN R. FARIS. [SEAL.]

Taken and acknowledged, the day and year above written, before me.

J. H. FAYSSOUX, *Coroner*

STATE OF SOUTH CAROLINA, *County of York :*

Be it remembered that, on the fifth day of December, in the year of our Lord one thousand eight hundred and seventy, personally appeared Harriet Black and H. K. Roberts, before me, J. H. Fayssoux, coroner in and for said county and the said State, who acknowledged themselves indebted to the State of South Carolina; that is to say, the said Harriet Black in the sum of one hundred and fifty dollars, and the said H. K. Roberts in the sum of one hundred and fifty dollars, in like money to be levied of their separate lands, tenements, goods, and chattels, respectively, to and for the use of the said State, if the above-mentioned Harriet Black shall fail in performing the condition underwritten.

The condition of this recognizance is such, that if the said Harriet Black shall personally appear before the justices of the State aforesaid at the next term of the court of general sessions for York County, to be holden at the usual place of judicature, on the third Monday in January next, then and there to testify on behalf of the State in an indictment to be preferred against [parties unknown] and Samuel Randall, of North Carolina, and John Hicks and Mack Byars, of South Carolina, for murder, then this recognizance to be null and void, or else remain in full force and virtue.

^{her}
HARRIET + BLACK. [SEAL.]

^{mark.}
H. K. ROBERTS. [SEAL.]

Taken and acknowledged, the day and year above written, before me.

J. H. FAYSSOUX, *Coroner.*

1546: CONDITION OF AFFAIRS IN THE SOUTHERN STATES.

STATE OF SOUTH CAROLINA, *County of York:*

Be it remembered that, on the fifth day of December, in the year of our Lord one thousand eight hundred and seventy, personally appeared Robert Gist and John R. Faris, before me, J. H. Fayssoux, coroner in and for said county and the said State, who acknowledged themselves indebted to the State of South Carolina; that is to say, the said Robert Gist in the sum of one hundred and fifty dollars, and the said John R. Faris in the sum of one hundred and fifty dollars, like money to be levied of their separate lands, tenements, goods, and chattels, respectively, to and for the use of the said State, if the above-mentioned Robert Gist shall fail in performing the condition underwritten.

The condition of this recognizance is such, that if the said Robert Gist shall personally appear before the justices of the State aforesaid at the next term of the court of general sessions for York County, to be holden at the usual place of judicature, on the third Monday in January next, then and there to testify on behalf of the State in an indictment to be preferred against [parties unknown] and Samuel Randall of North Carolina, and John Hicks and Mack Byars, of South Carolina, for murder, then this recognizance to be null and void, or else remain in full force and virtue.

ROBT. ^{his} + GIST. [SEAL.]
JOHN R. FARIS. _{mark.} [SEAL.]

Taken and acknowledged, the day and year above written, before me.

J. H. FAYSSOUX, *Coroner.*

STATE OF SOUTH CAROLINA, *County of York:*

Be it remembered that, on the fifth day of December, in the year of our Lord one thousand eight hundred and seventy, personally appeared Nancy Black and H. K. Roberts before me, J. H. Fayssoux, coroner, in and for said county and the said State, who acknowledged themselves indebted to the State of South Carolina; that is to say: The said Nancy Black in the sum of one hundred and fifty dollars, and the said H. K. Roberts in the sum of one hundred and fifty dollars, in like money, to be levied of their separate lands, tenements, goods, and chattels, respectively, to and for the use of the said State, if the above Nancy Black shall fail in performing the condition underwritten.

The condition of this recognizance is such that if the said Nancy Black shall appear before the justices of the State aforesaid, at the next term of the court of general sessions for York County, to be holden at the usual place of judicature on the third Monday in January next, then and there to testify on behalf of the State in an indictment to be preferred against (parties unknown) and Samuel Randall, of North Carolina; and John Hicks and Mack Byars, of South Carolina, for murder, then this recognizance to be null and void, or else remain in full force and virtue.

NANCY ^{her} + BLACK. [SEAL.]
H. K. ROBERTS. _{mark.} [SEAL.]

Taken and acknowledged, the day and year above written, before me.

J. H. FAYSSOUX, *Coroner.*

STATE OF SOUTH CAROLINA, *County of York:*

Be it remembered that, on the fifth day of December, in the year of our Lord one thousand eight hundred and seventy, personally appeared Winney Black and H. K. Roberts before me, J. H. Fayssoux, coroner in and for said county and said State, who acknowledged themselves indebted to the State of South Carolina; that is to say: The said Winney Black in the sum of one hundred and fifty dollars, and the said H. K. Roberts in the sum of one hundred and fifty dollars, like money, to be levied of their separate lands, tenements, goods, and chattels, respectively, to and for the use of the said State, if the above-mentioned Winney Black shall fail in performing the condition underwritten.

The condition of this recognizance is such, That if the said Winney Black shall appear before the justices of the State aforesaid, at the next term of the court of general sessions for York County, to be holden at the usual place of judicature on the third Monday in January next, then and there to testify on behalf of the State in an indictment to be preferred against (parties unknown) and Samuel Randall, of North Caro-

lira; and John Hicks and Mack Byars, of South Carolina, for murder, then this recognizance to be null and void, or else remain in full force and virtue.

WINNEY + BLACK. [SEAL.]

H. K. ROBERTS. [SEAL.]

Taken and acknowledged, the day and year above written, before me.

J. H. FAYSSOUX, *Coroner.*

IN GENERAL SESSIONS, YORK COUNTY.

THE STATE
vs.
SAMUEL C. RANDALL, M. B. BYERS, AND
JOHN F. D. HICKS. }

On hearing the affidavits submitted by the defendants, and the testimony taken on the coroner's inquest in this case, on motion of T. J. Bell, attorney for the defendants, it is ordered that the defendant, John F. D. Hicks, be discharged from the custody of the sheriff of York County, upon his entering into recognizance with security in the sum of one thousand dollars, before the clerk of the court, for his appearance at the next court of general sessions for York County. It is further ordered that the defendant, M. B. Byers, be discharged from the custody of the sheriff of York County, upon his entering into recognizance in the sum of fifteen hundred dollars, with security as aforesaid. And it is further ordered that the defendant, Samuel C. Randall, be discharged from the custody of the sheriff of York County, upon his entering into recognizance in the sum of three thousand dollars, with security as aforesaid. It is further ordered that the papers in this case be filed with the record in the clerk's office.

At Chambers, January 2, 1871.

WM. M. THOMAS.

Appearance.—Recognizance.

THE STATE OF SOUTH CAROLINA, *County of York:*

Be remembered that, on the second day of January, in the year of our Lord one thousand eight hundred and seventy-one, personally appeared M. B. Byars, C. B. Byars, W. C. Black, John Moore, H. H. Hicks, W. S. Byars, E. M. Rippey, and E. A. Turner, before Mr. J. F. Wallace, clerk of court, in and for the said county and the said State, who acknowledge themselves indebted to the State of South Carolina; that is to say, the said M. B. Byars, C. B. Byars, N. C. Black, John Moore, H. H. Hicks, M. D. Byars, E. M. Rippey, and E. A. Turner, in the sum of fifteen hundred dollars, to be levied of their separate lands and tenements, goods and chattels, respectively, to and for the use of the said State, if the above-mentioned M. B. Byers shall fail in performing the condition underwritten.

The condition of this recognizance is such, that if the said M. B. Byers shall personally appear before the court of general sessions for York County, in the State aforesaid, to be holden at the usual place of judicature, in Yorkville, on the third Monday in January instant, then and there to answer to a bill of indictment to be preferred against M. B. Byers for murder, and to do and receive what shall be required by the court, and not depart the court without license; and in the mean time that the said M. B. Byers do keep the peace of the State, and be of good behavior toward all the citizens thereof; then this recognizance to be null and void, or else to remain in full force and virtue.

his
M. B. + BYARS. [L. s.]
mark.
C. B. BYARS. [L. s.]
WM. C. BLACK. [L. s.]
JOHN MOORE. [L. s.]
H. H. HICKS. [L. s.]
W. S. BYARS. [L. s.]
E. M. RIPPEY. [L. s.]
E. A. TURNER. [L. s.]

Taken and acknowledged, the day and year above written, before me.

J. F. WALLACE,
Clerk Common Pleas.

Appearance.—Recognizance.

THE STATE OF SOUTH CAROLINA, *County of York :*

Be it remembered that, on the second day of January, in the year of our Lord one thousand eight hundred and seventy-one, personally appeared John Hicks, W. C. Black, John Moore, H. H. Hicks, C. B. Byars, W. S. Byers, E. M. Rippey and W. A. Turner, before me, J. F. Wallace, clerk of the court, in and for the said county and the said State, who acknowledged themselves indebted to the State of South Carolina; that is to say: the said John Hicks, W. C. Black, John Moore, H. H. Hicks, C. B. Byars, W. D. Byers, E. M. Rippey, and E. A. Turner, in the sum of one thousand dollars, to be levied of their separate lands and tenements, goods and chattels, respectively, to and for the use of the said State, if the above-mentioned John Hicks shall fail in performing the condition underwritten.

The condition of this recognizance is such, that if the said John Hicks shall personally appear before the court of general sessions for York County, in the State aforesaid, to be holden at the usual place of judicature, in Yorkville, on the third Monday in January instant, then and there to answer to a bill of indictment to be preferred against John Hicks for murder, and to do and receive what shall be enjoined by the court, and not depart the court without license; and in the mean time that the said John Hicks do keep the peace of the State, and be of good behavior toward all the citizens thereof; then this recognizance to be null and void, or else to remain in full force and virtue.

J. F. D. HICKS.	[L. S.]
WM. C. BLACK.	[L. S.]
JOHN MOORE.	[L. S.]
H. H. HICKS.	[L. S.]
C. B. BYARS.	[L. S.]
W. S. BYARS.	[L. S.]
E. M. RIPPEY.	[L. S.]
E. A. TURNER.	[L. S.]

Taken and acknowledged, the day and year above written, before me.

J. F. WALLACE,
Clerk Common Pleas.

Appearance.—Recognizance.

THE STATE OF SOUTH CAROLINA, *County of York :*

Be it remembered that, on the second day of January, in the year of our Lord one thousand eight hundred and seventy-one, personally appeared Samuel C. Randall, John Moore, W. C. Black, C. B. Byars, H. H. Hicks, E. M. Rippey, E. A. Turner, and W. S. Byers, before me, J. F. Wallace, clerk of court in and for the said county and the said State, who acknowledge themselves indebted to the State of South Carolina; that is to say, the said Samuel C. Randall, John Moore, W. C. Black, C. B. Byars, H. H. Hicks, E. M. Rippey, E. A. Turner, and W. S. Byars, the sum of three thousand dollars, to be levied of their separate lands and tenements, goods and chattels, respectively, to and for the use of the said State, if the above-mentioned Samuel C. Randall shall fail in performing the condition underwritten.

The condition of this recognizance is such that if the said Samuel C. Randall shall personally appear before the court of general sessions for York County in the State aforesaid, to be holden at the usual place of judicature, in Yorkville, on the third Monday in January, instant, then and there to answer to a bill of indictment to be preferred against Samuel C. Randall, for murder, and to do and receive what shall be enjoined by the court, and not depart the court without license; and in the mean time that the said Samuel C. Randall do keep the peace of the State, and be of good behavior toward all the citizens thereof, then this recognizance to be null and void, or else to remain in full force and virtue.

S. C. RANDALL.	[L. S.]
JOHN MOORE.	[L. S.]
W. C. BLACK.	[L. S.]
C. B. BYARS.	[L. S.]
H. H. HICKS.	[L. S.]
E. M. RIPPEY.	[L. S.]
E. A. TURNER.	[L. S.]
W. S. BYARS.	[L. S.]

Taken and acknowledged, the day and year above written, before me.

J. F. WALLACE,
Clerk Common Pleas.

THE STATE OF SOUTH CAROLINA, *County of York:*

At a court of general sessions begun and holden in and for the county of York, in the State aforesaid, at Yorkville, in the said county and State, on the third Monday of January, in the year of our Lord one thousand eight hundred and seventy-one, the jurors of and for the said county and State, that is to say, upon their oaths, present that Samuel C. Randall, Malcomb B. Byars, and John F. D. Hicks, not having the fear of God before their eyes, but being moved and seduced by the instigation of the devil, on the third day of December, anno Domini one thousand eight hundred and seventy, with force and arms, at Yorkville, in the county aforesaid, on and upon one Thomas Black, in the peace of God, and of the said State, then and there being, did make an assault feloniously, willfully, and of their malicious aforethought, and that the said Samuel C. Randall, Malcolm B. Byars, and John F. D. Hicks, certain guns, of the value each of ten dollars, then and there loaded and charged with gunpowder and divers leaden bullets, (which guns they, the said Samuel C. Randall, Malcolm B. Byars, and John F. D. Hicks, in each of their right hands then and there had and held,) to assault and upon the said Thomas Black, then and there feloniously, willfully, and of their malice aforethought, did shoot and discharge, and that the said Samuel C. Randall, Malcolm B. Byars, and John F. D. Hicks, with the leaden bullets aforesaid, out of the guns aforesaid, so, as aforesaid, shot, sent forth, and discharged by force of the gunpowder aforesaid, the said Thomas Black, in and upon the breast and body of him, the said Thomas Black, then and there feloniously, willfully, and of their malice aforethought, did strike, penetrate, and wound, giving to the said Thomas Black, then and there, with the leaden bullets aforesaid, so, as aforesaid, shot, sent forth, and discharged out of the guns aforesaid, by said Samuel C. Randall, Malcolm B. Byars, and John F. D. Hicks, in and upon the breast and body of him, the said Thomas Black, three mortal wounds, each of the breadth of one-half inch and of the depth of six inches, of which said mortal wounds the said Thomas Black then and there instantly died.

And so the jurors aforesaid, upon their oaths aforesaid, do say that the said Samuel C. Randall, Malcolm B. Byars, and John F. D. Hicks, the said Thomas Black, in manner and form aforesaid, feloniously, willfully, and of their malice aforethought, did kill and murder, against the peace and dignity of the same State aforesaid.

WM. H. BRAWLEY,
Solicitor.

True bill. January 17, 1871.

A. E. HUTCHISON,
Foreman.

Not guilty.

JOHN J. WYLIE,
Foreman.

STATE

vs.

SAMUEL C. RANDALL, MALCOLM B. BYARS, JOHN HICKS. }

Murder. Jurors examined on their *voir dire* by the solicitor. Stood aside. Challenged 5.

James Foosseau, sworn, says: He is coroner who held inquest over the body of Thos. Black, a colored man, in his house, in this county. His throat was cut from ear to ear. He did not examine the body for the bullet holes, nor see them on the clothes. The verdict of the jury was that he came to his death by gunshot wounds, and the cutting of his throat.

Harriet Black, sworn, says: She is the widow of Thos. Black, deceased; she was at home on the night of the 3d December. Her husband and his nephew, Bob Gist, were there. Sixty or seventy men, on foot, came there about 1 o'clock, after they had all gone abed. Shot twenty or thirty times. Demanded admittance. He went up in the loft. They discovered it. He descended on a desk. Jumped out of the window and run one hundred yards, when they shot twice. He fell; they then shot him and cut his throat. They told her if she moved out of the house they would blow her brains out. She had ten children in the house. Her oldest daughter took the baby, ran, and hid herself in the cotton patch. Bob Gist ran; they fired at him, but did not hit him. He ran after Tom was killed. Tom was shot through by five balls. It was moonlight. They had balls of turpentine and lit them. Those inside of the house had on red gowns, and one had a gray overcoat turned inside out. They came back, broke open trunk, took some silver, and took the gun and pistol. They said he had gotten a gun from Mark Ross. She recognized Samuel C. Randall and John Hicks as being in the crowd, without disguise. They had whisky. Hicks said, "Here is plenty of whisky," and "How's your Ku-Klux." Randall had come there sometimes before to get some whisky to put in the camphor. Randall said to Tom, "I saw the Ku-Klux a few nights ago;" witness suspicioned him then. She saw him three times before that night. He

lives ten miles from Tom's, in North Carolina. She recognized Randall when she saw him here on Tuesday. She lived one and a half miles from Hicks, some three years ago. She saw him in the spring of the year. She recognized Randall by his hat and beard. They said they came from York, and not from about there. She thought she recognized the voice of Mack Byers.

Cross-examined: She could see Randall's eyes. She told Bridges the night of the killing about Randall and Hicks. It happened on Friday night. She did not tell Mr. Fabor. She did not know one single soul who was there. She did not tell him that William C. Black, Dr. J. S. Black, Mark L. Ross, John De Priest, and James Smith. She never told Hannah Black who was there. She was there while her husband was a corpse. She said to Hannah that it was curious that Dick Black, Jim Smith, and Thos. De Priest, were away from their homes, at John Black's, when his wife expected to be confined. She did not say upon seeing the Blacks coming up that they were some of the party. No one told her who to swear to. Furman Wilson said Dick Black was in the band. Randall did not speak to her, nor she to him. They were there searching the house. If Tom shot that night she don't know it. She told Tom that Randall was a spy. They were expecting the K. K. On Saturday she went into the office of T. J. Russell to get out a warrant against W. C. Black. W. C. B. told Bob B. that the K. K. would get after Tom. This was before Sam. R. came there. She never came into the house before. Her daughter ran away. There was, when Nancy left, they had returned and the beds pulled off the steeds. It was a double cabin; in the right-hand room only one door opposite chimney. The in door alongside of the chimney. The passage was open overhead.

Nancy Black, sworn, says: She is the daughter of Harriet Black; was present the night of the homicide; she knows Mack Byers; he had on a brown coat and blue pants; she saw him plainly; he was standing by the door; she did not have the baby at the time.

Cross-examined: She had seen Mack Byers several times before; once to collect a debt due by Tom to his father for corn; she knows him well; saw him at preaching. Knows Sally Deal; never spoke to Sally about it, who was there, or anything, or that she did not know Mack Byers, or that she would not have said so except Furman Wilson told her so; she saw Sally Deal on the first Sunday after Tom's death, at Hunter's preaching. Hunter talked to her about it; not in the presence of Sally Deal. Mr. Baber was the constable. Did not tell him she did not know any of them; that she ran away with the baby, nor that any one came there and took her and her mother into a room and told her who to swear to; on Sunday she told Furman Wilson; Captain Paris and Esquire Roberts came on Sunday; never talked to Amanda Brown about it; Henderson Brown talked to her about it; did not tell him twice that she knew no one; that she ran away with the child. She knows Randall; saw him a few days before the homicide, but did not see him that night.

DEFENSE.

Amanda Byars, sworn, says: Aunt of Malcolm Byars; lives in Spartanburgh County; she was at home on the 2d December, Friday, the night Tom was killed. [Motion for separation of witnesses made, and granted.] He came before dark that evening, and staid in her presence until they retired, and he slept in the same bed with her that night, all night. The mother was sick, and they had to have some one to cut wood, and he was sent for, six miles; he walked. They had company, and she made him sleep with her rather than let him sleep by himself. The old people are eighty-five and eighty-two, and one of them is a paralytic.

Cross-examined: They had sent for Malcolm on Tuesday; her colored man was gone to Charlotte; she had no one to cut wood for her. Only one room in the house. Mack has slept with her before. Her daughter and Beckey Blackwell slept in the same room. Never cut wood for them before or since. Heard of the murder of Black on the Wednesday following; he went home on Saturday.

Fanny Ross, sworn, says: Lives at Artemesia Byers's; she was at home the night Tom Black was killed; Malcolm Byers came on Friday, and went away on Saturday; her husband was gone to Charlotte; she saw Mack after supper.

M. C. Stacey, sworn, says: Lives in Spartanburgh; saw Mal Byers about 5 o'clock on the road going to Artemesia Byers's, and saw him on the next day returning. It is ten or twelve miles from Artemesia's to Tom Black's. He keeps books, and by them he knows it was the 2d December, because he keeps it one day and his clerk the next.

Mr. C. B. Byars, sworn, says: His son was away the night of the killing; he left for Artemesia's on Friday after dinner in consequence of an arrangement made with his aunt. Deceased and witness's family are on good terms. Mal is eighteen years old.

Malcolm B. Byars, sworn, says: That he was not present at Tom Black's killing; he was at Artemesia's that night; he was at Tom's only once, then to carry some kettles; passed the road several times; never spoke to Nancy; he heard of the warrant on Tuesday, and waited for the arrest, which occurred while he was plowing.

James B. Baber, sworn, says: He found Byers plowing; he was the constable; he lives three-fourths of a mile from Tom; he was there on Sunday; Harriet then said she did not know who was there; after he came for the coroner and returned, she wanted him to arrest William C. Black, J. S. Black, Mark L. Ross, Thomas Depriest, and Jim Smith; never said anything until after the inquest about the prisoners; Harriet said that Faris and Roberts came there, took them into a room, and told them who to swear to.

Cross-examined: He has no regular occupation; he makes shoes, works on the farm and carpenters. It was on Thursday he had the consultation with Harriet about Faris and Roberts, and about W. C. Black, &c.

Henderson B. Brown, sworn, says: On Monday morning at 10 o'clock he was at Harriet Black's; said the K. K. got one dollar; she had a presentiment, and took his money from him that night; she said she knew no one; Nancy said she knew no one; she jerked up the baby, ran with it out of the house as soon as it commenced.

Sally Deal, sworn, says: Know Nancy Black; saw her at Mr. Hunter's church. Nancy said she never had seen Mack Byers, and that if it had not been for Farmer Wilson she would not have sworn to him. She had heard that she had sworn to Mack Byers at that time, and was asking her about it.

Cross-examined: She lives with her husband on Mr. Byers's land, and sometimes works for him.

Amanda Brown, sworn, says: Heard Nancy Black, on the morning after Tom was killed, say she knew no one; she ran away with the baby.

H. H. Hicks, sworn, says: He and his son John were at home. He had worked; was at work until 10 o'clock mending shoes and preparing leather. John was not well, and went to bed before witness. Two hours after, a noise in the horse-lot woke the witness and he went out, passing John in bed. At 4 o'clock he woke John, and John made a fire; and then he sent John out, and John said when he came back the person to whom he was sent said that there had been a battle at Tom Roundtree's. His mare was in the stable when he went out at 12 o'clock; the only riding-animal he had. His son slept in the same room with him. His son was sixteen years old—the only child. It is three miles from Tom Black's.

Mrs. C. D. Hicks, sworn, says: Mother of John. Her son was sick Friday morning, and when he came home from school he was complaining. Witness and her husband retired after her son two hours. She heard him groaning until then. She also heard him groaning when her husband went out to the horse-lot.

Cicero Morgan, sworn, says: The night Tom was killed he saw John Hicks at his father's two hours in the night. He is a good boy, and so is his father and mother.

Albert Frances, sworn, says: Lives in Cleveland County, North Carolina. Remembers the night on which Tom Roundtree was killed. He was at Sam Randall's on that night. He left there after 12 o'clock that night. It is six miles to Roundtree's. He left Randall in bed. Shuforo Brown and Martin M. Randall were there.

Cross-examined: Randall is a wagon-maker; witness is a farmer. Never saw Tom Roundtree. Randall had some whisky, and they were drinking. He has three children. There is only one room in the house. Witness lived quarter of a mile from Randall's. They had a clock there. He does not know what kind of a face or figures on it. He is sure he heard it strike 12 before they left. Randall was a little tight that night.

Martin S. Brown, sworn, says: Lives in Cleveland County, North Carolina. Recollects the night of the killing of Tom Black. He was at Randall's, and left him in bed asleep. Witness works in the wagon-shop with Randall. R. was a little tight. The clock has a flowered face. Don't remember it struck 12. Thinks R. went to bed at 9 o'clock. Witness went then to see Randall's daughter. R. has no horse. Witness heard of Roundtree's death from his sister; she from some of Morses.

Martin M. Randall, sworn, says: R. was at home on the Friday night when Tom was killed. R. went to bed about 10 o'clock. They left there after 12 o'clock.

John Hicks, sworn, says: He was not at Roundtree's the night he was killed; he was at home. He had only a white hat at the time R. was killed.

Mrs. Mulinda Harman, sworn, says: She left Mrs. Hicks's about sundown on the fatal Friday. John was there, and was complaining.

Samuel C. Randall, sworn, says: He was at home on the night of the murder with Francis Brown and Randall. He was not at Black's; had no connection with the killing. He never had the conversation related by Nancy. The Ku-Klux did call the witness and ask him about a yellow man named Austin Williams; not about Tom. He did not know them. Witness was at a corn pile.

Hannah Black, sworn, says: She was at Tom's house on Saturday. Tom, De Priest, and Dr. Black crossed the fence. There are two who were with them, said Harriet; she also said Jim Smith and Hackey were; she never mentioned the names of the prisoners.

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William C. Black, sworn, says: He was at home. His son called his attention to the shooting. He listened; heard it; called in the few people. It was fifteen minutes after 12. It is six or seven miles from B's to Randall's. Babus's character is good. He is credible in this neighborhood. He knows Hannah Black; servant of his brother. She is good character. He knows Harriet. Her character is rather bad. They worked with witness. He could not believe her on oath. He lives one-quarter mile from Tom's,

Rev. Samuel Hunter, sworn, says: Preaches at Pine Grove, in this county. Nancy Black and Sally Deal were tattling on Saturday before the second Sunday. They were quarrelling about the oath concerning Byers, He knows Samuel C. Randall. He is one of the best-natured men in the world. Harriet is weak-minded. From her character, he would not like her swear against him.

Jefferson Black, sworn, says: He was on the jury of inquest. Harriet's character is not good. He would not believe her on oath.

Joseph Kline, sworn, says: Harriet's character is bad. He would not believe her on oath.

Perry Turner, sworn, says: Knew Harriet Black. Her character is bad. He could not believe her on oath.

IN REPLY.

H. K. Roberts, sworn, says: He was there on Sunday—at Black's. Did not suggest any names to her. Paris had a consultation, at which witness was not present. Don't know Harriet's reputation.

W. W. Gaffney, sworn, says: Knows nothing of the reputation of Harriet Black.

THE STATE	}	York. Indictment: murder. January term, 1871.
vs.		
SAMUEL C. RANDALL, MALCOLM B. Byers, and J. F. D. Hicks.		

The defendants having been found not guilty,

On motion of Beatty & Bell, it is ordered that the said Samuel C. Randall, Malcolm B. Byers, and J. F. D. Hicks be discharged from their respective recognizances, and go thereof without day.

W. M. THOMAS.

JAN'Y 20, 1871.

STATE OF SOUTH CAROLINA, *County of York* :

I, John F. Wallace, clerk of the court of common pleas and general sessions in and for the county of York and State aforesaid, (the same being a court of record,) do hereby certify unto all whom it may concern that the foregoing instrument of writing is a true and correct copy of the original record in the case of the State against Samuel C. Randall, Malcolm B. Byers, and John F. D. Hicks, for murder, now on file in my office.

Given under my hand and the seal of the said court, done at York Court-House, this twenty-ninth day of July, in the year of our Lord one thousand eight hundred and seventy-one, and in the 96th year of American independence.

[SEAL.]

J. F. WALLACE,
Clerk Court Common Pleas and General Sessions.

APPENDIX No. 3.

[The following is a certified copy of the record in the case of William Wright, colored, tried and convicted of perjury, for swearing that Abraham H. Sapoch had, with a party of Ku-Klux, whipped him.]

STATE OF SOUTH CAROLINA, *York County* :

Personally appeared before me Abraham H. Sapoch, and makes oath that, on the 25th day of April, 1870, William Wright, a person of color, made oath, in the county and State aforesaid, before H. K. Roberts, magistrate, that the said Abraham H. Sapoch, *alias* Abraham Sapaugh, came to Peggy Clark's on the night of 6th October, 1869, about 9 o'clock p. m., with other persons, and took him out of the house, and took him about one hundred and fifty yards from the house, and that this deponent, with other persons, did tie the said William Wright and whip him, in York County, South Carolina. That upon said affidavit a warrant was issued against deponent, and he was arrested and brought to trial before Miles Johnson, magistrate, and was acquitted. Deponent fur-

ther makes oath that the affidavit, made as aforesaid by the said William Wright, and charging him as aforesaid with the acts therein named, is utterly false; that on making said affidavit the said William Wright swore falsely and was guilty of perjury.

A. H. SAPOCH.

Sworn to and subscribed before me this 3d day of May, A. D. 1870.

MILES JOHNSON,
Trial Justice.

SOUTH CAROLINA, *York County :*

To any lawful constable :

Whereas complaint on oath has been made unto me by A. H. Sapoch, that in the county and State aforesaid, one William Wright, p. c., did make oath before H. K. Roberts, magistrate for said county, on the 25th day of April, 1870, that the said A. H. Sapoch, on the 6th of October, 1869, with some ten or twelve others, did take him, the said William Wright, out of his house and whip him, the said William Wright, upon which a warrant was issued, and for which he, the said Sapoch, was tried before Miles Johnson, magistrate, on the 30th of April, and by the jury found not guilty, and the said William Wright is charged, upon the oath of the said A. H. Sapoch, with perjury, these are therefore to command you forthwith to apprehend the said William Wright and bring him before me to be dealt with according to law.

Given under my hand and seal May 3, 1870.

MILES JOHNSON,
Trial Justice.

SOUTH CAROLINA, *York County :*

Personally appeared A. H. Sapoch, and after being duly sworn, deposes and says that A. P. Black, Ira Hardin, James Bird, and R. M. Roark, jr., are material witnesses in the case of the State *vs.* William Wright, charged before me on oath of the said A. H. Sapoch on the 25th day of April, 1870.

A. H. SAPOCH.

Sworn to and subscribed before me this 3d day of May, 1870.

MILES JOHNSON,
Trial Justice.

SOUTH CAROLINA, *York County :*

Whereas complaint on oath has been made unto me by A. H. Sapoch, that A. P. Black, Ira Hardin, James Bird, and R. M. Roark, jr., are material witnesses in the case of the State *vs.* William Wright, for perjury, these are therefore to command you forthwith to apprehend the said witnesses above named, and bring them before me, to be dealt with according to law.

Given under my hand and seal May 3, 1870.

MILES JOHNSON,
Trial Justice.

THE STATE OF SOUTH CAROLINA, *County of York :*

Be it remembered that, on the 23d day of May, in the year of our Lord one thousand eight hundred and seventy, personally appeared William Wright and Captain John R. Faris and H. K. Roberts before me, Miles Johnson, trial justice in and for the said county and said State, who acknowledged themselves indebted to the State of South Carolina; that is to say: The said William Wright in the sum of three hundred dollars, and the said Captain John R. Faris and H. K. Roberts in the sum of one hundred and fifty dollars each, like money to be levied of their separate lands and tenements, goods and chattels, respectively, to and for the use of the said State, if the above-mentioned William Wright shall fail in performing the condition underwritten.

Now the condition of this recognizance is such that if the said William Wright shall personally appear before the court of general session, for York County, in the State aforesaid, to be holden at the usual place of judicature, in Yorkville, on the second Monday in September, 1870, then and there to answer to a bill of indictment to be preferred against the said William Wright for perjury, and to do and receive what shall be enjoined by the court, and not to depart the court without license, then this recognizance to be null and void, or else to remain in full force and virtue.

WILLIAM ^{his} + WRIGHT. [SEAL.]
mark.
JOHN R. FARIS. [SEAL.]
H. K. ROBERTS. [SEAL.]

Taken and acknowledged, the day and year above written, before me.

MILES JOHNSON,
Trial Justice.

STATE OF SOUTH CAROLINA, *County of York :*

Be it remembered that, on the 5th day of May, in the year of our Lord one thousand eight hundred and seventy, personally appeared J. L. Bird and D. J. Hardin and A. P. Black and R. M. Rourk before me, Miles Johnson, magistrate in and for the said State, who acknowledge themselves indebted to the State of South Carolina ; that is to say : The said J. L. Bird and D. J. Hardin in the sum of three hundred dollars each, and the said A. P. Black and R. M. Rourk in the sum of two hundred dollars each, like money to be levied of their separate lands and tenements, goods and chattels, respectively, to and for the use of the said State, if the above-mentioned J. L. Bird and D. J. Hardin shall fail in the performing the condition underwritten.

The condition or this recognizance is such that if the said J. L. Bird and D. J. Hardin shall personally appear before the court of general sessions for York County, in the State aforesaid, to be holden at the usual place of judicature, in Yorkville, on the third Monday in September next, then and there to testify to a bill of indictment to be preferred against William Wright, by the State, for perjury, and to do and receive what shall be enjoined by the court, and not to depart the court without license, then this recognizance to be null and void, or else to remain in full force and virtue.

J. L. BIRD. [SEAL.]
 D. J. HARDIN. [SEAL.]
 A. P. BLACK. [SEAL.]
 R. M. ROURK. [SEAL.]

Taken and acknowledged, the day and year above written, before me.

M. JOHNSON,
Trial Justice.

STATE OF SOUTH CAROLINA :

Be it remembered that, on the 5th day of May, in the year of our Lord one thousand eight hundred and seventy, personally appeared A. P. Black, R. M. Rourk, before me, Miles Johnson, magistrate in and for the said State, who acknowledged themselves indebted to the State of South Carolina ; that is to say : The said A. P. Black and R. M. Rourk in the sum of three hundred dollars each, and the said J. L. Bird and D. J. Hardin in the sum of two hundred dollars each, like money to be levied of their separate lands and tenements, goods and chattels, respectively, to and for the use of the said State, if the above-mentioned A. P. Black and R. M. Rourk shall fail in the performing the condition underwritten.

The condition of this recognizance is such that if the said A. P. Black and R. M. Rourk shall personally appear before the court of general sessions, to be held in Yorkville, in the State aforesaid, at the usual place of judicature, on the third Monday in September next, then and there to testify to an indictment to be preferred against the said William Wright by the State, for perjury, and to do and receive what shall be enjoined by the court, and not to depart the court without license, then this recognizance to be null and void, or else remain in full force and virtue.

A. P. BLACK. [SEAL.]
 R. M. ROURK. [SEAL.]
 D. IRA HARDIN. [SEAL.]
 J. L. BIRD. [SEAL.]

Taken and acknowledged, the day and year above written, before me.

M. JOHNSON,
Trial Justice.

STATE OF SOUTH CAROLINA :

Be it remembered that, on the 16th day of September, in the year of our Lord one thousand eight hundred and seventy, personally appeared Henry Quinn and William Quinn before me, James K. Wagoner, magistrate in and for the said State, who acknowledged themselves indebted to the State of South Carolina ; that is to say : The said Henry Quinn in the sum of two hundred dollars, and the said William Quinn in the sum of two hundred dollars, like money to be levied on their separate lands and tenements, goods and chattels, respectively, to and for the use of the said State, if the above-mentioned Henry Quinn shall fail in the performing the condition underwritten.

The condition of this recognizance is such that if said Henry Quinn shall personally appear before the court of general sessions, in the State aforesaid, to be holden at the usual place of judicature, in Yorkville, on the third Monday in September, 1870, at 10 o'clock, then and there to answer to a bill of indictment to be preferred against Wil-

liam Wright for perjury, and to do and receive what shall be enjoined by the court, and not to depart the court without license, then this recognizance to be null and void, or else remain in full force and virtue

his
HENRY + QUINN. [SEAL.]
mark.
WM. H. QUINN. [SEAL.]

Taken and acknowledged, the day and year above written, before me.

JAMES K. WAGONER,
Trial Justice.

THE STATE OF SOUTH CAROLINA, *County of York :*

Be it remembered that, on the fifth day of September, in the year of our Lord one thousand eight hundred and seventy, personally appeared Nancy Carroll before me, W. H. Carroll, trial justice in and for the said county and the said State, who acknowledge themselves to be indebted to the State of South Carolina; that is to say: The said Nancy Carroll in the sum of two hundred dollars, and the said W. H. Carroll in the sum of two hundred dollars, like money to be levied of their separate lands and tenements, goods and chattels, respectively, to and for the use of the said State, if the above-mentioned shall fail in performing the condition underwritten.

The condition of this recognizance is such that if the said Nancy Carroll shall personally appear before the circuit court of common pleas, in the State aforesaid, to be holden at the usual place of judicature, in Yorkville, on the third Monday in September, then and there to answer to a bill of indictment to be preferred against William Wright for perjury, and to do and receive what shall be enjoined by the court, and not depart the court without license, then this recognizance to be null and void, or else remain in full force and virtue.

her
NANCY + CARROLL. [SEAL.]
mark.
W. H. CARROLL. [SEAL.]

Attest :

Taken and acknowledged, the day and year above written, before me.

JAMES K. WAGONER,
Trial Justice.

THE STATE OF SOUTH CAROLINA, *York County :*

At a court of general sessions began and holden in and for the county of York, at Yorkville, in the county and State aforesaid, on the third Monday in September, *anno Domini* one thousand eight hundred and seventy.

The jurors of and for the county and State aforesaid, that is to say, upon their oaths present that William Wright, late of the county of York, laborer, wickedly and maliciously contriving and intending unjustly to aggrieve one Abraham H. Sapoeh, sometimes called Abraham Sapaugh, and subject him to the punishments, pains, and penalties by the laws of this State provided for persons guilty of assault and battery, and such like acts of violence, on the twenty-fifth day of April, *anno Domini* 1870, at Yorkville, in said county, came in his proper person before H. K. Roberts, esquire, then one of the justices of the said State, assigned to keep the peace in and for the said county and State, and also to hear and determine certain misdemeanors and cases of assault and battery committed in the said county, and then and there, before the said H. K. Roberts, esquire, in due form of law, was sworn and took his corporal oath upon the Holy Gospel of God, (he the said H. K. Roberts then and there having a lawful and competent power and authority to administer the said oath to the said William Wright in that behalf,) and that the said William Wright being so sworn as aforesaid, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, then and there, upon his oath aforesaid, before the said H. K. Roberts, esquire, in a certain prosecution then and there commenced against the said Abraham H. Sapoeh or Sapaugh, falsely, corruptly, knowingly, willfully, and maliciously did say, depose, swear, and give information in writing, (among other things,) in substance as follows; that is to say: "This deponent, (meaning the said William Wright,) upon his oath saith that Abraham Sapoeh, *alias* Abraham Sapaugh, came to Peggy Clark's on the night of the 6th day of October, 1869, with other persons, and took him (meaning the said Wright) out of the house and about one hundred and fifty yards from the house, and with other persons did tie and whip the said Wm. Wright. And upon the said affidavit, the said Abraham Sapoeh was arrested upon a warrant issued by the said H. K. Roberts, and he was brought to trial before Miles Johnson, esquire, one of the magistrates or trial justices of the said county, who was then and there competent to administer oaths

when the same charges were reiterated by the said Wm. Wright, he having first been sworn on the Holy Evangelists. Whereas, in truth and in fact, the said Abraham Sapoeh, *alias* Abraham Sapaugh, did not go to Peggy Clark's house on the night of the 6th day of October, A. D. 1869, did not take him out of the said house and whip him, or assist others in so doing.

And whereas, in truth and in fact, the said Abraham Sapoeh, *alias* Abraham Sapaugh, did not, at the time stated, or at any other time, or at the place charged or any other place, either alone or in company with others, whip or tie or otherwise or anywise maltreat the said William Wright.

And the jurors, upon their oaths aforesaid, do say that the said William Wright on the said twenty-fifth day of April, *anno Domini* one thousand eight hundred and seventy, at York Mills aforesaid, before the said H. K. Roberts, esq., (he the said H. K. Roberts, esq., then and there having such power and authority as aforesaid,) by his own act and consent, and of his own most wicked and corrupt mind, in manner and form aforesaid, falsely, wickedly, willfully and corruptly did commit willful and corrupt perjury, to the great displeasure of Almighty God, to the great injury of the said Abraham H. Sapoeh, in contempt of the said State and its laws, to the evil and pernicious example of all others, in like cases offending against the form of the act of the general assembly in such cases made and provided, and against the peace and dignity of the same State aforesaid.

WM. H. BRAWLEY, *Solicitor.*

A true bill. September 20, 1870.

H. H. DRENNAN, *Foreman.*

THE STATE }
vs. } Perjury.
 WM. WRIGHT. }

H. K. Roberts, sworn, says: Defendant made the affidavit upon which he issued a warrant for Abraham Sapo. Witness is a trial justice. It is correctly reported that Wright was whipped. Sapo sometimes wears a beard. It was three or four months after the whipping that the warrant was taken out.

Abraham Sapo, sworn, says: He did not whip him at the time and place alleged, or at any other time and place. He lives two miles from Peggy Clark's, where the whipping was done. He heard of the whipping. Witness was at home that night.

Miles Johnson, sworn, says: He was the trial justice before whom Abraham Sapo was tried. William Wright swore that Abraham Sapo whipped him. Sapo was acquitted.

A. P. Black, sworn, says: Abraham Sapo was at home at 9 o'clock on the night alleged. He was there; he heard of the whipping; they sat up until midnight; he went to bed at 10 o'clock.

January 17, 1871. Guilty.

JOHN J. WYLIE, *Foreman.*

STATE OF SOUTH CAROLINA, *County of York:*

I, J. F. Wallace, clerk of the court of common pleas and general sessions in and for the county aforesaid, in the State aforesaid, (the same being a court of record,) do hereby certify that the foregoing instrument or writing is a true and correct copy from the original record in the case of the State against William Wright for perjury, now on file in my office.

(Given under my hand and the seal of the said court. Done at York court-house, this the twenty-ninth day of July, in the year of our Lord one thousand eight hundred and seventy-one.

[SEAL.]

J. F. WALLACE,
Clerk Common Pleas and General Sessions.

YORKVILLE, SOUTH CAROLINA, July 27, 1871.

JAMES B. PORTER sworn and examined.

By the CHAIRMAN:

Question. Do you live in this place?

Answer. Yes, sir.

Question. How long have you lived here?

Answer. All my life.

Question. How old are you?

Answer. Twenty-seven past.

Question. What is your occupation ?

Answer. Mechanic by trade. I am a clerk in a bar-room now.

Question. What is your mechanical occupation ?

Answer. Carriage-making.

Question. Were you in this building on the night that the raid was made on the treasury ?

Answer. Yes, sir.

Question. Do you recollect the day of the month ?

Answer. It was the 26th of February.

Question. We had an account of the occurrence from Mr. Russell, who was here at the same time. I wish you would begin at the point where they took you from this building, and tell us what they said and did to you ; and tell us, as far as you know, who participated in it, commencing at the point where they took you into custody, and took you from this building.

Answer. They took me out of the bar-room in this place, and took me around into the treasurer's office, in the next place, and took me from there up-stairs and broke in everywhere as they went along—all the doors—cursing and damning me all the time ; and punched me about with their fists and the muzzles of their guns, and saying, "Where is Ed. Rose ?" I told them I didn't know where he was at that time, for he had been in the bar-room not long before they came there. They cursed and damned me, and said I was a damned liar, and that I did know and should tell. I still told them I didn't know where he was, because he had gone out of the room ; I was lying asleep when they came to the door, and I hadn't seen him when they came. They rummaged about through the treasury department there a while, and tore up, or didn't tear up, but strewed about the papers and books, and pulled out the drawers, and ransacked and carried off some cartridges and other little articles. They gathered up an old hammer or ax, and commenced hammering on the safe. Some one should have hollered out, "Don't do that, men ; that is not right." They kept on. Some one hollered out, "Don't do that ; it is not right ;" and some one went up and grabbed the one knocking and took him away, and all of them got away ; but just before that they were knocking open the money-drawer. I was standing just over ; it was in front of the counter. I can't say whether there was any money in the drawer ; but there was, for there was some found on the floor. I saw a two-dollar bill on the floor next morning.

Question. Was that in your bar-room or in the treasury ?

Answer. In the treasury. They all went out of there and took me into the long room where the treasurer's office was, and hollered out then, "Let's go out of here ;" and they got out on the porch and took me off up street ; as they went they fired off guns, and cursing, and saying they would shoot me, as they went along, and all this kind of stuff ; that "Damned if I didn't have to tell where Ed. Rose was, or they would kill me." Up at the corner they started for the jail, and just as they got thirty or forty paces down that road, some one hollered out, "Turn to the right, up the main street, around to Tom Wright's. We went along, and going along up street some one said, "You had better go into one of the stores and get a good whip." They didn't do it, I suppose ; at least I didn't see any whip. They went on to Tom Wright's. I was standing out in the road, and there was some four or five shots—four, I suppose—fired as we were going into the house, from a little hollow there just beyond the house. Some of them came pretty close ; but they didn't stay there but a few moments. They left there and brought me on back. As they were coming back, before they came in the public street, on the main street, two young men were upon a fence at Clawson's back gate, and some one says, "Who is this on the fence ?" and Clawson spoke up and says, "This is Clawson and Marshall." Some one spoke up and said, "They are all right." And then young Clawson says, "Who is this calls me?" and he jumps down off the fence and run down and grabs some one by the arms, and they laughed there and talked a little bit and went back to the fence. They came on down to Hobbs & King's carriage-factory, and there some one says, "Bring the prisoner this way," and they took me up in the alley there in the back lot, and there they stood a little bit and talked, and says one, "We must give him a few anyhow." Well, they didn't have no hickory or switch, and they went and got an old buggy and jerked a piece out of that about the dash, and struck me three or four licks with that by turns, but it broke all to pieces. Then they got some three or four withes off of some caper bushes. They came back and broke that to pieces over me. Then they let me loose and told me, damn me, go home and stay there, and never to catch me in that bar-room again, or with Ed. Rose. I left them and went down the back way, and went up ; I was keeping bar-room at the upper end of town at that time.

Question. Is that all that occurred that night ?

Answer. Yes, sir, from the time I left here.

Question. How many men were engaged in this business altogether ?

Answer. I can't tell you definitely. I suppose some forty or fifty. They looked like that many.

Question. Did you know any of them ?

Answer. Yes.

Question. Tell us who you knew ?

Answer. I think I am very confident that I knew two men.

Question. Who were they ?

Answer. One was Lawson Armstrong, and Pinckney Caldwell.

Question. Where do they live ?

Answer. Lawson Armstrong lives nine or ten miles out on the Charlotte Road.

Question. What is he ?

Answer. A farmer.

Question. Does he own his farm ?

Answer. I don't know.

Question. Who is Pinckney Caldwell ?

Answer. He lives eight or ten miles out toward Smith's Ford, west.

Question. What is he ?

Answer. A farmer.

Question. Do you know whether he owns his land ?

Answer. No, sir.

Question. Did you know anybody else ?

Answer. No, sir, I didn't know anybody else. The way I came to recognize Armstrong was by his voice and maneuvers. He was talking out on the pavement there just as he got out of the house, and says, "Men, we must go back, for Ed. Rose is on top of this house, and we must have him."

Question. Who said that ?

Answer. Armstrong. Pinckney Caldwell was one of the men who were whipping me. He was talking to me all the time. I knew his voice. He was raised here and I knew his voice as I did Armstrong's.

Question. Was he disguised ?

Answer. Yes, sir.

Question. Were there any persons from this town that you recognized in that company ?

Answer. No, sir ; not that I could be satisfied of.

Question. Have you any impression about it ?

Answer. I might have several impressions, but I would not be positive.

Question. Had you an idea that there were persons that you did recognize ?

Answer. No, sir, I can't say.

Question. Have you stated at any time that you recognized John Hunter ?

Answer. No, sir.

Question. Or John Graham ? Did you recognize John Graham ?

Answer. I thought I recognized him, but I was not positive. I would not be positive about John Graham.

Question. As they went up street was any reference made to any citizens of the town who did not turn out as they thought they ought to have done ?

Answer. No, sir ; I didn't hear anything of the kind.

Question. Have you given, according to your memory, what was said and done after they took hold of you in the building ?

Answer. There was once something happened in here—in the bar-room—that I have not stated exactly.

Question. What was that ?

Answer. Knocking the cocks off the barrels and spilling the whisky.

Question. That was after they came in to where you were ?

Answer. Yes, sir ; and some one hollered out, "Don't do that ; it's private property."

By Mr. VAN TRUMP :

Question. In whose employment are you now ?

Answer. Mr. Russell's.

Question. In this building ?

Answer. Yes, sir.

Question. The military headquarters of Major Merrill ?

Answer. It is right under here—Mr. Russell's individually.

Question. But the same building as the military headquarters ?

Answer. Yes, sir.

Question. What is your business ?

Answer. Clerking.

Question. In a bar-room ?

Answer. Yes, sir.

Question. Have you been here ever since that raid ?

Answer. No, sir ; I staid at a bar up at the upper end of our town for a time. I came here the 20th of May.

Question. Was Russell living here ?

Answer. He stays here.

Question. Was he staying here at the time of the raid ?

Answer. Yes, sir.

Question. What was your business then ?

Answer. Me and Russell are relations, and I came and staid with him.

Question. Did you just come on that occasion for a short time, or were you permanently employed under him ?

Answer. I was not permanently employed under him.

Question. How long had you been here before the raid ?

Answer. All the evening.

Question. You had just come for that time ?

Answer. That is all.

Question. You did not intend to stay with them if the raid had not taken place ?

Answer. I intended to stay the balance of the night.

Question. But after that ?

Answer. No ; I had business to attend to at the upper end of town.

Question. When you came that night at what time did you intend to go back ?

Answer. Next morning.

Question. You did go back ?

Answer. Yes, sir ; I went back as soon as they let me loose to go back.

Question. That was the 26th of February ?

Answer. Yes, sir ; as well as my memory serves me.

Question. Have you talked with anybody about this transaction ?

Answer. Only two men.

Question. Who were they ?

Answer. Major Briggs, and David Russell, the man I am employed by now.

Question. When did you see Briggs ; after the raid ?

Answer. It was a good while ; don't remember how long.

Question. When did you first have a talk with Russell about it ?

Answer. The next day, sir.

Question. Did he ask you if you knew any of them ?

Answer. Yes, sir.

Question. What did you tell him ?

Answer. I told him the two men.

Question. Were they the only two you told him ?

Answer. They were the only two I told him I was positive about.

Question. Did you tell him anything at all about anybody else ?

Answer. I told him I imagined such and such a one ; I could not be positive

Question. Who did you tell him you imagined ?

Answer. I told him I imagined John Graham.

Question. Who is John Graham ?

Answer. John Graham is John Graham ; that is all I can tell you.

Question. Does he live here ?

Answer. Yes, sir.

Question. Has he people here ?

Answer. Yes, sir.

Question. Who is his father ?

Answer. Old man Graham.

Question. What is his name ?

Answer. I don't know only Graham.

Question. Is he the man who is a merchant here ?

Answer. Yes, sir.

Question. How old is John Graham ?

Answer. That is more than I know.

Question. About how old ?

Answer. I take him to be about twenty.

Question. What is his size ?

Answer. I don't know what you might call his size.

Question. How high is he ?

Answer. I don't know that.

Question. Can you give an idea ?

Answer. He might be about ten feet if I were going to give heights.

Question. Do you mean he is ten feet high ?

Answer. No, sir ; I don't mean that.

Question. How high is he ?

Answer. He may be about five feet ten ; I can't be positive.

Question. What is his complexion ?

Answer. Sort o' dark.

Question. How much does he weigh ?

Answer. Maybe one hundred and twenty-five or one hundred and forty pounds.

Question. What is the color of his hair ?

Answer. I don't mind the color of his hair.

Question. What is the color of his eyes ?

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Answer. I don't mind that.

Question. Does he wear a beard ?

Answer. No, sir; he has a little mustache.

Question. Has he ever shaved ?

Answer. I don't know.

Question. Were you and John Graham intimately acquainted ?

Answer. No, sir.

Question. You never have been with him much before ?

Answer. I had been with him several times, but not intimately—not what you might call intimately.

Question. Was the man you supposed to be John Graham disguised ?

Answer. Yes, sir.

Question. How ?

Answer. His face was disguised.

Question. In what way ?

Answer. I don't mind exactly what sort of a disguise he had on ; it was dark—I could not see.

Question. How dark ?

Answer. Tolerably dark.

Question. Where did you see him ?

Answer. Going over about Dobson's store, and the corner where we turned off to go to Wright's house.

Question. Were there no lights in the street ?

Answer. No, sir. It was a dark night.

Question. How did you know it was John Graham ?

Answer. I didn't say it was him.

Question. What made you suspect it was him ?

Answer. By his manuevers, and his walk and actions around me.

Question. Take the real John Graham; is there anything peculiar in his walk ?

Answer. No, sir; he has a kind of luggish, slaggy way of walking,

Question. Have you not seen many young men and old men walking in that way ?

Answer. Not exactly like him. I am not positive about that.

Question. Have you seen men that came near like him in walking ?

Answer. That is more than I can tell you about a man walking near like another.

Question. You say it was so dark you could not see what kind of a disguise he had on ?

Answer. No, sir; not there.

Question. There is the place you suspected it was John Graham ?

Answer. Yes, sir.

Question. You could not see what sort of a disguise he had ?

Answer. I could only see him, and from his bulk, &c.

Question. From his bulk you thought it was John Graham ?

Answer. No, sir; from his voice and manuevers.

Question. Has he a peculiar voice ?

Answer. You have asked me about his voice.

Question. Yes, the first time; and if I ask a dozen times that is my business. Was there anything peculiar about the real John Graham's voice ?

Answer. No, sir; nothing peculiar, but I think I recognize the voice.

Question. What did he say ?

Answer. Well, he was cursing me and damning me for first one thing and then another. I can't call up everything. He called me a damned liar three or four times.

Question. What were you saying ?

Answer. Nothing; only the other party were asking me if I knew where Ed. Rose was.

Question. Whenever you said you did not know, he said you were a liar ?

Answer. Yes, sir; a "G—d d—n liar;" and "You know more about it than that."

Question. You thought it was John Graham out of these forty or fifty men ?

Answer. Yes, sir.

Question. Then, from the voice and the manuevers you suspected it was John Graham ?

Answer. Yes, sir.

Question. Did you ever see him since ?

Answer. Many a time.

Question. Did you ever tell him you thought it was him ?

Answer. No, sir.

Question. Did you ever ask him if he was there that night ?

Answer. No, sir.

Question. How did you discover Armstrong ?

Answer. In the same way. I am intimately acquainted with him.

Question. How old a man is he ?

Answer. I suppose him to be about twenty or twenty-one.

Question. Where does he live ?

Answer. I told you he lived out in the country about ten miles.

Question. You have not told me at all.

Answer. You heard me tell this other man.

Question. Seven or eight miles ?

Answer. No, sir; I didn't say so. About ten miles.

Question. Did you ever live there ?

Answer. No, sir.

Question. How long has he lived there ?

Answer. I don't know. All his life, I suppose.

Question. Where did you become so well acquainted with him ?

Answer. In town here.

Question. A young man ?

Answer. Yes, sir.

Question. What does he do in town so often ?

Answer. I don't know.

Question. Does he come to your bar-room when he comes to town ?

Answer. He has been here frequently.

Question. Is there anything peculiar about his voice ?

Answer. Nothing peculiar; only I am intimately acquainted with his voice.

Question. You will undertake to swear positively that that was Armstrong, because you knew his voice ?

Answer. To the best of my knowledge.

Question. What other indication made you know that it was him ?

Answer. It was by his walk and maneuvers, as I told you before.

Question. Who is Caldwell ?

Answer. He is simply a man.

Question. Where does he live ?

Answer. Some seven or eight miles, toward Smith's Ford, as I said before.

Question. What is his age ?

Answer. I don't know.

Question. Is he a young or old man ?

Answer. He is not very old or very young.

Question. About how old ?

Answer. He may be thirty; I don't know.

Question. A married man ?

Answer. No, sir; not that I know of.

Question. How did you know him ?

Answer. I knew him in the same way.

Question. Had he a disguise on ?

Answer. He had no disguise on, only on his face.

Question. How did you know him then ?

Answer. I have told you I knew him in the same way I knew the others.

Question. By his voice and maneuvers ?

Answer. Yes, sir; and by his being around me striking me with sticks.

Question. He had nothing on but a mask ?

Answer. That was all I saw about him that was anyway disguised.

Question. Who else have you talked with besides Russell ?

Answer. Major Briggs. I have never talked with him much.

Question. How came you to talk with him about it ?

Answer. Because I was in his employment at the time, and I knew he was a man I could rely upon.

Question. Where did he live when you were in his employment ?

Answer. He was at the time in the legislature in Columbia.

Question. Does he live in town here ?

Answer. No, sir; he lives out, I believe, six or seven miles. I am not certain.

Question. At the time of this raid was he in Columbia ?

Answer. Yes, sir.

Question. After the raid, when did you go to live at Briggs's ?

Answer. I was keeping a bar, as I said, at the upper end of town for Major Briggs.

Question. You were not out on his farm ?

Answer. No, sir.

Question. When did Briggs come home from Columbia ?

Answer. I don't remember.

Question. Can you recollect about the time ?

Answer. No, sir.

Question. How long was it after the raid; can you tell ?

Answer. No, sir; I don't know.

Question. Do you recollect when the legislature adjourned ?

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Answer. No, sir.

Question. Was it two weeks after the raid?

Answer. I don't know. It has been some time ago, and I have forgotten.

Question. Under what circumstances was it that you got to talking with Briggs about these men you knew?

Answer. He asked me.

Question. What did you tell him?

Answer. I told him just what I have told you.

Question. That you knew Armstrong and Caldwell? Did you tell him about John Graham too?

Answer. Yes, sir.

Question. Are those the only two men you have talked with since then?

Answer. The only ones except Major Merrill.

Question. When was that?

Answer. That was just the other day; day before yesterday, I believe.

Question. How came you to talk to him?

Answer. He sent for me.

Question. Where was he when he sent for you?

Answer. In his house.

Question. What did he say to you?

Answer. He was talking to me about things in general.

Question. You told him?

Answer. Yes, sir; I told him.

Question. You say Caldwell was one of the men that whipped you?

Answer. Yes, sir.

Question. Why did you not commence a prosecution?

Answer. That would play the devil with me. I had no more chance than a sheep at a shooting-match, then.

Question. You think so?

Answer. I know it.

Question. What makes you think so?

Answer. I have several reasons for thinking so.

Question. Give us all you have got?

Answer. Because I don't believe I could have got justice from these civil authorities.

Question. What civil authorities?

Answer. I don't remember exactly the ones now, or the ones in then.

Question. How do you know, then?

Answer. There had been several tried before that.

Question. You got that impression too?

Answer. Yes, sir; I did.

Question. You need not wink at me.

Answer. Well, I am honest. There is no wink nor blink in this matter about me.

Question. Who were the civil authorities here? See if you can recollect.

Answer. I don't remember. There has been changing about since, and I don't remember who they were.

Question. It was because you had no confidence in the civil authorities?

Answer. Yes, sir.

Question. Who told you not to have confidence in them?

Answer. No one at all; it was just my own impression.

Question. Where have you been that you have learned so much of these civil authorities?

Answer. I have been living right here in Yorkville ever since.

Question. In a bar-room?

Answer. No, sir.

Question. You have been in a bar-room ever since this raid?

Answer. Yes, sir.

Question. Was it in talk about the bar-room you got that impression of the civil authorities?

Answer. O, no, sir.

Question. Where then?

Answer. It was just an impression of mine from the fact that several had been tried here and nothing done with them. They were always acquitted.

Question. Perhaps they had not the right men as you had?

Answer. You know I have not got the right men, do you?

Question. No; I say perhaps they had not the right men, as you think you have.

Answer. I don't know what they had.

Question. Just keep your temper, and we will get along easier and better. Who is this Clawson you spoke of as on the fence?

Answer. Harry, son of Lawyer William Clawson.

Question. How old was he?

Answer. I don't know how old he is.

Question. Whose fence was he on?

Answer. On his daddy's fence.

Question. Who was this other man with him?

Answer. Marshall.

Question. Who is he?

Answer. Son-in-law of Clawson.

Question. Both young men?

Answer. Yes, sir.

Question. What did you say took place when you passed there?

Answer. Some one says, "Who is this on the fence?"

Question. Some one of the Ku-Klux?

Answer. Yes; and Clawson replied it was Clawson and Marshall; and he says, "Who is this that speaks to me?" and he jumped off the fence and ran around in the crowd and caught him by the arm, and they talked there a little while.

Question. How near were you to Clawson and Marshall?

Answer. I was as near as from me to that man.

Question. Six yards?

Answer. Yes.

Question. When did you see Clawson afterward?

Answer. Next day.

Question. Did you have a talk with him?

Answer. No, sir.

Question. Ever had a talk with him since?

Answer. No, sir.

Question. Never asked him what he was doing on the fence?

Answer. No, sir; I didn't think it was any of my business.

Question. You never asked him why he grabbed this Ku-Klux?

Answer. No, sir.

Question. What did they do when he grabbed him?

Answer. They laughed and talked. I don't know what they did.

Question. Did he grab John Graham or Armstrong?

Answer. I don't know who he grabbed.

Question. Where was Armstrong and Caldwell when you passed along?

Answer. I don't know.

Question. Was John Armstrong with them?

Answer. I don't know him.

Question. John Graham, I mean?

Answer. I don't know where he was.

Question. You have had no talk with Clawson?

Answer. No, sir.

Question. He is quite young?

Answer. Yes, sir.

Question. How old?

Answer. I suppose he is between twenty and twenty-five years old.

Question. Did he see you?

Answer. I don't know whether he saw me or not.

Question. He could have seen you?

Answer. Yes, sir.

Question. Had any of the Ku-Klux hold of you?

Answer. Yes, sir. They didn't have hold of me, but they walked beside me.

Question. They were masked and disguised, but you were not?

Answer. No. There was no use in a prisoner being masked.

Question. They were masked and you were not?

Answer. Yes.

Question. Clawson could see you and know you?

Answer. I suppose he would have seen me if he had looked after me, and he knew me if he saw me.

By the CHAIRMAN :

Question. Was this building, in which this bar-room and these headquarters now are, an old hotel?

Answer. Yes, sir.

Question. Was the bar-room rented separately from the headquarters?

Answer. Yes, sir.

YORKVILLE, SOUTH CAROLINA, July 27, 1871.

HAMPTON HICKLIN (colored) sworn and examined.

By the CHAIRMAN :

Question. Where do you live ?*Answer.* I live about seven miles from here. I used to live at Mr. Joe Miller's about seven miles from here in the country.*Question.* What did you do there ?*Answer.* I was working a farm. I started a farm there, but then I had to leave that, and I went over into North Carolina, about six miles the other side of the river. I worked for a man named John Sturley.*Question.* Were you visited at any time by the Ku-Klux ?*Answer.* Yes, sir ; I was visited here seven times by them before I went away.*Question.* That is out about seven miles from here ?*Answer.* Yes, sir.*Question.* Whose farm did you live on there ?*Answer.* Mr. John Sturley.*Question.* How far is that from the farm occupied by Mr. McCallum ?*Answer.* I can't just say. I don't know how far it is from his place to the river. I lived six miles and a half the other side of the river where I was working. I lived just six miles from McCallum's before I went away from here.*Question.* How far was the place where you lived from McCallum's ?*Answer.* I can't tell you exactly. It is two miles from McCallum's to Mr. Hammer's mill, and three miles to the river, and six miles from the river to where I lived.*Question.* Can you tell how far you lived from McCallum's when the Ku-Klux came to you ?*Answer.* Not precisely.*Question.* Was it ten or eleven or seventeen miles ?*Answer.* I would say it was about six miles, because it is more than three—*Question.* Very well, it was about six miles ?*Answer.* Yes, sir.*Question.* Do you know young Langdon Cheve McCallum ?*Answer.* I know Cheve McCallum.*Question.* How long have you known him ?*Answer.* I can't tell you how long. I have been living here fifteen or sixteen years ; ever since anybody.*Question.* Does he know you ?*Answer.* He ought to know me. I have seen him enough at Elison Creek church.*Question.* Did you ever talk to him ?*Answer.* Yes, sir. Me and Cheve and Tom and Gus McCallum—all three of the boys I know, and the father.*Question.* Tell us when the McCallums came to your house, and what they did.*Answer.* On the other side of the river ?*Question.* At any time.*Answer.* The first time they came to my house they came on a Tuesday night about 10 o'clock. I got away that night. They came back again on a Friday night. I got away that night, and I came to York and told the sheriff, and he says, "Do you know who they are ?" I said, "I have an idea." He says, "If you know tell me, and I will go out and take them up." And I says, "All right. If they come again I will tell you, and I will take another person along, so that there can't be any fault taking up a man wrongfully." They came back to me again. It was a Saturday evening. William Jackson came over to my house. I was putting up the chimney. He says, "Are you building up your chimney again for the Ku-Klux to tear it down ?" I went up to Mr. Garner's, and I says, "John, the Ku-Klux is going to ride to-night, and I want you to go with me, and when I go to York I can get them took up by the sheriff."*Question.* Who was this ?*Answer.* John Miller, this was. But he was scared and didn't come. They came there, but they didn't get me. I got away, and saw them, and I came in and told the sheriff.*Question.* When did the Ku-Klux come there ?*Answer.* They came there on a Friday night.*Question.* What did they say ?*Answer.* They tore down my chimney and shot the turkeys, and took all the things and mashed them up, and whipped my wife. She would not tell where I was. I was off, and they didn't get me. They was at Miller's, but they let him loose. They came on this side of Mr. Chalk's, and they took a fellow named Willis Lowry and whipped him. I went on behind them. They went on down to Mr. Pressley's, and I went on and waked up Tony Wallace and told him the Ku-Klux were coming—to come out. He 'low'd he wouldn't come out. I had just got out of the back door when they shot. They took him and whipped, and then they went back to the old shop and stopped. I

laid in the corner of the fence. I was as close to them as that, [two yards,] in the briars. I was on the left-hand side and they in the road, and they were by the fence. There was Andrew Hoge. He was captain. And Thomas Nichols says to Andrew, "I told you you could not catch Hamp." And Johnny says—

Question. Johnny who?

Answer. Johnny Nichols. The next was William Jackson, Sam Jackson's son. That is three; there was four. The next one was Matthew Parrot, a one-armed fellow. A sugar-cane mill caught his hand, and they cut it off.

Question. Who else were there?

Answer. That is all I know. Then I came on to the sheriff, and I told him. First I told the major. I didn't want to tell a haight wrong. I told him, "You said for me, if I knew, to come and tell you, and now I will tell you." He said, "All right, Hamp. Come into this room;" and he took me out there and then I told him; and he says, "I will give you good advice, Hamp." He says, "You go right home, and leave here and go to North Carolina." I went right home. That was Saturday, and I asked Mr. Miller if I might haul my corn to his house. He said, "Yes, but hold on. I will go Monday and see the sheriff. I held on a week, and Saturday, as I came from York, about 2 o'clock, Mr. Nichols, Johnny's father, came down the road, and Mr. Gillespie, and he said, "Come here." I was afraid he wanted some advantage of me, and I —

By Mr. VAN TRUMP:

Question. Who is he?

Answer. That's his father—old Mr. Nichols. He said, "Come out here; I want to talk to you." They came over, and I went out to the fence and I stated what I did, and he says, "Mr. Nichols, Hamp went to York and reported to Sheriff Glenn." I says, "No, I didn't." He says, "Then he reported your two sons." Mr. Nichols says, "Hamp, will you swear it was my sons?" I says, "Well, Mr. Nichols, I never did no man any harm, and it looks like they were trying to kill me, or to have them bother me." He says, "If Sheriff Glenn comes out here to make you swear to these men, don't you go, and I will guarantee you that no more Ku-Klux will bother you." I says, "All right." But Bill Gillespie, he said, "Don't you do that. If Sheriff Glenn comes out here to arrest these men, you go to York and do what you said." I said, "I 'low'd to do that." They came after me on Monday night. I had been chopping on new ground, and I staid out that week; and Drum Miller came to York on Monday morning to see the sheriff, and I asked him, "What did the sheriff say?" and he said, the sheriff said these fellows would kill me anyhow, and I might as well take it. I said, "What will I do?" He says, "I want you to stay if you can, but don't lose your life." Drum Miller said, "Hamp, I will go to York and go to see Pressley and see the sheriff, and see what we can do." He went and came back, and said they said they could do nothing. Monday night I saw them coming. John James said they would go and get Ben. Pressley. I went to Drum and told him the Ku-Klux would come Monday night. He sent me down to Mr. Gillespie. I went down to Mrs. Gillespie's, and I got Sam. Gillespie and Drum Miller, and his brother, John James, and Ben, Pressley, to come up, and that made four. They went up the road to the mill-branch, and they met these men, and Mr. Miller turned around and said, "The road is full of them; we can do nothing for you; you had better get out." I slipped out into the woods again, and I came up here to the sheriff again on Wednesday, and told him, and the sheriff said, "Hamp, you had no business reporting these men." I said, "Sheriff, you told me to report them men and you would arrest them, and now you want me to go away." He just said, "Yes, go away," and I left, and then I went over the river. On Sunday I had been at Charlotte, and I came back about half past 10 o'clock on Sunday night. About half after 11, after I laid down, they got me; then they whipped me. They had my hands tied, and they whipped me and whipped me until they cut me all to pieces. They took me after they got me for about two miles.

Question. Was that when you went to North Carolina?

Answer. Yes, sir; they followed me. They says, "What did you tell Sheriff Glenn?" First I said, "I didn't tell him nothing." They said, "Didn't you take him off in a house and tell him you followed we men down the road below Pressley's; that you laid down in the corner and heard us calling these men's names?" I said, "Yes." They said, "Sheriff Glenn told us to kill you." Then I knew I couldn't deny what I told Sheriff Glenn, because they were telling the very same thing I told him. They had me then and they whipped me, and whipped me, and whipped me, and whipped me, and whipped me. They said, "How dare you follow us?" I said, "I did it according to the sheriff's orders; I did as he said. He said he would take you up if I would tell him." They said, "Well, the sheriff told us to kill you." They told me over everything I had told the sheriff. I had told to the sheriff all that in this very room, at this very table where we are sitting.

By the CHAIRMAN:

Question. You say they whipped you there that night?

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Answer. Yes, sir.

Question. How much?

Answer. They whipped me so I couldn't travel. I was two days crawling thirteen miles. On Monday I only got three miles. I was cut all to pieces, all my back and all over. When I got here I couldn't do anything.

Question. How many men whipped you the last time?

Answer. I think eighteen of them.

Question. Did you know any of them?

Answer. No; only I knew the horses. One rode a leopard mule; that was Mr. Williams's mule. That was a colored man rode that mule.

Question. Did you know anybody else?

Answer. Yes, sir. There was one horse there had one right hind foot was white and one left fore foot. That was Jimmy Jones's horse.

Question. Did you know who was on that horse?

Answer. I reckon it was the master of the horse.

Question. Did you know him?

Answer. I could not tell him.

Question. Did you know anybody else's horse except the leopard mule and Jim Jones's horse?

Answer. No, sir; only one had a white spot.

Question. But you didn't recognize any more to know them?

Answer. No, sir.

Question. Was that the last time the Ku-Klux whipped you?

Answer. Yes, sir.

Question. Then you came to town here?

Answer. Yes, sir. As I was starting to tell you, when I told these horses over to the major, the sheriff disputed it, and said there was nothing of it. I told the major to send to the river and prove it. There was no leopard mule, the sheriff said. I told the major I didn't want to say anything except I was confident, and that Jimmy Jones's horse had two white legs.

Question. Do you mean that you described these horses to Major Merrill and the sheriff?

Answer. Yes, sir.

Question. Have you gone back since?

Answer. No, sir; I never have been back since.

Question. Have you been afraid to go?

Answer. Yes, sir. They would kill me if I went.

Question. Have you been here?

Answer. Yes, sir, right here.

Question. When was it they whipped you the last time—how long ago?

Answer. About two months ago, I expect. For two weeks here I could not do aught; they had beat me so across the back and all over with sticks.

Question. What were you doing in North Carolina?

Answer. I was making a crop at Mr. Sturley's. I had planted it, and came away and left it.

Question. What became of it?

Answer. He hired hands to work it out.

Question. How often did the Ku-Klux come after you in these other visits?

Answer. Seven times, and they didn't get me any time.

Question. What did they want?

Answer. They wanted to whip me like the rest. I suppose they wouldn't have been so hot after me if I hadn't come here and told the sheriff some names.

Question. Is this all you know about it?

Answer. Yes, sir.

By Mr. STEVENSON:

Question. Did they find the leopard mule?

Answer. Yes, sir. It was here yesterday. It was right out here.

Question. Who rode it here?

Answer. Mr. Williams rode it himself.

By Mr. VAN TRUMP:

Question. At the time they whipped you, without going back just now to the first of these transactions, who did you know that was in that crowd?

Answer. I didn't know any one of the gentlemen. They had beaten me so over the head with sticks that my face was all blood, and my eyes all full of blood, and I didn't know a man.

Question. You saw the leopard mule; what sort of a thing is that—spotted?

Answer. Yes, sir.

Question. And nobody but Jim Williams has one?

Answer. Yes, sir.

Question. What is his name?

Answer. Henry Williams. What made me qualify it was the people that was on that side was not from North Carolina, because I was within a mile of the river, and when I got away from them I run down toward the river, and when I got to the bill at the grave-yard I heard them at the ferry.

Question. How far did you live in North Carolina?

Answer. Six and a half miles.

Question. How far did Williams live this side?

Answer. Six miles.

Question. He would have to ride that distance?

Answer. Yes, sir.

Question. What sized man is Williams?

Answer. A little thicker and a little higher than that gentleman [Mr. Stevenson].

Question. Was that the sized man that rode that mule?

Answer. No, sir, it was a colored man.

Question. Are you sure?

Answer. Yes, sir; he didn't have a hight on.

Question. Did you know who he was?

Answer. Yes, sir.

Question. Do you mean he was a negro?

Answer. Yes, sir.

Question. How many others were there?

Answer. Eighteen in all.

Question. All on horseback?

Answer. Yes, all but one, riding a mule.

Question. All had on disguises?

Answer. Yes, sir.

Question. What sort?

Answer. They had on these false-faces and white covers.

Question. How do you know they were not all colored men?

Answer. There was only one colored man, because he did not have anything on his face.

Question. How do you know the others were not colored men?

Answer. There is very few colored people who have straight hair like white people.

Question. Were their heads covered?

Answer. No, sir, their heads were not covered, but their faces were. I could see their hair.

Question. You told the sheriff of all these transactions?

Answer. Yes, sir, I told him of that and named out the men to him just as I have to you.

Question. How big a man is Jimmy Jones?

Answer. A little chunky man.

Question. What sort of a man was riding Jones's horse that night?

Answer. He was covered up with a sheet with spots on it, so that I could not tell what sized man. The sheet came down over his shoulders and to the saddle. The colored man had hold of me and I looked up at him. He said, "You needn't look at me." I was trying to make him out. I told the major about that. Then the white man struck me with a gun right on the side of the face. You can see the scar here, now, where he struck me.

Question. On what occasion was it that you know these five men you spoke of?

Answer. That was before.

Question. Where was it?

Answer. That was up at Mr. Miller's here.

Question. What night was that?

Answer. That was on Friday night, I know these men.

Question. How came you to get in the briers so close to them?

Answer. The sheriff told me that when I went back to follow them around, and be certain and not take up any man wrongfully, and I wanted to tell him, and tried to do it, and I followed them.

Question. Were you in a brier-thicket by the high-road?

Answer. Yes, sir.

Question. Where were they going, when you saw them pass?

Answer. They were going down to Sol. Hill's.

Question. Toward your house?

Answer. No, sir; they had been at my house and broken everything up. I was out of my house at that time.

Question. How did you get ahead of them then?

Answer. When they were in my house they were mashing up things, and shooting the turkeys, and I run on to Mr. Miller's to notify him.

Question. When you saw them on horseback were they right close to you ?

Answer. Yes, sir.

Question. Had they their disguises on ?

Answer. Yes, sir ; all of them.

Question. How did you know the men ?

Answer. After they went down they took Tony Wallace and whipped him, and they all said, one, two, and they started back.

Question. Did you follow them ?

Answer. Yes, sir. I tried to get Tony out of his house before they came, but he would not come out. They said, one, two, three, and started ; and when they came to the house they left two men with the horses, and I laid down in the corner. The horses were at one side of the road, and they commenced calling the names. They called first Andy Hoge, the captain ; he had on a uniform and he said, "Andy——"

Question. Who did ?

Answer. Thomas Nichols called Andy Hoge, that he was commander, and he said, "I told you you could not catch Hamp." They thought there was nobody around heard.

Question. One of the Ku-Klux said Andrew ?

Answer. Yes, sir.

Question. How do you know he meant Andrew Hoge ?

Answer. Because there was no other man by that name.

Question. Is there no other Andrew in that county ?

Answer. No, sir ; no other white man.

Question. You say Nichols said Andy ?

Answer. I said, myself, Andy Hoge.

Question. You say he said Andy ?

Answer. He called him Andrew.

Question. That was all he said ?

Answer. Yes, sir. He didn't say Andrew Hoge. He says, "O, Andy, I told you you couldn't catch Hamp," and then he said, "I will catch him yet;" and Thomas Nichols said, "You will be sharper than you are now," and William Jackson spoke up and said——

Question. Wait a minute. You stated you knew these men because they called their names ?

Answer. Yes.

Question. You commenced by saying one of the Nicholises—which Nichols ?

Answer. Tom Nichols said, "Andy, you will not catch this fellow."

Question. He said Andrew, only ?

Answer. Yes, sir.

Question. He didn't say Andrew Hoge ?

Answer. He said Andrew.

Question. How did you know it was Andrew Hoge ?

Answer. Because he came up here toward Mrs. Alcorn's, and I was still following them as they rode off and saw him.

Question. How near were you to him ?

Answer. They were riding a slow walk in the road, and I was in the old field and kept by them.

Question. You kept alongside ?

Answer. Yes, sir.

Question. Not behind ?

Answer. No, sir.

Question. What sort of a night was it ?

Answer. A moonshiny night.

Question. You followed them on the side of the road in an open field ?

Answer. On the left-hand side of the road ; there is a little pine in it.

Question. A moonlight night ?

Answer. Just a little cloudy.

Question. How near were you to them in this field ?

Answer. Just about as close as across the street.

Question. About twenty yards ?

Answer. Yes, sir ; and when they stopped they stopped in a thicket of pines and talked, and I slipped up as close to them as from here to that other room and listened to them. That was at Bethesda church, where they turned off, about five miles and a half from town.

Question. I didn't ask you to go over all this again. If you will not talk so fast, but wait for my questions, we will get along better.

Answer. Yes, sir.

Question. You say, in the first place, that the first time you heard them after they had been to your house, breaking your things, you went up and got in the corner of the fence, in some briars ?

Answer. Yes, I got by the fence.

Question. And when they passed you they were going down toward Miller's?

Answer. Yes, they were going to—

Question. What did you hear them say while they were passing, you being behind in the briars?

Answer. I heard them when they got on the horses.

Question. How far were you from them?

Answer. Just as close as that table-leg there, (three yards.) If it had not been for the briars, and they looked over the fence, they would have seen me lying there. The horses were just as close as across this room.

Question. You would not have known them unless they had talked?

Answer. Not unless they called the names.

Question. What did they do?

Answer. Tom Nichols got on his horse first, and John says, "Tom, you are in a mighty hurry; why don't you wait until Andy Hoge gets out?"

Question. Did he say Andy?

Answer. Yes, Andy; that is Andy Hoge.

Question. Did he say Andrew or Andrew Hoge?

Answer. Andy. He says, "Andy, come on; if you keep shooting around, the niggers will be all running out from home." They staid there until they got on their horses, and I run ahead to Tony Wallace to wake him up.

Question. When and where was the next time you heard them speak to each other?

Answer. Between Mr. Pressley's and Mr. Wallace's.

Question. Where were you?

Answer. Right down behind the old shop.

Question. What were they doing?

Answer. The horses were hitched, and they were all standing there.

Question. What were they all hitched again for?

Answer. They had done whipped Tony Wallace, and then—

Question. After they got done whipping him you heard them coming up to the horses, and heard what they said?

Answer. Yes, sir.

Question. Who spoke first then?

Answer. Andy Hoge spoke first.

Question. How do you know it was him?

Answer. I will tell you what; says he—

Question. How do you know it was Hoge who spoke?

Answer. I didn't know him before he spoke; I knew him then.

Question. Do you mean you knew it was him by what he spoke?

Answer. Yes, sir. He says, "O, Tom." Tom says, "What do you want, Andy?" He says, "Come on, you fellows."

Question. Who said that; Andy?

Answer. Yes, sir.

Question. How do you know that Andy meant Andy Hoge?

Answer. I had heard him call it three times.

Question. You had heard Andy only?

Answer. Yes, sir.

Question. Are there no other Andrews but Andy Hoge?

Answer. No, sir; no white men.

Question. None at all?

Answer. I have lived here eighteen years, and I know every citizen around there.

Question. Is there not a white man named Andrew within five miles of that place?

Answer. There is Andrew Jackson, but none about there.

Question. Is there none near there?

Answer. There is no Andrew about that neighborhood that I know of, and I had heard him call his name three times that night, and I was qualified it was him, and it made me stand so hard on it that it was Mr. Hoge.

Question. What did Andy say to Thomas Nichols?

Answer. He told him not to be in too big a hurry, but hold on until the crowd came up.

Question. Was that all?

Answer. Yes, sir; until they got ready to start.

Question. Who spoke first?

Answer. Thomas spoke to Andy.

Question. Where was that?

Answer. That was down at Mr. Wallace's, two hundred and fifty yards from the house; at the shop; close to the shop.

Question. Were they riding then?

Answer. No, sir; they were on the ground.

Question. How often had they been on the ground?

Answer. They got down to hitch.

Question. They got down to come to your house and break up things?

Answer. Yes, sir.

Question. Did they not get down when they whipped Tony?

Answer. Yes, sir.

Question. That is twice. What was the third time?

Answer. The next time was to get Bob Jackson.

Question. How far was that from where Tony lived?

Answer. That's what I started to tell you.

Question. How far was it?

Answer. I can't tell precisely how far; about two miles and a half.

Question. Then they had to ride there after they got on their horses?

Answer. Yes, sir; they rode two miles and a half, down to Bob Jackson's.

Question. Did you keep up with them?

Answer. They were just riding a light walk. They were not galloping. I didn't hear what they said at Mr. Chalk's, when they whipped Willis Lowry, because there was no pines where I could come in so near, except as far as from here to the court-house. I could not come in across the old field, for it is a dead opening.

Question. Between Tony Wallace's and Bob Jackson's you were passing alongside the road through the field and open groves?

Answer. Yes, sir; and it was between my house and Pressley's where this field was.

Question. You were not afraid of being seen, but trotted right along through the open field, in the moonlight?

Answer. The pines were mighty near as high as me.

Question. Then it was not open field?

Answer. I had to go a good distance from the road to Bob Jackson's house.

Question. You have got them on horseback to go to Bob Jackson's, two miles and a half?

Answer. Yes, sir.

Question. You following?

Answer. Yes, sir.

Question. They walking their horses?

Answer. Yes, sir.

Question. What time of night was it? They had been whipping a good many negroes?

Answer. No, they had not whipped only Willis and Tony.

Question. And tried to whip you?

Answer. Yes, sir.

Question. What time was it?

Answer. When I got back home it was half after three by Mr. Garner's clock.

Question. What time did they come to your house?

Answer. They came very early after dark; maybe an hour and a half after dark. That was the last night they came there.

Question. After they got on their horses at Tony Wallace's, riding slowly for two miles and a half, when did you hear them talk again?

Answer. Not until they got to Bob Jackson's and got down. I heard them talk then. They asked him—I forgot that—Andy says to Thomas Nichols, "Did you get that nigger's watch?" And he said, "Yes; he said he had no watch and no pistol."

Question. How did Andy speak to Tom?

Answer. He said, "O, Tom, hold on; did you get that nigger's watch?" He said, "Yes, I bursted open his box and got his money too."

Question. All that Andrew Hoge said was, "Tom, did you get his watch?"

Answer. Yes, sir.

Question. He did not say Tom Nichols?

Answer. No, sir.

Question. That was all that was said there that you heard?

Answer. Yes, sir.

Question. Then where did you next hear them talk?

Answer. That made the fourth time that I ought to have heard them.

Question. How often did you hear them that night?

Answer. I heard them at my house, at Tony Wallace's, and at—

Question. How many times?

Answer. Just four times.

Question. You have given an account of three times.

Answer. I ought to have said four.

Question. Where was the fourth?

Answer. At Bob Jackson's.

Question. They got off their horses and hitched them?

Answer. No, sir; they didn't get off. When the two men rode up to the house I heard them.

Question. Where were you?

Answer. In the woods behind them, standing there

Question. How near to the two men who were talking?

Answer. I was near all the company.

Question. How near?

Answer. As near as from here to—twenty-five or thirty feet.

Question. Who spoke then?

Answer. Thomas Nichols spoke to Johnny.

Question. What did he say?

Answer. He says, "Johnny, I just tell you we are not going to get that nigger; we might as well go on."

Question. They said that several times?

Answer. Yes, sir; that was all that was said until they came on the big road, and each man expected to come there to go home. That was at Bethesda Church. When they came to the road they said one, two, three.

Question. How far was that from where Tony lived?

Answer. It is a quarter of a mile from where Tom said that to John to the forks of the road.

Question. You say it is a quarter of a mile from where Tom said, "We will not get that nigger," to the forks of the road?

Answer. Yes, sir.

Question. When they got to the forks of the road, did you hear them talk again at the forks of the road?

Answer. They didn't stop.

Question. Did they not hold another conversation there?

Answer. Hold on; let me tell you.

Question. Did you hear them talk?

Answer. I will tell you what they said. They talked there.

Question. That makes five times, does it not?

Answer. Yes, sir; that will make five. They said one, two, three, and after that they rode away about one hundred and fifty yards, and Thomas hollered back, "Oh, Andy, I forgot." He says, "Did you get the nigger's watch?" He says, "I bursted open his box." He said, "How much did you get?" He says, "Fifteen dollars." Then he says, "When are you going to meet again; we are mighty curious fellows not to fix another meeting?" Then another one said, "We'll meet Thursday night," and they rode away.

Question. Was that the last you heard?

Answer. Yes, sir.

Question. You recognized William Jackson and the Nichols boys and Matthew Parrot, you said?

Answer. Yes, sir.

Question. Did anybody speak to William Jackson and Matthew Parrot?

Answer. No, sir.

Question. How did you know them?

Answer. I knew them.

Question. In the first place, you said the only way you knew these men was by their talking—calling names?

Answer. Yes, sir; the way I came to know Matthew Parrot to be qualified, he was there, was this fellow Jones, my cousin, that they had tied around the neck to take him out to make him tell. He told me it was Matthew Parrot.

Question. Was that that night?

Answer. Yes, sir. He held Jones, and he didn't have but one arm and held him, and he knew him. He took him by one hand. He had just one hand; his hand was off up to here. I didn't see Matthew Parrot myself, but Jones and me was together, and Jones said he had not done nothing.

Question. Wait; do not talk so fast; you say you didn't see Matthew Parrot at all?

Answer. No, sir; I didn't see him. He was there when they were talking. I was lying down—

Question. How did you know he was there?

Answer. I will tell you how. When they had Jones standing at the door Matthew Parrot was holding him.

Question. You saw him?

Answer. Yes, sir,

Question. You said a while ago you did not hear him?

Answer. I didn't hear him talk.

Question. You did see him?

Answer. Yes, sir; I saw him. I saw them all. I tried to get Jones to go with me to follow them.

Question. Who?

Answer. Jones says, "I won't go." Afterward I said to Jones, "Who was with you?" and he says, "Matthew Parrot," and I says, "How do you know?" and Jones says, "This is the man that got his hand cut off in the mill." I asked him to go with me. He said, "No."

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Question. Will you wait until I ask you a question; is that the way you knew it was Matthew Parrot?

Answer. I asked Jones who held him, and Jones said he knew it was Matthew Parrot.

Question. Are there not a great many men in South Carolina with one arm?

Answer. No, sir.

Question. There are not?

Answer. No, not right about here. There is one man about four miles, and another about seven miles, and another out eleven miles from here. He has two fingers shot off, and his thumb; and then there is another, that is Joe Douglass—he is dead, though. But there is another out here. I have been here a good while, and I knows; I am certain I knows them. I knows our citizen too well, [laughing.]

Question. What is tickling you?

Answer. Because you want to sort o' trap me up to think I don't know the man.

Question. Do you mean to say that you don't know anybody in this county who is a white man, and has but one arm, because of the war?

Answer. No, sir, not where I live.

Question. You say this man lost his by a cane mill?

Answer. Yes, sir.

Question. Do you say that in all this country you do not know a white man who has lost an arm?

Answer. Not out where I live. Here is Mr. Harris here; but he don't live where I stay. There is none right around.

Question. What do you mean by right around?

Answer. I mean the citizens I know right around.

Question. How far?

Answer. I know them all down to the river—six, seven, or eight miles, and clean up to the point of Crowder's Creek; that is eight or ten miles further. I know mighty near all of them.

Question. Is there not a single white one-armed soldier?

Answer. No, sir; not without he has come since the war.

Question. Had William Jackson two arms? How did you know him?

Answer. I knew him by his little gray horse that he always rode.

Question. You said a while ago that the only way you knew these men that night was by their addressing each other by their names?

Answer. Yes, sir; that is how I knew Andy Hoge and Nichols; but William Jackson was riding his little gray mare.

Question. It was dark; how could you see?

Answer. The moon gave light, but it was sort o' cloudy.

Question. What was the color of the mule?

Answer. It was gray.

Question. Was it a dark gray or 'light gray?

Answer. It was not real white; sort o' gray.

Question. A small horse?

Answer. Tolerably small.

Question. Is that the only gray mare in that country?

Answer. No, sir.

Question. Why might it not have been somebody else's besides William Jackson's?

Answer. Because it was his. I have a right to know it was his. I can tell you the whole part about this thing. I would not have put myself to no great trouble, but I was depending upon the sheriff to take them up, and I followed these men to the houses, and I found out when I came to the sheriff to protect me that he was doing all he could for them.

Question. Was he a Ku-Klux too?

Answer. I don't know what else, or he wouldn't have told me to go away when I wanted him to take them.

Question. You have changed your opinion of Sheriff Glenn?

Answer. Yes, sir; I had to tell him so.

Question. When Major Merrill has so much confidence in the sheriff, why do you doubt him?

Answer. I told the major, and the major would not let me tell. I told him that I doubted him, and he had deceived me, and he has deceived more than me.

Question. Who did he deceive?

Answer. All Clay Hill.

Question. He must be a terrible sheriff. Who got that into your head?

Answer. Nobody but my own knowledge. A man deceives me in one case, and I don't allow him to deceive me any more, [laughing.]

Question. What amuses you so?

Answer. I don't know as I can tell you. I just consider that you thought I didn't know these men, and want to trap me up on that. I know them as well as you can make figures on that paper, [laughing.]

Question. Do you believe the sheriff is a Ku-Klux ?

Answer. I can't say that; but I will say this, if you give me a chance. When the Clay Hill black people has come in here and fixed a plan, and asked him to ride out where he could get the whole party, he replied, "Go home to work and they will not disturb you."

Question. Who did he tell so ?

Answer. The whole Clay Hill fellows.

Question. Who ?

Answer. There are plenty that can tell you ?

Question. Were you along ?

Answer. Yes, sir; I was the first one, and saw him and then saw the balance, [laughing] So I lost hopes of it.

Question. Nobody has been talking to you about the sheriff ?

Answer. No, sir; I am telling you the fact. I am telling the truth. It is just my opinion.

Question. May be you have a wrong opinion about him. Suppose I told you that it has been sworn to by a highly respectable witness that this Sheriff Glenn has been helping Major Merrill to get up a full list of all those black people who have been whipped by the Ku-Klux, would that change your opinion ? If Major Merrill has such confidence in Sheriff Glenn that he goes to him and gets him to assist in keeping an account, so that the Government of the United States shall know exactly what is going on against you, and how you black people have been wronged, would that change your opinion ?

Answer. It is as I tell you about the sheriff. I will say this for him. I respect him for what he has done, and am willing to give him his own, but I know, if I were to tell you—but I am not compelled to tell you that—I could tell you what I know, and what we could bring in fifteen men to say against the sheriff, in spite of all he could do against it.

Question. What can you bring against him ?

Answer. We can bring a right smart against the sheriff.

Question. What is it ?

(No answer.)

Question. I will give you reasonable time for you to say whether you will give it to us or not.

Answer. I don't suppose I am obliged to. The other fellows will state their evidence. I want to state that without a reason.

The CHAIRMAN. We want to get through with this examination. If the judge wants anything about the character of the sheriff, go on and answer the question.

Answer. I was telling him about this committee, because he has fooled so many—all we colored people—about this Ku-Kluxing. He has sunk us in the dark. I told you, Mister, we put our dependence in the sheriff a good deal more than our Maker. We thought the sun rose and set in the sheriff until we found this out. We told him who beat us.

By Mr. VAN TRUMP :

Question. Did you tell him who beat you ?

Answer. Yes; and he told us to go right home and stay; and said, "The next time come to me when they ride, and I will get men and catch them;" and we went home; and just as soon as the crowd started, they had a meeting on the other side of the creek, and when they were going right up at the forks of the road, we came right off to the sheriff and asked him to come. Then he replied, "You fellows go home and behave yourselves; go to work and vote the right ticket, and there will be no more Ku-Kluxing."

Question. Did that satisfy you ?

Answer. That satisfied me; but I spoke to Mr. Glenn, and said, "You ought not to fool any man about his principles. Let every man have his principles."

Question. I don't want all the conversation.

By Mr. STEVENSON :

Question. I want that conversation. Go on and tell what you said to the sheriff.

Answer. I says to him, "Mr. Glenn, you ought not to fool no man in his principles. Let a man just vote as he pleases; but when the colored man is away working hard, and trying to make something, we get beaten and abused, and come to you as a friend, when we are bothered, and all you say is, 'You fellows go home and go to work,' and at this very time these fellows were shooting at us, and chasing us, and beating us, and we could not sleep in our houses all the winter." For three months I slept in the woods, and every time I would come to him he would say, "Go home and go to work." If there had been another election before the Ku-Kluxing commenced, we thought so much of the sheriff that if all the lawyers had come and preached to us not to vote for the sheriff, we would have voted for him anyhow, because we were hell-bent to do it; we would go for him, I don't care what happened.

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By Mr. VAN TRUMP :

Question. Do you say you colored men would have voted for the sheriff ?

Answer. Yes, sir ; we would.

Question. Do you belong to the Loyal League ?

Answer. We do. We thought that much of him.

Question. Have you sworn to vote for the republicans and against the democrats ?

Answer. We put that much confidence in the sheriff, and he has fooled us so much. Whatever he told us then we believed.

Question. What did you let him fool you a second time for, after he told you to go home and vote right ?

Answer. Well, we were sort o' like a hog that has broken into a corn-field and got a good belly-full, and he goes again and he is fooled, maybe, that time ; but he always will go a third time. We went three times ; then we caught him. (Laughing.)

Question. Did you ever make a speech ?

Answer. No, sir.

Question. Did you never make a speech in the Loyal League ?

Answer. A little ; but I can't read my A B C's.

Question. Notwithstanding the sheriff fooled you in that way, you hang on to him ?

Answer. No, sir ; we don't hang on to him now.

YORKVILLE, SOUTH CAROLINA, July 27, 1871.

MARTHA GARRISON (colored) sworn and examined.

By the CHAIRMAN :

Question. Are you married now ?

Answer. Yes, sir.

Question. Was your name Martha Woods ?

Answer. Yes, sir.

Question. Where do you live ?

Answer. At Clay Hill.

Question. How near to the place of old Mr. McCallum ?

Answer. About two miles.

Question. Do you know young Cheves McCallum ?

Answer. Yes, sir ; I know him well.

Question. How long have you known him ?

Answer. All my life. I have known him five or six years.

By Mr. VAN TRUMP :

Question. All your life ?

Answer. Yes, sir ; we used to play together.

Question. That is five or six years ?

Answer. No, sir ; I said we have been together five or six years ; but we used to live about three miles from him, and now we are about two miles from him.

By the CHAIRMAN :

Question. Go on and say whether the Ku-Klux ever came to your house at night, and, if so, what they did ? Do you know about the Ku-Klux coming to your house ?

Answer. Yes, sir.

Question. When was that ?

Answer. It was here about three months ago.

Question. Go on and tell what they did.

Answer. They came there. The first time was Sunday night. They hallooed and cursed, and told me to open the doors ; and when I got up they were in the house, and had broken the door down. They hallooed, " Go and get the old man." I said, " There is no man in here." Then they hallooed, " Kindle a light," and as it lighted they saw pap.

Question. What was his name ?

Answer. Addison Woods ; and they grabbed him and carried him out to the kitchen, all of them but three, and they staid in there, and run to the bed to see if there was anybody else. Three of them staid in there ; one kindled up a light, and the other went back to the bed to see if there was anybody else in bed. As they jerked the cover off he jumped up.

Question. Who ?

Answer. Jack Garrison, my husband ; and he run out. The captain was standing in the middle of the floor ; as he ran out of the door the captain shot at him, and two of them out of doors shot at him. But he got loose, and pap got loose too. They came

to the house and broke the things, and asked me if he hadn't a militia gun. I said, "No." He said I was a d--d liar. I said he hadn't. They said, "Can you swear he had not?" I said, "Yes." The captain said to let me off then; I was telling the truth. Then they went on and said they would not trouble me; they believed I was telling the truth. The next night they came back; when they left they told us if we told what they broke and did they would come back and kill us. Our folks told. I didn't say a word. I told pappy about it, and he told some other black one, and he told it; and Saturday night they came back and halloed, "Open the door, G--d d--n you," and came in, and every one run in the room, and they lit the matches, and three of them held me, and four of them took me and whipped me.

Question. With what?

Answer. With hickories. They hit me in the head with a gun. There was a bundle of hickories as big as my wrist.

Question. Was that mark, which is on your face, caused by that?

Answer. Yes, sir.

Question. What is that from?

Answer. From the whipping. I couldn't see out of my eye for a long time. They whipped me for telling. They said I had reported them.

Question. Did you tell who they were?

Answer. No, sir; I didn't tell nobody who they were.

By Mr. VAN TRUMP:

Question. You told your papa?

Answer. Yes, sir; nobody else.

By the CHAIRMAN:

Question. Who where they? Did you know?

Answer. Yes, sir. I knew four good: Tom McCallum, and Cheve McCallum, and Gus McCallum, and Lee Williams.

Question. Which time were they there; the first or second time?

Answer. Both times; all four of them. All four of them were there both times.

Question. Do you know Cheves McCallum's full name?

Answer. They call him Cheve McCallum.

Question. How many were there altogether?

Answer. There were twenty-seven the last night.

By Mr. VAN TRUMP:

Question. Was the night the McCallums were there the first night?

Answer. They were there both nights.

By the CHAIRMAN:

Question. How many were there?

Answer. The first night there was nine; the last, twenty-seven.

Question. They were disguised?

Answer. Yes, sir. All were disguised that came to the house but three.

Question. What three? Were they those you knew?

Answer. No, sir. They were strangers.

Question. Those that had on no disguise you did not know?

Answer. No, sir; I didn't know who they were.

Question. Have you been married since that time?

Answer. Yes, sir.

Question. Your name then was Martha Woods?

Answer. Yes, sir.

Question. What did they want with Garrison? Did they say?

Answer. They said they wanted to kill him.

Question. Did they say what for?

Answer. Yes, sir. They said he was captain of Clay Hill company, and they 'low'd to kill him.

Question. Was he captain of Clay Hill company?

Answer. He was captain once.

Question. Where is he now?

Answer. He is out here.

Question. Is he here in attendance?

Answer. Yes, sir.

Question. How old are you?

Answer. Just twenty.

By Mr. VAN TRUMP:

Question. I only want to see whether you are right in regard to knowing these men. How did you know Thomas McCallum?

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Answer. By his talk; and he was standing at the foot of my bed, with the disguise half off his face. It was to one side, so he could see me.

Question. Was it because it was too small?

Answer. No, sir; he shaved it off to one side.

Question. How far did the McCallums then live from you?

Answer. Two miles.

Question. How did you know Cheves McCallum?

Answer. He was the one that struck me the first lick, and his disguise fell in the bed, right on me.

Question. Was there a light in the house?

Answer. Yes, sir.

Question. Did you speak to him then when you saw who it was?

Answer. No, sir; I never said a word.

Question. How did you know Gus?

Answer. His fell off, too, when they were fighting.

Question. Who were fighting?

Answer. When they were whipping me. When he went to pick up his disguise that knocked off his.

Question. How did you know Leo Williams?

Answer. When Gus went to pick up his on the floor, he had his gun on the floor, and as he rose up he knocked off Leo Williams's.

Question. Then three masks fell off?

Answer. Yes, sir. Three fell off.

Question. You knew Thomas by his mask being knocked to one side?

Answer. Yes, sir.

Question. And Cheves, because his mask fell off?

Answer. Yes, sir.

Question. And Gus, because his also fell off?

Answer. Yes, sir.

Question. And you knew Lee Williams because his was knocked off by the gun?

Answer. Yes, sir; and by his voice. I knew them anyhow before I saw the faces.

Question. It is singular that the disguises were knocked off, or fell off, of everybody in the room.

Answer. These four were whipping me.

By the CHAIRMAN:

Question. Were there others in the room?

Answer. All of them were in the room breaking up jugs and things.

By Mr. VAN TRUMP:

Question. That was three months ago?

Answer. Yes, sir, about that.

Question. Was anybody else in the room?

Answer. My sister was there.

Question. How old is she?

Answer. Sixteen.

Question. Did she see these men?

Answer. Yes, sir.

Question. Did she know them?

Answer. Yes, sir.

Question. Nobody else but you and her?

Answer. That was all.

Question. Where was your papa?

Answer. He had done left and got away.

Question. You two girls are the only two that saw these men?

Answer. Yes, sir.

Question. How are these masks put on? Are they not tied on the face?

Answer. It looked like it was tied back of the head.

Question. With a string running around the face and head, or how? Was it tied under the chin?

Answer. No, sir; it came over the chin like it was pinned behind the head.

Question. What was the stuff?

Answer. Some was red cloth, and some black, and some white cloth.

Question. Loose cloth?

Answer. Yes, sir.

Question. Not stiff stuff like pasteboard?

Answer. No, sir; it didn't look like it was starched.

Question. Is it not strange if they were loose cloth, and fastened by a string around the head, that all these masks fell off?

Answer. Every one of them fell off.

Question. Did Williams's fall off?

Answer. Yes, sir; Lee Williams knocked his off.

Question. All four fell?

Answer. All four fell.

Question. All four fell off—were knocked off in whipping you?

Answer. Yes, sir.

Question. Although tied around the head and loose cloth?

Answer. It looked like it was loose cloth.

Question. It was red?

Answer. Yes, sir.

Question. Did they whip your sister?

Answer. No, sir.

Question. Why did they not whip her?

Answer. They blamed it all on me for telling.

Question. Telling what?

Answer. Reporting them. They said I reported.

Question. You say you did not tell anybody?

Answer. No, sir; I didn't.

Question. Why did you not tell somebody about it? Were you afraid?

Answer. I told pap about it.

Question. Why did you not tell somebody else?

Answer. Because they told me not to tell anything about it, and I didn't do it.

Question. The first time they were there, did they tell you not to tell?

Answer. Yes, sir.

Question. Did they threaten you?

Answer. Yes, sir. They said they would kill me if I told.

Question. Were you afraid to tell? Anyhow you have not told?

Answer. No, sir; I have not told anybody.

YORKVILLE, SOUTH CAROLINA, July 27, 1871.

LUCRETIA ADAMS (colored) sworn and examined.

By the CHAIRMAN:

Question. Where do you live?

Answer. At Dr. Wells's, in this town.

Question. Where did you live before you went there?

Answer. About a mile and a half up the country, at Faulkner's.

Question. Is that in the Clay Hill country?

Answer. Yes.

Question. Were you visited at any time by Ku-Klux?

Answer. Yes, sir.

Question. When?

Answer. Before I came down here they came to my house twice hunting other folks, but didn't pester us then.

Question. How long ago?

Answer. About three months.

Question. What did they do?

Answer. They didn't do anything but called me up and asked me about the men. They said I needn't be scared; they were not after me. After my husband and me parted they came again.

Question. What do you mean?

Answer. Him and me parted on Monday morning. He is keeping another woman, and he got mad at me and beat me, and told me, damn my soul to hell, I might go, God damn me, and stay; and damned if he wouldn't send the Ku-Klux on me Saturday.

Question. Your husband told you?

Answer. Yes, sir; he told me to my face; my sister knows it. I went, and sure enough, Saturday afterward they came and whipped me. They told me if I didn't go back home again Saturday, they would come around Friday night and kill me. They asked me would I go. I told them, yes; but I didn't tell them where; and I went here and my husband came after me Monday. He didn't speak to me, but he went up and tried to get me put in jail. He couldn't get me put in jail, and he told aunt Phebe he was going to make the Ku-Klux whip both of us. My husband said he didn't have me whipped, but the white ones I lived with made the Ku-Klux whip me. But I know the Ku-Klux myself.

Question. Who were they?

Answer. John Watson, and Bob Faulkner, and Oliver Boehngart, and Charles Boehngart, and John Woods, and Bill Leslie, and Bill Thomas, and Newman Thomas.

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Question. Is that all?

Answer. Yes, sir.

Question. Were those men disguised?

Answer. Sorter; they had false faces on. I knew them when they came in, and by the voices, and the way they were dressed. They had the clothes that they wore every day at home, except the false-faces and the big cloaks. I knew them by the hair and everything, and their talk, and their ways. They were drunk the night they whipped me, and just talked as anybody would.

Question. Did they tell you what they whipped you for?

Answer. They told me, "We heard to-day at 11 o'clock, and the reason we whipped you to-night, we heard you wouldn't work. We were sent for, from Maryland, to come here and whip you, to make the damned niggers work;" and they said, damned if they were not going to do it. That is all. They said that; Bob Faulkner did. We knew him; I lived with him; and he said, "Are you going?" and I said, "Yes, I am," and Saturday morning I went down to York.

Question. Were these white or black people?

Answer. They were white folks, every one of them.

By Mr. VAN TRUMP:

Question. When was this?

Answer. Two months after Christmas they whipped me

Question. Two months after Christmas would make it about the 25th of February?

Answer. Yes, sir.

Question. And yet you stated when you first began your tale that it was three months?

Answer. I have been living down here three months.

Question. Do you state now that it was three months, because you have lived at Dr. Wells's three months?

Answer. They whipped me and I came down here.

Question. Then it is five months ago?

Answer. Yes, sir; it is better than five months now.

Question. Why did you say three months?

Answer. I have been down here three months and up yonder.

Question. Did you go right from home to Dr. Wells's?

Answer. No, sir; I staid at Mr. Floyd's a while.

Question. How far is that from where you were whipped?

Answer. About ten miles.

Question. Were you not afraid to stay there where you were whipped?

Answer. No, sir; they kept riding about the country, and told us to leave the country.

Question. Were they riding at Floyd's?

Answer. Yes, sir; they were going by there most every night.

Question. Were they white people?

Answer. Yes, sir; we black people knew them. I staid in the house until they said, damn me, they would kill me if I didn't leave.

Question. What makes you think it was two months after Christmas?

Answer. It was in the two months after Christmas they got to riding on every side.

Question. Were you the first party whipped?

Answer. Yes, sir; me and my sister.

Question. The first in Clay Hill Township?

Answer. Yes, sir; me and my sister and brother.

Question. You and your husband quarreled?

Answer. Yes, sir; he beat me himself and told me, "Go! God damn your soul to hell, I'll make the Ku-Klux cut your damned back before Saturday night."

Question. Did they come?

Answer. Yes, sir; they come Friday night and whipped me.

Question. Do you think your husband got them to do it?

Answer. Yes, sir; he did it. He knew the Ku-Klux, and told me himself he allowed to make them whip me.

Question. Was he a favorite of the Ku-Klux?

Answer. Yes, sir; he told me when they first come to our house.

Question. Did they come to your house before you parted?

Answer. Yes, sir; they didn't come for us—I told you that—but when we parted they came and whipped me, and didn't touch him; and he told me he allowed to make them whip me for fighting his other wife.

Question. Who is John Watson?

Answer. His daddy's dead. He lives up the country. John Watson was the captain of them. He had on a red disguise.

Question. How many were there altogether?

Answer. Nine.

Question. You were so fortunate as to discover every one of them?

Answer. Yes, sir; every one the first night. I knew their horses and everything.

Question. What did they do when they first came into the house when they whipped you?

Answer. They came to the door. It was not fastened. Me and my aunt was lying in bed. We were in another man's house, and his wife and he were lying on the floor; and he says, "Who all have you got here, God damn you?" They had been there before and never touched them.

Question. Did you know them when they were there before?

Answer. Yes, sir; the same ones I have named. He says, "They are the God damned bitches we are after."

Question. Who said that?

Answer. John Watson.

Question. Was there a light then?

Answer. Yes, sir; they made up a light, and Bob Faulkner struck me in the forehead and said, "What are you doing here?" I says, "My husband run to York and I have to go somewhere." He says, "You've got to go back to your husband." I says, "He might live with me." He says, "We heard this at Maryland to-day, at 11 o'clock, that the niggers wouldn't work."

Question. Did they whip you at once?

Answer. No, sir; not for a good while. They questioned us.

Question. You say they had disguises, gray coats, on?

Answer. Yes, sir; and black coats, except John Watson, who was all in red.

Question. Had he a gown over him?

Answer. Yes, sir; he had a gown.

Question. Did you not say they had their own clothes as usual?

Answer. They had all their breeches over it. I knew them very well.

Question. You are confident of it; but how did they look?

Answer. They had noses out here, and eyes, and holes for the mouth. We saw their heads and all.

Question. You said you knew them by the color of the hair?

Answer. Yes, sir.

Question. Did you recollect the color of the hair of all of them?

Answer. Yes, sir.

Question. What color is John Watson's hair?

Answer. You man's hair.

Question. What color is that?

Answer. Dark brown.

Question. What hair has Bob Faulkner?

Answer. Right red.

Question. What is the color of Oliver Boehmgart's hair?

Answer. A right red head.

Question. What is the color of Charley Boehmgart's hair?

Answer. White head.

Question. Two brothers—one red-headed and the other white?

Answer. Yes, sir.

Question. How old is Oliver?

Answer. I don't know how old, none of them; they are all young men, though.

Question. How old is Oliver?

Answer. About twenty-two.

Question. How old is Charley?

Answer. Younger than he is.

Question. You say Oliver Boehmgart has a right red head?

Answer. Yes, sir.

Question. And Charley has a white head?

Answer. Yes, sir.

Question. What sort of hair has John Woods?

Answer. Dark brown.

Question. What kind of hair has Bill Leslie?

Answer. Red head.

Question. What kind of hair has Bill Thomas?

Answer. Sort o' dark, white head.

Question. What hair has Newman Thomas?

Answer. A white head.

Question. Are Bill and Newman brothers?

Answer. Yes, sir.

Question. Have you no spite against those men?

Answer. None in the world at all, only they knew us black ones up there; but they never touched us, and told me they never would touch me, until my husband and me parted. If they were going to whip me, why didn't they whip me at first?

Question. You say they all had gowns and big coats, except one?

Answer. Yes, sir; John Watson.

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Question. Had they the gowns over the big coats, or the big coats over the gowns?

Answer. Gowns over the coats.

Question. Were their faces covered?

Answer. Yes, sir; and tied back here.

Question. How did you see their hair?

Answer. I saw it behind hanging down.

Question. Every one of these had a disguise over his face?

Answer. Every one of them but one.

Question. Who was it had no gown?

Answer. Newman Thomas had no gown.

Question. All of them had disguises and gray coats, and gowns over the coats, except Newman Thomas?

Answer. Yes, sir.

Question. Did they remove their disguises while they were in there?

Answer. No, sir.

Question. Could you see their whole faces?

Answer. Yes, sir; all except here. [The cheeks.]

Question. You saw every face uncovered?

Answer. Yes, sir; they were drunk, and talking same as you are talking now. [In natural tone]

Question. All were drunk?

Answer. Yes sir; drunk as could be, and came in talking.

Question. Not attempting to disguise their voices, and nothing disguised but the cheeks?

Answer. Yes, sir; and Bob Faulkner beat me right smart, and kicked me, and told me to go back next morning.

Question. To whom did you tell this next morning?

Answer. Not a soul.

Question. When did you tell?

Answer. I never told until I came down here and told Mr. Merrill.

Question. Did he send for you or you go to him?

Answer. I went to him.

Question. What made you go to him?

Answer. I didn't know anybody else to go to, and they told me to go to him.

By Mr. STEVENSON :

Question. How old are you?

Answer. Nineteen.

Question. Are you called Creecy?

Answer. Yes, sir.

YORKVILLE, SOUTH CAROLINA, July 27, 1871.

BENJAMIN GORE (colored) sworn and examined.

By the CHAIRMAN :

Question. Were you at Chester at the time of the fight last winter?

Answer. Yes, sir, I was there.

Question. I want you to tell us as briefly as you can what it was that the colored people went into the town of Chester for?

Answer. On a Saturday night they aimed to kill this captain we had of the company.

Question. Captain who?

Answer. Captain Jim Wilkes; and they alarmed him very much. On Sunday he gets up his men together to go to Chester on Monday to see what protection he could get for his life.

Question. Were you one of the men?

Answer. Yes, sir; I belonged to the company.

Question. Did you go with them?

Answer. Yes, sir, I went in there with them.

Question. Go on with your statement.

Answer. When we got there it appeared to alarm the people of the town very much, and Mr. Reister and the rest of the gentlemen, and the mayor of the town, came out and caused a gathering and an understanding with the colored people, that if they would return and go back or give up arms that he would guarantee all he was worth that there would be no more of it. Some concluded to give up their arms; some said if they did that they would all be killed. They replied to Mr. Reister that we must leave the corporation, the town; and we left the corporation and went about a mile from the town and lay in the woods all night, Tuesday night, without any fire or anything. About 10 or 11 o'clock, as well as I could get at it, they commenced firing on the militia in Chester.

Question. Who did ?

Answer. The white people, I suppose. It was the commencement of it. They fired on them as they were somewhere about the street by Mr. Reister's house.

Question. How do you know that ?

Answer. That is from the understanding they gave us. After they ceased firing, in the course of about two hours, Mr. Reister came out after us and we went into town and got in about daylight and made up fires close about his house, and about sunrise the white people commenced gathering up as if they were going to fight with guns. All commenced coming up and getting themselves together about the depot, and as they attempted fighting Mr. Brawley came up and stopped it.

By Mr. VAN TRUMP :

Question. Who attempted fighting ?

Answer. Both parties were aiming to fight. The white people were fixing to shoot on them and none of us shot any gun, and no shooting was done. Mr. Brawley stopped it and had Mr. Reister to order us five miles from town, and he did so; and we went there and staid until very late in the evening, and aimed to go on back home; and the time we were going on back home, and got in the neighborhood of home, Major John Wilkes, a white man, and Dr. McCallum, came out and met us and stopped us, and we all had a long talk; and they told us if we would disband ourselves and go home there would be no more of it, but if we went on as we were we would find a great deal of trouble. We told them we were for no harm; that is, the majority of the men said they all wanted to go home to work, and they were for no harm to any citizen or any people anywhere; we were only trying to save ourselves from the Ku-Klux. Then they told us we would set a day to have a meeting on this thing to get it all stopped, and we asked them would they let us—we were going to trouble nobody—would they let us stay together and every man shift for himself until Saturday and have the meeting and lay it all down. They concluded pretty much on those terms; they didn't say don't, and they didn't say do; but as they turned off they said don't go no further as we were going, in a body. We told him we would not; we would only keep ourselves, every man looking after himself the best he could until they had the meeting. They left and parted on those terms; but at that time they had the men gathering up wholesale, from every direction; and the companies, some five or six hundred men, were gathered up that night.

Question. Where ?

Answer. Up about Carinel Hill, at Mr. Sander's store, on the Union road. I told them that—the man that was talking about leaving and going home that evening—I told the man that I would place confidence enough in what he said to go home and not be afraid.

By the CHAIRMAN :

Question. What who said ?

Answer. Major Wilkes. And I went on home that night, myself, and rested at home; and when I got there the whole settlement was in very much of an uproar; it was gathering up pretty much all night, and a great deal of fuss and cooking.

By Mr. VAN TRUMP :

Question. What settlement was that ?

Answer. Carmel Hill; Major Wilkes's plantation.

Question. Where you live ?

Answer. Yes, sir. The next morning at good daylight—the colored people had an old church which was burned down once—just about daylight I was standing on my door-steps and saw the fire commence kindling in the meeting-house; and as it got up to be seen apiece there were three horses. I was not close enough to see who they were, but they came from the meeting-house and went right back to the body of men going up.

Question. Did you see them ?

Answer. Yes, sir; but I could not see who they were, because I was not close enough. I was about a hundred yards from the road, standing on my door-step, and saw the three men.

By Mr. STEVENSON :

Question. White or colored ?

Answer. White men—three of them. They went back and then the raid started out; the men, the company that was going up. They went on all the morning, firing and making a bellowing something like bulls at the fire. Then they went on. Our colored men had had themselves, trying to keep together until Saturday, until they had this meeting to stop this disturbance. As they were coming on that morning they commenced to shoot very rapidly at some of the men going home to get something to eat.

By Mr. VAN TRUMP :

Question. Who shot ?

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Answer. The white men shot at them as they were coming on. The white company was coming on to go after this militia company to break them up and take their guns, and make them go to work.

Question. Was this at Carmel Hill church?

Answer. That was after they left the church, going on to hunt this company. They shot down one or two men who were innocent and had nothing to do with the militia company anyway. They only had one boy in there, and he was going to try to get home to get something to eat, and they shot him dead in the road. At that time they came up to this company and fired on them rapidly, until the men broke to save themselves.

Question. Were you there?

Answer. I was not there, but I saw the men myself.

By the CHAIRMAN:

Question. Had you any office in this militia company of Jim Wilkes?

Answer. No, sir, none at all, more than they called me first sergeant.

Question. Had there been any Ku-Klux outrages on the colored people before the company went into Chester?

Answer. Oh, yes, sir; on Sunday night—I went too fast, on Saturday night they aimed to kill Captain James Wilkes.

Question. How do you know that?

Answer. Men were there with him and he came and said this to let us all know what they tried to do with him; because one of their horses got killed that night.

Question. Was this Jim Wilkes?

Answer. Yes, sir; Sunday night, I saw it with my own eyes.

By Mr. VAN TRUMP:

Question. Whose horse were killed?

Answer. Garland Smith's horse was killed.

Question. A colored man?

Answer. No, sir; a white man.

By the CHAIRMAN:

Question. Was that in the attack of the Ku-Klux on Jim Wilkes?

Answer. Yes, sir; that was Saturday night, and Sunday night I saw about two or three hundred of that company within two hundred yards of my house. I saw them myself, all disguised, with their horses covered up in white sheets. The horses' heads were covered with covers, meal-bags, &c. They lost a good many of them; several were found afterwards.

Question. What were they after?

Answer. They went there as Jim Wilkes had had his men coming in that night, and as soon as they spied them they fired in on them. The Ku-Klux fired in on them very rapidly.

Question. Were you among them?

Answer. No, sir; but I went to them soon after they commenced the row. The men met in squads. The Ku-Klux fired, and as the colored men aimed to try to head them to find out something of them, they run with all haste, and lost their meal-bags and sheets, and they found them.

By Mr. VAN TRUMP:

Question. The Ku-Klux then retreated?

Answer. Yes, sir.

Question. How many men had Jim Wilkes there at that time?

Answer. I suppose the company was only a hundred; there was something like half of them there.

By the CHAIRMAN:

Question. About fifty?

Answer. Yes, sir.

Question. Was this before the day Wilkes went with his company into Chester?

Answer. Yes, sir; it was before that. That was Sunday night, and Monday we went to Chester to see what protection we could get.

Question. Was that your own idea in going to Chester? Were you under any danger from the Ku-Klux?

Answer. Yes, sir.

Question. Was that the idea that prevailed among the colored people of that company when they went in with Captain Jim Wilkes?

Answer. Yes, sir; it was for the purpose of getting protection; to know what we were to do about being disturbed by the Ku-Klux.

Question. Was there any idea of making any attack on the people of Chester?

Answer. None at all.

By Mr. VAN TRUMP :

Question. Do you know what Wilkes's idea was ?

Answer. Yes, sir, I do, because he taught his men to interfere with nobody. We were only going there to try to get some information or protection.

Question. Was he a good man ?

Answer. Yes, sir, he was a good man ; I was always with the company, and he always meant to interfere with no man who didn't interfere with them ; when we went there we went there very quietly, making no threats, no shooting.

Question. In daylight ?

Answer. Yes, sir ; in the morning half an hour by sun and all quiet.

By the CHAIRMAN :

Question. Do you know the temper and disposition of his men enough to say whether they would have obeyed Wilkes in any attack on the white people if he had wanted it, without any cause ?

Answer. Yes, sir ; I have confidence to believe that they would have obeyed his order.

Question. In attacking the white people ? Let us understand you fully.

Answer. I mean none of them would intend to interfere with the white people on any terms unless they were interfered with by them.

Question. Suppose Wilkes had wanted to attack the white people before the white people had attacked the colored people there ; do you suppose your company would have obeyed him in that ?

Answer. Yes, sir, I do ; that is, the biggest majority of the men ; some men are foolish in all parties, but I don't believe the men would have endeavored to do any such thing generally.

Question. Let me see if I understand you ; you say you went in for protection ?

Answer. Yes, sir.

Question. If Wilkes had taken up the idea of making the colored people attack the white people before they attacked the colored people, would the men have done that ?

Answer. No, sir, they would not ; I do believe they would not have done it.

Question. What was the general feeling and disposition of the colored people of this company ; was it peaceable toward the white people ?

Answer. Yes, sir ; peaceable and quiet.

Question. Were they afraid of the Ku-Klux ?

Answer. Yes, sir ; just afraid of the Ku-Klux ; that was all they were afraid of ; they had never interfered with no person or shot at any one, only they had laid out on the ground until they had all got perfectly worn out, and they didn't know what else to do.

Question. How long had the colored people been lying out ?

Answer. They had been lying out about four weeks.

Question. What part of the families ?

Answer. The men in general, and, in fact, the half-grown boys, had got scared, and a great part of them were lying out.

Question. How far was Wilkes's company from the line of Union County ?

Answer. It is just six miles from Scaife's Ferry, on Broad River.

Question. Is the river the line between the two counties ?

Answer. I suppose it is.

Question. Had there been a great deal of Ku-Klux outrages in that quarter, near Broad River and in Union ?

Answer. Yes, sir ; and a great many threats were made.

By Mr. STEVENSON :

Question. How many men were killed in Chester during that trouble ?

Answer. I couldn't tell exactly, but I knew some.

Question. What is the best information you had—how many ?

Answer. Five, I am certain, and one of the white gentlemen told me that after the raid, and the colored people broke that day, they had shot some that were plowing. There were five killed : Sam Scaife, Eli McCallum, Hamp Toliver, Wade Darby, and Reuben Levi. Eli McCallum and Sam Scaife were tied together and run pretty near to death, until their tongues hung out, and were shot on Turkey Creek bridge and found under the bridge. That was done some time in March, and they were found some time in April. I don't know the day. One had floated down the creek on a raft. Some were found close under the bridge, covered up.

Question. Did you see any of the other bodies ?

Answer. No, sir ; but I was aware of the men that buried them, and know where they were buried. I didn't go over the field at all.

Question. How far is Turkey Creek bridge from the place where the fight was ?

Answer. About three miles, sir. But this I am told ; I didn't see this ; but I was told by one of the men who were with them, that the understanding was, the guns was all they wanted. These men had a chance to hide themselves, but they saw the men coming along the road searching for these men, and they run and gave them up the guns, thinking that would save them ; and they took the guns and then tied them

together, and run them up and down the road until they run them nearly to death. From what I understood, they were going to kill them; they let them pray once—they were both members of the church—and they got down to pray, and before they could say amen, their brains were blown out.

Question. You say you know certainly of five. What is the general report of the colored people as to the number of men killed?

Answer. There is nothing more than the reports generally, as far as I understood from them. They wonder they have no protection.

Question. But what is the common report among them as to how many men were killed during those troubles?

Answer. That is as far as any understanding I have heard; it was done in this difficulty.

By the CHAIRMAN :

Question. These five?

Answer. Yes, sir; these five are the only ones I have understood of.

By Mr. VAN TRUMP :

Question. Does it include the two at Turkey Creek?

Answer. Yes, sir.

By Mr. STEVENSON :

Question. You say that you were informed, by men who were in that fight, that the white men rode up and fired upon them?

Answer. Yes, sir; they fired very briefly upon some going after something to eat.

Question. But when they came up to the company?

Answer. Yes, sir.

Question. Which fired first?

Answer. The white men.

By Mr. VAN TRUMP :

Question. Were you there?

Answer. I was close by.

Question. Did you see it?

Answer. Yes, sir; I saw it. I was close enough to see; the moon was shining very bright.

Question. Do you mean the company of white men Major Wilkes was with?

Answer. No, sir. I understood the gentleman to ask about the night of the Ku-Klux.

By Mr. STEVENSON :

Question. No, I am speaking of the time Captain Wilkes and a large number of white men marched up the road to where the militia company was posted.

Answer. I understand you.

Question. Were you there?

Answer. No, sir.

Question. I understood you a while ago to say you were told by men in that fight how it commenced?

Answer. Yes, sir.

Question. How did it commence?

Answer. The white men commenced firing on the colored men as they found them in the road going for something to eat.

Question. When they got up to where the colored men were in a company, what was done?

Answer. The white men continued firing on them.

Question. Your information is that the white men fired first at that point?

Answer. Yes, sir; I particularly inquired after that.

Question. Do you know who led the white men?

Answer. General Winder was the commander of the company.

Question. Who is he?

Answer. I don't know him; that is, more than his name.

Question. Where does he get his title?

Answer. I don't know; he came from Union. I got this from a white gentleman. He told me General Winder was the commander that morning, and said to the men, "I have no idea, men, by God, that they'll ever fire. We'll go and capture them, and make them go to work."

Question. Did you hear anything of General Gist, from Union, in that fight?

Answer. That was Gist. I am mistaken in the name, but I understood the white gentleman to say General Winder.

By Mr. VAN TRUMP :

Question. Who was the white gentleman?

Answer. Mr. Thomas Bennett. He lives right there in the neighborhood, within about a mile and a half of Major Wilkes.

By Mr. STEVENSON :

Question. How many white men did you see in the road ?

Answer. I saw all of them going down that morning.

By Mr. VAN TRUMP :

Question. You mean down where ?

Answer. Where they were going, toward the fight. I saw this militia company.

Question. Let us understand. Does this Carmel Church stand on the road from Chester to Union ?

Answer. Yes, sir; right beside the road.

Question. Were you there ?

Answer. Yes, sir.

By Mr. STEVENSON :

Question. State how many white men you saw riding along that road that morning.

Answer. I understood afterward there were five hundred, but it appeared to me it might be that much or more that morning. I stood and saw them all go.

Question. How long a string did they make in the road ?

Answer. I suppose they were about a mile and a half.

By Mr. VAN TRUMP :

Question. All on horseback ?

Answer. Yes, sir, and about two deep; because I knew very well they were between the mile-posts.

Question. They were going toward Chester ?

Answer. Yes, sir; right toward Chester.

Question. How far from where you were at the church was it where this fight took place ?

Answer. Just a little over three miles.

By Mr. STEVENSON :

Question. You had been with the company yourself ?

Answer. Yes, sir. I left on the word of these gentlemen on the Tuesday evening. I went home that night.

Question. And the fight was Sunday morning ?

Answer. Yes, sir. They promised to let the thing stand until Saturday and have a meeting.

Question. Did you hear whether any white men were wounded or killed in that fight ?

Answer. I never heard of none being killed, but I heard of one being wounded.

Question. Who was he ?

Answer. It was Johnny Waters.

Question. Of that neighborhood ?

Answer. Yes, sir.

Question. What became of the guns of the colored men ?

Answer. The white men took them; pretty much all of them.

Question. Did they get your gun ?

Answer. I don't know what became of mine. I left mine at the company that night and have not seen it since with the company.

Question. Did not the State get the guns back ?

Answer. I would suppose it got some of them.

By Mr. VAN TRUMP :

Question. Do you undertake to say, under oath, here, that at that time at Carmel Hill Church, passing from the direction of Union Court-House toward Chester Court-House, there were five hundred white men on horseback ?

Answer. Yes, sir.

Question. You being there and seeing them ?

Answer. Yes, sir; as well as I could bring it to my remembrance or understanding, there were that many.

Question. Making a column of a mile and a half in length ?

Answer. Yes, sir.

Question. Going to see these fifty negroes, and, as you say, to get them to disperse and go home to work ?

Answer. Yes, sir.

Question. That is what you say here to-day ?

Answer. Yes, sir.

Question. And what you know ?

Answer. Yes, sir.

Question. How do you know there were but fifty, or as many as fifty, negroes at the point in the road where they were attacked by the five hundred white men?

Answer. You have crossed my understanding there. I said there was about fifty on Sunday night had gathered, but on that morning there may have been more than that.

Question. What morning was it that this attack of the five hundred white men on the black people took place?

Answer. It was on Wednesday morning.

Question. You have understood, you say, from colored men that were there, that instead of them firing upon the whites first, the whites first fired upon the negroes?

Answer. Yes, sir.

Question. How many negroes have you heard say that, who were there?

Answer. I have heard a good many say so.

Question. They all say so?

Answer. Yes, sir.

Question. Your negro people in that country claim that now to be the fact?

Answer. Yes, sir; that is the understanding.

Question. That these five hundred white men fired first upon these supposed fifty negroes?

Answer. Yes, sir.

Question. How many were killed in that volley or charge?

Answer. Only the five that I know of.

Question. You say that only five were killed according to your information, including all at Turkey Creek?

Answer. That is the understanding—only the five.

Question. But how many in that fight?

Answer. That was done at the same time.

Question. How far is Turkey Creek from there?

Answer. That was done after the raid broke, that two were killed.

Question. But how many black men were killed on the road-side?

Answer. No one was killed on that field that I know of.

Question. Did this large number of white men fire into the black men and kill nobody?

Answer. No, sir; there was no killing done, according to my understanding.

Question. I think you have a very incorrect understanding.

Answer. I understand there was no killing done on that ground.

Question. You say the negroes were in the road?

Answer. Yes, sir. I didn't say they were in the road when they commenced, but during the time they were in the road.

Question. Do you not know that the negroes were posted behind rocks beside the road?

Answer. Yes, sir; behind the rocks.

Question. You said to Mr. Stevenson that they were in the road?

Answer. That was my understanding—that they were in the road, and were commanded to retreat behind the rocks.

Question. Who commanded them?

Answer. Their captain, I suppose.

Question. They were first in sight in the road?

Answer. Yes, sir; some were in the road.

Question. And as this immense column of white horsemen came up Captain Wilkes ordered them to retreat behind the rocks?

Answer. Yes, sir.

Question. At what point did the whites fire on these negroes; as soon as they came up?

Answer. Yes, sir.

Question. What did the negroes do behind the rocks?

Answer. I expect they all commenced too.

Question. How long did the battle rage?

Answer. I suppose not more than eight or ten minutes. They found such an immense force they retreated.

Question. What did the whites do; follow them?

Answer. Yes, sir.

Question. How far?

Answer. I can't tell; but they were riding up during that day.

Question. It is your understanding, from the report of the colored militia about that, there was not a single militiaman killed there?

Answer. Not on the ground.

Question. Were they killed in the pursuit?

Answer. Yes, sir.

Question. How far is it from there to Turkey Creek bridge?

Answer. About six miles.

Question. Were they killed by part of this white company which was following them up to Turkey Creek bridge?

Answer. They were killed by the men that went on that morning.

Question. From where?

Answer. From where they started from to go to this company.

Question. Part of this five hundred that you saw pass Carmel Hill Church?

Answer. Yes, sir.

Question. Of course, then, part of those who charged on the negroes behind the rocks followed them to Turkey Creek?

Answer. Yes, sir.

Question. It is your understanding that nobody was hurt right at the rocks by the road?

Answer. No, sir. According to my understanding nobody was killed there.

Question. You swear that you have information from these colored militiamen who were there, that instead of their firing a volley upon the white men passing along the road, they being behind the rocks, it was the white men fired upon them first?

Answer. Yes, sir.

Question. Where do you live?

Answer. My home is at Major Wilkes's.

Question. Where is that?

Answer. It is on Carmel Hill, six miles this side of Scaife's Ferry.

Question. Then you live in Chester County, about twenty-eight or thirty miles from here?

Answer. About twelve miles from the village.

Question. Were you living on Major John Wilkes's land?

Answer. Yes, sir.

Question. Did you know that a portion of the black men who were in this militia company behind the rocks were men that lived on Major Wilkes's place?

Answer. Yes, sir, some of them were there.

Question. You were not one?

Answer. No, sir.

Question. You live there now?

Answer. Yes, sir.

Question. You have been summoned here from that place to give testimony?

Answer. Yes, sir; my family is there.

Question. When did you come here as a witness?

Answer. On Monday.

Question. Do you know how this committee obtained knowledge that you, not being in the fight at all, knew anything about it?

Answer. It was from some understanding from some men that knew I was in one part of the fight.

Question. And you were at Chester when they first marched there?

Answer. Yes, sir.

Question. Where is this celebrated Captain James Wilkes living?

Answer. I don't know.

Question. What has become of him?

Answer. He went away.

Question. Shortly after that?

Answer. He went away when he was bid to go by the committee.

Question. You mean by the Ku-Klux?

Answer. No, sir, by the committee.

Question. What committee?

Answer. The committee meeting.

Question. The committee only wanted him to disperse his band and let his company go home; they did not want him to go away from the country?

Answer. Yes, sir, they all wanted him to leave. All were wanted to leave that had anything to do with that skirmish and fighting.

Question. Which fighting? Was there any more than that along the road?

Answer. No, sir.

Question. All that were engaged in that fight were ordered to leave the country?

Answer. Yes, sir.

Question. The committee did not call upon anybody after that fight, did they?

Answer. Yes, sir.

Question. Where?

Answer. They called upon all that belonged to the company to leave. They had a meeting on that thing.

Question. Who was the committee?

Answer. The men of the neighborhood.

Question. What neighborhood?

Answer. Chester district.

Question. The men of the town of Chester?

Answer. No, sir; the district.

Question. About Carmel Hill?

Answer. Yes, sir.

Question. White people held a meeting and appointed a committee, who warned the men that belonged to the militia company to leave the country?

Answer. Yes, sir.

Question. That is the first I have heard of it.

Answer. But it is so.

Question. Was Major Wilkes on that committee?

Answer. I suppose he was.

Question. Did he warn you?

Answer. He told me he did everything he could to avoid the men going off, but the committee would have them to leave.

Question. How many black men are on Major Wilkes's place now that were in that militia company?

Answer. There is only one there that was in the company.

Question. You were in the company; you are there?

Answer. Yes, sir.

Question. And there is another man; that makes two?

Answer. Yes, sir.

By Mr. STEVENSON:

Question. Are you living there now?

Answer. No, sir; my family is there at work on his place.

By Mr. VAN TRUMP:

Question. When were you there last?

Answer. Last Sunday.

Question. Did you leave the country after this fight?

Answer. Yes, sir; I left the neighborhood.

Question. Where did you go to?

Answer. Down to Columbia.

By Mr. STEVENSON:

Question. Were you subpoenaed here from Columbia?

Answer. Yes, sir.

By Mr. Van TRUMP:

Question. At the time of the first march of this colored militia into Chester, did you live on Major Wilkes's farm?

Answer. Yes, sir.

Question. Where did that company first meet?

Answer. They met there on his place.

Question. About how many met there?

Answer. There was pretty much the whole company.

Question. About a hundred men?

Answer. Yes, sir.

Question. Every one with a gun?

Answer. Yes, sir; they had a gun.

Question. And ammunition?

Answer. Yes, sir.

Question. You say they went to Chester, with those guns, in perfect military order?

Answer. Yes, sir.

Question. With guns and ammunition for protection?

Answer. Yes, sir. They didn't have any ammunition worth mentioning; they had some, but it was as good as none. They went there to see what protection they could get.

Question. Could they not go there without guns and in an organized body—a hundred men? Could they not see what protection they could get by sending a committee?

Answer. They were fearful to get themselves out of the company after they had been so much disturbed.

Question. They marched in daylight?

Answer. Yes, sir.

Question. They were not afraid of the Ku-Klux in daylight?

Answer. No, sir; I suppose not.

Question. What was the necessity of going to Chester for protection with guns and with some ammunition?

Answer. Very little ammunition.

Question. How much?

Answer. I would not suppose some of the men ever had two or three or four cartridges.

Question. All had that much?

Answer. No, sir; some had none.

Question. Did they go to Chester for ammunition?

Answer. No, sir; they didn't go in particular for that; they went to see what kind of protection they could get.

Question. To see whom?

Answer. To see gentlemen. The head men of the business.

Question. They thought it best to go, a hundred men with arms in their hands, to see how they could best obtain protection?

Answer. Yes, sir.

Question. Was that Jim Wilkes's idea?

Answer. Yes, sir.

Question. Did you hear him say so?

Answer. Yes, sir.

Question. Did you hear him say anything to the reverse of that?

Answer. No, sir.

Question. If he said so, you never heard him?

Answer. If he said so, I never heard him.

Question. What time did you get to Chester?

Answer. They got to Chester about 10 o'clock Monday.

Question. Who did you go to see when you went there?

Answer. They went to see Mr. Reister.

Question. Who was Mr. Reister?

Answer. John C. Reister. He was living there.

Question. What was his position there?

Answer. He was clerk, I think, of the court, if I am not mistaken.

Question. Was he understood to be a friend of the black people?

Answer. He was the man that organized pretty much the company.

Question. Was a committee of the militia appointed to go to see him, or how did they communicate with him? They didn't all march up to his house?

Answer. No, sir; they didn't march up to his house. They just went inside the corporation and stacked the guns and staid there.

Question. That is, they struck their camp there?

Answer. No, sir; they didn't stake their camp or stay there.

Question. Who went for Mr. Reister?

Answer. They sent out for him.

Question. It was really Mr. Reister and the citizens who came out to see you negroes, instead of you sending?

Answer. Some of the men of the town met us and commanded us to go no further into town.

Question. Finally it was agreed that you were to go out five miles that day?

Answer. Yes, sir.

Question. That was Monday?

Answer. No, sir. We were to go out of the corporation Monday night, outside, five miles from the town.

Question. When did you start out under this stipulation of going five miles and dispersing?

Answer. We started out on Tuesday morning, about 7 o'clock.

Question. What time did Major Reister and these citizens go out to see you on Monday?

Answer. It was on Tuesday.

Question. They did not come to see you on Monday at all?

Answer. No, sir.

Question. You did not go to see them?

Answer. No, sir; they came on Tuesday.

Question. You got there Monday and staid until 10 o'clock Tuesday before you took any means to know whether you would get protection or not. In other words, the first meeting had was a delegation headed by Reister and citizens, who came out to see you Tuesday?

Answer. The way it was, on Monday night we were ordered into Chester. On Tuesday morning—

Question. Ordered by whom?

Answer. Mr. Reister came out after us. On Tuesday morning, about 7 o'clock, we left town and went five miles from town and aimed our way home.

Question. After you came to an understanding with each other, by way of compromise, upon what grounds did Captain Jim Wilkes claim that the company should stay together until Saturday?

Answer. He had got interested himself, because his life was threatened and they aimed to kill him.

Question. Although it was agreed that they should go out on Tuesday five miles, as a body, and disperse, he claimed the right to hold them all together until Saturday?

Answer. Yes, sir.

Question. Was it his intention to hold you all together until Saturday ?

Answer. Yes, sir ; it was the intention.

Question. You were held together until this fight dispersed you ?

Answer. Yes, sir ; they were together until that fight.

Question. On Sunday night, the day before the march into Chester, where were you ?

Answer. At home all day Sunday.

Question. At Carmel Church ?

Answer. Yes, sir.

Question. On Major John Wilkes's farm ?

Answer. Yes, sir, all day.

Question. Were you at home all that night ?

Answer. Yes, sir.

Question. When and where, on that night, did you see two or three hundred Ku-Klux, all mounted, every person disguised and horses disguised ?

Answer. On Sunday night I was right at home. They came within two hundred yards of my house.

Question. You say there were two or three hundred ?

Answer. Yes, sir ; it appeared that many.

Question. Which direction did they come from ?

Answer. From right toward the river.

Question. From the direction of Union Court-House ?

Answer. Yes, sir.

Question. Were they riding along the road ?

Answer. Yes, sir.

Question. At what time of night ?

Answer. Just about 10 o'clock, I suppose.

Question. Did you ever hear where they went to ?

Answer. No, sir, I never did. They came up that night, and turned their course, after they shot in at them there.

Question. Where did they shoot in ?

Answer. They shot in on them as they came up there.

Question. Who did ?

Answer. The whites, the Ku-Klux.

Question. Shot on whom ?

Answer. On the black ones.

Question. Where ?

Answer. They were out close by the road—not close, but in an old field hid.

Question. How many black people ?

Answer. I don't suppose more than thirty or forty of them.

Question. What time of night was that ?

Answer. About 10 o'clock.

Question. What were thirty black people doing there ?

Answer. They were getting themselves up to go to Chester, on Monday, to see what they could get.

Question. A militia company ?

Answer. Yes, sir.

Question. How near did these two or three hundred Ku-Klux ride to the negroes ?

Answer. They rode pretty much right up on them.

Question. Was it a dark night ?

Answer. No, sir ; moonshiny.

Question. Could you see the horsemen coming at a distance ?

Answer. Yes, sir. They get pretty much on them before they saw them.

Question. You say the black people were in the field ?

Answer. Yes, sir ; and the Ku-Klux were in the field too. They were on the road, the big road, and turned into the field.

Question. They fired on the black people ?

Answer. Yes, sir.

Question. Did they hit any ?

Answer. No killing was done.

Question. No wounding ?

Answer. No, sir.

Question. Nobody hurt ?

Answer. Nobody that I know of.

Question. What did they do then ?

Answer. They didn't do anything, but just quieted themselves.

Question. I am speaking of the Ku-Klux.

Answer. They didn't do anything but run their horses for life.

Question. Where did they go to ?

Answer. They went back the way they came, towards Union.

Question. After firing a volley into the negroes, and hitting no one, they turned their horses and with great fury retreated to the place they came from ?

Answer. Yes, sir.

Question. How far did you see that large force of disguised men before they reached you?

Answer. We could see them a right smart distance, for they came out in the openings.

Question. Did you try to make your escape?

Answer. Yes, sir. Of course they tried to make their escape, but after they fired on them, the men did what they could to catch some of them, and see who they were.

Question. These twenty-five or thirty black men were disposed to fight this large crowd of three hundred horsemen?

Answer. Yes, sir; after they were shot in on, they shot too.

Question. How does it come that nobody has ever heard of that Ku-Klux raid?

Answer. I think it was a great deal heard about. A mighty alarm was made about it, whether it was heard or not.

Question. It has never been heard of among the white people, so far as I have learned.

Answer. The white people know all about it as well as I have understood.

Question. And you were there and saw that?

Answer. Yes, sir.

Question. And swear there were two or three hundred?

Answer. That is the amount I supposed there was.

Question. You swear also there were five hundred armed white horsemen, in daylight, marched past Carmel Church, and had this battle with the black people at the rocks?

Answer. Yes, sir; that is what I would put it to be; and I heard white men say there were five hundred more, too, coming to reinforce them.

By Mr. STEVENSON:

Question. Were you subpoenaed in Columbia?

Answer. Yes, sir.

Question. Have you been there ever since you left Chester?

Answer. Yes, sir.

YORKVILLE, SOUTH CAROLINA, July 27, 1871.

ANDREW CATHCART (colored) sworn and examined.

By the CHAIRMAN:

Question. How old are you?

Answer. I am about seventy-seven years old, the first day of last March.

Question. Where do you live?

Answer. Down foremost Squire Joe Miller's, on a plantation that I bought in slavery times. I bought myself about twenty years ago, and then worked and bought myself a little plantation.

Question. How long is it since you bought that plantation?

Answer. About twelve years.

Question. How long since you bought your freedom?

Answer. I reckon it has been twenty-one or twenty-two years; I cannot tell exactly.

Question. Do you recollect what you paid for it?

Answer. Yes, sir; I do.

Question. How much?

Answer. I paid \$190 for a tract for—

Question. But for your freedom, how much did you pay?

Answer. I paid \$330 for my freedom.

Question. How many acres do you own down there?

Answer. Ninety; I bought another place, a place that Willburn Ward owned, adjoining, and together it makes ninety-eight acres.

Question. How much did you say you paid for it?

Answer. I paid \$190 for the first, and \$350 for the last part—the Ward place.

Question. Have you got it all paid for?

Answer. Yes, sir; all.

Question. Go on and tell us what you know of the operations of the Ku-Klux in your neighborhood—what they did to you.

Answer. When they first came in to me they said, "Ku-Klux, Ku-Klux, Ku-Klux," and caught hold of me, and says one, "Have you any arms?" I said I had a rifle up there. They said, "Take it down and break it all to pieces." I got it and went to my hearth and broke it all to pieces there on the rocks of my fire-place, and then bent the muzzle, and they struck me a few licks while I was at it. The men talked to me; I think it was one Henry Reeves spoke to me; and I looked at him, and every time I would go to look at him, he would slap me in the face; but still I would look at him when I got a chance, because I had not heard his voice in twelve months, and yet I

thought of him then. He was a man that had lived with me, and I knew his voice when I heard it, and so I would look at him from head to foot. I knew the man's temper; I have seen him in good humor and in ill humor. He is a fractious sort of a man. The next thing they said was, "Where is your money?" I told them I had no money. Says he, "Open the chest, or I will break it open, and open it damned quick." My wife handed him the keys and they opened the chest. They did not do anything but just throw it open. "Come," says he, "damn him, take him out and hang him, kill him, shoot him, take him out and shoot him." As they marched me out of the door one stood inside of the door and turned back as they marched me out. I took him to be one Jimmy Jones, that I had worked with for five years. His father is an old man. I farmed for him, and made him corn and cotton, and took care of it until he died. He came back and sat down and commenced plundering the chest. The old woman sat right by him; her knees were right against it, and his gown fell off he was so busy plundering, and then she looked and saw his pantaloons, and knew the pantaloons; she knew the coat and the pockets of his coat; she knew them well; she saw his chin; it had a little beard coming out. Then after he had plundered and taken out several things, such things as would be useful to him, they marched me out, and he went on with Henry Reeves. Says he, "Where were your children when they were run away?" You see five years before that they belonged to an Irishman. He was a curious sort of a man, and sold them to a man named Davies, and we did not know where he took them to. I told him I did not know where he took the children to. He talked in the Irish way. He is a passionate man; that is Reeves I am talking about now. Says he, "Damn you, tell me where they are or I will kill you." I told him I did not know where they were, and I could not tell. He took the butt of an Army gun and struck me on the head, and dropped me to my knees. I scrambled a while and got up. Says he then, "I will kill you if you do not tell me." I told him I could not tell where they were. He just took and struck me a solid lick here on the head, and I thought it would burst my head open. It was a hard lick, and I fell with my breast on a stump. I spit blood after that for two months from that blow. As I was going on to tell you, I scrambled and raised up, and he said he would be damned if he did not kill me if I did not tell him, and they presented their guns at me. I turned around and said, "O Lord, have mercy upon me! Lord have mercy on my soul!" I said, "You can kill me if you see cause." I expected that was to be my last word. Then they started. But I must tell one word here. As I came out of the door they knocked me right here in the hip and they carried me out, and I have not been able to plow since, I am so lame. I do not believe I will ever be over it. When I go to the field to hoe for half an hour I have to sit down to rest. They told me to go in the house and to run and jump the bars. I scarcely could drag myself. I went in as well as I could. When I got in the house they told me to shut that door and not say anything. Then they marched down to the house where my daughter and another woman taught school. They had authority to teach from Mr. Lathan and Mr. Johnson agreeable to the law. They went down there and tore the school-house all to pieces; they worked on it half to quarter of an hour, and not only treated it rough but broke it all to pieces. Tore the tenons out and broke it all up. One halloed, "Burn it up;" but another one halloed, "No burning," but they raised a fire; they had a pile of boards and they put stuff under and then put the fire there, but after they went off I crawled under there, and put the fire out, and saved it.

Question. Had that building been used as a school?

Answer. Yes, sir; for two years.

Question. For white or colored children?

Answer. For colored children. It was on the place I bought of Ward. It was a frame house, worth forty or fifty dollars, that they tore up for me. They shot one ball in the end of the house by the window, and shot another through the door, and it went just above the bed. They seemed to shoot for somebody in the bed. My daughter was living there in the house. It is one hundred and fifty yards from the house I staid in. She ran out and got away; but they got all of her things out of the chest and threw them on the floor and tramped over them, and took two or three pieces of clothing, some silver thimbles, and several other things that I do not remember now. They took a jug of vinegar and bursted it among them. They destroyed a heap of things.

Question. Is that all of it?

Answer. I think that is all. Then they went off.

Question. How many were there of them?

Answer. I could not tell you now, because every time I would go to look at them they would slap me in the face and over the eyes; but I saw there were fifteen or twenty of them; there might have been a little over fifteen and a little under twenty, or there might be twenty; I know there was a large company.

Question. Did you see the kind of disguises they wore?

Answer. Yes, sir; they had on some sort of caps—one thing and another—and sort of horns one had. But they would not let me look at them, but slapped me whenever I looked; and I could just look at them from the body down.

Question. Did you recognize any others than the two you have mentioned ?

Answer. I can mention this Ben Presley ; Ben Presley is my nigh neighbor ; I know him by his walk and by his looks and by his motion ; and when he first began to talk he said that I was a ruler—"You think you will rule ; but, God damn you, you shall not rule." I told him I always kept myself as humble since my freedom as before, and I did not want to rule anything. He says, "You have got a bald-faced horse that you ride up and down the road." I told him I did not ever ride him. He said, "Well, your son does." I told him "He didn't ride often." He talked in his plain, natural voice then, and I knew him. He is a man I am used to ; he seemed to get mad when he talked.

Question. Who is Ben Pressley ?

Answer. He is Richard Pressley's son ; he is not here now.

Question. Is Richard Pressley a farmer ?

Answer. Yes, sir.

Question. Does he own the land he occupies ?

Answer. Yes, sir ; a large place ; Ben manages it for him ; he has been almost dead for a year.

Question. How old is Ben ?

Answer. I reckon he is near thirty.

Question. Is he a drinking man ?

Answer. Yes, sir ; he drinks pretty smart, at times. The same night they came on Charlie Bryant's, I think it was the 11th of March ; I got June Moore to write it down ; I could not write myself ; here is the paper, [producing scrap written as follows : "Thay Night the Ku Klux Come to my house Was March 11th 1871. ANDREW CATH-CART."] Charlie Bryant heard them throw the house down, Mr. Currance heard it, and they heard it at old man Wallace's ; they could hear them two miles off shooting and knocking and halloing.

Question. What did they do with Charlie Bryant ?

Answer. He was out, not at his place, but they abused his wife pretty bad ; they liked to have killed her. They knocked her down, I think, with a pistol. They knocked her down and beat her, so her child said, after she was down. She did not know much about it, for she was as bloody as a hog that had been stuck.

By Mr. VAN TRUMP :

Question. Was that the same night on which they had been to your house ?

Answer. Yes, sir. Charlie said when they started part of them came right up to his house again, and another part came up the York road.

By the CHAIRMAN :

Question. Have you ever reported this case here in town before to anybody ?

Answer. Yes, sir ; I think June reported it. I never reported it myself, but I think June Moore made mention of it up here.

Question. Is that all you know about it ?

Answer. Yes, sir, that is all.

Question. Have you taken any part in the public affairs of that township except in getting up this school-house ?

Answer. No, sir.

Question. Did you get up this school-house on your own land ?

Answer. This had been a kitchen built on the land, and then the big house was there, and I let them teach in the kitchen. I just let it be for a school-house. That house was worth as much as forty or fifty dollars.

By Mr. STEVENSON :

Question. Had you been a republican leader ?

Answer. I had never been leader of nothing, but I voted the republican ticket.

Question. You did not undertake to lead ?

Answer. No, sir, I led nothing.

Question. You are seventy-seven years old ?

Answer. Yes, sir.

Question. What makes you think that is your age ?

Answer. I have it on a book at home—the Old Testament. I had my brother's son's age, and he was nearly a year younger than me, and from that we counted it up, and it makes me seventy-seven last March.

Question. You counted up by your brother's son's age ?

Answer. Yes, sir ; I was about seven months older than him.

By Mr. VAN TRUMP :

Question. Had you a brother so much older than you that he had a son nearly as old as you were ?

Answer. Yes, sir. And counting his age off, and giving me seven months more, makes me seventy-seven.

By Mr. STEVENSON:

Question. You spoke of an Army gun; what did you mean by that?

Answer. I mean by an Army gun, one of those rifles such as the blacks had mustering with—the colored militia. They had bayonets on the guns that night that they beat me.

Question. They had one of those guns?

Answer. Yes, sir, more than one. I saw two or three, maybe.

By Mr. VAN TRUMP:

Question. When did you get your gun?

Answer. It was an old rifle I had got long before; I allowed to sell it, but I did not; I made no use of it.

Question. What part of the county do you live in?

Answer. In York, on the lower edge of the county, right fornenst Squire Joe Miller's; north of here on the Charlotte road; seven miles from here.

Question. If you have named the right men here, Andrew, I hope you may catch them and punish them as they deserve.

Answer. I pray God I have spoken the truth as I understand it.

Question. It is my duty to see whether you are mistaken or not. Who is Henry Reeves?

Answer. He is Henry Reeves; he lives down here not far from Nely Miller's.

Question. What is his business?

Answer. Only a farmer. If he came on me I think he came out of spite, because my children that ran away used to belong to his sister.

Question. What do you mean by their running away?

Answer. They left with that Irishman?

Question. Was it since freedom?

Answer. No, sir; it was five years before freedom. They were slaves to them, and it was thought by many that he sold them, but it was not known whether he sold them or what it was. One Davis took them away.

Question. What interest had Reeves in them?

Answer. That's it. They were his sister's negroes, and he had ambition against me, thinking I harbored them.

Question. Do you think that Reeves has a hatred—

Answer. He has a spite against me. Whatever man it was he spoke in such ambition, and spoke in a great rage.

Question. Is that the reason you think it was Reeves?

Answer. No, sir; after he spoke I knew his voice, and I looked at him and he would put his face right up in mine and slap me.

Question. You did not have much chance to see?

Answer. Yes, sir. After he did that I would keep looking. I looked at his body and shoulders, and I knew the make of the whole man, and knew his voice and everything.

Question. Did you know him by his dress?

Answer. No, sir; I did not know him by his dress, but I knew the shape and make of the man.

Question. Is not that a very dangerous way to prove a man guilty, because he is made like somebody else?

Answer. Yes, sir; but did you never see a man you were so used to that you could tell him by looking at the build of the man and the voice. Now look at a blind man how he can tell a man by his voice. Here is Mr. Cook and Mr. Campbell; anybody that they know they can call by their names. And this man was like one of my home folks to me. He had not talked to me for a year, but when he spoke I looked up like it was one of my home folks.

Question. But do you not know that a blind man has the faculty of hearing much more sharply and accurately than we who see?

Answer. Yes, sir, but I know him; he is a hasty-tempered man.

Question. Are there not many such in the South?

Answer. Yes, sir, a great many; but he had a hasty stammering sort of a way that I knew.

Question. Do you say that Henry Reeves stammers?

Answer. He sort of stammers and whines like, as it were, and is crabbed when he quarrels.

Question. Is it a stutter?

Answer. No, sir; a sort of whining, grumbling.

Question. Will not almost any man grumble when he is mad?

Answer. Yes, sir.

Question. Does Reeves have a particular grumble?

Answer. Not when he is not mad, but I had seen him mad so often that I knew him at once.

Question. Let me ask you now—as an old man of seventy-seven years, who cannot expect to live very long—

Answer. No, sir, of course not.

Question. Let me ask you, if Henry Reeves's life depended on the fact would you swear that he was there?

Answer. I would swear that it was a man made just like him, and talking like him, and acting like him in passion and temper; a man that had vengeance in him whenever he talked of those children. If you were coming to me in that shape you would not come raging in that way unless you were interested. You would not want to knock my brains out about a thing you were not interested in.

Question. Did this man Reeves talk about the children that night?

Answer. Yes, sir; he knocked me down, and said he would be damned if he would not kill me if I did not tell where the children were. I could not tell.

Question. But your children had gone away before freedom?

Answer. Yes, sir; five years.

Question. Then of what value would they be to him?

Answer. No value, but it seemed an old grudge five years old. He held a spite at me because they were his sister's children.

Question. How near did you live to Henry Reeves?

Answer. About four miles,

Question. From the time your children ran away before freedom until the present time you have seen Reeves as a neighbor; have seen him several times?

Answer. Yes, sir.

Question. Has he had any difficulty with you about the children?

Answer. No, sir; never. I saw him over at Mr. Gillespie's, and I had seen him pass on the road.

Question. Was he kind toward you?

Answer. No, sir; he never appeared to have much to say.

Question. Did he ever talk to you about the children?

Answer. No, sir.

Question. Never named them?

Answer. I never heard a complaint about it, but when he spoke in that angry way I knew his voice.

Question. If this man among the Ku-Klux was not Henry Reeves, but some other man, and he wanted to keep you from knowing who he was, and had to talk to you about something, would he not be likely to talk about something which he thought you would put on Reeves or some other man that he might assume to be or talk about or for?

Answer. No, sir; I do not think there is a man in my section would do it, or could.

Question. Who is Jimmy Jones?

Answer. He has just got to be a man. I worked for his uncle for about five years when he was a boy and unable to work for one or two years; then he came up and worked with me.

Question. What is his business?

Answer. Farming. As I went to come out of the door when they marched me out, he stood in the door and turned and came right back and commanded the chest to be unlocked, and called for my money—my cotton money. I told them I had sold it, but I had not yet got the money. I said I had no money. He went and began to scramble for it; he went right to the chest; he had often seen me put it there. He sometimes worked with me, working a little farm. He went at it just as orderly as if he knew all about it.

Question. But how did you know it was Jones?

Answer. He had on a pair of pantaloons, when I met him at the door and looked at him, that I knew, and I am particularly confident that I knew his walk; as I went out I looked at him.

Question. What kind of a walk has James Jones—the real Jones?

Answer. A sort of a teetering walk, a sort of swing that made me look at him.

Question. Is James Jones the only man you ever saw who had a swinging walk?

Answer. No, sir; but if it is a person you have been working with a long time and have noticed particular you can tell the walk. There may be a walk like his, but to the best of my knowledge that was him.

Question. Would you swear it was him?

Answer. I will tell you more. My wife looked at him, and his gown that he had on fell off while he was there. He had been to our house several times before that, and she had looked at his clothes. He is like one of our home folks, and she knew them. There was the same pantaloons and the same coat pockets, all agreed just for him, and he stammered a sort of talk like this. [The witness assuming an unnatural bass tone.] He tried to talk a sort of Irish, outlandish like that—to keep us from understanding him, or that it was him, until they got mad, and then they talked naturally.

Question. Did Jimmy Jones get mad too?

Answer. No, sir, but he talked with a different voice from natural.

Question. Did that help you to discover him, by his voice?

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Answer. Yes, sir.

Question. Is it easier to discover a man by a counterfeit voice than by his natural tone?

Answer. Sometimes he would talk pretty naturally in his own voice again, and we know his foolish ways; he is a mighty brickety fellow.

Question. What business does he follow?

Answer. He is the one that took my money.

Question. What business does he follow as a profession?

Answer. Farming.

Question. Does he own a farm?

Answer. Yes, sir; cotton and corn.

Question. Does Reeves own a farm?

Answer. Yes, sir.

Question. Does Presley?

Answer. Yes, sir.

Question. I thought you said Presley was the son of a man who owned a farm.

Answer. Yes, sir; the land belongs to his father but he manages it.

Question. You are satisfied that these three men were there that night and Ku-Kluxed you?

Answer. I believe it with the bottom of my heart.

Question. They asked for your money?

Answer. Yes, sir; they asked for my cotton money.

Question. Did they get the money?

Answer. Yes, sir; \$31 40.

Question. Then they were robbers as well as Ku-Klux?

Answer. Yes, sir; I told it to the neighbors all about, and everybody said "Who was it?" but I knew that such a company could not have gone and made the fuss and noise they did and nobody know it.

Question. Did you tell anybody that you found or discovered Reeves, or Jones, or Presley?

Answer. No, sir; I never told that to anybody.

Question. Who did you first tell it to?

Answer. Here is the first place I ever made the discovery to anybody, when I told it here to day.

Question. Then this is the first time you have told who these men were?

Answer. Yes, sir; the first time I have told it plainly. I gave little scattering hints, but I never made it plain.

Question. Who did you give scattering hints to?

Answer. Dr. Barron was talking to me, and I told him I knew the men, and he told me it was a very difficult thing without I was confident. I would not positively say. One of them had a scar under here, [under the chin,] where he had had a boil, and my daughters both saw the scar and knew it, and I saw it. He was about the size of that young man, [a young man of slight build, and less than ordinary height.] He looked may be a little bigger; he was a common-sized man. I will not say who he was, but that scar was in the company, and if any one knows the company that was along that night, if there was any such one in that company they might know it was him. It might point out the man.

By Mr. STEVENSON:

Question. Why did you not tell these names before to-day?

Answer. Because they would have killed me. I began to talk a little about it, and I heard something. They laid a trap. There was a paper that they would be on me again. I went to Mr. Jerome Miller's and Dr. Miller's, and laid there several nights. I expected to be shot. Dr. Miller told me, and Jerome did, that I need not be afraid; that they would guarantee that I would not be disturbed any more; that they had attended to it. I took them as friends. They told me I need not be afraid; they had attended to it. Mark you, I am a negro and cannot read or write, but I knew some few things.

Question. You think that Reeves had a grudge against you because of the loss of the slaves?

Answer. Yes, sir; I say that now. I never told it before.

Question. Is he the only man in that neighborhood who has a grudge because of the loss of negroes?

Answer. I do not believe there was a man in the country cared about it except him. I would not have thought it of him unless he had been in such a passion—his temper raised to such a height.

Question. Are not all the old slave-holders more or less mad about the loss of their slaves?

Answer. O, yes, sir; but that was nothing to my children running away.

By the CHAIRMAN :

Question. How many children had you ?

Answer. Three were run away.

Question. Were they slaves at the time you bought your freedom ?

Answer. Yes, sir ; and several years afterward.

Question. Do you know where they are now ?

Answer. Yes, sir ; they are living with me now. Two of my daughters looked at those Ku-Klux the other night, and they said they would be qualified as to these men. One of my daughters had the measles and was in bed ; the other was in bed, too ; but when they came they looked at the Ku-Klux and knew them, and said they could swear to them.

NOTE BY Mr. VAN TRUMP.—In the event that the general committee, at their meeting in September, shall decide on taking further testimony, I hereby give notice that I shall take additional testimony in relation to the evidence of one William K. Owens, a witness examined at Yorkville, South Carolina, not having time now to take the same.

P. VAN TRUMP.

REPORT OF MAJOR MERRILL—PRESENTMENTS BY THE GRAND JURY.

Presentments by the grand jury.

OFFICE OF UNITED STATES CIRCUIT COURT
FOR SOUTH CAROLINA,
Columbia, January 10, 1872.

SIR: In reply to your letter asking information as to number of bills of indictment found under enforcement act of May 31, 1870, and the act of April 20, 1871, I have the honor to forward you the inclosed certificate.

I have forwarded two certificates before this as to the state of matters at the date of each.

The present certificate is a full statement, the grand jury having been discharged on this day from the further consideration of indictments under the aforesaid acts.

Very respectfully, your obedient servant,

DAN'L HORLBECK,

Clerk Circuit Court United States for South Carolina.

Hon. JOHN SCOTT.

UNITED STATES CIRCUIT COURT FOR SOUTH CAROLINA,
November Term, 1871, ss :

I, Daniel Horlbeck, clerk of said court, do hereby certify that at the late session of the United States circuit court at Columbia, South Carolina, eighty bills of indictment have been found under the enforcement act of May 31, 1870, and the act to enforce fourteenth amendment of April 20, 1871, embracing seven hundred and eighty-five defendants, though, in fact, there are only about five hundred defendants actually indicted, as the same names occur often in different indictments.

That five of said defendants were convicted, and that fifty have confessed.

Witness my hand and seal of court, at Columbia, South Carolina, this 10th January, 1872.

[SEAL.]

DAN'L HORLBECK,
Clerk Circuit Court United States.

Report of Major Merrill.

WAR DEPARTMENT, WASHINGTON CITY, January 20, 1872.

SIR: In compliance with your request of the 18th instant, I transmit herewith the report of Major Lewis Merrill, Seventh Cavalry, upon his operations in aid of the civil authorities in South Carolina.

I am, sir, very respectfully, your obedient servant,

WM. W. BELKNAP,
Secretary of War.

Hon. JOHN SCOTT,

Chairman Committee on Outrages in the South, United States Senate.

HEADQUARTERS, YORKVILLE, SOUTH CAROLINA,
January 8, 1872.

SIR: I presume that the close occupation of my time by the unremitting necessity for personal attention to the labors and duties of the past three months is sufficiently understood to make unnecessary any apology for the delay in making the report which follows.

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The following report covers all the time since the date of my last extended report, made September 17, 1871.

Since that date events have followed each other with such rapidity, and have been of such moment, that a review of them in their order is necessary to a full understanding of the results now so near attainment.

In my previous reports I have repeatedly expressed the opinion that the local civil authorities were powerless to cope with the strength of the Ku-Klux conspiracy, even if willing to make the attempt, and I have been compelled to believe that the desire to make the attempt was entirely wanting. It was impossible to believe that such numerous crimes should be repeated almost daily for month after month, with no instance of punishment and hardly the commonest formality of investigation, and at the same time to credit the assertions of the civil functionaries that they were sincerely zealous in their duties, and desirous of bringing the offenders to justice. The pretense that it was impossible to detect the criminals was transparent, as I have been able, with the very limited means at my command, to trace numbers of the crimes far enough to make it certain that an honest, fearless, and vigorous discharge of duty by the civil officers would have brought to light all the facts needed to bring the offenders to trial.

Here the obstacles of dishonest or intimidated juries and perjured testimony for defense would, it is true, have been met with; but the effort to do this much would have gone far toward arousing the better sentiment of the people, and have measurably broken the power of the Ku-Klux leaders to entirely control public sentiment. This was not even attempted. It is alleged by them, in excuse for this course, that no formal complaints were made by the victims of these outrages. While this was true, it was the result of the listlessness and indifference with which these complaints had come to be received when made, and the fact that no complaint had ever brought redress. And, whatever little of palliation this might furnish for trial justices and minor officers, it certainly had no application to the courts and grand juries, while in these the action was no more effective than in the case of the minor officers.

Whatever doubts I have entertained of the willful connivance of the civil authorities at these crimes, were entirely dissipated by the facts of the session of the civil court in September. These completely demonstrated the truth of my assertion that the courts were not only unable to prevent these outrages, but were unwilling to try to do so.

The court of sessions for York County met on Monday, September 18. On the previous Saturday the circuit court judge, the Hon. W. M. Thomas, reached this place. On Monday I went to the court-room to hear the charge to the grand jury. It was very short, and only to the effect that important matters would be given in their charge on the following day. By that afternoon's mail I received a letter from the Hon. John Scott, United States Senate, in which he informed me in substance that Judge Thomas had applied to him for the information from York County, on which his letter to the President, recommending the more vigorous use of the powers given him by the Ku-Klux bill, had been based, saying that it was his (Judge Thomas's) earnest desire that he should have it put in his power to lay the facts of the crimes before the grand jury, and make the effort to secure the administration of the local laws. Senator Scott stated that he had replied to Judge Thomas, informing him that the facts were in my possession, and that I would, no doubt, cheerfully give these to him, and added that he wished that I would comply with any request that Judge Thomas might make of me to that end. On Tuesday I again went to the court-room to hear the charge to the grand jury. I append a copy of the notes I made of the charge, as then given. These notes I afterward showed to two prominent lawyers who were present and heard the charge, and was assured that they contain the substance of all that was said. I also append a copy of the charge, as published by the local newspaper, from a manuscript furnished by the judge the following week, in which I have marked in brackets what was *not* said. This elimination I also submitted to the same gentlemen, and was assured by them that it was correctly made. Up to Tuesday evening I had had no request from Judge Thomas to be furnished with the facts for which he had applied to Senator Scott, though on Tuesday morning he had alluded to me in his charge to the jury in a very marked manner.

On Monday and Tuesday it was currently stated that the result of Judge Thomas's charge and the subsequent action of the grand jury would discredit what I had officially reported to be the facts of outrages, and show that the War Department and Senator Scott had been willfully deceived in the statements made by me. It was also a boast in Ku-Klux circles that nothing would be done by the court in regard to the outrages, except to prove the falsehood of my statements. In view of these facts, I addressed a letter to Judge Thomas on Tuesday evening, offering him access to all the evidence in my possession in regard to outrages.

I was determined that, if the court failed in its duty, no part of the blame should, even by appearance, attach to me, while at the same time I did not propose to have any action of mine give color to a charge of military interference with civil authorities. A copy of this letter and Judge Thomas's reply is appended.

On Tuesday evening Judge Thomas, by appointment, came to my office. The conversation which followed convinced me that he did not honor the obligations of his office. It is with reluctance that I speak with such apparent indelicacy of a high judicial officer, but the notes of that conversation which are appended show that milder expression is not consistent with truth. This conversation dissipated whatever doubt I had entertained of the purpose of the judge and grand jury to foil any attempt that might be made to bring Ku-Klux criminals to justice, and convinced me that public sentiment was so far under Ku-Klux control that no hope could be reasonably entertained that the court would vigorously attempt its duty, even under the strongest pressure of such facts as I could lay before it.

I had no doubt that it was not only not my duty, but was entirely inconsistent with it, to attempt to initiate proceedings before the court or grand jury, and I accordingly was careful to avoid any appearance of interference with the conduct of its own affairs by the court, beyond offering such assistance or information as might be asked of me, and this only when it had been distinctly invited by Judge Thomas's letter to Senator Scott and the letter of the latter to myself.

On Wednesday the grand jury sent for me, and I at once appeared before them, and was informed that they desired only such information as bore on outrages *subsequent* to the session of the congressional committee at this place; this was given, coupled with the offer of any other information they might seek and which I had it in my power to give.

The grand jury was in session ten days, six of which were spent in some small routine matters requiring little attention, and in a labored effort to belittle and discredit my reports of the later outrages (in all some ten or twelve) which had occurred since the presence of the congressional committee. The results of this are shown in their presentment, a copy of which is appended. This whole paper, so far as it relates to those outrages, is disingenuous and in parts is written with an evident purpose to convey to persons unfamiliar with the facts a totally false impression. Much of the evidence the existence of which was indicated by me to the grand jury was not obtained, it is stated, because the sheriff was unable to serve process upon the witnesses. If this be the exact fact, it is worth noting that this difficulty appeared to exist only as to such witnesses as were indicated to be most important to show the facts.

I still assert, and it is at this date placed beyond a doubt by recent developments, that the school-house referred to as having been torn down, was destroyed by the Ku-Klux. The second and third outrages noticed are admitted to have occurred, but are belittled and made light of, and in part suppressed. Evidence now exists in abundance to show that they were committed just as then reported by me, and were beyond question by Ku-Klux. In the fourth case it is true that what had been credibly reported to me as Ku-Klux outrage was not committed by Ku-Klux. [A very full and fair statement of the facts is given in this case.] In the other outrages which I reported, namely, the whipping of six negroes, (four men and two women,) it was known to the grand jury that the outrages had occurred exactly as reported, but they discovered a fact, which I had not until then known, that they occurred over the line of York County and in Chester County. The skillful manner in which they manage to convey the impression that the report was an entire error, without saying anything which is not *literally* true, is noticeable in the last paragraph of their presentment, in which they say, "after careful examination of the facts, we ascertain that no such outrages occurred in this county. The officer alluded to as making the report expressed himself as satisfied as to his mistake, and proffers to correct any erroneous report of the affairs that may have emanated from him." I had stated to them that, while I was much more concerned with the *fact* of an outrage than with the exact locality in which it had been committed, I would cheerfully correct my error in saying that these had occurred within the limits of York County.

After spending six days in the effort to discredit my reports, they spent four days in a pretended examination of what now proves to have been a carnival of crime, not paralleled in the history of any civilized community. I offered them a mass of information in regard to hundreds of crimes, none of which they examined with more than the most transparent pretense of getting at the facts. The whole effort appeared to be to devise some means of avoiding the knowledge which, when they finally asked for the means of obtaining, was so easily to be had that it required more skill to evade it than to find what the facts were. In doing this, the few members of the grand jury who were really solicitous to discharge their duty were browbeaten and overruled by the rest, especially by two or three who were members of the Ku-Klux. It even went so far in the effort to get rid of the pertinacity of that part of the jury which was disposed to do right, that caucuses of part of the jury were held, in which it was so managed that these men were not present.

The whole conduct of their duty was so broad a farce, that it was very distasteful to be forced in contact with it, and present developments show it to have been the most ghastly mockery of justice that it is possible to conceive.

If any other evidence were needed of the fact, that the body of the local civil author-

ities is either in complicity with the Ku-Klux conspiracy, or intimidated by it, it is to be found in the fact, which now appears, that at least three of the justices of the peace (called trial justices) have been members of the Ku-Klux, and that at least one-third of the white members of the grand and petit juries, at the last term of court, were members, and among the number some who were officers of high grade in the order, and at least two of the number having been accessory to Ku-Klux murders.

In view of this, it is small wonder that eleven murders, and more than six hundred cases of whipping, and other brutal outrages by the Ku-Klux, have to this day gone unnoticed, and their authors unwhipped of justice, so far as any serious effort of the local authorities has been concerned.

Immediately subsequent to the adjournment of the court, I went to Columbia, to confer with the district attorney, and endeavor to concert some means of bringing better things about in this section. It was evident that the means at my command (which were limited to moral influences, and to giving aid to the victims in advising the legal methods of seeking redress) were utterly inadequate to meet the secret power of the Ku-Klux, rightly called by themselves the *Invisible Empire*, for a more absolute and tyrannical control than they held over the whole people where they existed has never been exercised by human power. I was hopeless of the possibility of ordinary means being made equal to the destruction of the conspiracy, but I was so fully impressed with the danger, not only to this section, but to the whole country, of permitting it to go on unchecked, that I was unwilling to spare any effort to break it up, or even to check it.

I here received your notice that the honorable the Attorney General would shortly come to Yorkville to investigate the facts, and to endeavor to devise some means for the repression of the organization. I met him in Columbia, and after some conference with him there, returned with him to Yorkville, accompanied also by United States District Attorney Corbin.

A comparison of the evidence in the possession of the Attorney General with the facts which I had long been collecting, convinced him that the worst reports which had been heretofore made of the power and of the infernal purpose and conduct of the order fell far short of the facts. It has since become evident that what at that time would, even by those persons most familiar with the facts, have been deemed the wildest exaggeration, falls short of the truth. The facts as now found are astounding, and it is impossible to make even the most temperate statement of them without risk of being suspected of exaggeration.

The warning proclamation and the proclamation suspending the writ of *habeas corpus* followed close upon the report of the Attorney General of the facts; but even before this, and, indeed, on the very day of his arrival, many of the Ku-Klux leaders, suspecting that measures were being devised to bring them to justice, and with the cowardice which has characterized all their infamous crimes, fled, leaving their poorer followers and ignorant dupes to stand sponsors for the crimes of which they had been the chief authors and instigators.

Two days after the telegraphic notification of the suspension of the writ of *habeas corpus*, by direction of the Attorney General, I began effecting the arrest of such persons as he had evidence to show were guilty of crime, and whose arrest he directed. The troops were so disposed that a large number of arrests were effected simultaneously over the county. The effect of this, coupled with the fact that it was instantly apparent to the Ku-Klux that no blow was struck in the dark, and no arrests made at random or on mere suspicion, was surprising. The rank and file were bewildered and demoralized. Looking about for their chiefs and counselors, and finding that, to get orders or advice, they must go to them in jail or follow their flight, they recognized the fact that the game was up, that the organization was broken, and all over the country they betook themselves to flight or came in and surrendered.

The subsequent scenes have been such as make one hope it will never be possible to parallel in our country. Conspirators against the well-being of society, of every grade of criminality, have come in and surrendered by the score. Day after day, for weeks, men came in in such numbers that time to hear them confess and means to dispose of or take care of them both failed, and I was powerless to do anything more than secure the persons of those most deeply criminal, and send the rest to their homes on their personal parole to be forthcoming when called for. In some instances whole Klans, headed by their chief, came in and surrendered together.

Those arrested and those who have surrendered are of every social grade, from the highest to the lowest, including representatives of all the liberal professions, even ministers of the gospel. When it is stated that these men among their number include those who confessed every crime known to the law, the state of society in which such facts are possible must be left to the imagination to depict; it is impossible to describe it.

At first much indignation was expressed at what the Ku-Klux sympathizers chose to designate the "arbitrary arrests," the "tearing away of innocent men from their families," and similar expanded distortions of facts. Later developments have shown that,

if all their clamor was the expression of honest feeling, rather than the chattering of such as sought to conceal crime by exciting public sympathy, they had been either criminally indifferent or amazingly ignorant of what had been enacted under their eyes.

Had any honest feeling of indignation at outrage and crime been possible on the part of those who have been so clamorous against the proceedings of the Government, the capacity for its exhibition would long since have been exhausted, had the feeling been permitted expression when those crimes were being daily committed.

Whatever opinion may be entertained of the propriety of the methods prescribed by the law, there has been no instance in which these have not been rigidly adhered to, and the event has at least demonstrated that those or similar measures were the only ones adequate to meet the facts of crime here.

The theory of all ordinary regulations of civilized society being that every man's hand will be against criminals, and ordinary methods being based on that idea, it is certainly evident that when nearly half in number, and much more than half in influence, are either in conspiracy against the law or conniving at the conspiracy, no ordinary methods are equal to the suppression or punishment of crime.

The exposure of the crimes in all their revolting wickedness, and the probable punishment of the chief criminals, is already having a strong influence on the better sense of the community, and it will not be long until, with all honest men here, the feeling will be only of gratitude at their escape from the tyrannical control of an organization capable of such infamous crimes.

It would at first seem impossible that good men could be found where such crimes, so regarded by the mass of the community, have been committed in such numbers. But this is not the fact; very many good men do exist here, who now, for the first time, are fully aware of the magnitude and number of the crimes, although they had long felt so strongly the social influence of the order that few dared to speak of its crimes, except in the most guarded terms. A large part, even of the membership of the order, is of persons who would have recoiled from personal participation in such crimes, and there are many who sought membership solely to protect themselves against violence threatened for entertaining and expressing sentiments condemnatory of its acts and purposes.

In short, the conspiracy may be stated to have practically included the whole white community within the ages when active participation in public affairs was possible. Those who were not sworn members were greatly in the minority, and were of only three classes; such as applauded and approved the purposes of the organization without being willing to join its ranks, to approve its grosser crimes, or to take the chances for punishment for being accessory to them; second, such as sympathized with its objects, but feebly objected to its crimes, more because of their inexpediency than of their wickedness; and, third, and by far the smallest class, those who had no sympathy with its objects, or anything but condemnation for its acts, but who had come to learn that security from personal indignity required silence. The latter class are not to be entirely condemned for lack of moral courage, when it is understood that the secret influence was so powerful and all-pervading that no one felt safe either in person or property in denouncing it. And when it is known, as it is now proved to be the fact, that in numberless instances the crimes were committed upon persons whom the perpetrators had never known, even by name, and in which the acts were done in blind obedience to orders from individuals in higher authority in the organization, it will not excite surprise that few white men were willing to become martyrs to a sense of duty, especially when it was evident to them that they could wield no effective influence toward controlling the conspiracy. Martyrs have always been scarce, and a large crop of them was hardly to be looked for where the average conscience of the community was either benumbed by passion or overpowered by force.

Active operations toward arresting criminals were at first more vigorously prosecuted in the western half of the county than elsewhere, because in this part most of the murders have been committed, and the surrenders have been chiefly as yet from that part of the county. The eastern half of the county has hardly yet been touched.

When the necessary time to give attention to the crimes there committed is found, the effect will no doubt be, in a great measure, the same as has been illustrated in the other half of the county. At present the members of the order in that part of the county seem to think that they are unknown, because so little action has been taken in regard to them. This is the consequence of inability to handle so much business as the sudden smash of the organization thrust on me, and not from absence of thorough knowledge of what had been done, and who did it.

At this time the facts of flights, arrests, and surrenders are as follows, and from this it may be fairly judged what the future must be, and what the membership in this county was. (It is assumed that those who intended to flee have already gone.)

The number of persons whose arrest was ordered, but who were known at that time to have fled, is about fifty, and includes many of the leading and most criminal conspirators. Against all of these the proof was then clear, and has since been abun-

dantly confirmed. Some forty or fifty others have fled, against whom no serious charges were then pending. In almost all these cases confessions and other evidence have since shown that these men were wise in their suspicions that their crimes would find them out. I can hear of no case where a man has fled who is not at this time accused upon proof that, uncontroverted by strong testimony, would convict him of grave crimes.

Up to and including December 31, 1871, 195 persons in all have been arrested by the military and placed in confinement, (this includes several who have surrendered and confessed such acts of deep criminality as made it impossible to turn them loose.)

I cannot state with absolute accuracy the number of persons who have surrendered and made confession. Much of the record of these cases was taken by a stenographer, who has not yet had time to transcribe his notes. Owing to the exacting nature of my own duties, my records, after his arrival, are incomplete. The imperfect records which I have, and such information as I can gather from his in their present state, show the surrenders to have been over five hundred, chiefly from the western part of the county. Though, of late, not nearly so numerous, owing in part to my absence in attendance upon the court, they still continue.

Arrests, surrenders, and flights of persons, against whom accusation upon probable cause is made, aggregate about eight hundred; of these an appreciable proportion are below the voting age. It is assumed that all who contemplated flight have already fled, and their flights have been from all parts of the county, while the surrenders have been chiefly from the western part of the county, though not nearly all who in that part of the county are implicated by the confessions have as yet either fled, been arrested, or surrendered. The total white voters of the county is about twenty-three hundred, of whom a small majority live in that part of the county from which most of the surrenders have come.

From these facts, I think the number of sworn members of the organization in the whole county is underestimated when placed at eighteen hundred.

Such a state of facts show that, at the time of the suspension of the writ, York County was, in point of fact, an armed camp, and that it was not for want of power to do it, but because the flight of the leaders made organized resistance hopeless, that danger of this kind was not encountered. Had it been attempted, and the organization used its strength, with its leaders present to direct it, while there could be no question as to the final event, there would have been needed much more force than I had at command to enforce any arrests that might have been attempted.

I am convinced, too, that the moral effect of the suspension of the writ had much to do with the complete collapse of the organization.

Of the 195 persons who have, since the first, been in custody of the military, the following disposition has been made: Fifty were admitted to bail, with security, by the United States commissioner, pending their being presented to the grand jury, with the evidence in their cases, for indictments for violation of section 2 of the act of Congress approved April 20, 1871, and of sections 6 and 7 of the act approved May 31, 1870.

Forty were similarly admitted to bail on their personal recognizance pending similar proceedings.

Seventy-nine were transferred to the custody of the United States marshal, pending similar proceedings. In these cases, either the official relation to the order of the person, or the gravity of the crimes charged against them, made it imprudent or impossible to release them on bail, until it became evident that the strength of the organization was crushed, and that it would be impossible for them to organize resistance to further process, or to so intimidate witnesses as to prevent the execution of the law.

After the assembling of the court, most of them were transferred to Columbia, and all who could procure bail, or were charged with bailable offenses, were released on bail.

Six were arrested at their own request, as witnesses, because they were afraid to appear and testify unless it was made to appear that they were compelled to put in an appearance.

Three were arrested as witnesses, and bound over to appear to answer summons.

Nine were arrested by mistake. All these were released as soon as the mistake appeared; in most cases within a few hours; in all cases, so soon as an investigation of the facts was possible.

In all these cases the persons bore in whole or in part the name of the person who was sought, as, for example, John Nickles for John Nichols, Lewis Ramsay for Luis Ramsey, J. C. Chambers for J. S. Chambers. In some instances two or more persons were temporarily detained, pending the determination of the first name, and the identity of the person of that name who was sought, when the whole name was unknown at the time.

One was arrested wholly by mistake, having fled in company with a person who was sought but escaped; the person arrested, at the time, being supposed to be the one wanted.

One was arrested upon evidence which implicated him in a Ku-Klux murder, but was able to explain at once how his implication occurred, and was released at once.

One was arrested by the deputy United States marshal, placed in charge of the military authorities, and released by him without explanation to me of the cause of arrest or release.

One was sought as a witness, fled, was arrested, and released upon giving bond to answer summons.

One, a boy of thirteen years of age, was arrested and found to be the son of a chief of Klan, and to have been sworn in and taken on a raid by his own father; he was released as being too young to be held responsible under the circumstances.

Two men, of identically the same name, were arrested and held, pending the investigation of identity; one was released as soon as the question was determined.

Three persons were arrested, all having the same last name, which was the only part of the accused person's name that was known; after a few hours' detention two were released upon discovery that the third one was the one sought.

The impossibility of procuring intelligent white men to assist in the arrests, the desire to avoid temptation to resistance by using negroes, and the absence of knowledge of the personal appearance of the persons sought, combined to make the duty of arresting them unusually delicate and difficult for the officers and men engaged. The small number of mistakes made in so large a number of arrests under these circumstances, show the great care which was exercised to avoid reasonable grounds for complaint.

It is due to the officers and men of my command, who have discharged this difficult duty, to say, that their conduct has been unexceptionable and worthy of high praise. Up to this time, no complaint has been made of even the smallest impropriety of conduct or want of courtesy toward the prisoner, or toward citizens with whom their duty brought them in contact. They have uniformly behaved with considerate kindness toward those whom it became their duty to arrest or detain in custody.

In some cases, too, the abuse that was heaped upon them and the threats of resistance which were made were very trying to their patience and forbearance; but, notwithstanding this, no violence has ever become necessary, and just cause of complaint has been absent.

The officers chiefly engaged in making the arrests were Captains Weir and Hale, and Lieutenants Nowlan, Godfrey, and Braden, of the Seventh Cavalry. Captain Ogden and Lieutenant Wheeler, of the Eighteenth Infantry, with Captain Ogden's company, were placed in charge of the jail, with one of the medical officers, especially instructed to inspect it daily, and look after the health of the prisoners. These officers were exceedingly vigilant and attentive, and to this is due the fact that no prisoner escaped from their charge, and no case of sickness occurred in the jail, though it was at times greatly crowded and difficult to keep in good police and sanitary condition.

As all the arrests were made upon information which I furnished the attorney general, it is gratifying to be able to vindicate the carefulness of my investigations by the following report of the action of the circuit court at the term just closing in Columbia, in regard to those persons who were charged with crime:

"The total number who were arrested, charged with violation of law, (excluding the few who were arrested by mistake of person, or as witnesses,) was 169; of these, there have been arraigned before the court and tried, 5, (all of whom were found guilty;) arraigned and pleaded guilty by confession in open court, 12; indicted and not yet arraigned, 118; indictments still pending, (the mass of business before the court making it impossible to reach their cases at this term,) 14; arrested and confessing, and used as State's evidence, 20."

In concluding this report it is proper for me to say, that in York County the Ku-Klux organization, as such, is completely crushed. Its leaders have fled, or been arrested, and they are now either undergoing sentence or awaiting the investigation of their cases before a civil court.

Most of its most criminal members are in the same category; but while this is the fact, it is also necessary to say that the causes from which this organization, with all its revolting crimes, has sprung, are still to a great extent present, and will only be eradicated by time, and the better education and government of the people. The ignorance of the lower orders and their servile obedience to the dictation of their social leaders, have made possible such a state of affairs, as has been shown. They are the slaves of men whose haughty arrogance and bigoted intolerance of political opinion, differing from their own, have made them override every dictate of justice and prudence in their treatment of their political opponents. Such as did not agree with them were to be made to do so, not by any appeal to reason or interest, but by an appeal to the fear of a cowardly midnight attack by masked riders, with a certainty of the brutal indignity of whipping, if, indeed, life should be spared.

These social leaders have a most uncompromising hostility to the citizenship of the negro, and have never yet recognized his right to fair and just treatment, or to the

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equal protection of the law, and their hostility extends to all who maintain his rights and politically fraternize with him.

These men have ruled Northwest South Carolina with a rod of iron. The good men of the community have been overborne and silenced by the secret but powerful influence brought to bear on them from all sides by the Ku-Klux organization, until all law was defied with perfect impunity; judges, juries, and magistrates alike conniving at the crimes, or being in complicity with the conspiracy.

Added to the ignorant classes, from the lower orders, was material ready to hand in a large number of young men of the better classes, who, by reason of superior influence and social standing, were all the more dangerous when determined to conspire together to defy law. These, growing to manhood during the disordered social surroundings of the war, with scarcely even domestic control or discipline, and in astonishing ignorance of the rights of free society, are found now with no respect for law, save what is bred of their fears of its penalties. From such material as is furnished by both these classes the leaders organize their active members, swearing in the largest part of the rest of the white community to insure their silence if not their hearty support.

The cause of Ku-Kluxism lies in the dissatisfaction of the white leaders with the results of the war, and in their determination to nullify these, as far as possible; a dissatisfaction chiefly growing out of the citizenship and enfranchisement of the negro, and his refusal to be controlled toward their political views. The object of the organization, in its chief leaders, has been to make salvage of the wreck of the rebellion, and to accomplish this through an organization which to its real strength should add all the terrorism arising from the secrecy of its operations and vagueness of knowledge of its membership.

Its great strength, and wide-spread, have been made possible and greatly encouraged by the cowardice, ignorance, imbecility, and corruption of many of the officers of the law. These reacted on its original cause and helped its growth, but while they are aggravations of the disease they are its necessary consequences rather than any part of its cause. These aggravations of its incentive will be cured only by the cure of the disease itself, and their cure is impossible until the strength of the Ku-Klux conspiracy is entirely broken.

The root of the evil lies in the want of education and of independence of thought and action of the lower orders, and the consequent control held over them by their higher-grade leaders, and this can be eradicated only by time and teaching, coupled with the firm and impartial administration of justice against those who violate law.

Now that the better and more thoughtful men of York County are emancipated from the thralldom of the Ku-Klux, they show a disposition to take their natural place and influence as social leaders, and if they are sustained by the assurance that the supremacy of the law will be maintained, and freedom of opinion protected, it will not be long before they may be left to themselves in their efforts to regenerate the community in which they live.

To secure this end they must be protected in their efforts by the moral influence of the presence of troops for the present, and until they become strong enough to hold their own against the bad influence that still surrounds them. How long this must continue it is hard to say, as it is also impossible now to guess how soon the revival of better sentiment will make it possible to withdraw the military from active participation in the enforcement of law and in the arrest of criminals.

This withdrawal is in every regard so desirable and so much to be sought for, that there lies some danger that it may appear possible before the results of what has been already done are assured and confirmed. While earnestly recommending that the civil power alone be returned to at the earliest period that may be possible, I must also invite careful attention to the necessity for being sure that respect for law is firmly re-established, and its just administration certain and unmolested, before the aid of the military arm of the Government is withdrawn.

In addition to the appended papers heretofore noticed, I include a list in detail of the names of all persons who have been arrested by the military in York County, showing date of arrest, charge in general terms, date of transfer from military custody, and a statement of the action of the United States court in their cases up to date.

I have the honor to be, your obedient servant,

LEWIS MERRILL,

Major Seventh Cavalry, Brevet Colonel, U. S. A., Commanding.

ADJUTANT GENERAL, *Department of the South.*

[Indorsement.]

ADJUTANT GENERAL'S OFFICE, *January 20, 1872.*

Respectfully submitted to the Secretary of War.

E. D. TOWNSEND,
Adjutant General.

Notes of Judge Thomas's charge to the grand jury at the September term of the court of sessions for York County, South Carolina.

Commenced by saying that the jury had been duly charged as to their duties at the beginning of the year; that yesterday he had stated that he had matters of importance to bring before them. Now he would say that this referred to the dark cloud of trouble hanging over York County. After some general remarks upon the undesirability of martial law, he proceeded to say that an important letter had been written by Senator Scott to the President, in which he stated that disorders had occurred in York County since the committee had been there; that the Hon. Senator Scott stated that his informant was the commandant of the post and the Hon. A. S. Wallace; that, with a present sense of duty, he had written to the honorable Senator for the affidavits from York County, with the purpose to bring them before the jury, but he had not received them. The honorable Senator had replied that the two gentlemen named would, no doubt, be very happy to learn that they were mistaken, if they were so. Now, gentlemen of the jury, it is your duty to send for these gentlemen and interrogate them in regard to these matters. It is high time that we understood that if we wish to govern ourselves we must show that we can do so. If it should happen that your attention is called to matters that occurred before the congressional committee were here, it is your duty nevertheless to investigate them. Then he said it is useless to go back to the causes of crime. You have no need to investigate them. Your business is with the crime itself. If a man, with malicious intent, deliberately and willfully put a pistol to a man's head and blow his brains out, it is murder, and that is as far as you need inquire. He then went on to deliver an elaborate address on the infeasible right of every American citizen to freedom of political and religious opinion, and the fact that Government had the ability and the will to defend and secure those rights for every citizen. (The oration on this point was decided in the enunciation of the right of political freedom, and was emphatic, and was very sound and well-put doctrine, though not much in accord with the public sentiment of the people of this county.) Some further declamation followed on the certainty with which the Government of the United States would protect its citizens in their just rights. The jury were cautioned not to make a whitewashing committee of the court, and that in sending for the commandant of the post and Hon. A. S. Wallace, they would address a polite note requesting their attendance, and were then dismissed. No specific allusion was made to the five murders which had occurred in the vacation of the court, and nothing in connection with them was given in the charge to the grand jury. No allusion was made to the raid on the county treasury, nor to the tearing up of the King's Mountain Railroad, nor to three hundred cases of Ku-Klux outrages which have occurred in the county since the adjournment of the last session of the court, and nothing in reference to them was given in charge to the grand jury. No distinct reference to any outrages was made except to such as are alleged to have occurred since the congressional committee left here, and to those only in the manner noted heretofore; and the only purpose indicated seemed to be to direct the efforts of the grand jury to these last without reference to what had occurred previously. Conversation of outside parties indicated very strongly that the object is to cover up, by the official action of the grand jury, facts of the past.

The following language was used to me by the solicitor, who, in this State, is the public prosecutor:

"I do not think that it would be worth while to try men who were concerned, or to investigate matters concerned, with the hanging of Jim Williams, the raid on the county treasurer's office, and such things as that, where prominent men were concerned. But if you will give me the details of some plain case that has been the whipping of some negro, or some matter of that kind, a case in which the evidence is pointed, I will try the case, and if I cannot convict such men I will say that it is time to shut up shop, and will recommend martial law to be declared."

I told him that I would give him the details of any given number of cases which had occurred and in which the evidence was plain, and he might try them and select from among them any one he chose.

YORKVILLE, SOUTH CAROLINA, *September 19, 1871.*

SIR: I have the honor to say that I am in receipt of a letter from the Hon. John Scott, United States Senate, in which he informs me that he has received a communication from you, asking to be placed in possession of the affidavits from persons in York County in regard to crimes committed in this county, in order that you might lay them before your grand jury with a view of bringing the perpetrators to justice. He adds that you expressed an earnest desire to have the opportunity to enforce the laws of your State, and a wish that the experiment of trying these cases before the local

court might be tried before martial law was proclaimed. He states further that he had replied to you that he had received no affidavits from York County; that his statements with reference to York County were based on communications from myself, and that I was in possession of many facts in reference to crimes committed within the jurisdiction of your court, which no doubt I would cheerfully furnish you upon application. He further intimates a wish that you should be put in possession of any evidence within my knowledge which you may desire.

I have as yet had no personal intimation from you that you wished the facts laid before you, but being present in court this morning during your charge to the grand jury, and from your courteous message having inferred that you know of my presence, I concluded that the allusion to myself in your charge was intended to take the place of any personal communication on the subject, and so construing it, I now address you to offer any facts in my possession.

I observed in your charge that you omitted to state that Senator Scott had informed you that no affidavits had been received from this county. No doubt this was an inadvertence, but your language left the inference that you had applied for the affidavits and they had not been sent. I presume that it was not your intention to convey that impression, and that it is only necessary to attract your attention to it to insure its correction.

I noticed also that your grand jury was instructed to request me to appear before them, but that the instruction was especially pointed to such outrages as had occurred since the congressional committee left here, and that very slender allusion was made to the fact that any others had occurred during the vacation of your court previous to that time.

In justice to yourself I can only infer that you had no knowledge of the numerous crimes that have occurred during the vacation of the court, or that there were any such within my knowledge. It is true that five murders and two riots which have so occurred are matters of such notoriety here that I had supposed that there was no public man in the State who did not know of them, and so inferred that they must be known to yourself, especially as four of the murders have resulted in inquests and one of the riots involved the destruction of the office of the county treasurer of this county, but no doubt your personal absence from the county has prevented this being brought to your notice, as they have been to mine. Much concerning these crimes has come to my notice and knowledge, as well as in regard to a great number of others which, however, as compared with these, are minor crimes. You will permit me to thank you for the courteous manner in which I was alluded to in your charge to your grand jury; but as it appears possible that some misunderstanding in their duties and privileges may arise, allow me to suggest that I cannot concede the right of your jury to investigate my official records, and that no doubt you will agree with me that my view is correct, and that you will see that they are under no misapprehension in regard to it.

While such is the fact, I will say that any assistance in the discharge of their duties, or to yourself, in the discharge of your own duty, which my official records can give, will be cheerfully furnished on application, and that I will appear before your grand jury at any time that it may be wished that I should do so, trusting that they will do me the courtesy to so arrange it as not to seriously interrupt important official duties.

I am unfamiliar with the precedents and practice of your State courts, and you will therefore excuse the suggestion which follows, if it be unnecessary or improper.

Such facts as are in my possession with reference to the numerous crimes which have been committed in York County during the last vacation of your court are so numerous and some of them so complicated with each other that their thorough investigation by your grand jury will fully occupy a long time; many of them refer to what, in view of the magnitude of some of the others, are comparatively insignificant and minor crimes; and I suggest to you that you would do the cause of justice a service and greatly facilitate the business of your court if you would give these facts some personal attention, and then especially direct the attention of your jury to the more important cases where there is a probability of their being able to bring to light the perpetrators of the crimes.

At such time as your leisure will serve, if you will kindly indicate to me that time, I shall be happy to have a personal interview with you with reference to the suggestion now made. As much that concerns these matters involves the examination of numerous papers belonging to my official records, I would suggest to you that this had better take place at my office, for the sake of easy access to the records.

I am, sir, with high respect, your obedient servant,

LEWIS MERRILL,

Major Seventh Cavalry, Commanding Post.

Hon. WILLIAM M. THOMAS.

RAWLINSON'S HOTEL, YORKVILLE, SOUTH CAROLINA, *September 19, 1871.*

SIR: I will be pleased to call upon you at any time, except from 9 a. m. to 3½ p. m., the day which may suit you. Please send me word and I will allow no other engagement to interfere.

But allow me to say I represent the State and the prisoner; Mr. Brawley represents the State, and to him I would refer you as to the violation of law you refer to.

The affidavits alluded to are mentioned in Senator Scott's letter to the President.

I stated correctly that you and Colonel Wallace were the only parties whom I had ever heard of as knowing anything of these matters; Senator Scott only spoke of your knowledge of recent outrages. But you will bear in mind that I charged the grand jury not to make the court "a whitewashing committee," but to investigate all outrages you might produce.

With my kind regards, I am, respectfully,

WM. M. THOMAS.

Major LEWIS MERRILL.

YORKVILLE, SOUTH CAROLINA, *September 22, 1871.*

SIR: Last evening Mr. Hutchinson, the foreman of the grand jury, sought me and stated that he had been directed by yourself to call upon me and explain that he and the grand jury had been under a misapprehension as to the force of your charge to them; it had been stated to me by the foreman, when I was in presence of the grand jury, that they had no instruction from the court to investigate any outrages which had occurred *previous* to the presence of the congressional committee here, and that they only desired from me such information as was in my possession in regard to those which had occurred *since* that time.

After giving them the information the foreman asked for, I stated to the jury that I had not understood your charge in that way, though the especial pointing to those outrages, and the absence of emphasis in regard to the former crimes, might easily have misled them; I further stated to them, pointedly, that I had various information in regard to numerous cases of crime which had occurred previous to the arrival of the congressional committee at this place, and specifically mentioned a number of grave crimes on which this information bore.

I observed that the gentleman who seemed to be the clerk of the jury took no note of these, and that I was not asked for any information regarding them. I further informed the jury that I inferred from the tenor of the note requesting me to appear before them, and from the conversations and questions addressed me by the jury, that they were under a misapprehension as to my duties and position in the premises; that I was here as a public officer in the discharge of a duty which required me to *aid* the civil authorities in asserting the supremacy of the law, whenever they asked my aid, but that it did not fall within my duty or desire either to instruct the grand jury in their duties, or to initiate proceedings before them; that all I could do to comply with any request for aid or information would be most cheerfully and earnestly done, but I could not consent to be forced into any position in which I might seem to be taking the place of the proper civil functionaries, or to be attempting to take charge of the duties of such functionaries. Notwithstanding this explicit statement to them, the foreman informed me, last evening, that they had been instructed by yourself to say to me that the grand jury were ready to hear any statement which I was prepared to make to them.

In view of the evident misunderstanding of the relative duties and positions of myself and the various parts of your court, I feel obliged to say to you that the misapprehension exists, and that I am in duty bound to see that you are furnished with the *data* for its correction.

To avoid any possible misapprehension I wish to say explicitly that the information for which you applied to Senator Scott, or any part of it, is at your service, or at the service of the grand jury, but that I do not conceive it to be my duty to initiate any proceedings before your grand jury or before your court, and cannot consent to assume any position which would make it appear that I was in any way responsible for either the action or failure to act, of any part of your court; therefore I have no statement to offer to the grand jury. I have already informed them specifically of various crimes, in regard to which I could assist them to information; whenever they or yourself will indicate that such information as I have in regard to any one of them, or any class of them, is desired, I will lay it before them, or before such officer as you may designate as the proper one, but I distinctly cannot consent to go before your grand jury to initiate any proceedings.

I beg to say, further, that if it will be of any assistance, either to yourself or the grand jury, I will furnish you a specific list, by name, of the crimes and outrages for the evidence in regard to which Senator Scott understood you to apply to him, and for which he referred you to me.

Trusting that you will do me the kindness to see that the evident misapprehension of the grand jury in regard to my duty (arising doubtless from ignorance on their part, and from misapprehension of your charge) is rectified, and that I am thereby placed in no false position, I remain, with high respect, your obedient servant,

LEWIS MERRILL,

Major Seventh Cavalry, Commanding Post.

HON. WILLIAM A. THOMAS.

Notes of a conversation between Judge W. M. Thomas and Colonel Lewis Merrill, at the office of the latter in Yorkville, South Carolina, September 19, 1871.

Captain Owen Hale, Seventh Cavalry, was present, and Judge Thomas was told that Captain Hale was present to hear and state, if necessary, what was said.

After about a half hour of conversation having little significance in regard to the judge's personal relation to the matter, the following occurred:

Judge Thomas then alluded to his charge to the grand jury, and said that he had had numerous conversations with members of the bar, and others, merchants and persons of influence and standing, with reference to his charge to the jury. That he had constantly said that in his opinion the whole of the crimes which had been committed should be investigated, but that most of the persons had urged him "not to let down the gap" in his charge to the grand jury; that he had not agreed with them entirely, but had been impressed with the arguments used to him to induce him to take that course. He then remarked as follows: "Do you not think that in the present 'nascent and infantile' state of public sentiment in opposition to the Ku-Klux outrages it would be inexpedient to stir up these things by an investigation; that this sentiment which has just begun to show itself would become more powerful if these things were not stirred up?" Colonel Merrill replied that, "so far as his own relation to the matter was concerned, he had nothing to do with the action of the court, and would most explicitly refuse to take the initiative in regard to the discharge of any of the duties of the court; that, as to the court, he did not consider the question of expediency was one to be entertained for a moment; that he was unfamiliar with the practice of South Carolina courts, but from his general knowledge of civil courts it seemed to him a plain question of duty, in connection with which no question of expediency could arise; that he was not prepared to offer any suggestions as to which course should be pursued, but had simply to say that the court and grand jury could have free access to all the information in his possession, and that information in his possession was enough, if used as it should be, to bring to light very many of the criminals involved; that it was so evidently the fact that he was justified in saying it, that there was a strong disposition on the part of the grand jury to shirk and evade their duty, and that they claimed to understand that the judge had so instructed them; that what the judge now said, and what he knew of public sentiment, made it evident that everything that could be done would be done to cover up and conceal these great crimes; that he had nothing to say in regard to that except that if done it would clearly demonstrate that it was time for somebody to take hold of the matter, but in no case could he consent to advise what should be done. The civil courts were to-day on trial before the people of the United States, and on their discharge of their plain duty depended the verdict. If they ever made a stagger at their duty the sentiment might be that they had begun to recognize the fact that the laws must be enforced, and, though not doing much, might safely be left to find them on the way to the right; but if they shirked and evaded their duty the feeling of the country would undoubtedly be that something must be done to insure protection to citizens of the United States who now had none." Judge Thomas then said that while many persons had urged that "the gap should not be let down," he did not think so, and that he had instructed the grand jury that they must not make the court "a whitewashing committee," but must investigate all outrages which had occurred.

Colonel Merrill reminded him that the grand jury told him (Colonel Merrill) that they did not so understand the judge. The judge then repeated his remarks substantially as before in regard to "nascent and infantile" state of correct public sentiment here, and his fear that it was inexpedient to "smother this by stirring up the matter;" adding that, "of course I cannot help it; if men have assumed the responsibility of violation of law they must bear the consequences; my duty is the same in any case; but do you think it expedient to stir up this thing?" Colonel Merrill replied as before, that he did not think that stirring up these matters was going to do any mischief to good public sentiment, and as to the question of expediency declined to give any opinion.

From this point the conversation was led off by Judge Thomas on general topics, and no return was made to the subject of the action of the court.

IN THE GENERAL SESSIONS, YORK,
September Term, 1871.

Your grand jury respectfully report that, after a laborious session of nearly two weeks, they have been able to investigate many affairs pertaining to the condition of the county, the results of which investigation we herewith submit :

Your jury have examined the county poor-house, and find its condition improved since last report; the inmates are well clothed, and seem to be in comfortable condition; three of the houses on the premises need repairing, and in one the hearth needs repairs, as it is dangerous in its present condition.

The county jail has been repaired as recommended in our last report; we also recommend that the other rooms of the jail be altered as recommended in last report, and that the passage-way in the third story of the building be ceiled with plank in place of the present plastered walls. We also recommend that the county commissioners be required to furnish the jailer with a sufficient supply of blankets to provide for the comfort of the prisoners confined therein during the winter; the number required we cannot estimate fully, but suggest that it be so regulated as to give each inmate a sufficient supply for his comfort. Your grand jury have given the requisite examination to the public officers, and find the same in good condition; the books in the respective offices seem to be kept correctly, so far as our examination permitted us to decide.

From information furnished us by Trial Justice R. L. Crook and M. O'Connell, we have to present Absolam Adkins, of this county, for the crime of bigamy, and suggest that the proper proceedings be commenced against him upon this presentment.

In reference to the special charge of your honor relating to information furnished the Hon. John Scott, chairman of congressional investigating committee, relative to outrages said to have been recently committed in this county by organized bodies of men, we report that we have given the matter therein mentioned an investigation, occupying over a week's time of our present session. The charges of violence emanated, it is said, from Hon. A. S. Wallace and Colonel Lewis Merrill, commandant of this post. Your grand jury had these persons summoned before them, and find upon examination that neither of them were able to state any facts from individual knowledge. The Hon. A. S. Wallace stated that he had reported a school-house burned in Fairfield County, but gave no information as to a school-house having been burned in York County, and if such a crime has been committed anywhere in this county we have failed to obtain the slightest evidence of the fact, even by hearsay, or otherwise, from a large number of witnesses examined representing all sections of the county. Colonel Merrill furnished your grand jury with the names of a large number of witnesses, whom it was stated could give us the requisite information as to the outrages and violence asserted in the communication of Senator Scott to the President to have been committed in this county. The witnesses named were summoned, and all whom the sheriff was able to serve attended and gave their evidence. From that evidence, we have been able to gather the following facts:

1st. A school-house in Bethel Township was pulled down, about a year since, by parties unknown to any of the witnesses; it has been pulled or thrown down twice since that time by parties unknown to the witnesses. From the testimony taken, we arrive at the conclusion that the misdemeanor was the result of rivalry between factions of two male teachers who had solicited the occupancy of the building from the school trustees.

2d. That in Bullock's Creek Township, on the 9th of September instant, three men passed by the house of one W. J. Wilson and fired off a pistol, and used boisterous and profane language. They were not disguised, and W. W. Wilson recognized, by the sound of their voices, two out of the three persons—Mac Scanlin and Sherrod Childers. We herewith present the said Mac Scanlin and Sherrod Childers for riot, and suggest that proper proceedings be commenced against them by the solicitor of the circuit.

3d. Two colored persons, Wash Coulter and Abram Chout, state that a short time since several persons came to their house in disguise and "chucked them." No other testimony could be furnished by them as to this affair, and they could not distinguish the persons of any of the party alleged to have assaulted them.

4th. Some time in August last one Neal Gleen, colored, was assaulted at his house by Giles Crawford and George Leslie, colored, who called him out of his residence and committed a battery upon him and cut him twice with a knife. A warrant of arrest was sued out against the offenders, but they had fled into North Carolina before it could be executed. This affair was reported to us as a Ku-Klux outrage of aggravated violence. These are the only acts of violation of the peace of which we have been able to obtain any evidence of having occurred since the 1st of July last. Several acts of violence, accompanied by crime, are reported as having occurred in the early part of the year. Among them was a raid made upon the office of the county treasurer, one E. M. Rose, on the 26th of February last. One James B. Porter, who was present, represents that there were a number of persons in disguise engaged in the raid; that a whipping was administered to him, and that he recognized by their voices and man-

ners Lauson Armstrong and Pinckney Caldwell, citizens of this county, as members of the party. We herewith present the same for the action of the law-officers of the county. None others of the party have been recognized. Some damage to the building occurred. A quantity of liquor belonging to D. S. Russell & Co. was destroyed, but so far as we can ascertain the funds of the office were not interfered with. One Henry Latham (colored) represents that he was whipped at some period of the present year by a number of persons, of whom he recognized three, viz, R. A. Black, James Sherer, and Dock Sherer. He recognized Black because he is left-handed, and the man who whipped him was left-handed. He knew Sherer by the first finger of the right hand being off. Witness says that his father had some sense, but that he and his mother had none. We present the said persons for indictment, upon the testimony of the witnesses above named. We call the attention of the solicitor to evidence herewith appended relative to the murder of one Anderson Brown in January last. We do not regard the evidence of Wesley Thomasson, the only important witness, as sufficiently definite to warrant us in presenting at present for presentation the names of any parties.

Your grand jury have also inquired into the murder of one Jim Williams, colored, occurring in March last. Such evidence as we have been able to discover in this case is herewith appended for information of the civil officers of the State. We do not regard it as sufficiently definite to authorize any special presentation from us. We have also examined such witnesses as we could obtain, or where names were reported, in reference to a homicide committed upon the body of Thomas Roundtree, colored, in the fall of 1870. Three witnesses summoned in this case are reported absent, and were not served with summons. Such evidence as we have been able to obtain is herewith appended for any future use. We regard it as insufficient for the purpose of making special presentment.

From evidence taken and appended, we present Isom Buchanan, colored, for arson, in the burning of the barn of one Hiram Thomasson, in this county, in January last, upon the evidence of Antoine Blalock and Emeline Blalock. The evidence also implicates other parties in this crime, but we do not regard it as sufficient to warrant any special presentment from us. Evidence in other cases of misdemeanors has been sought for, and some of a contradictory and uncertain character presented. Your grand jury have simply appended the evidence taken in such cases reported for the future use of the officers of the State. James H. Fayson, coroner of this county, has been reported to us for dereliction in the duties of his office. After careful examination of the facts we can find nothing in the official conduct of this officer worthy of condemnation. Information was furnished the grand jury by Major Merrill to the effect that six persons had recently been whipped in the southeastern part of this county. After careful examination of the facts we ascertain that no such outrage occurred in this county. The officer alluded to as making the report expressed himself as satisfied as to his mistake, and proffered to correct any erroneous report of the affair that may have emanated from him.

All of which is respectfully submitted.

A. L. HUTCHINSON, *Foreman.*

HON. WILLIAM M. THOMAS,
Judge of Sixth Circuit.

I hereby certify that the foregoing is a correct copy from the original on file in my office.

J. F. WALLACE,
Clerk Court of Common Pleas and General Sessions.

OCTOBER 2, 1871.

CLERK'S OFFICE, UNITED STATES CIRCUIT AND
DISTRICT COURTS FOR SOUTH CAROLINA,
Charleston, South Carolina, January 23, 1872.

DEAR SIR: I have the honor to forward you the presentments of the grand jury at the November term, 1871, of the United States circuit court for South Carolina, as requested.

If you should wish the punishments inflicted, I would forward them with pleasure. I this day forwarded a certified copy to the Attorney General of the United States.

Very respectfully, your obedient servant,

DAN'L HORLBECK,
Clerk Circuit Court United States for South Carolina.

HON. JNO. SCOTT,
Chairman Committee on Condition of late Insurrectionary States.

SOUTH CAROLINA—PRESENTMENTS BY THE GRAND JURY. 1613

United States circuit court, South Carolina district, at Columbia, January 11, 1872.

Present, Judges Hugh L. Bond and George S. Bryan.

The grand jury made the following presentment:

To the Judges of the United States Circuit Court:

In closing up the labors of the present term, the grand jury beg leave to submit the following presentment: During the whole session we have been engaged in investigations of the most grave and extraordinary character—investigation of the crimes committed by the organization known as the Ku-Klux Klan. The evidence elicited has been voluminous, gathered from the victims themselves and their families, as well as those who belong to the Klan and participated in its crimes. The jury has been shocked beyond measure at the developments which have been made in their presence of the number and character of the atrocities committed, producing a state of terror and a sense of utter insecurity among a large portion of the people, especially the colored population.

The evidence produced before us has established the following facts:

1. That there has existed, since 1868, in many counties of the State, an organization known as the "Ku-Klux Klan," or "Invisible Empire of the South," which embraces in its membership a large proportion of the white population of every profession and class.

2. That this Klan is bound together by an oath administered to its members at the time of their initiation into the order, of which the following is a copy:

OBLIGATION.

"I, (name,) before the immaculate Judge of heaven and earth, and upon the holy Evangelists of Almighty God, do, of my own free will and accord, subscribe to the following sacredly binding obligation:

"1. We are on the side of justice, humanity, and constitutional liberty, as bequeathed to us in its purity by our forefathers.

"2. We oppose and reject the principles of the radical party.

"3. We pledge mutual aid to each other in sickness, distress, and pecuniary embarrassment.

"4. Female friends, widows, and their households shall ever be special objects of our regard and protection.

"Any member divulging, or causing to be divulged, any of the foregoing obligations shall meet the fearful penalty and traitor's doom, which is death, death, death."

That in addition to this oath the Klan has a constitution and by-laws, which provide, among other things, that each member shall furnish himself with a pistol, a Ku-Klux gown, and a signal instrument. That the operations of the Klan were executed in the night, and were invariably directed against members of the republican party by warnings to leave the country, by whippings, and by murder.

3. That in large portions of the counties of York, Union, and Spartanburgh, to which our attention has been more particularly called in our investigation, during part of the time for the last eighteen months, the civil law has been set at defiance, and ceased to afford any protection to the citizens.

4. That the Klan, in carrying out the purposes for which it was organized and armed, inflicted summary vengeance on the colored citizens of these counties by breaking into their houses at the dead of night, dragging them from their beds, torturing them in the most inhuman manner, and in many instances murdering them, and this mainly on account of their political affiliations; occasionally additional reasons operated, but in no instance was the political reason wanting.

5. That for this condition of things, for all these violations of law and order, and the sacred rights of citizens, many of the leading men of those counties were responsible. It was proven that large numbers of the most prominent citizens were members of the order. Many of this class attended meetings of the Grand Klan. At a meeting of the Grand Klan, held in Spartanburgh County, at which there were representatives from the various Klans of Spartanburgh, York, Union, and Chester Counties in this State, besides a number from North Carolina, a resolution was adopted that no raids should be undertaken, or any one whipped or injured by members of the Klan, without orders from the Grand Klan. The penalty for violating this resolution was one hundred lashes on the bare back for the first offense, and for the second, death. This testimony establishes the nature of the discipline enforced in the order, and also the fact that many of the men who were openly and publicly speaking against the Klan, and pretending to deplore the work of this murderous conspiracy, were influential members of the order, and directing its operations even in detail.

The jury has been appalled as much at the number of the outrages as their character, it appearing that eleven murders and over six hundred whippings have been committed in York County alone. Our investigations in regard to the other counties named have been less full; but it is believed from the testimony that an equal or greater

1614 CONDITION OF AFFAIRS IN THE SOUTHERN STATES.

number has been committed in Union, and that the number is not greatly less in Spartanburgh and Laurens.

We are of opinion that the most vigorous prosecution of the parties implicated in these crimes is imperatively demanded; that without this there is great danger that these outrages will be continued, and that there will be no security to fellow-citizens of African descent.

We would say further that unless the strong arm of the Government is interposed to punish these crimes committed upon this class of citizens, there is every reason to believe that an organized and determined attempt at retaliation will be made, which can only result in a state of anarchy and bloodshed too horrible to contemplate.

We have visited the United States prisoners confined in the county jail, and find them all in a healthy condition, being provided with seemingly ample provisions of good wholesome quality; but the quarters in which they are confined, owing to their being greatly crowded, have not been kept as clean as is desirable. Should it be necessary for these prisoners to be kept here any length of time, we would respectfully recommend that at least one-half of those in the jail be removed to the prison on Sumter street. The prisoners complain that they have to pay a servant for bringing up their wood to them after it has been delivered in the jail-yard.

Some of them are in want of clothing, not having a change with them; and what they have is insufficient to keep them comfortable at this season of the year. Some also are in want of shoes. There is some complaint of the food being at times insufficiently cooked. They should have some change of diet at least three times a week.

The prisoners confined on Sumter street, in what is known as the Neagle House, we find in good, clean, comfortable quarters, well provided with blankets, &c. The food seemed to be good and wholesome, and we are of opinion that the officers in charge have discharged their duties as well as they possibly could be done.

All of which is respectfully submitted.

BENJ. F. JACKSON,
Foreman.

True copy:

H. G. GRAY,
Deputy Clerk.

OFFICE UNITED STATES CIRCUIT COURT FOR SOUTH CAROLINA, 88:

I, Daniel Horlbeck, clerk of said court, do hereby certify that the six preceding pages contain a correct copy of the presentments of the grand jury at the November term of the circuit court of the United States for South Carolina.

Witness my hand and seal of said court, at Charleston, this 23d day of January, A. D. 1872.

[SEAL.]

DAN'L HORLBECK,
Clerk Circuit Court United States for South Carolina.

TRIALS AT COLUMBIA, SOUTH CAROLINA.

DEPARTMENT OF JUSTICE,
Washington, February 2, 1872.

SIR: Referring to my letter of the 27th ultimo, I now have the honor to transmit a printed copy of the report of the recent trials in the circuit court of the United States at Columbia, South Carolina, for violations of the enforcement act of May 31, 1871.

Very respectfully,

GEO. H. WILLIAMS,
Attorney General.

Hon. JOHN SCOTT,
Chairman Joint Select Committee, United States Senate.

FIRST DAY'S PROCEEDINGS.

COLUMBIA, SOUTH CAROLINA, *November 28, 1871.*

Yesterday morning, at an early hour, people in considerable numbers commenced flocking into the city, brought hither by the approaching Ku-Klux trials.

The court met at 11 o'clock a. m., United States circuit judge, Hon. H. L. Bond, of Maryland, and Hon. George S. Bryan, district judge of South Carolina, presiding.

The lists of grand and petit jurors were called by the clerk, Daniel Horibeck, esq., and the following grand jurors answered to their names: Adam Branch Landsford, white, R. R. Desverney, colored, Charleston; Augustus Harris, colored, Edgefield; W. Wingate, colored, Cheraw; H. S. Griggs, white, Charleston—discharged, having served; W. B. Mitchell, colored, J. B. Williams, colored, Charleston; Thomas T. Thackam, white, Columbia; James Merrill, colored, Georgetown; Richard Blackney, white, Oro; James D. Graham, white, Sumter; F. M. Johnstone, white, Charleston.

The following petit jurors answered to their names: Philip Salters and J. C. Holloway, both colored, Charleston; J. F. Riley, white, Saint Matthews; John Freeman, colored, Charleston; Aaron Jackson, white, Cheraw; Alfred Egerton, white, Chesterfield; Emanuel Johnson, James Magill, and E. C. Rainey, all colored, Georgetown; Alex. Albrook, colored, Chesterfield; J. B. Witherspoon, white, Sumter; John Gordon, colored, Charleston; Adam Cook, Winnsborough; William Mooney, white, Columbia; D. Lynch Pringle, white, Georgetown; Andrew W. Burnett, white, Charleston; W. H. Deberry, white, Lynchburgh; Joseph Keene, colored, Statesburgh; Henry Nordham, colored, Charleston; Andrew W. Curtis, colored, Chesterfield; James M. Johnstone, colored, Charleston.

Those jurors who had served in the circuit court within the past two years were discharged.

On motion of District Attorney D. T. Corbin, Solomon L. Hoge, esq., was admitted as associate counsel, it appearing of record that he had been admitted to practice in all the courts of this State.

District Attorney Corbin rose to object to the manner in which the jury had been drawn, and challenged the entire array as being contrary to the law in such case, and read the order for the drawing of jurors.

The following are the grounds of the challenge submitted by the district attorney:

"United States, South Carolina district, fourth circuit, November term, A. D. 1871: The United States, by D. T. Corbin, district attorney, comes and challenges the array of grand and petit jurors drawn and summoned to serve at the present term of the court, for causes following, to wit:

"1. That said jurors were not designated and drawn in the manner provided by law.

"2. That said jurors were drawn from the jury-box by a small child, and not by the clerk or marshal as required by law.

"3. That said jurors were not drawn in the presence of the clerk and marshal, but were drawn in the presence of the clerk only."

Affidavits were then submitted supporting the grounds of challenge of the array.

The affidavit of United States Marshal L. E. Johnson asserted that he was in the city of Charleston on the 2d day of August last, and in going to his office on that day he was in-

formed that the grand and petit jurors for the next stated term of the circuit court had been just drawn, which greatly surprised him, as he had received no notice from the clerk, Daniel Horlbeck, esq., or any other person, of the intended drawing of the jurors that day by the clerk, and consequently was not present during any part of the time of the drawing of said jurors, as the law requires.

The affidavit of General Deputy Marshal Edw. P. Butts shows that on the 2d day of August, while he was in his office in Charleston, he was notified by the clerk of the court that he was about to draw the jurors for the next term of the court to be held in Columbia, and that he went into the room where Daniel Horlbeck, esq., the clerk of the court, had the jury-box, which he, Horlbeck, unlocked and opened in his presence, and a small boy being called in was instructed by the clerk to draw from the jury-box the ballots, and that the boy commenced drawing the ballots; that he, Butts, was called away after he had drawn a few, and left Mr. J. H. Shriner, a bailiff of the court, to take his place. Deputy Butts deposes that the marshal was not present during the time of the drawing.

John H. Shriner deposes that he was a bailiff of the court at the time named, and was present, as asserted in the foregoing affidavits; that his honor Judge Bryan and the clerk, Daniel Horlbeck, were present, and Deputy Marshal Butts was present a part of the time, and that the jury-box was brought into the court-room and opened in the presence of all the parties, a small colored boy being employed to draw the ballots. The remainder of Mr. Shriner's affidavit corroborates those given above as to the absence of Marshal Johnson.

The district attorney supported his grounds that the jury had not been drawn in accordance with law governing the same, as follows:

He said that he did not attempt to impute, either to the clerk or any other person, any designed evasion or non-compliance with the law. He supposed that the fact that the jury was drawn by a small child was attributable to an old custom sanctioned previously by this State, but long since abolished. That custom, however, had been continued by the clerk of this court, he having been for a long time clerk of the State court while the custom obtained there. He added that the order required the drawing to be done by the clerk or marshal, and nobody else, and in the presence of both the clerk and marshal. The deputy was not mentioned in the order; and where a special trust has been confided to draw a jury, counsel presumed there could be no question that the trust must be discharged personally. He added that he was prepared to submit authorities if the court desired them.

The Hon. Reverdy Johnson, in opposition to the challenge by the district attorney, said that he had asked Mr. Corbin what he designed to accomplish if he succeeded in getting the array dismissed, but had received no answer, except that the object was to get another jury. Mr. Johnson understood, by a portion of the order of the court, that the jury had to be selected from every part of the State, and not from the vicinage, and, therefore, if this jury was discharged, these trials must be postponed, and the whole proceeding of drawing a jury gone over again.

As he resumed his seat Mr. Johnson said, speaking for himself, that if the counsel for the Government entertained any fears that the judgments in these cases, passed on the verdicts of this jury, might be set aside for irregularity in drawing, he would waive all objections to the manner in which the jury was drawn.

Mr. Corbin, in reply, stated that he had made this motion in view of a very important decision made in the State of Maryland, in the case of *Clair vs. The State*, in which an irregularity in drawing the jury was taken advantage of, either during or after the trial. The question went to the Supreme Court; the *venue* was set aside, and a new trial was ordered on account of this irregularity—*i. e.*, that no two of the judges met together and made up the panel of jurors for the city of Baltimore, as required by the act.

The district attorney, after referring to the particulars and quoting from the case above mentioned, said, further, that these same questions arose in the *Surratt* case, and went on to state where the two cases were analogous, and that in both cases decisions had been rendered that the juries had been illegally drawn, and consequently by passing over these objections much inconvenience had afterward arisen on account of the trials being set aside and new juries being ordered after the cases had been carried up.

The district attorney doubted very much whether it was in the power of the defense, if this jury should be held irregular, to say, "We waive every objection of this kind." That every person has the right to demand trial by a lawful jury, and each prisoner must personally waive the irregularity in such cases.

Mr. Johnson replied to the effect that in the *Clair* case, cited by the district attorney, the decision was based upon an act which differed very materially from the order of court under which this question arises. The difference, in substance, being that in the former case a judicial duty was required of the judges, while under this order the duty required of the marshal and clerk is merely ministerial, and can be performed by his deputy.

In reply to the remarks of the district attorney relative to the right of counsel to waive objections affecting final judgment, Mr. Johnson said that parties have a right to be tried by twelve men, and cannot be forced to trial without twelve men. If tried by eleven men, against their protest, the judgment is annulled; but they, or their counsel, may waive that right—there is no right which they may not waive, unless there be some constitutional prohibition. He was at a loss to conceive how the counsel for the Government could possibly

imagine that these prisoners would be able to object to the trial, if tried by this jury, upon the ground that the jury was not properly drawn, if, before trial, their counsel, with their consent, agreed to waive the objection and stand the hazard of the die.

His honor Judge Bond asked if the court understood Mr. Johnson to say that it is out of their power, if this *venire* is set aside, to summon a jury *de circumstantibus*?

Mr. Johnson replied that he was far from saying anything of the kind. He took it for granted that there would be no jury summoned from the vicinage, as such a proceeding would be in direct violation of the jury order; but, he continued, he understood the district attorney as saying there would be no delay; that another jury could be drawn. Mr. Johnson supposed the district attorney meant from the box.

Mr. Corbin said his meaning was that they should be summoned by the marshal.

By direction of the court, section 8 of the jury law was then read.

After the reading of this, Mr. Johnson said, if the objection of the district attorney is valid, we are without a jury, and if there is no jury, the only way in which a jury can be obtained is by summoning them according to the provisions of the order.

The district attorney was at a loss to understand the position taken by his distinguished opponent in reference to his challenge to the array. The words of the statute are, "when, by reason of challenge, or otherwise," the panel shall be exhausted, &c.; now, a challenge to the array is one of the recognized modes of getting rid of a jury; you simply do in the aggregate what an individual challenge does to an individual juror, and the result is the same.

In support of this challenge Mr. Corbin referred to 1 Surratt's Trials, p. 55.

Mr. Johnson said the objection in the Surratt trial was made on the ground that the drawing had been done in secret; but such was not the case here.

After some further discussion between counsel concerning minor points, the court announced that, as the panel of grand jurors was not complete, they would adjourn the court until 11 o'clock Tuesday, and hold the matter under consideration.

SECOND DAY'S PROCEEDINGS.

NOVEMBER 29.

The court met pursuant to adjournment. United States Circuit Judge Bond and District Judge Bryan present, Judge Bond presiding.

Eight grand jurors and twenty two petit jurors answered to their names.

Mr. Corbin presented a commission from the Department of Justice, associating Attorney General D. H. Chamberlain as counsel for the prosecution, and Mr. Chamberlain took the oath.

Mr. Corbin, the district attorney, presented an order withdrawing his challenge to the array made Monday, and one for taking jurors from the body of the district.

Mr. Johnson, representing the defendants generally, and in opposition to the order presented by Mr. Corbin, said:

"The district attorney proposes that there shall be a *venire* to summon thirteen grand jurors, or so many as may be necessary to fill up the panel. I rise merely for the purpose of saying that by the act of Congress—I think of 1824, but I am not sure that I am correct as to the date of the act—the State of South Carolina is divided into two districts, one called the eastern and one called the western; and the offenses which are alleged to have been committed were all, I understand, committed in some of the counties within the western district. The sixth article of the amendments to the Constitution expressly provides, for the security of the citizen who may be indicted, that the jury which is to try him shall be summoned from the district where the offense was alleged to have been committed. I cannot be mistaken as to the purport of that amendment.

"If, therefore, the act of 1824 has not been repealed—I mean the act of Congress—and there has been no change at all in that respect in any legal way, then we feel that if the jury which is now to be summoned is taken from the eastern district, it would be an error which I would not be at liberty to waive—could not waive, because the Constitution secures to a party the right to be tried—to be presented by a grand jury taken from the vicinage of the district where the offense was committed, and to be tried by a petit jury selected from the same locality.

"The order which was passed by the chief justice and associate justice before your honors yesterday evidently seems to contemplate but one district in the State; but if, in fact, the division of the State into districts can only be done by the legislative department of the government, and if that department of the government has divided South Carolina into two districts, then it was not within the power of the court, by any order of its own, to change the act of Congress in that particular, and, consequently, not in the power of the court to deprive the accused of the right to have a jury selected from the locality where the offense is alleged to have been committed.

"I mention this now merely for the purpose of bringing it to the attention of the court, that, so far as I am concerned, we are satisfied with any judgment which the court may pronounce; but, at the same time, think, if the court should be of the opinion that the jury should be selected from the eastern district, it would be my duty, should I represent the

parties in the Supreme Court of the United States, to make that a ground of objection should the judgment be adverse to my clients."

District Attorney Corbin replied:

"If the court please, the State of South Carolina is divided into two districts for the purpose of the district court; those districts are called eastern and western. The western district consists of the counties of Lancaster, Chester, York, Union, Spartanburgh, Greenville, Pendleton, (since divided by the legislature.) Abbeville, Edgefield, Newberry, Laurens, and Fairfield. The remainder of the State constitutes the eastern district.

"For the purposes of the circuit court, the State of South Carolina *in toto* constitutes a district; and these parties being on trial in the circuit court, it seems to me that the true and proper construction is that the jury should be drawn from the body of the district, which is the State.

"The constitutional point made is undoubtedly true; but what constitutes the district? that is the only question. In 1 Brightly's Digest, p. 844, we find, 'The sixth circuit court of the United States for the district of South Carolina, (since changed to the fourth,) which is required by law to be holden on the second Monday in December, annually, shall hereafter be holden on the fourth Monday in November, annually;' that is, the time of holding the court originally in this State has been changed to the present fourth Monday in November. The court will notice that the State is spoken of as the district of South Carolina, and this court is holden for that district.

"Now, in reference to the order which I presented to the court, by an act of the 3d of March, 1865, (2 Brightly, p. 107,) it is provided that 'every grand jury impaneled before any district or circuit court of the United States to inquire into any presentment made of public offenses against the United States, committed or triable within the district for which the circuit court is holden, shall consist of not less than sixteen, and not exceeding twenty-three persons. If, of the persons summoned, less than sixteen attend, they shall be placed on the grand jury, and the court shall order the marshal to summon, either immediately or for a day fixed, from the body of the district;' that is, the district for which the court is holden. If the district court, from that district; and if the circuit court, from the district in which the circuit court is holden. 'And whenever a challenge to an individual grand juror is allowed, and there are not other jurors in attendance sufficient to complete the grand jury, the court shall make a like order to the marshal to summon a sufficient number of persons for that purpose. No indictment shall be found, nor shall any presentment be made, without the concurrence of at least twelve grand jurors.'

"I think, may it please the court, there can be no mistake about this matter. The position of the gentleman would be entirely correct if we were in the district court; but when we come to a court that comprehends the whole State in its jurisdiction, then the juries should be drawn from that district."

Mr. Johnson said:

"May it please your honors, the constitutional provision was evidently intended for the security of the citizens, not for the benefit of the Government; or, rather, it is especially intended for the security of the one, and has no reference to the security of the other. The common-law rule, which, as your honors know, is supposed to be very materially for the security of the subject, required the jury to be taken from the vicinage where the offense was perpetrated. The provision is to be construed liberally; nothing is more true than this principle. Now, the learned counsel alleged that if a criminal cause was instituted in a district court, and not in the circuit court of the United States, the jury would only be summoned from that district; but he maintains that, inasmuch as the jurisdiction of the circuit court extends over the whole State, there is no necessity at all for enforcing the provision of the Constitution—or, rather, for applying the provision of the Constitution to a case in that condition. It seems to me that the learned gentleman is incorrect.

"It is true that the circuit court has jurisdiction, as a court, over the entire district of South Carolina; but when we come to inquire how the jury is to be collected, we must then look to the act which makes two districts in the State of South Carolina, and apply the constitutional provision, that the jury shall be selected from that district in which the offense was committed. I submit, however, that I am perfectly willing, so far as I am individually concerned, to abide by any ruling, only repeating that, if the ruling should be adverse, I would deem it my duty to make an objection in the Supreme Court of the United States, should I represent any of these cases there."

Judge BOND. Mr. Corbin, have you the act of Congress that establishes the fourth judicial circuit?

Mr. CORBIN. The act of 1862, if the court please, establishes the circuit: "Hereafter the districts of Maryland, Delaware, Virginia, and North Carolina shall constitute the fourth circuit; the districts of South Carolina, Georgia, Alabama, Mississippi, and Florida shall constitute the fifth circuit." If the court please, in an act still later, which puts South Carolina in the fourth circuit, it is spoken of as the district of South Carolina.

The court will allow me to make one suggestion. If the construction of the distinguished counsel on the other side is correct, we shall be put in this very anomalous condition, that if we are to look to the districts constituted for the purpose of the district courts, when we get a man from the western district to try we must get a grand jury from that

district to present a bill; when we get a prisoner from the eastern district we must get a grand jury into this court from that district. Now, how, if the court please, are we ever to get along with this business if that construction is to prevail? Is it to be presumed that the business is to be utterly blocked by such a construction? And if we look into the Constitution, there is nothing said in the section referred to in the amendment as to what a district shall be; it simply says this: "In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed"—the State and district. Now, if the State constitutes a district of itself, then State and district are synonymous, "which district shall have been previously ascertained by law." The State of South Carolina has been fixed by law as a district for the purposes of a circuit court, to be held at Columbia and at Charleston.

At the conclusion of the argument Judge Bond announced as the opinion of the court that, so far as the circuit court is concerned, there is but one district in South Carolina. This was the circuit court for the district of South Carolina, and the marshal was entitled to summon a jury from the body of the district.

Mr. Johnson reserved the point made in his argument.

Judge Bond then asked the marshal how much time was necessary to summon the jurors, who replied that forty-eight hours would be required.

The court then adjourned until Friday, at 11 a. m.

THIRD DAY'S PROCEEDINGS.

DECEMBER 1.

The court convened at 11 o'clock a. m., United States Circuit Judge Bond presiding, District Judge George S. Bryan, associate justice.

The grand and petit jury, including those summoned since adjournment, were called. Several made application to be excused, among them E. M. Stoerber, on the ground that he was clerk of the joint special legislative committee of South Carolina. He was not excused.

The court appointed Mr. B. F. Jackson as foreman of the grand jury. The foreman and the jury were then sworn.

Mr. Stoerber addressed the court, stating his mind was prejudiced, and he objected to serving on conscientious scruples. The court excused him, after some few remarks by counsel, stating that, as he was the same gentleman who made application to be excused on the ground that he was a clerk of the special committee, he would be excused, considering that had much more to do with the matter than any prejudices he might entertain, as thus far no case had been presented. The marshal was directed not to summon him any more.

Judge Bond then said:

"*Gentlemen of the jury:* The act of Congress of April 20, 1871, in the fifth section, requires that every juror shall, before entering upon any such inquiry—investigating cases arising under this act—before entering upon any such inquiry, hearing, or trial, take and subscribe or oath, in open court, that he has never, directly or indirectly, counseled, advised, or voluntarily aided any such combination or conspiracy; and each and every person who shall take this oath, and shall therein swear falsely, shall be guilty of perjury, and shall be subject to the pains and penalties declared against that crime.

"The conspiracy to which that section refers is in the second section of the act:

"That if two or more persons within any State or Territory of the United States shall conspire together to overthrow or to put down or to destroy by force the Government of the United States, or to levy war against the United States, or to oppose by force the authority of the Government of the United States, or by force, intimidation, or threat to prevent, hinder, or delay the execution of any law of the United States, or by force to seize, take, or possess any property of the United States contrary to the authority thereof, or by force, intimidation, or threat to prevent any person from accepting or holding any office or trust or place of confidence under the United States, or from discharging the duties thereof, or by force, intimidation, or threat to induce any officer of the United States to leave any State, district, or place where his duties as such officer might lawfully be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or to injure his person while engaged in the lawful discharge of his duties, or to injure his property so as to molest, hinder, or impede him in the official discharge of his duty, or by force, intimidation, or threat to deter any party or witness in any court of the United States from attending such court, fully, freely, and truthfully, or to injure any such party or witness in his personal property on account of his having to testify, or by force, intimidation, or threat to influence the verdict, or presentment, or indictment, of any juror or grand juror, in any court of the United States, or to injure such juror in his person or property on account of his being or having been such juror, or shall conspire together, or go in disguise upon any public highway, or upon the premises of another for the purpose, either directly or indirectly, of depriving any person or any class of persons of the equal protection of the laws, or of equal privileges or immunities under the laws, or for the purpose of preventing or hindering the constituted authorities

of any State from giving or securing to all persons within such State the protection of the laws, or shall conspire together for the purpose of in any manner impeding, hindering, obstructing, or defeating the course of justice, in any State or Territory, with intent to deny to any citizen of the United States the due and equal protection of the laws, or to injure any person in his person or his property for lawfully enforcing the right of any person or class of persons to the equal protection of the laws, or by force, intimidation, or threat to prevent any citizen of the United States lawfully entitled to vote from giving his support or advocacy in a lawful manner toward or in favor of the election of any lawfully qualified person as an elector of President or Vice-President of the United States, or as a member of the Congress of the United States, or to injure any such citizen in his person or property on account of such support or advocacy, each and every person so offending shall be deemed guilty of a high crime.'

"That is the conspiracy—which the oath which will now be put to you means—that you have never engaged in, advised, or counseled. Let them be sworn."

The grand jurors then took and subscribed the following oath :

"We, the undersigned, do solemnly swear that we have never, directly or indirectly, counseled, advised, or voluntarily aided any such combination or conspiracy as set forth and described in an act of Congress entitled 'An act to enforce the provisions of the fourteenth amendment to the Constitution of the United States, and for other purposes,' approved April 20, A. D. 1871."

The grand jury, as impaneled, is as follows—six of the twenty-one present being white, and the majority being about equally divided between black men and mulattoes :

Richard Blackney, William Wingate, Dug Harris, R. A. Desverney, James B. Williams, F. M. Johnstone, Thomas J. Thackman, Adam Branch, W. B. Mitchell, Henry Jones, Sandy Tucker, B. F. Jackson, James C. Bonsall, James W. Heyward, James G. Graham, C. Barnum, Le Grand Singleton, Lewis Prior, Jacob Thompson, H. Chambioiu, and Frank J. Lawrence.

There were but five of the above who were not able to write their names.

CHARGE TO THE GRAND JURY.

Judge Bond then charged the grand jury as follows :

Gentlemen of the grand jury: Your duty has been sufficiently intimated to you by the words of the oath you have just taken. The court will say to you that in the investigation of the cases that will be brought before you, it is necessary you should exercise great patience. Many of the witnesses are laboring under a great deal of unusual excitement ; many of them are ignorant people, not accustomed to appearing in courts, and it is absolutely necessary that you should bear with them patiently.

"You yourselves are not to admit the excitement outside to have any entrance into the grand jury room. You are to find your presentment upon the testimony of the witnesses that come before you, and not upon outside statements. You will exercise your own best judgment, and assume the great responsibility the law casts upon you, and do your duty with impartiality and fairness, but with firmness.

"You may now retire into your room and examine such witnesses as the United States may send before you."

The panel of petit jurors was then called, and the oath previously administered to the grand jury was administered to and signed by them.

The following is the panel as they were sworn and signed :

Philip Salters, James C. Holloway, J. F. Riley, John Freeman, Adam Jackson, Alfred Agerton, E. Johnson, James M. Johnson, James C. McGill, E. C. Rainey, Alexander Allbrook, J. B. Witherspoon, John Gordon, Adam Cook, William Mooney, D. Lynch Pringle, (absent—excused till Monday,) Andrew W. Burnett, W. H. De Berry, Jos. Keene, Henry Fordham, Andrew W. Curtis, John Nott, C. H. Bankhead, John T. Wilson, Henry Daniel, Gabriel Cooper, N. E. Edwards, F. T. McMaken, Isaac Black, January Simpson, Peter B. Glass, Edward Reid, W. Smith, Joseph Smith, C. Smith, John Lee, W. H. Jackson, Charles Minort, Addison Richardson, John Pugh, John Dunn, J. Felder Meyers, John Gilmore, W. David Leahey, Cyrus Allston, H. W. Purvis, W. H. Dover, John Welburn.

No cases having been reported by the grand jury, the petit jury was discharged until tomorrow, and the court then gave attention to petitions and other business.

FOURTH DAY'S PROCEEDINGS.

DECEMBER 2.

The court met pursuant to adjournment, United States Circuit Judge H. L. Bond presiding ; United States District Judge George S. Bryan, associate justice.

William H. Reed, a grand juror, was sworn. The clerk called the roll of jurors.

The district attorney submitted a motion that bench-warrants be issued for Allen Crosby, Sherod Childers, *alias* Bank Childers, Banks Kell, Evans Murphy, Ibezekiah Porter, Sylvanus Hemphill, and William Montgomery, against whom true bills were returned by the grand jury on Friday.

The district attorney stated that the Government was ready to proceed to trial.

The counsel for the defense asked for further time, on the ground that they had not been furnished with a copy of the indictments; whereupon the district attorney said that he was opposed to delay any length of time, giving as a reason that the prisoners had, some time ago, all been furnished with an abstract of the charges against them, and that there was no law compelling him to furnish a copy of the indictment to prisoners' counsel, yet he was willing to give fair time, and no more. They should have been prepared for trial two weeks ago.

The defense stated they had seen the original indictment, and desired copies of the same, according to custom. The request of counsel for defense, for time till Monday, to summon witnesses, &c., was granted. The petit juries were then discharged until that time.

Messrs. Clawson, Thompson & Clawson, attorneys of York, petitioned the court to allow John Graham and William Thomasson, now confined in the jail in York County, to go before the commissioner at that place for the purpose of being bailed for appearance for trial. Mr. Clawson stated that they were confined on minor charges—whipping a negro, &c.—and that a number were in the jail at Yorkville on similar small offenses, much to the inconvenience of their families.

The district attorney opposed the motion on the ground that all the cases in which it had been thought proper to grant bail had, under his instructions, been heretofore inquired into, and the parties had been either bailed or paroled; that there were now about fifty in the jail at Yorkville whose cases he did not consider with so much leniency. The attorney thought it was an unprecedented request, especially to ask bail for Thomasson, whose case at that very moment was before the grand jury. He gave as reason for keeping the prisoners at the York jail that they were more comfortable there, the jails here being filled, and they also being nearer their friends at that place. He thought if they were to be bailed they should be brought before the court at this place, that the bail might be examined, to prevent any straw-bail being given.

The prisoners' counsel stated that many of them were unable to bear the expense of a trip here, whereupon it was remarked, if they were bailed at Yorkville, they would come at their own expense, whereas if they are brought here by the Government, it would be otherwise.

No decision was rendered by the court, which remarked that measures would be taken into consideration regarding the whole number of prisoners now confined in the York County jail.

The grand jury found true bills, the charge being conspiracy, against James Williams, *alias* Jim Rainey, and murder, against James Rufus Bratton, Chambers Brown, Sylvanus Shearer, William Shearer, Hugh H. Shearer, James B. Shearer, Robert Riggins, Hugh Kell, Henry Warlock, Robert Hays Mitchell, Napoleon Miller, Alouzo Brown, William Johnson, James Neal, Addison Carroll, *alias* Ad Carroll, Miles Carroll, Harvey Gunning, Pinekney Caldwell, Rufus McLean, Robert Caldwell, Bascom Kennedy, Holbrook Good, John Caldwell, Richard Bigham, Eli Ross Stewart, *alias* Aley Stewart, Samuel Ferguson, John J. Bratton, James William Avery, Josiah Martin, *alias* Joe Martin.

Conspiracy against James Williams, *alias* Jim Rainey, and murder.

The court then adjourned till Monday, 11 o'clock a. m.

FIFTH DAY'S PROCEEDINGS.

DECEMBER 4.

The court met in pursuance to adjournment, (United States Circuit Judge H. L. Bond, presiding; United States District Judge George S. Bryan, associate justice,) in the hall of the library in the State-house.

There was a large attendance inside the bar of the legal fraternity, and several judges represented the judiciary as spectators. The room back of the bar was filled and the galleries were crowded. The roll of jurors was called by the clerk, and Alva Gage, of Charleston, a talesman, was sworn in. [Note. In the account of Saturday's proceedings it was omitted to state that John Kershaw, of Camden, was admitted to practice in the circuit court, and took the oath prescribed. Also, that it was ordered that R. A. Ross, Dr. John S. Crosby, William White, Sam Blair, Robert A. Black, and Alexander Smith, of York County, be brought to testify, the cost being borne by the United States. Also, bench-warrants were issued for the prisoners indicted by the grand jury.] The court then stated they were ready to proceed, and were ready to hear any preliminary motion.

The grand jury then retired to their room; when Mr. Stanbery, for the defense, in the United States vs. Allen Crosby *et al.*, moved to quash the indictment, and said:

ARGUMENT OF HON. HENRY STANBERY.

May it please your Honors, we have filed a motion in behalf of certain of the defendants, that the indictment which was returned "true bill" to this court on the 1st of December shall be quashed, and each and every count thereof, for reasons set forth in the bill. I furnished, at the earliest practicable moment, to my friend the district attorney a copy of

our motion, and the reasons upon which it was grounded, so that he might have as early an opportunity as possible to make the preparations.

The indictment, if the court please, contains not less than eleven counts. All of these counts, except two, charge a conspiracy, and those two counts—the eighth and ninth—charge the commission of an act without any allegation of a prior conspiracy. All the offenses charged under these eleven counts relate to suffrage and an interference with its exercise, except two—the eighth, which charges an interference with rights secured by the Constitution to exemption from unreasonable searches and seizures of persons, papers, and effects; and the other charges the offense to be an offense against the act of Congress securing to each citizen equal protection under the law.

I think this is about the scope of the various counts. I shall proceed in detail, if the court please, to state our reason why this indictment, and each and every count thereof, cannot be sustained; and I may say in the beginning, if the court please, that my friend and myself associated in this defense intend to make no captious objections. We do not sit here merely to contend for delay and postponement, or to contend over merely formal matters, which, whether amended or not, would make no particular difference to our defense; but to contend for matters which we deem essential to the defense, and which it is not our privilege as counsel to waive in behalf of our clients.

Undoubtedly, at first blush, some of the objections which we shall state may appear formal and capable of amendment. So they are; but it is the reason of that capacity of amendment, and that necessity of amendment, that uncertainty to advise us of the particular acts which we are called upon to defend against, that we are obliged to make those objections which may be remedied by another indictment; but we find we cannot proceed properly with counts so general in their allegations. Then, beyond that, if the court please, there are contained in this motion, and arise under it, questions of the gravest import.

To go on, then, with the first count, meeting merely the formal parts of it: It charges these defendants, together with divers other evil-disposed persons, all of York County, in the State of South Carolina, and in this district, at York County, in the said district, and within the jurisdiction of this court, on the first day of February, 1871, unlawfully did conspire together with intent to violate the first section of the act, entitled "An act to enforce the rights of citizens of the United States to vote in the several States of this Union, and for other purposes," approved May 31, 1870, by unlawfully hindering, preventing, and restraining divers male citizens of the United States, of African descent, above the age of 21 years, qualified to vote at any election by the people, from exercising the right and privilege of voting, and by other unlawful means not allowing them to vote at an election by the people, to be held on the 3d Wednesday of October, 1872, within the county, district, and State aforesaid, contrary to the act of Congress in such case made and provided, and against the peace and dignity of the United States.

First of all, this count refers to a particular section of a particular law, as that embraced within this conspiracy, and which it was by this conspiracy to violate, which is to violate that first section of the enforcement act of 1870. If the court please, it is that first section; we must find the *corpus delicti* there; the thing prohibited there; it is an infraction of that section we are now called upon to answer. Let me read it: "An act to enforce the right of citizens of the United States to vote in the several States of this Union, and for other purposes, passed"—directly set forth in the indictment—"passed and approved May 31, 1870." This, then, is the section we are charged with violating: "*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all citizens of the United States, who are or shall be otherwise qualified by law to vote at any election by the people, in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial sub-division, shall be entitled and allowed to vote at all such elections without distinction of race, color, or previous condition of servitude, any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.*"

Your honors are perhaps listening to find where is the penalty for violating that section? Where is the prohibition in that section? What does that section do? Simply declares a right, not a punishment for its violation. It would seem, if the court please, that that is not enough. Where gentlemen undertake to locate a particular section of a particular law which we are called upon for alleged infraction of, they must be very careful to steer very straight. It was unnecessary to do this, but having done it, and referred us to it as the section which we are charged with violating, they must be careful to bring the offense strictly within it. The first objection, then, to this count is that the section to which they refer, and which they claim we conspired to violate, declares no penalty; it merely confers a right, but does not guard it with any penalty, or make it a crime to violate it; but we have other objections which apply not only to this section, but to others subsequent to it. And the first objection is that the names of the persons whose suffrage was interfered with, or intended to be interfered with, by this conspiracy are not set out; nor is it alleged that the grand jury did not know their names, and were ignorant of them; there is no excuse given. This, perhaps, is one of the most material things in this indictment. It is not for being conspirators against all the world; it is for conspiring to violate the rights of certain individuals. What individuals? That is the first question. Who are we informed are the persons whose rights we

have invaded? Not a name given, nor any excuse for not giving a name. Is it possible that it is necessary to argue that point? Would it be good to say we conspired to murder a man without giving his name or without saying the name of the person was unknown to the jury? If the grand jury do not know the names of the persons, and, from necessity, could not name them, they would be excused, from that necessity, but for no other reason. It is not necessary to refer to elementary books to sustain that point.

What next? The specific election at which they were not allowed to vote is not stated, nor does it appear whether it was an election for Representatives to the Congress of the United States, or for an elector of President or Vice-President of the United States, or for a State officer, governor, or any officer elected under the constitution of the State. We are not told what was the character of this election, or when it was held, or what it was for; we are entirely abroad as to that. No notice of what election was to be held, or for whom they were to be prevented from voting. Now, if the court please, the charge is that they conspired to violate that first section by unlawfully hindering, preventing, and restraining divers male citizens of the United States, of African descent, about the age of 21 years, qualified to vote at any election by the people in said county, district, and State, from exercising the right and privilege of voting, and by other unlawful means not allowing them, the said male citizens, to vote at an election by the people, to be held on the third Wednesday of October, A. D. 1872. Now, if the court please, we also object to this date 1872. What does the gentlemen mean by a date like that? Of course a date stated in an indictment generally is not material, but it may become very material. Suppose you state as a day upon which a crime is committed the 31st day of June. There is no such day in the calendar; it is, therefore, an impossible date, and the indictment is bad. Suppose you state in your indictment a day which is after the indictment is found; that is a material averment, and that makes the indictment bad. Or suppose, as here, a future day which has never yet happened; as a matter of course, that would make the indictment bad. I really suppose the gentlemen made a mistake. Did you mean 1872, gentlemen?

[Mr. Corbin, the district attorney. Exactly.]

If you did not mean it, we will allow you to amend it. As to the omission of the names, and the omission of stating the means resorted to, any further than this, that by unlawful means, threats, and intimidation, without stating their character, or anything of the kind, and without stating what election, whether for State, county, or municipal purposes, in all these particulars, the question arises whether it is necessary, in an indictment for the conspiracy—for such an offense as this—to set them out definitely.

Now, if the court please, in the first place, what is the nature of the offense? A conspiracy against what? Against the exercise of the right to vote; that is the offense. The character of the offense—it is not against any right which a man is in the exercise of all the time, as the right to enjoy his liberty, and to the protection of his person and property. It is not a right to vote all the time, but a right to vote at an election; the right can never be exercised except in voting at an election. It, therefore, cannot be infringed or impaired, except by preventing the exercise of that right at an election.

It is not charged here (and if it were, it would be ridiculous to say) that these defendants combined to deprive him of the right to vote generally; that they cannot do. It is impossible, for even the parties cannot divest themselves of that right by not voting for years. The right remains to vote when they choose at the proper election, and they can only divest themselves of that right by removal, &c. But the right to take away his vote, to rob him of his vote, does not reside in any combination; that can only be done in the mode pointed out by law—as, for instance, upon conviction for an infamous offense—so that the infraction of this right, in point of law, cannot be a deprivation of the right so as to take from the party his right. It is not property or a chattel that can be seized and transported to another place out of the reach of the owner. It is a personal right, intangible, that resides with himself, and which cannot be taken away, except in the legal mode. Therefore, a conspiracy to deprive a man of the right to vote, as a right, is a thing impossible, and the court would be at a disadvantage to sit and hear a cause which involved such a wrong principle of law as that a party being an African and entitled to vote, his right to vote was divested by conspiracy. This power to vote is another thing; but I am now speaking of the right. It is a right, then, if the court please, that can only be interfered with in its exercise; it cannot, as I have said, be taken away, but it may be interrupted in its exercise, interfered with in its exercise, or he may be prevented from exercising it. Who, when, under what circumstances? The only time at which he can exercise the right of suffrage is at some election at which he is qualified to vote. Now, that being so, what must an indictment state? That this conspiracy to prevent a man from voting would interfere with the free exercise of his right to vote; why, as a matter of course, it must charge that it had reference to an election; to an intended exercise of that right to vote; to an opportunity to give that vote. Therefore the election must be stated, and it must appear to be such an one as is contemplated by law; that is, an election for public officers, not an election for bank directors or anything of that kind, but an election for political officers. It further must appear what sort of an election it is, whether for Representatives in Congress—and therefore a Federal election—or whether it is an election for some office of the State—a State election. But we know nothing of this by this indictment. All omitted. Entirely at large, what election they mean, or what officers

were to be elected; whether it was to be a special or general election, we are left entirely in the dark by the allegations in this count.

And this failure, if the court please, to notify us of what election it is, gives rise to another very serious question. If they had alleged that it was an election for State officers, we should have another thing to say, and that is this, that a law of Congress which attempts to regulate the election of State officers is void and unconstitutional; that any interference with the domestic concerns of a State, the Constitution throughout forbids. Whereas, if it was stated to be an election for Federal officers, that objection would not lie.

Again, if the court please, it is nowhere alleged that he was qualified at this election, whatever it was, any further than it is stated that he was—what? “that they were male citizens of the United States above the age of 21 years.” Those two things are qualifications. “Qualified to vote at an election by the people of said county.” Qualified to vote how? Qualified to vote where? Qualified to vote, it says, “at any election by the people of said county, district, and State, from exercising the right and privilege to vote.” Qualified to vote, is that enough? Is the stating of that legal conclusion enough? How do we know that the grand jury understood what was necessary to qualify a man? What is their presentment? They say these parties were qualified to vote, and they go on to state two qualifications, but they are not enough. They go on by saying that they were male persons. That is all very well. Females are not allowed to vote by Federal or by your State law. Then they further proceed to say that they were citizens of the United States. That is all very well; that is another qualification, but not all. Then they proceed, further, to state that they were of the age of 21 years and upwards; still another special qualification. Now, the grand jury are on the road to state the qualification, and to show the court, not by a legal conclusion, but by facts, that they were qualified to vote; but they stop short. Every qualification is necessary; they give us three—the sex of the party, the age of the party, the citizenship of the party. But what next? They fail to show us the residence—a material and necessary thing to go into the qualifications to vote at any election.

And now, if the court please, I understand as to the qualifications of voters, that it was formerly two years' residence in the State; that your qualifications, under the present constitution, to vote at any election, are a residence of one year in the State, and sixty days, at least, in the place, precinct, or whatever it is, where the poll is, and the party seeks to vote. Am I right in that? [Mr. Corbin. Yes sir.] Not one of these qualifications is stated. The grand jury seems to conclude that three qualifications, three terms of qualifications being stated, he was, therefore, a qualified voter. But they leave it altogether in the dark whether these parties, or any of them, resided one year in the State, and at least sixty days at the place of election, in the county where they had a right to vote. Are not these matters necessary? Can you give any conclusion like that, which depends upon facts to warrant a special conclusion, by stating three out of five special facts, and omitting the other two, and therefore claiming that they are qualified voters? Can you stop there and claim that your legal conclusion is right, although drawn upon important premises? Why no, may it please your honors. At least I shall not feel myself called upon to argue that point further, until the gentleman insists that it is quite enough to give these three sections, and not the other two, which are quite essential, and perhaps the most essential of all. Your foreigners should not vote, although they are twenty-one, and are males, and are citizens of the United States.

The allegation is that we conspired to violate that first section, which fixes no penalty and declares no crime for its violation. Undoubtedly the other sections of that statute do, but he has chosen to place his cause upon the first section and upon that alone. The conspiracy is to violate that section, not the fifth section, nor the sixth section, nor the seventh section, but that particular section.

Now, the next count, if the court please, is that these parties, together with divers evil-disposed persons, conspired together, with intent to injure, oppress, threaten, and intimidate Amzi Rainey—here the gentleman seems to have understood that it is necessary to name the party injured, and, in that respect, this count is not liable to that objection, that the parties injured are not named—“a citizen of the United States, with intent to prevent and hinder his free exercise and enjoyment of a right and privilege guaranteed and secured to him by the Constitution of the United States, to wit, the right of suffrage, contrary to the act of Congress in such cases made and provided, and against the peace and dignity of the United States.”

Amzi Rainey is described as a citizen of the United States; that is all very well; that is one qualification, and his right and privilege is stated to be the right of suffrage secured to him by the Constitution of the United States. Now, pray, does the United States secure to a party the right to vote in any State? Does the United States fix the qualifications for such a voter? Wherein has the Constitution of the United States, or Congress, attempted to vest in citizens of States the right to vote and to fix the qualifications? The gentleman perhaps will be able to show me. None of my researches have enabled me to find any such authority in the Constitution or in any act of Congress. Why is it necessary to argue here that the right to vote, and the qualifications for voting, are fixed by the several States, and they are very different in different States—in some as to age they are different; I think in one as to sex—one Territory, I think, in which the softer sex are allowed to vote; but the right to vote, the qualifications to vote for Representatives in Congress, or for electors of

President and Vice-President, which are the only Federal officers who can be voted for at all anywhere by the people, the qualifications of such voters are not fixed by Congress any further than that they must have the same qualifications as voters, as the laws of the particular State where they are prescribed for voters to the most numerous branch of the legislature or general assembly of that State.

Where has Congress assumed to tell us who shall vote and who shall not vote? What shall be the qualifications? All that Congress have done is to say that where a white man can vote, a black man who has equal qualifications shall vote. Not that white men and black men shall have different qualifications, or that Congress will give black men qualifications which white men have not. Not at all. Simply, Congress says to every State, wherever a white man is qualified by your laws to cast his vote, into the same box the colored man shall be entitled to cast his. The statute speaks to all alike; there shall be no distinction. If you are citizens of the United States, you shall be entitled to vote in every State of the Union, whether you are black or white, or any other color. Color, race, does not, shall not embarrass you in the exercise of that right, but you who have never voted before, you who are excluded now by the laws of States in consequence of servitude, in consequence of color, all of these restrictions are taken away from you; but we do not give you your qualifications by residence and age and other matters; they are given to you by the laws of the State, and it is to the laws of the State now that you must look for your right to vote. When you come to the polls, your right to vote may be challenged, as a white man's may, because you have not resided a sufficient time within the limits of the voting place, or because you are not of sufficient age, or because you have not registered perhaps. You must fulfill every State regulation that is fixed for white men, otherwise you cannot vote. And, therefore, when you allege the right to vote, it must not be a right under the Constitution and laws of the United States, but as well under the laws of the particular State that fixed the qualifications. Amzi Rainey, therefore, shows no right to vote, alleges no right to vote, except as secured to him by the Constitution and laws of the United States. He says only he is a citizen of the United States; he does not even say that he is twenty-one years of age; he does not say that he resides anywhere in the State of South Carolina, and more especially in York County, where, I dare say, he had a right to vote. It is the enjoyment of a right and privilege guaranteed and secured to him by the Constitution of the United States, not secured to him by the constitution also of the State. No allegation that he was qualified also by the laws of the State to enjoy that privilege. These two things combined, with regard to colored men, would go to make the right to vote—first, that amendment which abolishes servitude and slavery; and next, that which says there shall be no distinction in voting of race, color, or previous condition of servitude. So far, the Congress helps him to it, to the enjoyment of a right under a State, as a citizen of that State, provided he shows himself possessed of all the qualifications in that State that entitle him to vote. Here not a single one is alleged, nor is it alleged here that there was any election at which he was hindered or prevented from voting. How could he be prevented or hindered from voting except at an election: and if that is the thing prevented, why did not the gentleman tell us what election, that we might have notice of what we are to defend against?

Again, here comes the objection that the unlawful means by which he was intimidated, and prevented from voting, are not set forth. Now, of course, there must be such means, such threats, such intimidation, as would deter a man: an exercise of force; a threat of bodily injury. Nothing of this kind is alleged. We are left in the dark as to that: where it was, or when it was, that we prevented him; what we agreed to do in order to prevent him; all of this is left out. So much for that count.

Now, the third count, and this is a very important one. This of course brings up more distinctly the grave objections which I said arose in this case—those which no grand jury can amend. These charges are as follows: That these defendants, &c., &c., on such a day at York, &c., "unlawfully did conspire together, with intent to injure, oppress, threaten, and intimidate Amzi Rainey, a citizen of the United States, with intent to prevent and to hinder his free exercise and enjoyment of a right and privilege granted and secured to him by the Constitution and laws of the United States, to wit, the right of suffrage, contrary," &c. and the jurors, &c., "do further present that said Allen Crosby, &c., in the act of committing the offense aforesaid, &c., a dwelling-house of the said Amzi Rainey, &c., burglariously did break and enter, with intent to commit a felony, and that the said A. Crosby, &c., in the said dwelling-house being, in and upon the said Amzi Rainey, unlawfully, maliciously, and feloniously did make an assault; and the said Allen Crosby, &c., in and upon the head, shoulders, and back of the said Amzi Rainey, then and there unlawfully, maliciously, and feloniously did strike, cut, and wound with intent to do unto the said Amzi Rainey some serious bodily harm, contrary to the form of the statute in such cases made and provided, and against the peace and dignity"—of what?—of the State of South Carolina. This last, if the court please, is a material averment in all indictments.

If the gentlemen wish it I can certainly produce authority, but when I speak in this way to the court, and state questions of law, I do not state them unless I am certain that I am supported by the authorities. In England, as well as in this country, this conclusion to an indictment is material and can never be omitted. In England, it is in the older forms, if your honors recollect, *contra passim, i. e.*, it is against the peace and dignity

of the United States when it is an offense against the United States, and of the State of South Carolina when it is an offense against the State of South Carolina, and to omit it in any indictment vitiates that indictment. I will state to your honors some authorities on that point. [The counsel here cited from Chitty's Criminal Law, page 246, authority in reference to materiality in concluding indictments in the form stated by counsel.]

To show that this old rule of the common law has been adopted in this country, I will read from the 1st Brightly's Digest, page 206, section 157. I have endeavored to get the cases cited by Brightly, but have been unable to obtain the books in which they are reported. [Counsel here quoted the section in Brightly referred to by him.]

This third count, as I have said, in the first place goes on to allege that the conspiracy was to oppress, threaten, and intimidate Amzi Rainey, a citizen of the United States, with intent to prevent and hinder his free exercise and enjoyment of a right and privilege granted and secured to him by the Constitution and laws of the United States as in the second count, and all my objections made to those other counts for want of certainty, &c., apply equally well to this. What I now want to call the attention of the court to, is an *addendum* which brings us under this jurisdiction of the State laws. In the first place, your honors will find that the burglarious entry, charged here, into the dwelling-house of Amzi Rainey, is not alleged as an overt act of the conspiracy. Not at all. Nor as an act within the scope of the conspiracy. It is alleged altogether as an independent act; simply that while in the act of violating the rights of Rainey with respect to the suffrage, they entered his house burglariously in the night-time with intent to commit a felony. The intent was not to carry out the purpose of the conspiracy, but with intent to commit a felony, and what felony? A burglary, a totally different felony or crime which is charged in the fore-part of the indictment; but with intent to commit a burglary, and the further felony or misdemeanor, to wit, with intent to beat him and to wound him. For what purpose? Simply with the intent to beat and to wound, not to beat and to wound him so that he could not vote. It is alleged simply as a distinct burglary, assault, battery, wounding, and cutting. Now, first of all, let me refer to the section stated in this indictment. In the first place I will give the fifth section, which is to hinder and intimidate a person from exercising the right of suffrage by threats—threats of depriving such person of employment; and then the sixth section, which is the conspiracy section, to effect the same object. Then comes the seventh section, on which this count is framed. [Counsel here read section seven of the enforcement act.]

Well, then, as a matter of course, to punish a man for committing a burglary, or a murder, or an assault and battery under this section, his offense must be overt—the indictment must show it and must have a proper conclusion. It must appear what felony, crime, or misdemeanor has been committed. It won't do to say that, in the act of committing the previous felony or crime, he committed generally a felony, crime, or misdemeanor. It might be a murder, and the man would have no notice of whom he murdered. It happened to be burglary here, and the gentleman has very properly drawn a very good indictment. I take no exception to it. He had a form for that, and he has followed the form very accurately. That is, in fact, the only good offense set forth in this whole count.

Now, as I said, what authority have your honors to try these men? Not burglary of the post-office. Not a burglary committed in a place where the United States has exclusive jurisdiction and defines the crime of burglary, and punishes its soldiers or other parties who commit burglary within that particular locality. Not burglary in a vessel on the high seas or within any arm of the sea, or anywhere where the maritime jurisdiction extends. Not burglary of a post-office or of a public building of any sort. Not at all. Not a burglary connected in any sense with any function of the Government of the United States, or that it is allowed to protect. Not at all. It is simply an individual burglary, wounding, battery, committed in a State—not in a Territory—not in a place beyond the jurisdiction of State or Territory—but committed right within the State jurisdiction, in time of peace. Not in the land or naval forces, but just as expressly a domestic burglary as any. Now, what is this petit jury called here to try? That serious offense of burglary.

Will it be contended that your honors have any jurisdiction to try or punish a man for any such offense? For you must try him first and find him guilty first before you can apply the punishment. You may say that the punishment is only intended to be applied to the conspiracy; but I say you must first convict him of the burglary, or perhaps of the murder, before you can apply the punishment. Suppose they committed murder in some instances in a place entirely confined as to the jurisdiction, where the United States had no jurisdiction to try any offense except one committed by one of its officers. He is simply described as a citizen of the State and his house as a dwelling-house of a citizen of the State.

Now, suppose it were murder; when you try him for murder—when you are going to punish him for murder, you are going to hang him if he is guilty—how will you ascertain if he is guilty? What authority, what act of Congress gave you the authority to try such an offense as that, and apply such a severe penalty? If the court please, have you any jurisdiction to try such an offense as that? Now, I hold, in the first place, in regard to those criminals and crimes, that in the United States, anywhere, no mere common-law offense is within the jurisdiction of any of the United States courts, circuit, district, or any other, and any common-law offense over crime, by the United States, must be a crime defined and punished by some act of Congress. There are no crimes mentioned in the Constitution, as

crimes, within the cognizance of the General Government, except those of treason and piracy. Congress had the power of enlarging the jurisdiction over crimes by the Constitution, before these amendments were adopted. In the eighth section of the legislative article is the provision that Congress may pass any law to carry out the provisions of the Constitution, or any part of it. Congress could establish post-offices, under its constitutional authority. It must protect its post-offices and the carrying of the mails, and define crimes in regard to the protection and sanctity of the mail. So with regard to the coinage of money, which was a matter exclusively belonging to Congress. You will find a vast deal of legislation on the subject of forging. All those crimes are defined and punished. As to the public lands, the offense of trespassing on the public lands, as to navigation and offenses against vessels, piracy, murder on board of vessels, all sorts of crimes committed on board vessels, are provided against because the regulation of commerce and the protection of Congress by the Federal power. They have again, with regard to the districts entirely within the jurisdiction of the United States, the jurisdiction of the particular land or soil as granted by the State to Congress; there also in the matter of crime, whether it is against the United States, or navigation of the United States, commerce, coinage, or anything but an individual crime, such as murder by A or B, both of them being within a fort or Federal ground, of which exclusive jurisdiction is granted by the State. There Congress legislates with regard to crimes. They do not in any sense interfere with regulations of the State government, because it is in their authority to punish there. The State has surrendered its sovereignty over that particular locality. You cannot try a man for committing a murder in a dock-yard by the State laws; therefore, from necessity, the Federal Government must punish crimes that happen on Federal grounds. I undertake to say that there is not a law of Congress passed prior to this act, so far as I have seen—and I have been a very long time at the bar and had a great many occasions to look at the Constitution of the United States—and I don't know a single one where an offense against the State sovereignty in a place over which the State has exclusive jurisdiction that does not in any way interfere with any power or duty devolved upon the Congress. I think you may look forever to find any other statute under which such a jurisdiction as is given in that seventh section to try an individual subject exclusively to the jurisdiction of the State for a crime of a domestic nature in that State, "and against the peace and dignity of the State."

This, then, is the charge. Being a burglary in York County, South Carolina, in the house of an individual not an officer of the Government, upon the person of that individual not an officer in the exercise of his duty. A burglary and entry into that house, obliged to be with the intent to commit a felony, and that felony specified to be an assault with intent to wound—that being the character of that charge.

I repeat it, that there is not an element in it that would give your honors jurisdiction, or call a jury here to pass upon it, or permit you to sentence a man to imprisonment for burglary or, may be, murder; that judgment for murder under any jurisdiction that you have under the Constitution of the United States; and your honors will not forget that it is only under the Constitution that you act. And will the gentleman find me any authority in that Constitution which will authorize Congress to pass a law to punish crimes committed in this State? If simply domestic crime, your honors will not forget that it is not alleged at all that this act was in furtherance of the conspiracy. Not at all. Nor was it a part of the conspiracy. Nor did it come within the scope of the conspiracy. But it was an independent act, with no ally or intent of depriving a man from voting, but an intent to burglariously enter his house to commit a felony—not that he might thereby not be able to go to the polls. It simply ends there with the beating and wounding.

This is one of those great questions that arise and deserve the most mature consideration. Your honors may hesitate—may, perhaps, prefer to refer this question to the Supreme Court of the United States. Undoubtedly, it will go there. It may happen that in the course of any administration of this law, the point, perhaps, not being made, or the defendant being without counsel, the court may run into the difficulty, into the great error, of trying a man for a domestic murder in a court of the United States and hang him.

I therefore object to this count; first, because it concludes against the peace and dignity of South Carolina. Besides this objection, if the court please, and the further objection that I have stated that the charge is particularly against the State, not against the United States, and that this court has no jurisdiction to try that offense. Then the next objection which I stated to the other counts, that Rainey did not state his qualifications as a voter; that no election is stated at which he was deprived or was to be deprived of voting; that the names are not set out, and those qualifications not derived from State laws in any respect, which are necessary to arrive at a legal conclusion that he was a voter.

Now, the fourth count, if the court please, is one that does not charge any conspiracy, but charges a direct act—that at York, on the 1st day of February, 1871, "unlawfully did attempt," not conspire, but "did attempt to control Amzi Rainey in exercising the right of suffrage, to whom the right of suffrage is guaranteed by the fifteenth amendment to the Constitution of the United States," and now, will the court mark this? Here he did not even state the qualification that Amzi Rainey is so much as a citizen of the United States, nor as, in some counts, that he was twenty-one years of age; and charges that they did unlawfully attempt to control Amzi Rainey in exercising the right of suffrage, "to whom the

right of suffrage is secured and guaranteed by the fifteenth amendment of the Constitution of the United States, contrary," &c. It does not state, as I have said, that he is so much as a citizen of the United States, or that he is of the age of twenty-one years; and states no qualifications necessary to make him a voter in the county of York, except that he is twenty-one years of age, but no qualification as to residence in the State for one year, or a residence within the county for sixty days prior to voting. It did not even state generally that he was qualified to vote; did not even state the legal conclusion from the facts; all it states is that Anzi Rainey was controlled in exercising the right of suffrage, to whom the right of suffrage is secured, &c.

To whom the right of suffrage is secured. Your honors will recollect that the thirteenth amendment abolishes slavery, while the fourteenth declares the colored people shall be citizens, and makes all persons born in this country, or naturalized in this country, citizens of the United States, and securing to such persons their immunities and privileges as such citizens. This is the scope of the fourteenth, except its prohibitory clause, which it is not necessary to mention.

Now we come to the fifteenth, which is suffrage. Let us read it. This is the one referred to in this count as the one that gave to Rainey the right of suffrage:

"The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State."

What does this mean? Is it a grant? A specification of the qualification necessary to vote? Does it grant the right to vote absolutely, without reference to citizenship? Without reference to residence in any State, without reference to age or sex? Is that the way the gentleman construes this section? That it gives a general grant to all persons, citizens of the United States, to vote? Not merely black and white, but, as well, male and female?

To read it as the gentleman would read it, it is a universal grant of the right to vote to all those persons. But it is not understood in that way. It does not say that the rights of citizens of the United States to vote shall be universal, but the right shall not be denied or abridged by the United States or any State. Why? On account of race, color, or previous condition of servitude.

Now, when we look for the construction of the law—and a very good way is to look at the mischief to be remedied by the law—we look at the previous conditions of things; see what the mischief was and what the remedy is. We must not extend the remedy beyond the known mischief. Now, what was the mischief? Did the citizens of the United States generally require from Congress the grant to vote at all elections? Had they not a capacity to vote without a grant from Congress? Was the mischief that white citizens could not vote? That white male citizens, having proper qualifications, could not vote? Why, no! These amendments were intended to protect the colored race.

The mischief was that black men could not vote in all the States. That those who had been slaves could not vote. That colored men, (although they might have all the qualifications,) there was a discrimination against them in many of the States. Some maintained that they could not acquire total citizenship at all, as was held by the Supreme Court of the United States in the Dred Scott case. Now it was intended to remedy all that.

In the first place slavery was abolished; then, the next, they were made citizens of the United States—which was the first step toward making them voters. What next? Finally, by this section, they were given the right to vote as white men, that is, this provides that there shall be no discrimination against any citizens of the United States because of their color or previous condition. Is not this the meaning of it? Does it state a qualification or pretend to give a right? It is provided that there shall be against these men, made citizens of the United States, no right to discriminate on account of color or previous condition. Now a very grave question arises here, whether this can be extended by construction to a right to vote at State elections; whether this is the meaning of it; because, if we give that meaning to it, then we violate various other provisions of the Constitution, whether or not it is not to be confined to the mere matter of elections in Congress and for electors of President and Vice-President. Your honors will observe that the Constitution of the United States makes no provision for the qualification of voters in the State.

It confines itself to the members of Congress. It provides, with regard to Congressmen, certain qualifications, that they must be twenty-five years of age, and must have resided for seven years within the United States; and it provides, for the Senate, that they must be at least thirty years of age, and resided at least nine years in the State from which they were elected. It makes no further provision for the person, as a candidate; and as to the person and qualification of those who are to vote, there is no qualification anywhere, not even in this amendment, other than that they must be persons qualified to vote for the largest branch of their own domestic assembly, or legislature. The qualifications of voters Congress leaves to the domestic policy of the State. In some of the States most men of color have been allowed to vote, sometimes, with the property qualification. Congress did not interfere with that, any more than to say; you shall not discriminate; if you have a property qualification for black men, in your constitution, to vote, it shall be there no longer; all must be equal. Then, I repeat, may it please your honors, wherever they found them, the right to vote, upon the fifteenth amendment, they have looked in the wrong place; for, if Anzi Rainey can vote, simply because of the right secured to him by the fifteenth amendment,

according to the construction given by the gentleman, he can vote whether he is twenty-one or not—whether he has resided in York County or not, or whether he is an inhabitant of this State or not. If he receives the grant from Congress, and his authority to vote, he must still fulfill the qualifications required by the State; that is, every one which must be fulfilled by white men must be fulfilled by him.

Now, again, if the court please, a small matter, but I will state it: There is something necessary to make this indictment a little more certain—"And did attempt to control Amzi Rainey in exercising the right of suffrage, to whom the right of suffrage is secured." Now, your honours, mark that! "Is secured and guaranteed by the fifteenth amendment!" Now, suppose that amendment gave the right to vote—we refer to the State constitution of the State still. So much for that.

The fifth count; it also does not charge a conspiracy. It charges, first, an interference with his exercise of the right of suffrage, just as the fourth count does, and then superadds the charge of burglary.

The sixth count is very much like this, except in this: that the allegation is, "unlawfully did conspire together, with intent to injure, oppress, threaten, and intimidate Amzi Rainey, a citizen of the United States, because of his free exercise of a right and privilege granted and secured to him by the Constitution and laws of the United States, to wit, the right of suffrage." When—how prevented? Before an election, or after an election; before he voted, or after he voted? Was it a conspiracy to prevent his voting, or a conspiracy to punish him because he voted? It is intended to be the last, otherwise it would be identical with the former count. The language is this: "because of his free exercise of a right and privilege granted and secured to him by the Constitution and laws of the United States." Conspire to injure him because of his free exercise! When? Where? Where did he exercise this right? For what exercise of that right did these men conspire together? All left uncertain! It is impossible to tell whether they intended to injure him prior to or after the exercise of this right. It is not because he exercised his right at a certain election by voting at that election. It is not alleged that he voted at any election, or that he tried to vote at any election; or, for voting, or trying to vote, he was afterward interfered with. I can make nothing out of it, and it is not material that it should be shown, under that section of the statute, that he exercised the right of voting.

The next is the seventh. That is precisely like the one I just read, and subject to the same objections. And then again comes this burglary and felony and other matters superadded, "against the peace and dignity of South Carolina."

The eighth count is a new one: "That these defendants did conspire together," with intent to injure, oppress, threaten, and intimidate Amzi Rainey, a citizen of the United States, with intent to prevent and hinder his free exercise and enjoyment of a right and privilege granted and secured to him by the Constitution of the United States, to wit: "the right to be secure in his person, houses, papers, and effects against unreasonable searches and seizures, contrary to the act of Congress in such cases made and provided." That is the whole count.

There is no act of Congress to secure a man against searches and seizures. It is declared to be a right in the Constitution; so is the right of personal liberty and a thousand other rights that are sacred rights secured to me by the Constitution of the United States. But I cannot go to a Federal tribunal to vindicate them. On the contrary, there are very few causes that I can go to a Federal tribunal to vindicate. I cannot go to the Supreme Court of the United States to enforce any contract. Generally, it is contracts violated by a State law that come within that jurisdiction, or when I am a citizen of one State I can apply for Federal jurisdiction against a citizen of another State. So in certain other instances, upon a claim, under act of Congress, by grant or otherwise, when the State overrules my claim, I can go to the Federal legislature and protect my title. The Constitution gave me the right of personal security to defend that right and recover damages and punish the offender for committing an assault and battery upon me. Can I come to this court, because it is a right secured to me by the Constitution? No; I go to a State tribunal competent to give me relief. It is not only an offense against me, but against the dignity of the commonwealth that represents the *parens patriæ* powers and guarantees, and receives all the rights, immunities, and privileges secured to the citizen of the United States by the Constitution of the United States. It could not be asked that the United States should do anything more than declare these sacred rights; but as to their enforcement, the Federal jurisdiction is limited, and wherever it is exercised there must be a reason for it, as of residence.

Most certainly these propositions that I am arguing are so plain that I would dismiss a lawyer from my office if he were not quite as familiar with them as I.

We live in the States; we are protected by the States. What surrounds me, when I am at home or here, but State law? That is over me, above me, and around me. Great God! have we forgotten altogether that we are citizens of States, and that we have States to protect us? I am a Union man, in every sense of the word. I have stood by it always, and shall stand up forever for the Union. I am against certain rights called "State rights," but such rights as these, any one that invades such rights will find me, from first to last, with his antagonist. While I would not give to the States rights that have been surrendered to the United States, I will fight to the last ditch against Federal usurpation, either through the

legislative, executive, or judicial authority. These are not political privileges: they are personal sacred immunities, that attach to us as individuals, and are protected by the domestic law. I hope to God never to live in a country in which the laws of the country, within its proper jurisdiction, do not protect me in the exercise of my rights and privileges.

What is the next count? "Unlawfully conspiring to deprive Amzi Rainey of the equal protection of the law." The equal protection of the law! Why, are not all entitled here to the equal protection of the law? Citizens of South Carolina, am I not just as equally protected in South Carolina as in my own State? Can any man in South Carolina assault me because I am not a citizen of South Carolina? The laws of South Carolina protect me; are bound to protect me. These natural rights, these sacred rights, they belong to every individual and every person. These are the rights that a State is competent to protect, if a State is competent to do anything. Depriving him of the equal protection of the law, how can that be done? What way? The gentleman does not tell us. Why, the only way in which it could be done would be to imprison him where no officer of justice could find him. Again, it is not alleged what laws there are that he is prevented from having the enjoyment of—State laws or Federal. The gentleman has just taken the language of the statute, and attempted to make an indictment by using that language.

If a statute provides that a man shall be imprisoned ten years for committing burglary, it wouldn't do to say in the indictment "that he committed burglary." All the circumstances are not stated in the statute. But they must be in the indictment.

I have seen statutes so full that merely copying the language, with a few verbal alterations, would make a good indictment; but such things are rare.

The tenth count is identical with the ninth, except that the purpose is to deprive him of equal privileges and immunities under the law. The other is "equal protection." This is "equal privileges and immunities," which I have discussed already.

Now comes the eleventh, which is as follows, and I am glad to say it is the last one: "And the jurors aforesaid, &c., present that Allen Crosby, &c., unlawfully did conspire together to injure Amzi Rainey, a citizen of the United States, lawfully entitled to vote, in his person, on account of giving his support, in a lawful manner, in favor of the election of A. S. Wallace, a lawfully qualified person, as a member of the Congress of the United States."

Now, this is intended to embrace a case of a conspiracy to injure the party after he has given his vote, under this law of the statute, "in favor of the election of A. S. Wallace, a lawfully qualified person." What! Wallace a lawfully qualified person as a member of Congress of the United States! Why, it is necessary, under the United States laws, that Mr. Wallace should be twenty-five years of age; that he should have resided in this State seven years; and then, by the State law, that he should have resided in the State, I don't know how long—a year, I suppose. There are no facts to show this. Your honors should have the facts, in order to draw the legal conclusions—not the district attorney, nor the jury, for perhaps they might go very much astray. Is not that the universal rule?

At the conclusion of Mr. Stanbery's argument, Mr. Corbin rose and stated that the motion was unexpected to him, and that it would be necessary, in order to reply as he desired, to have additional time, that he might examine the authorities.

Upon Mr. Corbin's suggestion, the court adjourned until Tuesday, at 10 o'clock.

SIXTH DAY'S PROCEEDINGS.

DECEMBER 5.

Judge Hugh L. Bond presiding; associate judge, Hon. George S. Bryan. The court met pursuant to adjournment. There were a large number of spectators present; if anything, more than on any preceding day. Mr. Stanbery said:

I want to bring to the notice of your honors one or two authorities, and will make a further statement as to one point. I read now from Wharton's American Criminal Law, volume 3, page 2290: "If any two or more persons shall conspire or agree falsely and maliciously to charge or indict any other person, or cause or procure him to be charged or indicted in any court or criminal jurisdiction, the persons so offending shall be guilty of a misdemeanor," &c.

Now, in note B, "Under this statute the particular means intended to be used should be alleged, in order that the court may see whether they are in themselves criminal, or amount to a cheat, or obtaining goods by false pretenses. So an indictment for a cheat must set forth the means by which the cheat was effected." Authorities given. "It would, therefore, seem to follow that when the charge is a conspiracy to commit those crimes, the indictment should be equally explicit, and such was the decision of the court for the correction of errors in *Lambert vs. The People*, 9 Cowen, 578. In that case the decision was made by a bare majority, but the dissenting opinions were based upon the assumption that a conspiracy to defraud any one of his property, by any means, constituted a crime. But the revised statutes have put that question at rest by defining the crime in accordance with the decision of the majority of the court on that case, and thus restricting the offense to much narrower limits. But the dissenting members of the court assumed the law to restrict it."

That is, as to stating the manner, you must state such threats as would amount to a prevention, such a threat as would prevent a reasonable man from exercising the suffrage.

Now, from page 2349: "It is important to set forth the names of the parties injured unless a good reason be given for their non-specification." Thus Tindal, C. J., said: "Mr. Pashley, for the plaintiffs in error, argued that the indictment was bad because it contained a defective statement of the charge of conspiracy, and we agree that it is defective. The charge is that the defendants below conspired to cheat and defraud divers subjects, being tradesmen, of their goods." Here it charges divers persons. "And the objection is that these persons should have been designated by their Christian and surnames, as an excuse given, such as that their names are to the jurors unknown. Because this allegation imports that the intention of the conspiracy was to cheat certain indefinite individuals; as, for instance, those whom they should afterward deal with, or afterward fix upon, it ought to have been described in appropriate terms, showing that the objects of the conspiracy were at the time of making it unascertained, as was in fact done in the case of *Rex vs. Berenger and the Queen vs. Peck*."

So much for the threats. Now, upon one point; we were arguing to your honors the scope of judicial power under the Constitution of the United States within a State, and gave various grounds under which that judicial power might be exercised in reference to the competency of this court to try this question of burglary. I failed to state another source of Federal power in the judiciary which might be introduced into a State, which is this, and it is applicable in this case: It might happen that in a part of this State, for instance in York County, and perhaps in certain other counties, there are combinations so powerful as to prevent the local courts from putting down this domestic violence, so combined, and with such means of interfering with the local authorities, that it is impossible for the State authorities and the local authority to protect its citizens from this domestic violence. Under those circumstances who intervenes? What intervenes? The Federal judiciary? Not at all. That is not a case for the Federal judiciary to try. In consequence of this combination, in this State, the General Government intervenes with another power. What is that? The executive power, by force, to do what? To try those parties? Not at all. To bring them into the circuit court or the district court? Not at all. It intervenes at the request of the executive of the State, to put down this force, so that the State laws may go into effect. That is, in other words, the soldier must follow the marshal or sheriff to see that the State laws are executed. There is no warrant or authority for the Federal judiciary to intervene to correct the evil. Not at all!

Attorney General Chamberlain, associate counsel for the prosecution, in opposition to the motion to quash the indictment, then said:

ARGUMENT OF HON. D. H. CHAMBERLAIN.

May it please your Honors: The first exception which has been taken and argued to the present indictment is, that a conspiracy has been charged to violate the first section of the act entitled "An act to enforce the rights of citizens of the United States to vote in the several States of the Union, and for other purposes," approved May 31, 1870, and that by reference to the section—the first section of that act—it is found that while a right is declared, the infringement of that right is not prohibited, and that therefore this first count is defective, because it is simply for a violation of the first section, which contains no prohibition or penalty for its violation.

Now, if the court please, it is not from any disrespect of the course which counsel has taken and seriously argued, but it is impossible to conceive how such an objection can seriously be taken to this indictment. I understand the exception to rest upon this ground: That in order to enable us to charge the violation of the first section of this act, the first section itself must contain a penalty for a violation; must within itself carry a prohibition for the right which it asserts, and of the duty which it defines.

Now, if the court please, this is all one act. A division of an act into sections does not destroy the entirety of the whole act, and this act would have the same force and effect if it were not divided at all into sections; who can dispute this? Now, we do not deny that in reading the first section we find no prohibition, no notice of the penalty. The section is as follows:

"That all citizens of the United States, who are or shall be otherwise qualified by law to vote at any election by the people, in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections without distinction of race, color, or previous condition of servitude, any constitution, law, customs, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding."

So much for the first section, which is simply an arbitrary, an artificial division of an entire act. Now, further, in the act and the section which gives the right to make this indictment.

[Counsel here read section seven, prescribing penalties, &c., for violations of section one.]
Now, if your honors please, what can be clearer than that in this act we have a right by the section just read which does affix a penalty, which does prescribe a violation of the first section—we have a right to use that section in connection with the first to charge this conspiracy

to violate this act, to wit, the provisions contained in the first section of the act, that all persons otherwise qualified to vote in the State or in any election shall be allowed and entitled to vote without distinction of race, or color, or previous condition of servitude.

Is it necessary, your honors, that every section of an act that asserts a right or prescribes and defines a duty shall within the limits, the artificial limits, of that very section, denounce a penalty and provide a violation of those provisions? Nothing is more common, if your honors please, than for the former part of acts to be occupied with asserting rights and defining duties, and subsequently, but within the limits of the same act, which is always to be treated as a whole, we find penalties prescribed; we find what constitutes a violation of those rights, or an infringement of those duties, set forth.

Under that act all the pleader has to do is to set forth the offense which is charged under the authority of any of the sections of the entire act.

Now, let us examine this again, assuming that the sixth section declares that if two or more persons shall conspire to violate any provisions of this act. Is not the first section of this act a provision of it: does it not provide that "all persons otherwise qualified to vote, shall be entitled to vote without distinction of race, color, or previous condition?" Certainly that is a provision of this act. And does not the sixth section of the same act give us the right to indict two or more persons for a conspiracy to violate this first section? We say, therefore, we are not aware, if your honors please, of any custom or any rule of law on the mode of drawing acts or indictments, that would point out that because a particular section of an act did not contain within it an announcement of a penalty, that, therefore, we could not, under a subsequent section of that act, indict for a violation of the provisions of the first section referred to.

The first section and the sixth are one in purpose—to enforce the right of citizens to vote. The first section defines the right, the sixth section describes the mode of punishment for a violation of that right. Now, if there be any authorities which would prevent us from indicting for a violation of the first section of that act because that section, instead of the sixth, does not prescribe the penalty, our researches have not enabled us to discover them.

The second exception that has been taken to our first count is that it does not set forth the names of the persons who are to be injured by this conspiracy; of the persons who were the objects of the conspiracy. Our answer to that is, that it is simply not necessary that the names of the persons to be injured shall be set forth in an indictment for a conspiracy. We take this position upon authority: 3 Greenleaf on Evidence, sec. 89, under the head "conspiracy." "The general rule of the common law is that it is a criminal and indictable offense for two or more to confederate or combine together by concerted means to do that which is unlawful or criminal, to the injury of the public, or portions or classes of the community, or even to the rights of an individual." That is, the objects of the conspiracy may be either a public, general, or a particular class, or a particular portion of the public, or it may be individuals. And again, in 2 Russell on Crimes, p. 679: "In a recent case it was held to be an indictable offense to conspire on a particular day, by false rumors, to raise the prices of the government public funds, with intent to injure the subjects who should purchase on that day, and that the indictment was well enough drawn without specifying the particular persons who purchased, as the persons intended to be injured; and that the public funds of this kingdom might mean either British or Irish funds, which since the union were each a part of the United Kingdom." After the argument, upon the motion in arrest of judgment, Lord Ellenborough, C. J., said:

"I am perfectly clear that there is not any ground for the motion in arrest of judgment. A public mischief is stated as the object of this conspiracy. The conspiracy is by false rumors to raise the price of the public funds and securities, and that the crime lies in the act of conspiracy and combination to effect that purpose, and would have been complete although it had not been pursued to its consequences, or the parties would not have been able to carry it into effect. The purpose itself is mischievous; it strikes at the price of a vendable commodity in the market, and if it gives a fictitious price by means of false rumors, it is a fraud leveled against the public, for it is against all such as may possibly have anything to do with the funds on any particular day."

In the same case Baley, justice, said: "It is not necessary to constitute this an offense that it should be prejudicial to the public in its aggregate capacity, or to all the King's subjects; but it is enough if it be prejudicial to a class of the subjects. Here, then, is a conspiracy to effect an illegal end, and not only so, but to effect it by illegal means, because to raise the funds by false rumors is by illegal means."

And by Dampier, justice: "I own I cannot raise a doubt but that this is a complete crime of conspiracy, according to any definition of it. The means are wrong; they were false rumors. The object was wrong; it was to give a false value to a commodity in a public market, which was injurious to those who had to purchase." In 2 Mass., case of The Commonwealth against Judd, p. 329, the defendants were indicted for that they did conspire together to mix, compound, and manufacture a certain base material, in form and color and with the resemblance of good and genuine indigo, of the best quality of foreign growth and manufacture, with the intent that the same should be sold at public auction as good and genuine indigo of the best quality. The opinion of the court was delivered by Parsons, chief justice: "The defendants have been indicted for conspiring together to manufacture of certain materials,

mentioned in the indictment, of which one was good indigo of foreign growth. * * * The indictment further charges that, in pursuance of this conspiracy, they, in fact, manufactured this base composition, and that, in further pursuance of this confederacy, they exposed this base composition for sale at public auction, and, in fact, sold it for genuine indigo, of the best quality and of foreign growth. Upon this indictment the defendants have been tried, and the jury have returned their verdict, that the defendants were guilty of a conspiracy to make base and spurious indigo, with a fraudulent attempt to sell the same as good and genuine indigo, but they do not find that the same was sold at auction in the manner set forth in the indictment."

A motion was made in arrest of judgment, and it is upon that motion that this decision is rendered, holding that this indictment is good where no persons are mentioned, but simply that they conspired to compound and manufacture a spurious article of merchandise, and to expose it to public auction, an injury to anybody who might purchase. How far, if your honors please, does that come short of requiring us in this indictment to indicate the names of particular individuals who are to be injured by our conspiracy? It does not require us even to name classes further than such as may be described very loosely and vaguely as those who might chance or happen to be bidders at a public outcry. Why should it not have been held in this conspiracy to manufacture this base article that the indictment should set forth that it was with intent to defraud A, B, and C, and through the alphabet? Simply, if your honors please, because it was a conspiracy the moment the condition or agreement was entered into, without reference to its being carried into effect, and without reference to the individuals or class of individuals who might be injured by it.

There is another case, if your honors please, in 7th Metcalf, which refers to this leading case, of Commonwealth against Judd, which I have just read. It is the case of Commonwealth against Harley, 7th Metcalf, p. 506. The head-note is as follows: "An averment in an indictment for a conspiracy. That the defendants conspired to defraud A is not supported by proof that they conspired to defraud the public generally, or an individual whom they might meet, and be able to defraud." And the court, in their opinion, say: "In the present case it was undoubtedly competent to have charged a conspiracy to cheat and defraud the public generally, as was held in the Commonwealth vs. Judd, 2 Massachusetts, 329. But, giving the greatest latitude to that decision, it would only establish the proposition that this indictment would have been well maintained had it alleged the conspiracy to have been entered into with the intention to defraud the public generally. Alleging the offense in that form obviates entirely the objection of variance which arises in the present case. But here the allegation is not of an intention to defraud the public generally, but it is specifically charged as a conspiracy to defraud Stephen W. Marsh, and the question is, therefore, whether the evidence of a conspiracy by defendants to cheat the public generally or any person who might fall in their way, and thus be made to suffer from the conspiracy, will support an indictment charging, as this does, the special and particular purpose of the conspiracy to defraud Stephen W. Marsh.

"Looking at the question in this light, and applying to the case the familiar rules of the common law, we cannot avoid coming to the result that there was a variance between the allegations and the proof that was fatal to the maintaining of the indictment. As already remarked, there was no necessity of making any allegation in the indictment of an intent to defraud any particular individual, and especially since the enactment of the Revised Statutes, chapter 127, section 14. The Government having elected, as set forth in the indictment, a special intent to defraud Stephen W. Marsh, as the object of the conspiracy on the part of both the conspirators, Phlenia Harvey and Robert Harvey, that allegation was a material one, and the Government was bound to establish it by proof. The doctrine of this case is simply this, that where you do charge a conspiracy to injure or defraud an individual, and cannot support that charge, but prove that it was a combination or conspiracy to injure or defraud divers individuals in the community, or the public generally, but your proof and your allegations must correspond; but it is an emphatic decision that it is not necessary in charging a conspiracy to name any particular individuals as the persons to be injured. But you may charge, first, the public generally; you may charge, second, any class or described portion of the community; or, thirdly, you may charge individuals, and if you charge individuals you must name them; or if you charge an individual, naming him, you must connect your proof with that individual."

And now, how is our indictment drawn? It charges an intent to violate the first section of the act by unlawfully hindering and restraining divers male citizens of the United States of African descent. How, and why? Are we bound here, in order to make out this charge of conspiracy, to describe fully and accurately and completely this crime of conspiracy? How are we required to name particular individuals who are to be injured by this conspiracy?

The third objection which has been urged against the first count of our indictment, that it does not set forth the means by which this unlawful hindering, &c., was to be effected. Our answer to that is, that it was not necessary in charging a conspiracy. Greenleaf on Evidence, section 95, for a general statement: "Where the conspiracy was to do an act in itself unlawful, the means intended to be employed to effect the object are not usually stated in the indictment." Nor is it necessary in such case to state that. 2 Russell on Crime, page 69—"Where the act is in itself illegal, it is not necessary to state the means by which the con-

spiracy was effected. Thus, where the indictment charged that the defendants conspired together by indirect means to prevent one H. B. from exercising the trade of a tailor, and it was contended that it should have stated the fact on which the conspiracy was founded, and the means used for the purpose, Lord Mansfield, C. J., said: "The conspiracy is stated, and its object. It is not necessary that the means should be stated." A. Buller, J., said: "If there be any objection, the indictment states too much. It would have been good, certainly, if it had not added by indirect means, and that will not make it bad. In a late case where the indictment charged that the defendants, by divers false pretenses and subtle means and devices, to obtain from A divers large sums of money, and to cheat and defraud him thereof, it was holden that the gist of the evidence was conspiracy; it was quite sufficient to state the fact and its objects, and not necessary to set out the specific pretense.

Mr. Stanbery, interrupting, said:

Allow me to say you do not apprehend the point I make with regard to that. This statute requires the means to be stated of the conspiracy—not only of the conspiracy, but the means of carrying it out, if by threats, by intimidation, and our objection was that you did not show what threats and what intimidation were used. That is the point we make.

Mr. Chamberlain, resuming:

This first count, if your honors please, is under the sixth section of the act; and it charges the provisions of the first section; and the statute says:

"That if two or more persons shall band or conspire together, or go in disguise upon the public highway, or upon the premises of another, with intent to violate any provision of this act, or to injure, oppress, threaten, or intimidate any citizen with intent to prevent or hinder his free exercise and enjoyment of any right or privilege granted or secured to him by the Constitution or laws of the United States, or because of his having exercised the same, such persons shall be held guilty of felony, and, on conviction thereof, shall be fined or imprisoned, or both, at the discretion of the court—the fine not to exceed \$5,000, and the imprisonment not to exceed ten years—and shall, moreover, be thereafter ineligible to, and disabled from holding, any office or place of honor, profit, or trust, created by the Constitution or laws of the United States."

Where does this act require us to set forth the means of conspiring to violate the provisions of the first section of the act? By what means? None at all. None required of us to be stated. Simply a conspiracy with intent to violate the provisions of the first section, or any provision of this act, "who shall, upon conviction, be fined or imprisoned."

Now, if your honors please, that is the mistake that has been made. This is statutory offense, and the statute does not require us to set forth the means by which it was intended to effect this conspiracy, for the violation of a provision of the act, and therefore what I have already said of the necessity, generally, of stating the means, is applicable in this case, and the statute requires nothing of us that the common law would not require.

Now, if your honors please, I think that the next objection which the distinguished counsel urged to this same count, was that a specific election was not stated, whether State, county, or Federal. Your honors have already seen that this count is simply a conspiracy to violate the provisions of the first section of this act. And that section asserts the right of citizens of the United States, who are otherwise qualified by law, to vote at any election by the people in any State, Territory, district, county, &c., to vote without distinction of race, color, or previous condition. How now, if your honors please, is it necessary for us to state that this conspiracy had reference to any particular election? We are entitled to indict under this act anybody who conspires to violate any provision of this act. Here is a provision of this act to give Amzi Rainey the right to vote always, at any and every election, and the conspiracy was to deprive him of that right, to rob him of it generally, to put him in such terror that he would be as if he had not that right.

How shall it be necessary for us to say that this general conspiracy to rob Amzi Rainey of his right to vote must be intended to apply to some particular election, in preference to any other? This, if your honors please, is a statutory offense. This indictment is drawn under the statute which extends over that offense. The offense is the general one of conspiring to deprive an individual of the right to vote. When? At the next election, or the election after that, or the third or fourth election in the future? Not at all. But it infringes his right to vote, in the language of the first section, at any election by the people in any State, Territory, district, or county, town, municipally, or other territorial sub-division.

But then, if your honors please, nothing can be more important in determining whether that is essential or not, than to remember the nature of the conspiracy. I think nobody will question the accuracy of the definition which I am about to give, or rather repeat, of a conspiracy, that it is a combination or agreement of two or more persons, by some concerted means, to do an unlawful or criminal act, or to do a lawful act by criminal or unlawful means. Now that is all there is in conspiracy, and that is all that is essential to this first count. Did they conspire by concerted means to do an unlawful act?

If we have set forth that fully and completely, what more we have set forth is surplusage. That conspiracy was complete when the agreement was formed to deprive Amzi Rainey of his right to vote. It need never have taken effect. The effect of the conspiracy might never have been felt at any election. The purpose of the conspirators, their intent, was a general

one to defeat the right secured to Amzi Rainey under the provision of this first section; to violate a provision of the first section of this act; and therefore it does not enter into the substance of the charge which we make in this court, that it should have had reference to a particular individual, or to a particular election day, or to the use of any particular means, because the crime was complete and the conspiracy was then in its full deformity when that combination was entered into to violate the provisions of the first section of this act.

I think, if the court please, that the next objection that was taken to the first count of this indictment was, that the qualifications of the said male citizens were not fully set forth; that they were prescribed in general terms as qualified to vote; or possibly two or three specifications were mentioned, but not all. Now, if your honors please, this, as I have already said, is a statutory offense, and this indictment has to be drawn under this statute, and it becomes important to refer to some of the principles which regulate the drawing of indictments for statutory offenses. As the most convenient reference on that point, I recite 1 Bishop on Criminal Procedure, section 359: "Where the offense is purely statutory, having no relation to the common law—where, in other words, the statute specifically sets out what acts shall constitute the offense—it is, as a general rule, sufficient in the indictment to charge the defendant with acts coming wholly within the description, in the substantial words of the statute, without any further expansion of the matter."

Now let me point out to the court what seems to me the application of this principle to the present case. This is purely statutory offense; not that conspiracy is a purely statutory offense, for it is not; but conspiracy to violate the provisions of the first section of this act is a purely statutory offense, and therefore upon this principle it is sufficient to charge the defendant with acts coming fully within the statutory description, in the substantial words of the statute, and without any further expression of the matter. Well, now, in this count, if your honors please, we have under the sixth section of the act charged these defendants with the offenses there described, to wit, conspiring together with intent to violate a provision of this act. And if this principle be a sound one, we are not required any further to expand the matter. A statutory offense is this, nor more nor less—conspiring together with the intent to violate a provision of this act.

And now, if your honors please, if we have gone further, the utmost that can be required of us upon this indictment, and upon the trial, to make our proof correspond with our additional, but unnecessary allegations. I do not say that we cannot be held to prove that these divers male citizens of African descent are qualified in all particulars by national and State law to be voters at elections in this State. That we are ready to do. But we say that this count is complete, and we have only put a burden upon ourselves. If we have gone further than to charge in substance, and not the substance only, but the identical words of the statute, I say we have simply put an additional burden upon ourselves. If we have done more than to charge in the language of the statute, or without further explanation than these defendants conspired together with intent to violate a provision of this act, to wit: its first section.

If the court please, there are numerous decisions upon this particular law, and applicable to indictments under statutes which I have presented, three or four of them illustrating the application of this principle to the case I propose now to bring before the court. And I state, for general convenience, from this same work, and also because some of the authorities are not within reach, the case of *The State against Gould*, 34 N. H., p. 510. Where the words of the statute are descriptive of an offense, the indictment must follow the language of the statute, and expressly charge the respondent with the commission of the described offense in the words of the statute or their equivalents, else their description would be defective. The decision of this case would require us to do the very thing that we have done—charged this offense in the language of the statute.

Another case, *State against Hickman*, 3 Halsted, 229: "A variance between the language of the statute and the indictment will not vitiate if the words used in the indictment are equivalent to those of the statute," so that if, in the language of this authority, we had expanded the matter, but still kept ourselves to equivalent terms, we should have been within the principle which is decided by this case in 3 Halsted.

There are other cases, hardly necessary to state them, but the principle decided is, that it is not always necessary to describe the offense in the precise words of the statute.

And again, the substance of the offense should be contained in an indictment, or as in another decision, the material words of the statute must be used.

And again, an offense charged in the indictment substantially, pursuant to the indictment, and although there is not a perfect similarity in the words, there is no variance in the sense, nor can the variance occur, indeed, in the operation or construction of the law. So the indictment was held to be good, and another principle decided so many words used in the statutes to describe an offense as are necessary shall be used to state in the indictment, and in general an indictment need not adopt the very words of the statute; the same substance to a reasonable indictment is sufficient.

Another decision which illustrates the same principle, an English decision, where Justice Coleridge says, speaking generally: *Earle's case* in the 2 Lewin; I am reading still from 1 Bishop on Criminal Laws, section 373. Coleridge, J., said: "A case is established;" and he

is speaking of indictments under statutes: "A case is established that is necessary to establish that the wound was given by an instrument calculated to produce the injury complained of, but they did not go to the length of saying that the instrument must be stated in the indictment. The indictment in this case has followed the words of the statute, and I am of the opinion that it is sufficient." Under a Tennessee statute, providing that no person shall maliciously shoot or stab another, it has been held sufficient for the indictment to charge that the accused did unlawfully and maliciously shoot, &c. It is unnecessary to describe the weapon, the hand in which it was held, the wound that was inflicted, or the circumstances attending the act. That is, when the statute does not require it, you shall not be required to go outside of the statute and conform to common-law rules. And this author concludes the examination of a great number of cases upon this matter of the drawing of indictments under statutes with this remark: "Any one who reads our American decisions in detail, and observes the diverse adjudications made upon the sufficiency of indictments drawn upon new unexpounded statutes, will observe two things—that some judges are more ready than others to accept indictments which merely follow the words of the statute, and secondly, that the tendency in modern times is to require the expansion beyond the words in fewer circumstances than formerly would have been demanded."

Now, if the court please, would it be claimed that, as in the present instance, after charging a conspiracy not only in the substantial, but in the substantial and exact words of the statute, we are still to go on and designate by name the parties to be injured, describe particularly the means to be employed, set forth particularly the time that was intended it should take effect, and also that we should set forth all the legal qualifications of the parties to vote, whom this conspiracy was intended to remedy or guard? The general answer is that we are drawing an indictment under a statute, and that it is sufficient for us if we make the substantial averments which in the statute are made to state the offense. And in the present instance I cannot be mistaken when I say that all that the statute requires of us is that we shall charge a conspiracy with intent to violate the provisions of this act, and that we have beyond controversy done it, and whatever has followed by way of pointing out a class of individuals to be injured, male citizens of African descent, twenty-one years of age, qualified to vote, has only had this effect, to put upon ourselves the additional burden, when we go before the jury, of proving what we have alleged, but in every other aspect of the case it was unnecessary, and is now properly described as surplusage. The offense which we charge is conspiracy, complete without any overt act, complete, rounded, whole, and full the moment the combination was formed with the purpose described, that we have charged as fully as the nature of the offense required of us, and, more than that, as fully as the statute under which we drew it requires it.

I believe, if your honors please, that I have noticed at least all the substantial exceptions which were taken to the first count of this indictment.

And I come now to the second count. The second count charges that these defendants unlawfully did conspire together to injure, oppress, threaten, and intimidate Amzi Rainey, a citizen of the United States, with intent to prevent and hinder his free exercise and enjoyments of a right and privilege granted and secured to him by the Constitution and laws of the United States, to wit, the right of suffrage.

The first objection which I recall, as made by the distinguished counsel for the defendants, is, that it is not alleged that Rainey was qualified to vote; and that he is simply described as a citizen of the United States.

That is the first objection, that Rainey should have been described, clothed with all his legal qualifications as a voter in this count of the indictment. Now, we say, in the first place, that this is substantially set forth in this count. When it is stated that he possesses a right and privilege which was secured to him by the Constitution and laws of the United States, to wit, the right of suffrage, we say that this is substantial allegation that he was a qualified voter, because he was in the possession and enjoyment of the right of suffrage, secured and guaranteed to him by the Constitution and laws of the United States, and that any more particular allegation that he was a qualified voter, to wit, a citizen of the legal age, resident for one year in this State, and in York County for six days, are not necessary, but they are all substantially included, when he is described as a citizen of the United States. He possesses the right of suffrage, secured and guaranteed to him by the laws and Constitution of the United States.

But further than that, we say, as we have said before, that this is a purely statutory offense, and that we have charged the offense in the language of the statute. The language of the statute is, that if two or more persons shall conspire together to injure, oppress, threaten, or intimidate any citizen, with intent to prevent or hinder his free exercise and enjoyment of any right or privilege guaranteed to him by the Constitution or the laws of the United States—and the indictment has followed the language of the statute, and has charged Allen Crosby and others for conspiring together, (following the exact words of the statute,) with intent to oppress, threaten, or intimidate. What says the statute? "Any citizen." What says the indictment? Amzi Rainey, a citizen of the United States, with intent to hinder—following the language of the statute—with intent to hinder and prevent the free exercise and enjoyment of a right and privilege granted and secured to him by the Constitution and laws of the United States. The indictment follows the language of the statute, and the

statute makes it an offense to conspire to deprive, to conspire to injure, threaten, and oppress any citizen, and in place of any citizen as named in this act, we placed an individual, Amzi Rainey, a citizen of the United States, with intent to prevent and injure his free exercise of a right and privilege granted and secured to him by the Constitution and laws of the United States. Here we say, again, that we have followed the principles of law which govern the framing of indictments under statute; that we have described that offense in the language of the statute, and have applied it to an individual who answers every description and every requirement of the statute, namely, a citizen of the United States, to whom a right is secured or guaranteed by the Constitution and laws of the United States.

And further than that, the language of these authorities which we have presented, it was unnecessary for us to go.

Another objection which was urged against the second count of this indictment, I believe, is the same that was urged against the first count, viz :

That no day of election was named where it was intended that this conspiracy should take effect. Of course all that we have said in answer to that objection with reference to the first count is equally applicable to this second count, and I shall not repeat it.

Another objection, also, which I have noticed, as taken to the second count, is, again, that the unlawful means are not set forth. The day and the means are not set forth. In this second count, one great answer, if your honors please, to all this, is that it is suggested by the nature of the offense which we are charging; that it is an offense of the nature which does not depend, if your honors please, upon the means employed, or upon the day when it is intended they shall take effect, nor the individuals against whom it is an offense; that is complete short of that. It is an offense which consists wholly and entirely of a combination or agreement, by concerted action, to do an unlawful thing.

How, I ask, can it be necessary, in order to charge substantially and fully, in order to put these defendants fairly in possession of everything that constitutes an essential ingredient of the charge which is brought against them, we shall specify the means, or name the day upon which this conspiracy was to be consummated?

When such a conspiracy as this shall be in motion—and I wish, if your honors please, that I could draw from my imagination; I wish I could divest myself of the knowledge that when I state this case, I am not stating an actual occurrence in South Carolina, in this year of grace.

Let us suppose that a combination of two hundred or more persons appear at the door of a colored citizen, in some county in this State. That they break violently into his house. That they smite down his wife, and next ravish his daughter, and then fell him to the floor. Then they drag him forth upon the public highway, and when the controversy rages high whether he shall be hung or simply whipped, that if he will hold up his right hand and swear before God that he will never again exercise his own free choice in the matter of suffrage his life shall be spared.

Suppose that all those facts may appear, and suppose that the name of this colored citizen is Amzi Rainey. These conspirators are at last brought before the court, charged with the conspiracy, which I have now supposed, and it is said that it is essential to this offense, with which they are charged, that we shall name some particular day when that general oath which they forced him to take was to prevent him from voting.

Our distinguished friend says he urges nothing captiously, takes advantage of no technicalities and no formalities, but he is here, simply—substantially—to defend his clients from this substantial charge—conspiracy. And yet when that man whose name I have supposed to be Amzi Rainey is utterly deprived, by threats and violence, of the right of suffrage, they say that we must go further; and although we have made him take an oath that he will never exercise his choice in the casting of his ballot, we must, forsooth, go further and name a particular day upon which Amzi Rainey should be prevented—be prevented from exercising his free choice in casting his ballot.

Let us, if the court please, if it be necessary, let us redeem the law from such aspersions upon its purpose and its requirements as to validity as that would fix to it. It is not law, it is not reason. This offense was complete when they compelled Amzi Rainey to take an oath that he would never again vote as he chose. When they had interfered with the free exercise of this right of suffrage, and no matter whether in point of fact the election day ever arrived, or Amzi Rainey did not exercise the right of suffrage, they had completed their conspiracy. They had evoked upon themselves the punishment which the laws affix to the crime of conspiracy.

So that our answer to that objection is two-fold: first that the crime is complete and its description is complete in this second count of the indictment; and second, that we have done all that the statute requires of us, and that this is a statutory offense, purely so, and that every authority requires us simply to set forth the substantial crime in the substantial language of the statute without further expression.

I come now, if your honors please, to the third count, and in the first place the same exceptions as were urged to the second count, or at least the first three exceptions; namely, that the qualifications are not stated, and that the day of election is not stated, and the unlawful means are not stated. Those three points are urged as applicable to this third count, which is a count charging these defendants as unlawfully conspiring together, with intent

to threaten, injure, and intimidate Amzi Rainey, a citizen of the United States, with intent to prevent his free exercise and enjoyment of a right and privilege granted and secured to him by the Constitution and laws of the United States, to wit, the right of suffrage; and further charges that said defendants in the act of committing the offense aforesaid, that is, the said conspiracy, did commit a felony, (stating it substantially,) which is known as burglary by the laws of South Carolina.

Mr. Stanbery, interrupting:

Before Mr. Chamberlain leaves the point, as to the means, I wish to call his attention to the ground upon which we ruled. Now I will endeavor to make myself understood.

If the court please, the conspiracy here is against the right of suffrage; there is no other right whatever in this count; none whatever. There are two counts against other immunities, as the right of search, &c., but all the other counts in this indictment are either for conspiracies, depriving the free exercise of the right of voting at an election. Mark that. My point is, that you must state the means by which that prevention took place, and that the statute requires it. I agree that in certain cases of conspiracies the means of carrying out the conspiracy need not be stated, but this statute requires you to state what means, when you come to the question of prevention of voting. In the first place, they have attempted to do this in another count. They have attempted to give the means, but these are insufficient. They say threats, without telling us what they are. They say intimidation, without telling us what sort. They say it is all surplusage. I will say, gentlemen, that it is all material.

Now to the first section "that all citizens of the United States who are or shall be otherwise qualified by law," that is, not qualified under the fifteenth amendment, for that qualifies nobody qualified by law. Now, what is the fourth section? "That if any person, by force, bribery, threats, intimidation, or other unlawful means, shall hinder, delay, prevent, or obstruct, or shall combine and confederate with others," which is the case here, "to hinder, delay, prevent, or obstruct any citizen from doing any act required to be done to qualify him to vote or from voting at any election, as aforesaid, such person shall for every offense forfeit and pay the sum of \$500 to the person aggrieved thereby, to be recovered by an action in the case, with full costs, and such allowance for counsel fees as the court shall deem just, and shall also for every such offense be guilty of a misdemeanor, and on conviction thereof be fined not less than \$500, or be imprisoned not less than one month, and not more than one year, or both, at the discretion of the court." It is this section, if the court please, which is directed to the protection of the suffrage.

Mr. CORBIN, There is no indictment upon that section.

Mr. STANBERY. Precisely, for I read every word, and you will see that they exactly fit, and if you have not got it under this section, you have not got it under the law. This prevents the exercise of voting. Now, how does this punish such an offense? Not done by an individual, but by a combination. How is it punished? It is an inferior misdemeanor; the fine cannot exceed \$500, and the imprisonment cannot exceed one year. That is for a conspiracy against the suffrage, not against the general immunities given under the Constitution of the United States, but against a right of suffrage of a person "qualified otherwise to vote," says the first section. That is the case punished in that way. Now, what section does the gentleman read from? He reads from the sixth section. Mark that. This section requires the means to be set out, and it punishes it when a thing is done in that way depriving of the exercise of the right of suffrage by voting. It is to be punished in this way as a misdemeanor. It is not called a felony.

What is the next section? It is against an individual who shall prevent, hinder, control, or intimidate, or shall attempt to prevent, hinder, control, or intimidate any person from exercising, or in exercising the right of suffrage, to whom the right of suffrage is secured or guaranteed, by the fifteenth amendment to the Constitution of the United States, by means of—now how? "By means of bribery, threats, or threats of depriving such persons of employment or occupation, or of ejecting such persons from his house, lands, or other property, or by threats, or refusing to renew leases or contracts for labor, or by threats to himself or family, such person so offending shall be guilty of misdemeanor. Misdemeanor only. Mark that, if the court please, "and shall on conviction be fined not less than five hundred dollars, or be imprisoned not less than one month or more than one year; or both, at the discretion of the court, providing for acts of intimidation, and for acts preventing the exercise of the franchise of suffrage, providing for acts, where there is a combination as that charged here, and for acts done by an individual.

Section six says something more serious: "That if two or more persons shall band or conspire together, or go in disguise upon the public highway, or upon the premises of another with intent to violate any provision of this act, or to injure, oppress, threaten, or intimidate any citizen with intent to prevent or hinder his free exercise or enjoyment of any right or privilege granted or secured to him by the Constitution or laws of the United States, or because of his having exercised the same, shall be held guilty of felony, and on conviction thereof shall be fined or imprisoned, or both, at the discretion of the court, the fine not to exceed \$5,000, and the imprisonment not to exceed ten years."

Ten years instead of one; \$5,000 instead of \$500. A felony also; "and shall moreover

be thereafter ineligible to, and disabled from holding, any office of honor, profit, or trust, created by the Constitution or the laws of the United States."

A very severe punishment. A felony here for a violation of this section, and becoming infamous, and losing altogether the right of voting.

Here they have especially provided what shall be the offense of preventing a man from voting by individual acts, or by conspiracy, and what shall be the punishment. And that it shall be done by threats of violence.

They have provided for all that, and made it only a misdemeanor. How can you construe that statute, and say that felony is intended to be embraced in the sixth section? You must construe a whole statute together.

The gentlemen, when they goup on the sixth section, have not get upon the suffrage section. That is specially provided for. The word "suffrage" and "vote" is not mentioned in this sixth section, not a word of it; it is for some other immunity. But what is the right of suffrage that is specially provided for in the fifth and sixth sections, and the conspiracy also provided for? The actual exercise of the right of voting, the means and the qualifications, I contend must be stated.

Mr. CHAMBERLAIN resumed: I don't think, if your honor please, that it is necessary that I should go back to argue those questions. Our answer is very simple and very brief, that whatever we might have done under the third, fourth, or fifth sections of this act, we have chosen to bring this indictment under the sixth section, for a violation of the first section; that the fourth and fifth sections describe a different offense, of a different grade, punishable in a different manner.

That sixth section is the only section which is aimed against a conspiracy of two or more persons with intent to violate the provisions of the act; or a conspiracy to injure or intimidate any citizens of the United States with the intent to prevent them from the free exercise of a right secured to them by the Constitution. Now, we have nothing in the world, if your honor please, to do with the second, third, fourth, or fifth sections of this act; we have found a conspiracy in York County. Two or more persons have conspired together with intent to deprive Amzi Rainey of the right secured him by the first section of this act, and we have not gone to work to indict for any other offense but simply for that offense, and we have indicted according to the language of the act, and we have substantially and fully set forth the complete crime which we charge in the sixth section, as I have repeatedly said, and nothing in the argument of the distinguished counsel who has just been addressing this court makes any force against this position. For whatever else we might have done under this section, the question is, what we have done, and have we done that correctly which we have attempted to do? Now, I say to the distinguished counsel that there is no other section of this act under which we can indict two or more persons for conspiracy to deprive Amzi Rainey of his rights or to injure him, with a view to deprive him of a free exercise of his constitutional rights. He has read the fourth section, but that is aimed against a single person.

Mr. STANBERY. The fourth section?

Mr. CHAMBERLAIN. The fourth section.

Mr. STANBERY. O, no.

Mr. CHAMBERLAIN. O, yes; that person may combine or confederate, but still the offense is limited to an individual, and if the counsel had carefully read the section it would so appear to him. "If any person." It does not constitute a conspiracy when he combines with others, but is simply an offense of combining. It is limited to the first individual, and it is not until you come to the sixth section that you have anything about two hundred or more persons conspiring.

This is susceptible of proof. I do not think it is a matter of opinion. I think I am not rash in claiming that the distinguished counsel is simply mistaken, and that a careful reading of the section will convince him of the mistake. We have selected, I repeat to the court, we have selected the only section of this act under which we can indict two or more persons for a conspiracy to deprive Amzi Rainey of his rights, and in doing that we have exactly followed the statute.

Well, I come now to the third count, against which the same objections as to the names of parties intended to be injured, the means to be employed to injure them, and of the day of the election on which the conspiracy was to take effect, are urged, and our answer to all those objections have already been fully stated.

I come now to an objection which is certainly one of the most important which has been urged against this indictment. It is that in the third count; that after charging Allen Crosby and the other defendants with a conspiracy to injure and oppress Amzi Rainey, with intent to prevent and hinder his free exercise of his rights, we have charged that in committing the offense he has committed another offense which is set forth and which constitutes an offense of burglary under the laws of the State of South Carolina. The objection which is urged to this count is, that we have simply charged these defendants with the commission of what was excellently described by the counsel yesterday as a domestic crime—a crime that originally and outside of this statute, at least, would have been simply an offense against the laws of the State of South Carolina; and the objection is urged that this court has no

jurisdiction to try and convict Allen Crosby and those other defendants of the crime of burglary under the law of South Carolina.

The argument of the counsel was elaborate, and it is within the recollection of the court, while pointing out that it is within the jurisdiction of the United States, of burglary and crime was very extensive, and reached to the various territorial limits, and applied to the various classes of offenses. Yet it was all upon Federal ground or under protection of Federal functions. I think I give full force and scope to the argument of the counsel in this statement to this objection. Well, now, if the court please, I do not know but we are ready to grant the entire argument of the distinguished counsel upon these points; and to agree with him that the United States courts cannot take jurisdiction to try and convict for, and punish for the commission of a crime which is simply a crime within the territory of South Carolina. What we claim is—and I come at once to the point of our argument, and our answer—what we claim is, that this indictment is drawn on the seventh section of this act, which is now under discussion. The right is not claimed for this court to take jurisdiction of this offense, either to try or to punish for its commission. Now, in order that my meaning and argument may be apprehended, I ask the court's careful attention to the reading of the seventh section. It is assumed in the argument of the counsel throughout that this is an attempt to try Allen Crosby and others for burglary, and that if they can be tried, they can be convicted and punished for the crime of burglary against the laws South Carolina. Now, let us see what this seventh section, under which this portion of the third count is drawn, attempts to do:

"SECTION 7. *Be it further enacted*, That if in the act of violating any provision of either of the two preceding sections, any felony, crime, or misdemeanor shall be committed, the offender on conviction"—what? If your honors please, the argument of the distinguished counsel would lead us to suppose that the next words would be that "upon conviction of said felony or other crime." No—"on conviction of such violation of said section, shall be punished with the same punishments as may attach to the said felonies, crimes, and misdemeanors, by the laws of the State under which such offense was committed."

Now, if your honors please, recollecting the language of the section, we say this, that this section did not contemplate that this court was to try the crime of burglary; nor that this jury should convict, and this court punish for the crime of burglary, but simply this, that if it appears that in committing the conspiracy, the offense of burglary, or any other felony was committed then—not upon conviction of the burglary, but upon the conviction of the conspiracy, or whatever offense was charged in the two preceding sections, the measure of punishment for the conspiracy, not for the burglary, should be the same which attaches to the crime of burglary, or any other crimes, according to the laws of South Carolina. Now, if your honors please, it seems to me that this comes very far short of claiming jurisdiction for this court over the crime of burglary.

It is simply, if your honors please, a mode pointed out by this statute for arriving at the proper punishment to be affixed, not to the burglary, I repeat, but to the conspiracy. It is simply a statutory mode of determining, for this court, how much punishment shall be inflicted upon these defendants. If they are found guilty by this court for the crime of conspiracy, there is to be no conviction of burglary, there is to be no conviction for any offense; that which is charged as against the peace and dignity of the United States. But the statute provides that if in the act against the United States they shall commit any other felony—what? that this court shall punish them for that felony? No; but upon conviction of the crime that is charged against them as against the peace and dignity of the United States, the punishment of that crime shall be regulated and determined by the punishment that is affixed to the crime of burglary under our State laws. Well, now, if your honors please, we find as a matter of fact, in the investigation of this case, as we believe, that the crime of burglary, according to the laws of South Carolina, had been committed in this instance, and therefore we stated it in form and manner according to the laws of South Carolina.

But we have not placed it here in this count in connection with this count upon the theory at all that this court, or the jury of this court, are authorized to bring in a verdict, upon this count, of burglary, against the peace and dignity of South Carolina, but that the statute, in order to enable this court to fix the proper penalty to the crime of conspiracy, has authorized us to inquire in this count whether an additional crime or felony has been committed or not, and not to convict, as I have said and repeat, nor to punish for that crime, but simply to ascertain whether that crime has been committed, and if it has been committed, then to let it be a measure of the offense which is charged as against the peace and dignity of the United States. Now, that is our theory of this law; that is our idea of what the law intended that this count should do; that is the theory upon which this count in the indictment is drawn, and in this view of it, if your honors please, it does not claim jurisdiction of any offense committed in South Carolina, against the laws of South Carolina, but simply authorizes this court through its jury to inquire whether their crime of burglary, or any other felony or crime against the laws of this State have been committed. And, if so, to make that the measure of its punishment of the offense against the laws of the United States.

Mr. STANBERRY. How does the court inquire; how find the fact?

Mr. CHAMBERLAIN. The jury finds the fact, thus, "guilty of the third count." That is, if the verdict is generally given—guilty of a conspiracy against Amzi Rainey, and that in

committing this conspiracy they committed the offense of burglary. Or, suppose that they do not find—that we are not able to establish the burglary—the verdict would be “guilty of conspiracy,” but not guilty of the commission of the crime of burglary, in the act of committing the conspiracy. A special verdict, such as is set forth in this Massachusetts case, “guilty of manufacturing the indigo, but not of selling it.” In other words, a special verdict. But if your honors please, this indictment, so far as our duty in constructing and presenting it here, is defensible upon the ground that we have done precisely what the statute authorized and intended that we should do; that if, in the act of violating any provision in either of the two preceding sections they shall commit any other felony, upon the conviction of conspiracy they shall be punished according to the felony, and we consider that in charging this burglary—the incorporation of this burglary, under the laws of South Carolina—into this court, in order to fix the quantum of punishment, which this court may award to the conspiracy, falls very far short of claiming for this court that they may take cognizance of the crime of burglary, and try and punish it. They are not authorized in this act to punish for burglary; the act does not attempt to say they have the power to punish for burglary, but it does authorize an inquiry in connection with the conspiracy whether the crime has been committed. If it appears by the verdict of the jury that the crime of burglary, according to the law of South Carolina, has been committed, then what? That you sentence them for burglary? Not at all. That stops at that point, and you simply look into the laws of South Carolina to find the punishment which you would affix to the crime of burglary if you had jurisdiction over it, and then you affix that punishment not to the burglary but to the conspiracy. Now, if your honors please, we come to the fourth count, and I will be as brief as possible.

The substantial exceptions urged to the fourth count are similar to the preceding counts, that it does not allege that Rainey was a citizen of the United States. The fourth count charges Allen Crosby and three other defendants with an attempt to control Amzi Rainey in the exercise of the right of suffrage, and though this count is drawn under the fifth section of the act, it charges the direct offense and not the conspiracy to commit an offense. It charges the direct offense of an attempt to control Amzi Rainey in the exercise of the right of suffrage, and the objection is made that we have not stated that Amzi Rainey is a citizen of the United States. Our answer is, that the statute does not require us, in order to complete this offense, to state that he was a citizen of the United States. The court will observe that we have examined this act, and that we have had our reasons, whether good or otherwise, for the manner of drawing these indictments.

The fifth section, under which this fourth count is drawn, simply says, “If any person shall prevent, hinder, control or intimidate, or shall attempt to hinder, control, or intimidate” what—any citizen of the United States? Not at all; “any person from exercising or in exercising the right of suffrage,” and so instead of saying Amzi Rainey, a citizen of the United States, duly qualified to vote, we have simply said Amzi Rainey, a person. It is also objected that it is not stated that the right was then secured to him, but that the language of the count is “to whom the right of suffrage is secured and guaranteed by the fifteenth amendment to the Constitution of the United States.” We cannot think there is substance to that objection.

The amendment, the court has judicial knowledge, was then in force, for the rights secured by the fifteenth amendment have always been secured since that amendment has been in force. Another objection is, that it is not alleged that he was otherwise qualified to vote than by the fifteenth amendment, and in this respect we follow again the language of the statute, which simply says, “to whom the right of suffrage guaranteed by the Constitution of the United States”—the statute does not require us to do more than to say that it was guaranteed and secured by the fifteenth amendment to the Constitution of the United States. There is no reference or requirement, but the objection is raised that the fifteenth amendment clothes no one with the right of suffrage absolute.

We are disposed to admit, if you honors please, that the fifteenth amendment does not clothe any one absolutely with the right of suffrage; but that it is substantially, practically, and really secured to the colored people of the United States, to those who have been slaves, or who are of a dark color, or of African descent.

We say that the objection is too nice, that the fifteenth amendment gives to them the right to vote; strictly speaking, it only protects them, we agree with counsel for the defense; it only protects them against discrimination on account of race, color or previous condition; but, practically, really, as a great public fact throughout the length and breadth of the Union the fifteenth amendment does secure and does guarantee to this class of our citizens the right to vote, and it was so regarded by Congress, in making use of this language which we have exactly followed in this section of the act, “to whom the right of suffrage is secured or guaranteed by the fifteenth amendment to the Constitution of the United States.”

Again, the objection appears that no election is set forth, and our answer is as before. The objection to the fifth count, which is the same as the fourth, with the addition that in committing the offense they did commit burglary according to the laws of South Carolina. The same objections are taken and the same answers are applicable.

We come now to the sixth count, which charges a conspiracy with intent to injure, threaten or intimidate Amzi Rainey, a citizen of the United States, because of the attempt

to use them, granted and secured to him by the Constitution and laws of the United States, to wit, the right of suffrage. The same objections as to persons, means, &c., as were urged to the second count, are urged to this, and in addition that it contains no separate allegation. I believe that was the objection, that he actually exercised the right. It simply charges that the conspiracy was with the intent to injure, oppress, threaten, and intimidate him, because of his free exercise. Our answer again is that here we have followed the language of the statute. It simply requires us to charge that he was oppressed, threatened or intimidated, or that the conspiracy was to threaten and intimidate him, because of his free exercise of the right.

I would say again, as we have said to every objection to this indictment, that it is substantially and sufficiently averred in the allegation that it was because of his exercise; that it is not necessary that we should go further and say that he exercised, and because of that exercise he was oppressed and intimidated. In the first place, we have followed the statute strictly, and in the next place, according to the common-law principles, we have sufficiently averred it in stating that it was done because of his exercise of the right of suffrage.

The seventh count is of the same offense, together with the crime of burglary, and of that I have nothing further to say.

We come now to the eighth count, which charges a conspiracy, with intent to deprive Amzi Rainey of a right and privilege secured to him by the Constitution of the United States, to wit, the right to be secure in his person, houses, papers and effects from unreasonable searches and seizures.

The objection that was urged against this count—the main objection—is that this is a right which can only be protected and vindicated by the State laws. That while it is undeniable that citizens of the United States have the right under the Constitution, its fourth amendment, to be secure in their person, houses, papers and effects, from unreasonable searches and seizures, yet that it is a right which depends in its practical value and enforcement upon the State laws; I believe I am correct in stating the objection. I think counsel for the defendants agreed yesterday that the concluding section of the fourteenth and fifteenth amendments, which clothed Congress with the power by appropriate legislation to enforce the provisions of those two constitutional amendments, were not necessary; that the general power had already been reserved to the Congress to enforce the provisions—the rights that were secured by the Constitution to the citizens of the United States.

All that is precisely what we claim in the present instance this act claims to do. That is precisely what we claim is the purpose of this act, to enforce this right of the people of the United States to be secure against unreasonable searches and seizure, through a statute of the United States. And if the power to enforce and secure to citizens of the United States the rights that are guaranteed to them by the Constitution does reside in Congress, as I understand the counsel to agree on yesterday, that subsequently those sections of the fourteenth and fifteenth amendments were unnecessary, then here is a statute which undertakes directly and without leaving it any longer to State laws to protect the citizen of the United States from unreasonable searches and seizure. Congress, it is admitted, if I am not mistaken, has the right to secure to its citizens their constitutional privileges, immunities, and rights by appropriate legislation, and how is the legislation which seeks to secure to Amzi Rainey his rights under the Constitution, to be secure in his person, papers and effects, from unreasonable searches and seizure? What is to prevent the Congress of the United States from doing this?

I acknowledge, with the counsel who addressed you yesterday, that almost every personal right to which he referred, as the right to be secure from an assault here in this court-house, is secured to him by the State laws. But is it not also competent, if those rights are guaranteed to citizens of the United States by the Constitution of the United States, is it not an admitted right of Congress, by appropriate legislation, directly to enforce those rights, and no longer to leave them only concurrently to be exercised by the State courts? It is true, as the counsel said yesterday, that he and I are protected in all our constitutional rights by the laws of our respective States. But it is not true, if your honors please, of Amzi Rainey, and many others; and Congress saw it, and in an exercise of power, which I understand counsel to admit as belonging to Congress, it has said we will protect you. The Constitution of the country protects you. The right to be secure against unreasonable searches and seizures. You are not secure. Large classes of the citizens of the United States are not secure, and we denounce a penalty against those who shall conspire to rob you of these constitutional rights.

The ninth, tenth and eleventh counts of this indictment, as the court is aware, are drawn under the provision of the act of April 20, 1871.

The ninth count, which is a conspiracy for the purpose of preventing Amzi Rainey of the equal protection of the laws, contrary to the act of Congress in such case made and provided, and against the peace and dignity of the United States. And that is the charge.

This count is founded upon the second section of the act of April 20, 1871, which provides that if two or more persons in any State shall conspire together—omitting unnecessary words—for the purpose of depriving any person or class of persons of the equal protection of the laws. We have followed the language of the statute, and we have charged these defendants with conspiracy together to deprive any person, to wit, Amzi Rainey, of the

equal protection of the laws. The objection is made that we should have said what laws, what manner, and on what occasion. Our first answer is, that the statute does not require this; that the offense exists under the provisions of the statutes, which are simply, and only, that they shall conspire to deprive a person of the equal protection of the laws.

The tenth count is for a similar conspiracy of equal privileges and immunities under the law. And here, too, we followed the exact language, "shall conspire together to deprive any person from equal protection under the laws."

The same objections are made to this count, and the answer is the same: that we have followed the statute, and that is purely a statutory offense. The last count charges a similar conspiracy for the purpose of depriving Amzi Rainey, a citizen of the United States, lawfully entitled to vote in his person, on account of his having given his support in a lawful manner, in favor of the election of A. S. Wallace, a lawfully qualified person, as member of Congress of the United States.

And here again we have followed, in every particular, the language of the statute. If two or more persons shall conspire together to injure any citizen—"did conspire together to injure Amzi Rainey"—in his person or property.

The count charges that they did conspire to injure Amzi Rainey in his person, on account of such support and advocacy.

I think I heard something yesterday about the necessity for charging that it was for voting; some reference to the word support, instead of vote. The word "support" is a statutory word, and we have so charged it—on account of giving his support in a lawful manner in favor of the election of any lawfully qualified person; "in favor of the election of A. S. Wallace, a lawfully qualified person"—as a member of the Congress of the United States.

In all these particulars we have followed the language of the statute.

A recess was here taken, at the conclusion of which the district attorney addressed the court in opposition to the motion to quash, after which the court adjourned till to-morrow.

SEVENTH DAY'S PROCEEDINGS.

DECEMBER 6.

Hon. Hugh L. Bond, circuit judge, presiding, Hon. Geo. S. Bryan, district judge and associate justice.

On motion of J. D. Witherspoon, attorney, Bishop Sanderfer and John Little, of York County, charged with conspiracy, were admitted to bail in the sum of \$3,000 each, Mr. Edward Hope becoming security.

In the case of the United States vs. Allen Crosby and others, for violation of the enforcement act, the opinion of the court was delivered on the motion to quash. It was read by the presiding judge, and is as follows:

OPINION.

After the prolonged and very able argument of counsel upon this motion to quash, we feel embarrassed, gentlemen, that upon so little deliberation we are to pass judgment upon the grave question raised here. But the fact that so many persons are now in confinement upon these charges, and that so many witnesses are in attendance upon the court, at great personal expense, makes it necessary that we should not delay longer. And the first objection to the first count in the indictment is, that the section of the act of May 31, 1870, which this count charges the parties with conspiring to violate, declares no penalty for the offense.

The first section of the act declares a right. It is referred to in this count by its number, and with sufficient certainty, it seems to us, to enable the parties charged after trial to plead the verdict rendered in this case in bar to another indictment. After declaring the right, the statute proceeds in section seven to define the punishment for its violation. It is not necessary, it seems to us, that each section of the act should contain or disclose the penalty for its infraction. That is often, as in this statute, referred to a later and generally to the closing section of the act defining the crime or offense, and is made applicable to all the antecedent sections. It is objected, moreover, that this count does not contain the names of the parties who, being entitled to vote, were to be hindered and prevented from the exercise of the elective franchise by the traversees.

It must be remembered that this is not an indictment to punish a wrong done to individuals against the peace and dignity of the United States, but for a conspiracy to do that wrong. The offense is completed the moment the compact is formed, whether any person within the contemplation of the first section has actually been hindered or not. If the traversees never committed any overt act, but separated and went home after the completion of the conspiracy, they have incurred the penalty which the seventh section prescribes. So it makes no difference what particular person the conspiracy when put in motion first reached. The act complained of is the conspiracy, and if it be true that any person was hindered or prevented from the exercise of the right granted by the first section, such hinderance and prevention is only proof of the conspiracy, and does not in anywise tend to make the crime more complete.

It is generally sufficient, in charging a statutory offense, to set it out in the words of the statute.

If the statute uses a common-law name for a crime which it proposes to punish, the indictment must set forth the various ingredients of the crime which go to make up the offense at common law. But when the statute itself creates the offense and defines it, it is sufficient if the indictment use the words of the statute, unless the words be indefinite and vague, ambiguous or general, in which case the indictment must so particularize the act complained of that the party charged shall be in no doubt of the offense alleged against him.

The certainty required is that which will enable him to plead the verdict in bar of any future action.

It is alleged, in this count, that this conspiracy was to go into operation at an election not yet held, to wit, the third Wednesday of October, 1872, and it is objected that this is not sufficient. That the right to vote is not a continuing right, but exists only at the time of its immediate exercise.

It would be strange, indeed, if parties could not be punished, if it be necessary to punish them at all, for any offense but those committed against this act, on election day, and in the direct exercise of the elective franchise. The usefulness of the act of Congress would be entirely frustrated by such requirement. A man may be so effectually intimidated weeks before an election that he would not dare to go within a mile of the polls, and all the mischief the act is intended to remedy would flourish, and no punishment could be awarded them under this construction, because the right to vote is not a subsisting right, but one which recurs to the citizen on election day. We do not so hold.

The uncertainty which the count leaves as to whether this was a State election or a Federal is urged as fatal.

The indictment charges that this was a conspiracy to violate the first section of the act. This section declares that all citizens shall be allowed to vote at all elections who are qualified by law to vote, without distinction of race, color, or previous condition of servitude.

Congress has never assumed the power to prescribe the qualifications of voters in the several States. To do so is left entirely with the States themselves.

But the Constitution has declared that the States shall make no distinction on the grounds stated in this first section, and by this legislation Congress has endeavored, in a way which Congress thought appropriate, to enforce it.

It is this act of appropriate legislation, and the first section of it, which the defendants are charged with violating, and we think it makes no difference at what election, whether it be State or Federal, he is intimidated or hindered from voting, because of his race, color, or previous condition of servitude.

Congress may have found it difficult to devise a method by which to punish a State which, by law, made such distinction, and may have thought that legislation most likely to secure the end in view, which punished the individual citizen who acted by virtue of a State law, or upon his individual responsibility.

If the act be within the scope of the amendment, and in the line of its purpose, Congress is the sole judge of its appropriateness.

The next objection, which is, that the count does not set forth the qualification of the voter is sufficiently answered, we think, in the remarks we have made respecting the requirements of indictments setting forth statutory offenses.

We are of opinion that the second count of the indictment is bad, because it does not allege that Amzi Rainey was qualified to vote; and for another reason more fatal, that it alleges the right of Rainey to vote to be a right and privilege granted to him by the Constitution of the United States. This, as we have shown, is not so. The right of a citizen to vote depends upon the laws of the State in which he resides, and is not granted to him by the Constitution of the United States, nor is such right guaranteed to him by that instrument. All that is guaranteed is that he shall not be deprived of the suffrage by reason of his race, color, or previous condition of servitude.

The third count is a repetition of the second, with a clause setting out a charge of burglary, concerning the court's jurisdiction over such charge. The court is divided in opinion, and will therefore make no comment on it at this time.

The fourth count is obnoxious to the objection that neither the citizenship of Rainey nor the fact of his qualifications to vote is set out.

The fifth count repeats the charge contained in the fourth, with the additional clause contained in the third count, and the court refrains from noticing it for the reasons given as to the third count.

The sixth count is intended to charge a conspiracy to oppress Rainey for having, prior to 1st February, 1871, exercised the right of suffrage, and would be good if it were drawn with the particularity of the first count, which charges a conspiracy to oppress, to prevent the future exercise of this right. It does not, however, contain any allegation of the fact of qualification, nor that the party was entitled to vote in York County, or anywhere else, or that he ever exercised his right to vote.

The seventh count is a repetition of the sixth, with the charge of burglary added, as in the third count.

The eighth count alleges a conspiracy to prevent and hinder Rainey from the exercise of a right secured to him by the Constitution of the United States, which is defined to be the right to be secure in his person and papers against unreasonable search.

The article in the Constitution of the United States, to enforce which this count is supposed to be drawn, has long been decided to be a mere restriction upon the United States itself. The right to be secure in one's house is not a right derived from the Constitution, but it existed long before the adoption of the Constitution, at common law, and cannot be said to come within the meaning of the words of the act, "right, privilege, or immunity granted or secured by the Constitution of the United States."

The ninth count is entirely too indefinite, and the defendants could not possibly know from its language with what offense they were charged, and the same objection is valid as to the tenth count.

The eleventh and last count of the indictment charges a conspiracy to injure Rainey because he had previously voted for a member of Congress. We have no doubt of the power of Congress to interfere in the protection of voters at Federal elections, and that that power existed before the adoption of either of the recent amendments. It is a power necessary to the existence of Congress, and this count seems to set forth the charge with sufficient perspicuity, and is not liable to the objections urged against it.

The motion to quash is overruled as to the first and eleventh counts of the indictment, and sustained as to the others, excepting such as the court is divided respecting.

Mr. Stanbery offered an entry which he had drawn in case there should be a difference of opinion on the question of the counts that referred to burglary.

Mr. Corbin said, with the permission of the court, he would withdraw the burglary count wherever it appeared in the indictment, with the distinct understanding that if they should feel it desirable to renew that count they might do so, giving the defense an opportunity to object if they desired it.

Mr. Stanbery objected, that the gentleman could not enter a *nol. pros.* at this stage of the case.

Mr. Johnson thought the opinion of the court having been given that that part of the indictment should be quashed, there was nothing to be withdrawn, and the division should be certified to the court above.

Judge BOND. There is no question in the case when the counts in the indictment are not before the court, but are withdrawn.

Mr. Stanbery said that the act of Congress was peremptory, that when the court were divided they were to certify their division to the Supreme Court.

Mr. JOHNSON. The counts are not before the court, but the indictments are, and the counts are in the indictment. The prosecution attempted to sustain each one of the counts in the indictment; there are three or four of the counts, if not more, that charge that some other crimes than felony were committed, and a felony as expressly prohibited by the several sections under which these counts have been framed. After the court has divided in opinion on that, we submit we are entitled to have that question certified to the Supreme Court. We are not to wait here till the counsel think proper to bring up some other case. Why should not the question be decided at the earliest possible moment; for it is one of great moment and gravity—a question involving the authority of the United States, and the authority of the States of the United States—and is a question of interest to the whole public, and not to the people of South Carolina alone. The decision pronounced there will settle it for all time.

Judge BOND. The difficulty is, Mr. Johnson, that we cannot send a question up to the Supreme Court which does not actually exist in any case happening in the court. The Government has withdrawn the count which raised the question, and the Supreme Court will be determining a question which does not exist in any case in the court, at this time.

Mr. Stanbery again objected to the entry of a *nol. pros.* without the consent of the defendants.

Mr. JOHNSON. When your honors say that the case is not before the court, with due deference to that impression, I think that you are under a misapprehension. The case was before the court this morning, when your honors pronounced your decision. You have told the prosecutor that they cannot go before the jury, because the law is against them, or, at least, that you are divided in opinion. What has put it out of the court?

Judge BRYAN. My judgment of the question is as to whether the court has not the discretion to deny the motion of the counsel, and I am of opinion that the court has that discretion; they cannot act absolutely, and it is dependent upon the court whether they shall, and I am of the decided opinion that the construction that is passed is a very vital one, and one that ought to be given at the first moment. It is not necessary, simply in this case, but it is of importance to every State, and for the country, and the sooner the Supreme Court can act upon this matter the better. As far as I am concerned, I do not agree to the motion of the counsel.

Mr. CORBIN. If the court please, there is one objection to which I do not think it necessary to call the attention of the court, because I thought the court saw it clearly, as I did. That is this: The court have pronounced a judgment of bad upon the count to which this charge of burglary is attached, and I had it in mind to hand out an indictment to meet this objection, and then attach another crime, another felony, to it.

Mr. JOHNSON. Nothing can go up except the constitutionality of that particular provision. The sole question will be, has Congress the right to provide that if wrong be committed,

and a particular offense against which Congress has legislated—the offense of burglary or any other felony known to the laws of South Carolina—whether the statutes of South Carolina have the right to try it—that is, necessarily, the only question which can be argued in the Supreme Court. Did I understand the court as to what counts were bad?

Mr. CORBIN. I understand the court, in the opinion delivered, to say that all the counts are bad except the burglary count, and about that the court is divided.

Judge BOND. The first and last the court sustain.

Judge BRYAN. That involves the proper punishment, under the law.

Mr. JOHNSON. Some of the others were bad, I understood the court to say, and upon some the court were divided.

Judge BOND. And now the prosecution asks permission of the court to withdraw his counts alleging the burglary.

Mr. JOHNSON. We deny their right.

Judge BOND. The court is of opinion that they have a right.

Mr. JOHNSON. The court is not of the opinion.

Judge BOND. I say I am.

Judge BRYAN. The court is divided—it is divided.

Mr. JOHNSON. Then the motion of the United States to withdraw, being a motion upon which your honors are divided, cannot be granted; we therefore ask your honors to sign that, [passing to the court the entry proposed by Mr. Stanbery.]

The court engaged a moment in private consultation.

Judge BRYAN. The presiding judge is of the opinion that, as presiding judge, his decision in this matter give the law in the case, subject to the point that you can make, for error in his judgment.

Mr. JOHNSON. I am not sure, may it please your honor, that I understand you.

Judge BRYAN. The presiding judge is of opinion that his ruling governs this motion, subject to my difference of opinion.

Mr. JOHNSON. How are we to have the benefit in the Supreme Court if this motion goes there?

Judge BOND. Mr. Johnson, I prefer to state what I think myself. The counsel having submitted a motion to withdraw the burglary counts in the indictment, I am of opinion that he has the right to do it, and ought to be allowed to do it. The district judge differs from me. The question is what opinion prevails as a matter of practice.

Judge BRYAN. It is as I have stated.

Mr. STANBERY. My recollection is that in a case which comes from the district court by a writ of error, where the circuit court and the district court sit together, that the opinion of the presiding judge prevails—

Judge BRYAN. We never sit together in appeals.

Mr. STANBERY. Then the opinion of the presiding judge of the circuit court prevails, unless in the formation of this court a contrary practice prevails.

Mr. CORBIN. Suppose this division should be certified to the Supreme Court, what good would be effected now that so many counts are struck out? We don't want to wait, but we propose to go on and try this case.

Mr. Stanbery here referred the court to chapter 5, page 677, Conklin's Treatise, as to the course to be pursued upon certificate of agreement of opinion between the judges of the circuit court.

Judge BRYAN. It is suggested by my brother that a case may be made in the indictment to be brought in to-morrow, and that this case be allowed to go on. Let us try this, subject to no future issue; if that meets the views of the counsel, it will be agreeable to the court. The difficulty in this case is that we have had witnesses attending here who have been in attendance for a long while. In the case suggested to be introduced to-morrow, there will be no witnesses. There will be no argument about it.

Mr. JOHNSON. There are a good many witnesses, I understand, on both sides.

Judge BOND. Had we not better proceed to get a jury?

The defense asked an adjournment, as their witnesses had not yet arrived; but it was finally concluded to impanel the jury, and then wait until the witnesses should appear.

Counsel for the Government inquired if it was the purpose of the defense to sever in the challenges, and upon being informed that it was, announced that they, then, would sever in the trials, and dispose of each prisoner separately.

Sherod Childers, *alias* "Bunk" Childers, was first arraigned, and, after reading the first and last counts in the indictment, asked:

CLERK. How say you; are you guilty or not guilty?

PRISONER. Not guilty.

CLERK. Are you ready for trial?

PRISONER. No, sir; my witnesses are not here.

Judge BOND. We do not propose to go to trial. Who is counsel for the party?

Mr. WILSON. I am his counsel.

Judge BOND. Are you ready?

Mr. WILSON. No, Sir.

Mr. CORBIN. If it please the court, I would like to know whether we are trying cases here

at the pleasure of the United States, after proper notice to all the parties, or at the pleasure of the prisoners. We have given these parties nearly four weeks' notice of every charge, and be ready for trial, and I think the Government has spent time and money enough.

Mr. JOHNSON. They have spent quite money enough—

Judge BOND. The court understands you are not counsel in this case.

Mr. WILSON. He is associated with me. He and Mr. Stanbery.

Mr. HART. If your honors will permit me, I will make a statement. On last Saturday Mr. Wilson was not present in Columbia, and I temporarily took charge of his case. I think on the Friday previous I applied to your honors for an order to have witnesses summoned at the expense of the Government in certain cases. Your honors then declined to issue the order, and led me to believe that possibly such an order would not be issued. On Saturday that order was granted, but as no mail left until Monday I presume the subpoenas did not reach these witnesses before Tuesday, and yesterday, probably, was the day on which they were served. They may not reach here before to-day or to-morrow.

Mr. Corbin called the attention of the court to page 590 of Conklin's Treatise, in which Chief Justice Marshall, on the trial of Burr, made use of language in relation to unnecessary delay on the part of the defense, and applied the words of the Chief Justice to the desire on the part of the defendant's counsel for delay in this matter, and said: "Now this party was arrested some four weeks ago, and soon after, or at least two weeks before the term, was notified that he must be ready for trial at this term. Two weeks of the term have gone by, and yet he is not ready. In the language of the court in this Burr case, he must be ready for trial."

Judge BOND. It is not asking a delay until next term, but merely to get his witnesses here. We will go on and impanel the jury to-day.

The court called as a juror to be sworn in the case, Andrew W. Curtis, colored, and asked the prisoner to accept or challenge him.

PRISONER. I reject him.

Mr. CORBIN. We object to the prisoner's right of peremptory challenge.

Mr. STANBERY. We are entitled not only to one, but ten of these challenges.

Mr. CHAMBERLAIN. You are entitled to ten, if any.

Mr. JOHNSON. You make an objection; now give us the reason.

Mr. CORBIN. If the court please, I call the attention of the court to Blatchford's Circuit Court Reports, page 470. The case of the United States against George Cottingham.

The court decided in this case, from which counsel made copious extracts, that the prisoner had no right to peremptory challenges except in capital cases. Counsel also referred to the case of the United States against Reid, 2 Blatchford, 447, and read to the court a note attached to the report of the case, which cites for authority the United States *vs.* Merchant, 12 Wheaton, 480, and United States *vs.* Wilson, 1 Baldwin. He also read the judiciary act of 1829, the act of July 20, 1840, and quoted United States *vs.* Reed, 12 Howard, 361. He then continued:

Now, if the court please, we call attention to the second section of the act of Congress of 1865, 2 Brightly, page 107: "When the offense charged be treason or a capital offense, the defendant shall be entitled to twenty, and the United States to five peremptory challenges; in a trial for any other offense in which the right of peremptory challenge now exists, the defendant shall be entitled to ten, and the United States to two peremptory challenges." What we say, if the court please, as appears from the decision to which we have referred, the right of peremptory challenge does not now exist at common law in criminal cases in the courts of the United States. We will quote another authority, a very recent one; we call the attention of the court to the case of United States against Sheppard, found in Abbott's United States Reports, volume 1, page 435.

Counsel read the portions of the decision referred to, which, in his estimation, applied to the question under discussion, and continued:

This case also cites United States against Reed, 12 Howard, 365. That is all we desire to say. If the court desires it, I will present the case in 12 Howard, although it may be familiar to the court. This case came before the Supreme Court on a certificate of division, and Chief Justice Taney delivered the opinion of the court.

Counsel quoted very largely from this opinion, and continued:

The point in this case is this, if the court please, and we quote it for the purpose of showing that the common law and not the statute law of any State is the law by which the proceedings are governed, in criminal trial, in this court. That relates not only to the testimony of witnesses, but also to challenges.

Mr. STANBERY. The question before your honors is whether we are entitled to a peremptory challenge, or whether we are to be confined to challenges for favor. I suppose there can be no question about that, and that it is perfectly well settled by the act of Congress—this subject of challenge—to wit: that in cases of treason there are to be twenty on behalf of the defendant, and in all other cases below the grade of treason—felony, misdemeanors, and crimes and offenses of that character, the accused is entitled to ten peremptory challenges, the Government to two—in treason, the accused to twenty and the Government to five; keeping about the same proportion. The gentleman reads the statute, the act of 1865, which regulates the criminal procedure. What is the 45th section, as given here on page

107? "When the offense charged be treason, or a capital offense, the defendant shall be entitled to twenty, and the United States to five peremptory challenges. In a trial for any other offense in which the right of peremptory challenge now exists, the defendant shall be entitled to ten, and the United States to two peremptory challenges."

Now, I understand the gentleman to say that, though this secures the right of peremptory challenge in all crimes—in treason—to be that of ten jurors for the defendant and two for the United States, yet, inasmuch as it is said "where it now exists," the gentleman says it is all nugatory, because there is no statute of the United States, as I understand him to say, which, prior to this, gives a peremptory challenge in the case of treason. Is that the point?

Mr. CORBIN. No, sir.

Judge BOND. That act of Congress provides that the right of challenge shall continue where it now exists by law—where the right now exists. The question is whether that means that the right now exists by State law or common law, or the law of Congress; and if you look at the act preceding that you will find, I think, the number of challenges regulated. For instance, I think there is an act which says that where a misdemeanor has been committed upon the high seas, that the number of challenges shall be two, and there are frequent acts of Congress which prescribe the number of challenges in particular cases. Now, the question is whether that act of 1865, speaking for the present instance, does not refer to this previous act of Congress.

Mr. STANBERY. Whether it does not refer to those particular misdemeanors, which were previously created? Then, is the question in the mind of your honor whether the challenge is confined to those very cases of offenses committed on the high seas?

Judge BOND. Yes, sir; that is the question.

Mr. STANBERY. Well, if the court please, I must then take time to see where the section is. This will illustrate it: on the same page [quoting a section in the act of 1865, which gave three challenges in a particular case.] Why, that would be perfectly ridiculous. They could not have ten for that case. In the same act in the prior section, the law only gives three; it did not refer to that case at all. The law is not made for that particular case. But that is a misdemeanor, and this is a misdemeanor.

But this shows, if the court please, that the right is not to be confined to cases where already peremptory challenges are fixed and provided for. It would leave this absurdity; you would have one rule in one case and another in another. What does it mean, then? As there is no general law of the United States that provides a right of challenge, you must resort necessarily either to the common law or the State law "wherever it exists"—that is the word. Not where it exists under Federal legislation, but as well under State legislation. To follow the States in trials as much as possible, is the policy of the United States courts. Wherever it is found to exist as a right, then it is to be applied; subject only to those cases where special provisions are made by Congress. Now, if the court please, how far shall the courts go in this matter of following the State legislation. Let me read from the act of 1840, page 407, Conklin's Treatise.

[Counsel here read from the act of July 20, 1840.]

It seems to me, if the court please, that it is perfectly clear that if we do not find in the statutes of the United States any provision for the right of peremptory challenges in cases of felony or misdemeanor, why, wherever we find it to exist under State laws, this court must apply it and give the party the benefit, because it is a most important privilege. When the legislature made provision in the case of an offense on the high seas, they saw fit to limit peremptory challenges to three, but they saw fit to give in this case ten; a much more grave offense than the gentlemen say is charged in their counts which, they say, charge a felony, punishable perhaps by ten years' imprisonment and \$5,000 fine. Now, in the State of South Carolina, where we are, in cases of misdemeanor, as I am informed, the right of challenge is allowed; also in cases of felony—five in one and twenty in the other. Well, Congress prevents us from adopting that number by substituting the number ten wherever, in the trial of a cause in any court of the United States, that right of peremptory challenge exists as to such offense. Your honors will recollect that this is a provision in favor of the liberty and rights of the party. These are provisions that are to be most benignly and liberally construed. Congress intended to give the right of peremptory challenge, and said wherever it existed before it shall hereafter be to the number of ten in limiting this to the States, not to an act of Congress.

Mr. JOHNSON. Your honors will permit me to add a word or two. One thing is historically certain, may it please your honors. The object of Congress, so far as it has power to accomplish it, was to place trials on the same footing in courts of the United States as they are in courts of the States in which courts of the United States may sit. The thirty-fourth section of the act of 1869, which was interpreted by the Supreme Court in 12 Howard—perhaps the words would have comprehended criminal as well as civil cases—but the Supreme Court by that decision held, and I have no doubt held properly, that the true meaning of that section was to confine it altogether to civil cases. As far as the offense was concerned, the proposition there was, the question there was, whether a party who would have been a competent witness under the statute laws of Virginia in a criminal case could be used as a witness in a case arising under the laws of the United States, could be used in the courts of the United States. The Supreme Court said that he could not. The act referred

to of 1865 gives the right of challenge—twenty in one description of cases, or rather recognized the right of challenge—and in the other right to challenge peremptorily ten. Now it would be clear that if the words found in this section as it now exists were not there, that the right to the challenge would exist. The words would comprehend it. The object would not be accomplished without giving it that interpretation.

But it is supposed, by the counsel for the United States, that the operation of the act of 1865—that portion of it—is to be regulated by what they consider to be the meaning of the words in that section, “as it now exists.”

They maintain that it is necessary to show, first, by common law, that peremptory challenge exists in South Carolina, or, secondly, that if the common law does not give the right, that it exists by some statute law of Congress; so that the sole question resolves itself into this: What did Congress mean by saying that the right to challenge should be exercised by a party charged with a misdemeanor, &c.? Did they mean to say that the right of peremptory challenge must exist by some statute law of Congress or by common law? They have used the general phraseology, which, as I understand it, means this, and, to apply it to a particular case, that if, on the trial for a misdemeanor in South Carolina, the right of challenge exists, it is a right which also exists on the trial of a like offense in the courts of the United States. Congress never designed that there should be two modes of trial, never designed that the prisoner should be less secure in obtaining a fair trial, when he was indicted in a court of the United States, from the security which is afforded him by the laws of the State, if he had been prosecuted in some State court.

Uniformity in this, as in everything else, was the object of the original act of 1869, and was the object of the act of 1840, and is the object of the act of 1865. Now, my brother's construction of the act of 1865 leads to this result, that it accomplishes nothing whatever, for if it is to be restricted to a case in which the right of challenge exists, why was it passed at all? If by the common law the challenge was the right of the prisoner; if by the statute law of the United States it was the right of the prisoner; if by the State law it was the right of the prisoner, there was no necessity for any legislation; none whatever. But the necessity for legislation arose from this, that Congress did not think proper to adopt the right of challenge as exercised in the statute law of the State, or under the common law. They might have thought that a right to challenge twenty ought not to exist. They might have thought that a right to challenge less than ten ought not to prevail. Their sole object, then, as I submit to the court, was to provide for the exercise of that right to the whole extent that they deemed necessary that the right should exist.

Now, your honors, the question before you is whether the words “where the right now exists,” are to be referred to the right of challenge as granted by some act of Congress; or to a right of challenge as existing under the common law; or under the State law. We find no such words in the act, may it please your honor.

In the trial of any crime in the United States court, the party should be entitled to the right of challenge of ten, in certain cases, and the United States to five, provided there exists in the State of South Carolina a right to challenge in such a case. That is to say, in any particular case of misdemeanor, in any particular case of felony. If there exists in South Carolina a right to challenge in the case of misdemeanor or in the case of felony, then it may be exercised in the courts of the United States within the prescribed limits marked out by the act of 1865. Suppose that the words “as it now exists” refer to the right of challenge as provided by the antecedent act of 1865, or to any other antecedent act, by which the right of challenge in cases of misdemeanor or of felony existed, we are brought to the same result. The act of 1865 does not say that the right to challenge in a case of misdemeanor or in a case of felony, exists only in such cases as there may be such right—in certain cases of misdemeanor or in certain cases of felony; but as I understand it, wherever there exists such a right in a trial for a misdemeanor, the act applies, and the party is entitled to his right of challenge if he be tried in the courts of the United States; or wherever there exists such a right in a case of felony, the act of 1865 applies, enlarging the right in this case, it may be, diminishing the right in the last. The purpose is, as I apprehend, that the right of challenge should exist in the courts of the United States in all cases where the right of challenge existed under the State law; either by act of Congress or by State legislation, or by common law legislation, they intended that it should exist as modified when they passed the second section of the act.

Mr. CHAMBERLAIN. If your honors please, it is admitted, I believe—it must be apparent—that if the right which is now claimed for these defendants, of ten peremptory challenges, is to be sustained, it must be upon the language of the act of March 6, 1865, which is as follows: “When the offense charged be treason, or a capital offense, the defendant shall be entitled to twenty and the United States to five peremptory challenges,” and the argument of force, it seems to me, which is urged against the view for which we contend, is that our construction makes those words nugatory. That if our construction prevails there is no other cause, no other offense below treason, or a capital offense, where the right of peremptory challenge does now exist. Well, now, if your honors please, at the outset it strikes me that it is somewhat less to ask this court to decide that an act of Congress is nugatory, than to make nugatory the decisions of the courts which have established the proposition for which we contend; that, in cases below capital, no right of peremptory challenge exists.

The utmost you do, if your honors please, in sustaining us according to the claim of the distinguished counsel for the defense, is simply that you say there is no other cause, and therefore that clause in the act of March 3, 1865, is nugatory. Well, now, in looking for authorities upon such a question as this, we naturally refer to Brightly's Federal Digest, which brings the cases down to 1868, complete; and looking there, the first section that strikes us is the section under the head of "Challenges," where it is laid down without any qualifications, that peremptory challenges are not allowed in any other than capital cases, and the authorities are cited. The first case that is referred to is in 2 Blatchford, p. 407. The case of the United States against Cottingham, already cited. This was an indictment against clerks in the post-office at Albany, New York, for opening a letter and stealing money therefrom.

Now, if the court will follow this case it will be seen to be an exact authority upon such a case as has now arisen here.

Judge BOND. What is the date of that decision?

Mr. CHAMBERLAIN. Eighteen hundred and fifty-two.

Mr. JOHNSON. Before the act of 1865 was passed?

Mr. CHAMBERLAIN. Before the act of 1865 was passed.

The statute refers to the law and says, "where the right now exists," and I say that unless between 1852 and 1865 counsel are able to produce some decision or some law which gives that right, they did not exist at that time.

Well, now, what is this case? On the trial, counsel for the prisoner claimed the right to peremptory challenges, and the case was decided by Nelson, judge, sitting in the northern district of New York.

Mr. STANBERRY. Before you proceed further, here is an authority:

In the case of the United States against the Beaufort commissioners, April term, 1871, before your honors, a misdemeanor was on trial, and the court held that the laws of South Carolina in reference to challenges in cases of misdemeanor is the rule in the United States courts, and allow peremptory challenges to either side.

Mr. CORBIN. That was by agreement of counsel.

Judge BOND. Yes, sir; there was no decision of that kind on our part; it was agreed to by counsel.

Mr. STANBERRY. Then counsel agreed to change the law?

Mr. CORBIN. We agree to it to prevent any argument.

Judge BRYAN. It was done, as the counsel states, to save time, long controversy. It was conceded in that particular that they should be entitled to so many challenges.

Mr. STANBERRY to Mr. CHAMBERLAIN. You had better agree to it, to save time in this case.

Mr. CHAMBERLAIN. I think, if the court please, we have been held in sufficient strictness to justify us to insist upon all the rights the United States has in the case.

When I was interrupted, if your honors please, I was reading this decision of the United States against Cottingham. It was a case where the counsel for the prisoner claimed that the challenges allowed by the State law should prevail in the trial of this offense for opening a letter in the post-office and stealing money therefrom, under the revised statutes of New York; and Nelson, judge, decided that the prisoner had no right to any of the peremptory challenges claimed because such challenges were not allowed in common law in any other than capital cases.

I don't know, if your honors please, what decision could be more emphatic or broader or more unquestionable than this decision. And here devolves this duty upon the counsel who are making this claim that they shall show us that between this decision and the passage of the act of March 3, 1865, there was some law or some division to establish a right to peremptory challenges in cases less than capital. Now, the reference in this case is to a note, in the United States against Reid, which is found on page 447 of this same volume of Blatchford. This case involved questions relating to juries, to their qualification, to the mode of their selection, their summoning and their return, and it was held that the State regulations respecting such challenges, challenges for cause, challenges to the array, challenges for favor—that all these things attach to the qualification of the panel, and that, secondly, State regulations do apply to challenges to the array, or for favor, or for a cause shown; but they decided, very expressly, that peremptory challenges in criminal cases in the Federal courts are regulated by the common law.

Mr. Chamberlain called the particular attention of the court to the note at the foot of page 407 of Blatchford, in the case of United States vs. Reid. He continued:

Now, your honors, in further confirmation of this view, I refer to the decision of the Supreme Court, 12 Howard. The decision which has been read by my associate, where Chief Justice Taney giving the reason why these rules are not extended to criminal cases, is that the United does not intend to put itself, in trials for offenses against itself, within the power of any State to frustrate or prevent the execution of the law by any unreasonable laws of the State. Qualifications and exemptions where the court have the power to require the party who is challenged to show cause, there is no danger of abuse, because the court can control it. And so it is not a good cause of challenge, it does not constitute a legal exemption. They never intended, as these decisions show, to go outside of that into the domain of peremptory challenges, and subject themselves to any rule that the State law might provide.

It is incumbent to show that the right of peremptory challenge exists in this case, or else it is not protected by the act of 1865. Does it exist? Where does it exist? What authority is there for adopting the rules of the State with respect to peremptory challenge? Qualifications and exemptions are regulated by State law, when they have been adopted by a rule of the court. But peremptory challenges, according to the decisions, have always been regulated by principles of common law, and we have not a word, or decision cited, nor a particle of authority, but simply some reasoning upon the act of 1865, which amounts to this: That if you agree with us in excluding these peremptory challenges, you will have said to Congress that there is a clause in your act that is simply nugatory. That is not a conclusion from which any court need to shrink, especially when the current of decisions supports them, in the view that peremptory challenges are not allowed in any cases less than capital.

Something has been said about both these offenses in the first and eleventh counts being simply misdemeanors. If that be so, the defense is worse off in respect to challenges than they would be if they let this first count remain a felony, because a misdemeanor, by the laws of South Carolina, is not entitled to a single peremptory challenge.

Mr. STANBERRY. Yes, sir; to five.

Mr. CHAMBERLAIN. The gentleman is right about the State law. If they could make the State law the rule by this court, they would be entitled, according to it, to five peremptory challenges, and the State to two; but that is precisely what the decision I have cited to your honors now says has never been intended, and has never been done. All other challenges than peremptory, for a reason that is perfectly apparent and conclusive, the State rules have been excepted to in this matter of peremptory challenge, and the Government of the United States has always adhered to the common-law rule, and allowed no peremptory challenge in offenses less than capital.

As I have said, we are entitled, before this argument should go against us, to have some other authority—some decision—especially when one is not a matter of argument, but a matter of decision. We are reasoning about this statute, but we are showing that, up to the time of the passage of that act, no right of peremptory challenge did exist in cases less than capital. There is authority, and no reason but the old one that Chief Justice Taney and all the authorities gave, that peremptory challenges, not being scrutinizable, the courts have no mode of protecting themselves against the mere caprice, whim, and anxiety of the party to clear himself. They will not admit it, but in that matter will adhere strictly to the common law, which does not permit such peremptory challenge.

Mr. STANBERRY. I desire to call the special attention of the court to a passage in "Wharton's American Criminal Law"—to the statute regulating challenges, found in section 2953.

The prosecution in this case is that of felony. There it exists in the common law, giving more than we require, viz, twenty challenges; and we ask ten here. Wharton gives the laws of the United States, and, coming to this one, he makes no comment upon it, but simply speaks of peremptory challenges as now existing. It must exist either by the statutes of the United States, by the common law, or by the statute of the particular State where the case is tried. It exists in the common law, if this be felony, as they claim it to be; and it exists in the statutes of South Carolina, if it be felony, entitling us to twenty challenges; and it exists also in South Carolina, if it be a misdemeanor, and entitles us to five. Now, this answers all the authorities the gentlemen have given us, and there was no such challenge in force when the court delivered this opinion in New York, for it does not exist there. The commentator, in the quotations I have read, makes no comment, but simply gives it as the rule. Your honors must determine, before you can exclude it, where it exists.

Mr. CORBIN. The authorities and the express decisions cited by this author are comments upon what he has stated as to the decisions of our circuit courts in Michigan, New York, and other places. There was a very recent decision, of which, I regret to say, I have only a note; but it is since the statute referred to, and is given in the seventh internal revenue record. It was a case of misdemeanor, and was decided in New York City, in which case it was decided that peremptory challenges are not allowed in cases of misdemeanor in Federal courts. The court in that case decided, upon common law ground, that there are no such things as peremptory challenges in common-law cases. The case I refer to is that of the United States *vs.* Dovelin.

Judge BRYAN. The opinion of the court is that we are cut off from any resort to State legislation or State practice as a source of instruction, and as furnishing a rule to us. By the decision in Howard, we are shut up to the common law as furnishing the rule in this case. The practice of the courts in civil cases by that decision does not furnish the rule in criminal cases. If the common law, therefore, does not give the right of peremptory challenge in such a case as this, there is no other source from which the right can be derived. The decision of Justice Nelson is that the court decided that the prisoner had no right to any peremptory challenge, claiming that such challenge was not allowed in common law in other than capital cases. The question is whether that ruling is correct; if it is a fact; if it is binding on the court. But is it not a fact, as he stated, that peremptory challenge is not adopted in common law in other than capital cases? Is that disputed?

Mr. JOHNSON. Certainly it is. We say it exists in all cases of felonies, and the authority just read by my colleague says so.

Judge BRYAN. That is the point upon which we desire to be advised.

Mr. STANBERY. I will read another authority upon that point—that peremptory challenges by the defendant are admitted without assigning any reason. [Mr. Stanbery here read section 2958 from 3 Wharton.]

Judge BRYAN. That is the case of capital felonies, is it not?

Mr. STANBERY. The word “capital” is not introduced.

Mr. CORBIN. I desire to read to the court section 2956 from the very same work, to show that at common law the defendant was required to show cause, while the Government was not.

Judge BRYAN. This is a matter of grave consequence. We are shut up by a very severe decision to an unexpected result, as in a case of this kind, where the State has the right of challenge; and we are forced to a conclusion, under the decision in Howard, that there is no progress whatever in criminal matters to us here in the United States courts; that the unmodified common law, and the common law as modified by statutes and prevailing in South Carolina and England at the time of the adoption of the Constitution, before the unmodified common law, shall be the rule of this court.

I think that the conclusion made the law; but it seems to me it is carrying the decision in Howard very far, carrying it beyond its just intention, that we should be shut up to unmodified common law, in common law as modified by statute at the time of the adoption of the Constitution of the United States, modified in South Carolina and England; but the common law as unmodified by statute—that is, the common law under the rule of practice in England, and the rule of practice here, as modified by common law, but the common law itself unmodified. Under these circumstances, I desire to look more carefully into the decision in Howard, to see whether we are shut up to such a conclusion—that is, if we are cut off from all progress, and are to accept the common law as unmodified in the common law as modified by statutes at the time of the adoption of the Constitution of the United States to the unmodified common law as the rule of our action.

Mr. JOHNSON. If your honor will permit what I before desired to say, but failed to do so—that I am satisfied that the decision of Howard was the correct one. Indeed, it would be very bad taste in me, of which I trust I should not be guilty, to assail any decision of the Supreme Court of the United States.

Judge BRYAN. We both accept the decision. It is only the application about which there is a doubt.

Mr. JOHNSON. I should be very sorry if your honors did not accept the decision of the Supreme Court of the United States. If you look at the reasoning of the Chief Justice, you will find it does not cover such a case as this. He puts this construction of the act of 1789 upon the ground that to construe it as applying to rules of evidence, that to place the execution of the laws of the United States judiciary in the hands of the States, they might make rules of evidence which it would be impossible for the United States to comply with, so as to carry out their own laws. The counsel on the other side concede, notwithstanding the case in Howard, that the laws of the States in relation to the summoning of juries, the impaneling and qualification of jurors, the right of objection to the panel, &c., are all in the courts of the United States what they are in the courts of the State where the courts of the United States may be sitting.

Now, for the soul of me I cannot distinguish between the right of a prisoner to have the benefit of a peremptory challenge, if it exists in the State court, upon the ground that that would interfere with the execution of the laws of the courts. I ask how, and in what way? There is nothing to prevent the laws being executed. Peremptory challenge, necessarily specific, would be exhaustive, and when exhaustive the jury are to be summoned, and the laws of the United States, so far as they are enforced in the court, are to be carried out; but that is not the case, for the courts of the United States are made and bound to observe the rules of evidence which the laws of the States may from time to time prescribe.

The court then adjourned until Friday, at 11 a. m.

EIGHTH DAY'S PROCEEDINGS.

DECEMBER 8.

The court met pursuant to adjournment, his honor Judge Bond presiding, District Judge George S. Bryan, associate justice.

In further support of the claim of the defense of peremptory challenges, Mr. Stanbery said:

May it please your honors: At the adjournment yesterday the point, as it seemed to me, was whether, in finding authority for peremptory challenge under the law of 1865, we were necessarily remitted to the common law on the subject of felony, and to no other source; and your honor, the presiding judge, directed me to inquire as to whether at common law any but capital felonies were entitled to the benefit of peremptory challenge.

Now, if the court please, as to that I certainly must answer your honor's question; that, if we look to the unmodified common law, it extended the right of peremptory challenge not only to felonies punishable capitally, but I apprehend, if the court please, that it is a right, even when we look at the common law, as we understand the common law in this country, in felonies less than capital. There has been a great dispute as to how much of the common and statute law of England our ancestors brought to this country. There have been many

disputes as to whether they brought with them the statute of Uses, and whether they brought with them the statute of Elizabeth on the subject of challenges. But every safe rule is, as to statutes not so old as 43 Elizabeth, or the statute of Uses—the more modern English statutes altering the common law—that those that were in existence at the time our ancestors came into this country, dating as far back as the reign of James I, enter into the body of the common law.

Judge BRYAN. Will you suffer me to interrupt you? I stated that our difficulty was to the application of the decision in Howard. He himself supplies the answer—gives the rule—on page 185.

[Judge Bryan then read from the opinion in Howard, in the United States *vs.* Reid.]

Now we are to show what the right of challenge was in South Carolina before the passage of the Judiciary Act in 1789.

Mr. STANBERY. I am advised as to that, if the court please, by an officer of the court, the clerk, that prior to the act of 1789 there was a statute in South Carolina which allowed twenty peremptory challenges in favor of any defendant who was indicted for what was called a clergyable felony; that is, for a felony punishable by death.

Under the law of England, and, perhaps, under the statute of South Carolina—which allowed the benefit of clergy, and receiving the benefit of clergy the death penalty was removed, and branding, perhaps, or some other punishment, substituted.

The State, then, of South Carolina, at the date of the passage of that act of 1789, extended the right of peremptory challenge, to the number of twenty jurors, to the defendant, indicted for a clergyable felony, that is, one not punishable by death, where the benefit of clergy was allowed. I am told further, by the clerk, that acting under the statute of 1789, the practice of these courts of the United States, while he has been an officer of the court, and that is for more than twenty years—

CLERK. The practice in the State courts I was alluding to; not the United States courts.

Mr. STANBERY. Yes, sir, the practice in the State, which has been uniformly to allow twenty peremptory challenges, so that this act of Congress, so far as we are concerned, takes away one-half of the number which existed in 1789. In addition to that, to show what is the common law, let me read from 1 Kent, 472. Here the chancellor is looking for the source of our common law and says: "It is also the established doctrine that English statutes, passed before the emigration of our ancestors, and applicable to our situation, and in amendment of the law, constitute a part of the common law of this country."

On page 609, Mr. Conklin says that the statute of Edward denied the right of peremptory challenge to the Crown, but under that statute it has been the practice to put aside the juror without cause until it appears that there will not be a full jury without such person, and referred to United States *vs.* Merchant & Colson, where this important rule of English practice, as stated by the court, is made applicable to criminal proceedings in the United States courts.

It is not, therefore, the whole, bare, unchanged, unmodified, common law that we must look to for our right, which, under the severities of our early common law, punished almost every felony with death, and allowed to no inferior crime the benefit of challenge of jurors.

In view of the law of these decisions, if the court please, we are entitled to ten challenges, and but for these rules would have been entitled to twenty under the established State law in 1789. As early as the year 1712, I find, by looking at the statutes of South Carolina, that this was the law of South Carolina: "No person arraigned for any petit treason, murder, or felony, shall be from henceforth admitted to any peremptory challenge above the number of xx."

Judge BRYAN. The rule, I think, is abundantly clearly stated in the case of Reid; and the application of that rule is, that you must show that at the time this act was passed, under the law of South Carolina, (that is, common law, as modified by the legislature of South Carolina—the laws of South Carolina prevailing at that time,) the right existed. That is the rule, and when that is explicitly the rule, then under that law you are entitled to peremptory challenge. Under the recent enactment of Congress peremptory challenge is not limited to capital cases; in my judgment the right of challenge extends to all cases to which the right of challenge extended in 1789, when this judiciary act was passed. This ruling of Howard, accepting the law of the States at that time, or the common law as modified by the legislation of the State at that time, is the rule governing the courts of the United States. That is, the same laws which prevailed in the State courts at that time would prevail in the United States courts. If, therefore, the right of challenge existed at that date, then the right of challenge was extended by Congress to cases other than those not capital, and to felonies not capital. That is my judgment.

Mr. JOHNSON. Is that the opinion of the court?

Judge BOND. What is that remark, Mr. Johnson?

Mr. JOHNSON. I asked if this ruling that we are entitled to the right of challenge, as limited by the act of 1865, is the ruling of the court.

Judge BOND. I am of opinion that the right of challenge is determined by the number of challenges allowed at common law; and that at common law in no case is the right of challenge allowed but in capital cases; and that the judiciary act adopts the number of the com-

mon law. I think with Mr. Justice Nelson that, in these cases, the right of challenge does not exist—the right of peremptory challenge.

Mr. JOHNSON. Do your honors divide upon the point?

Judge BOND. So far, Mr. Johnson, as this case is concerned, as my associate has, apparently, given it some consideration, I am ready to yield the point to his judgment, and allow you the peremptory challenge.

At this point of the proceedings, the clerk of the court placed the names of the fifty-one petit jurors who had been impaneled, and which were written on slips of paper, in a hat. From the whole a jury of twelve were to be drawn.

Mr. STANBERY. We see here is a difference of opinion with your honors as to the construction of this new act of Congress for the trial and punishment of these offenses. In view of the necessity of having these questions settled by the final arbitrament of the Supreme Court, we have proposed to the opposite counsel, and if the court agree, we are agreed on all sides to take a short way in the disposal of this case, reserving the only question to be argued before this court under the arrest of judgment, and then upon the next case, which is, I understand, for murder, we shall make these questions and have the division of opinion certified there, and wait for further trial till we have the opinion of the Supreme Court.

Judge BOND. Does the counsel for the prosecution consent?

Mr. CORBIN. Not unless the court be divided and the court think there is no other way of getting out of the difficulty. I am in the hands of the court. It is a point I would not personally consent to, but if the court is divided and if the views of the counsel are entertained by one of the court, and the proceedings are blocked in this way, I do not see what else we can do.

Judge BOND. There is no difference of opinion in this case; you may proceed in this case.

Mr. STANBERY. The gentlemen agree to take up this question in the next case?

Judge BOND. It may not be necessary. We will stop proceedings in the case to which we take exception.

Mr. STANBERY. Our associate counsel, who is special counsel for the prisoners, desires to present an application to the court.

Mr. WILSON. There are, may it please the court, important and grave preliminary questions made by the defense in this case, because it was the first presented by the Government. We desire now to say to the court, as counsel for the prisoner, Sherod Childers, that he voluntarily confessed to an officer of the Government that he was with the party charged in the indictment. He now enters the plea of guilty, but he will ask the court, before he is sentenced, to submit affidavits that he was not a participant in the acts and felonies alleged, or even cognizant of them, which, if of the atrocious character stated by the Attorney General in his opening speech, we are not here to defend, excuse, or palliate them. The prisoner is ready to enter a plea of guilty.

Mr. JOHNSON. We withdraw the plea of not guilty.

Judge BOND. Would it not be better for the court to hear your witnesses and the witnesses on the other side, that the court may learn the character of the case?

Mr. STANBERY. That is usually done by affidavits.

Mr. WILSON. We make the same statement and enter the same plea for Hezekiah Porter. I only speak for those two.

Mr. STANBERY. These parties plead guilty on the first and eleventh counts. Now, in the last count I observe that the day they are held for the commission of the offense—ordinarily immaterial—is the day succeeding the passage of the law which I suppose we must call the Ku-Klux law, which was passed on the 20th April, 1871, while the act committed by these parties was on a day in March preceding. It was no offense under this law, for the law did not propose to be *ex post facto* in punishing a crime committed, and we wish it understood in pleading guilty to these counts, if they were guilty of them, so that they may not be prejudiced as being guilty of a crime not committed at the time this act was passed. Whether they can attempt to locate it under that act as being a conspiracy is a question which we can discuss at the proper time.

Mr. CORBIN. The assault and battery in the case of Sherod Childers took place as a matter of fact on the 22d of March, but we should have endeavored to show, had we gone on with the trial, that the conspiracy was a continuing and still existing conspiracy. It was a conspiracy, with its organization and by-laws, and was in full blast on the 20th of April, when that other act was passed.

Mr. JOHNSON. In pleading guilty, we wish it borne in mind that the offense was committed on 22d of March, while the law was passed on the 21st of April. The count charges a conspiracy that was carried into effect by an assault and battery committed on Rainey. So far as that count is concerned, there can be no doubt that there must be a judgment in the prisoner's favor upon that count, for, at the time the offense was committed, there was no law prohibiting the offense.

At this point, on the suggestion by Mr. Corbin, the court discharged the grand jury until to-morrow at 10 o'clock.

Mr. Corbin asked of the court an order for the discharge of Merritt Fuller, a *not pros.* having been entered, and stated that the prisoner had been in jail eight or nine months, and

had already suffered as long an imprisonment as is usually inflicted by the court for offenses with which the prisoner was charged.

Mr. Witherspoon submitted a motion for the bail of Reuben McCall, of York County, offering Dr. J. M. Lowrey and Thomas Lowrey as his sureties, who were accepted.

After considerable delay, the prisoners, Sherod Childers, Evens Murphy, and William Montgomery, were brought into court, and each for himself pleaded guilty to the first and eleventh counts in the indictment. Hezekiah Porter not appearing with the other prisoners, it was determined to receive his personal plea of guilty to the same counts on Saturday.

Monday was set down for the hearing of the affidavits in mitigation of sentence.

Thereupon the court adjourned until Saturday at 11 o'clock.

NINTH DAY'S PROCEEDINGS.

DECEMBER 9.

Hon. Hugh L. Bond, presiding judge. Hon. George S. Bryan, district judge.

The court met at 11 a. m. After the calling of the roll of jurors, the grand jury having retired meantime to their room—

Mr. Chamberlain, associate counsel for the prosecution, moved that the plea of Hezekiah Porter be entered in the Amzi Rainey case, he not having been present Friday.

Porter was arraigned, and after reading the charges, the clerk asked: "How say you: are you guilty or not guilty?" The prisoner replied, "Guilty."

Mr. Chamberlain then said the district attorney was detained for a few moment, but had promised to be present shortly.

Mr. Corbin returned, and said there was some delay in the returning of the bills by the grand jury, and he would ask a few moments further delay.

The grand jury returned in about ten minutes, and presented the following true bills: The United States *vs.* Robert Hayes Mitchell, Sylvanus Shearer, William Shearer, Hugh H. Shearer, James B. Shearer, Hugh Kell, Henry Warlich, James Neal, Addison Carrol, Miles Carrol, Eli Ross Stewart, *alias* Aley Stewart, Josiah Martin. They also returned true bills in The United States *vs.* John W. Mitchell, Joseph Mitchell, Thomas B. Whitesides, Melvin Watson, William Good, Robert McCreight, Newton Osment, ——— Neil, *alias* Bud Neil, Charles Byers, John Davis, Capers Scott, Harrod Neil. They also returned true bills against James William Avery, James Rufus Bratton, Chambers Brown, Alonzo Brown, Robert Riggins, Rufus McLain, Napoleon Miller, William Johnson, Pinckney Caldwell, Robert J. Caldwell, Robert Dixon Byham, John S. Bratton, Harvey Gummy, Bascous Kennedy, Holbrook Good.

Mr. Corbin moved to enter a *nol. pros.* in the case of The United States against James Rufus Bratton and others, against whom a true bill was found week before last, the grand jury having presented other bills indicting the same parties.

Mr. JOHNSON. What was the original bill?

Mr. CORBIN. The original bill was against James Rufus Bratton and others, in which murder was charged, and in lieu of this I have presented to the grand jury two other bills, and they have brought them in; one charges murder and the other does not. I make the case of murder as agreed upon; that is the case of James William Avery. In that the first count is the same as in the original indictment.

Mr. JOHNSON. We want copies.

Mr. CORBIN. We will furnish you with copies in the Avery case. The grand jury also presented a bill against Robert Hayes Mitchell and others. We are ready to go to trial in this case, and are ready to proceed. It is the same as I presented the other day. The same parties that were indicted for murder; but we have omitted the murder counts in their case.

Mr. JOHNSON. We want to try the murder case now.

Mr. CORBIN. There is no objection to going on with the case in which there is no murder charged.

Mr. STANBERY. It is contrary to the agreement.

Mr. CORBIN. Not at all. The counsel has not understood me. There were thirty-one charged in the other indictment that was originally presented. We have taken fourteen out of it, and charge them with murder, as they were charged before. We have taken the other part of them and charged them the same, leaving the murder counts out. We are ready, now, to go to trial upon that indictment.

Mr. JOHNSON. Which indictment?

Mr. CORBIN. The indictment of the same parties, without the murder counts.

Mr. STANBERY. The agreement between counsel in the presence of the court is a matter which must be regarded, and the agreement yesterday was that the next case to be called should be the murder case, and we have made preparation for nothing else. To go on with another case would not only be a violation of the agreement, but it would be impossible for us to commence without further preparation.

Mr. CORBIN. But if the counsel please, I will call up that murder case. I don't care which we try first.

Mr. JOHNSON. The murder case is the case we want.

Mr. CORBIN. I will be as accommodating as I can.

Mr. STANBERY. We don't want accommodation, we want the agreement carried out.

Mr. CORBIN. We are ready to proceed to trial in the murder case. Are you ready?

Mr. STANBERY. We are ready.

Mr. JOHNSON. Is that the indictment that we have a copy of?

Mr. CORBIN. It is a new indictment.

Mr. STANBERY. How does it differ from the other?

Mr. CORBIN. It is charged in one count that they did beat him because he voted. It is the same thing only charged in a different way.

Mr. STANBERY. We want a copy of this indictment, for murder is a very grave offense.

Mr. CORBIN. The counsel insisted on having that case. Now I insist on going on.

Mr. STANBERY. The gentleman is wrong. The case he agreed to call up he has *not prosequed*.

Mr. CORBIN. But this case is against the same parties.

Judge BOND. You can have time to look at the indictment, and now we will go on with the other case.

Mr. STANBERY. Why, if the court please, the agreement was to go on with the murder case.

Judge BOND. The agreement was that they would furnish you with an indictment, charging murder, in order that you might make your exceptions and take the case to the Supreme Court. The counsel has done that and you say you are not ready; you shall have such time as you require to look at that indictment. Now, there is no reason why we should not go on with another indictment.

Mr. STANBERY. The gentlemen did furnish us with a copy of an indictment containing the charge of murder. The gentlemen spoke of that as the next case to come on.

The gentlemen has *nolle prosequed* that case in which we were ready, and presents another containing some of the same counts and allegations. The solemn agreement upon which this plea of not guilty was rendered, and our whole proceedings were entered into, was that the next case was to be a murder case; that the next case should be the murder case, and upon that case we were to make our point, and not afterward to try any case with regard to murder.

Judge BOND. He shall not try any case involving the charge of murder.

Mr. STANBERY. But first we want the murder case.

Judge BOND. He has brought you a murder case.

He has; and all we ask is simply a reasonable time to look at it.

Judge BOND. You shall have as much time as you want, but that need not prevent us from going on with any other case.

Mr. JOHNSON. I should like the attorney, may it please your honors, before deciding finally whether to take up the murder case or not, to tell us as briefly as he can, how the indictment upon which he proposes to go to trial differs from the indictment which he has disposed of to-day by *nolle prosequi*.

Mr. CHAMBERLAIN. If the court please, I will state as briefly as possible how this indictment is now drawn, wherein it differs from the original indictment, which contained a charge of murder. The court held the first count of the original bill good, but held the second count bad, and the second count was repeated in the third count with murder added. We have therefore omitted that bad count to which the murder count was added, and have added the murder count to the first count, which was held to be good; and those two, therefore, the first count precisely as it was before, and the first count with murder added, constitute the second count with murder added. The court then held that the sixth count in the original indictment which I will now turn to, which charged that a conspiracy with intent to injure, &c., Amzi Rainey, because of his free exercise of a right and privilege, &c., would have been good if it had been drawn with the particularity of the first count. We have therefore drawn a new count with the particularity added that is contained in the first count, and that constitutes a new count, based upon the decision of the court in the first indictment; and that count I will read with the permission of the court.

"And the jurors aforesaid, upon their oaths aforesaid, do further present, that James William Avery and others, together with divers other evil-disposed persons, to the jurors aforesaid as yet unknown, late of York County, State of South Carolina, at York County, in said district, and within the jurisdiction of this court, on the 6th day of March, 1871, unlawfully did conspire together, with intent to injure, oppress, threaten, and intimidate Jim Rainey, *alias* Jim Williams, a male citizen of the United States, of African descent, above the age of twenty-one years, qualified and entitled by law to vote at any election by the people in said county, district, and State, because he, the said Jim Rainey, *alias* Jim Williams, did exercise the right and privilege of voting at an election by the people in said county, district, and State, held on the third Wednesday of October, A. D. 1870, contrary to the act of Congress in such case made and provided, and against the peace and dignity of the United States."

That constitutes the whole indictment.

Mr. JOHNSON. Read the count that alleges murder.

Mr. CHAMBERLAIN. The count which contains the charge of murder, charges the parties named, James William Avery and others, with a conspiracy to violate the first section of the

act, and then, the jurors aforesaid, upon their oaths aforesaid, do further present that James William Avery and others, late of York County, &c., did make an assault, &c., and the said James William Avery and others, a rope around the neck of the said Jim Williams, *alias* Jim Rainey.

Mr. JOHNSON. Is that a copy of the other?

Mr. CHAMBERLAIN. It is.

Mr. JOHNSON. Well, you need not read it then.

Mr. CHAMBERLAIN. It is the same, only it does not contain so many names.

Mr. STANBERY. How does it conclude?

Mr. CHAMBERLAIN. Against the peace and dignity of South Carolina. It is the same, only we have attached to a good count instead of to a count which the court decided to be bad. There is also another count in which we charge that these conspired with intent to oppress, threaten, and intimidate in order to prevent his free exercise, &c., to wit, the right to keep and bear arms, contrary to the act of Congress, and to that also is added the same charges. So that murder charge is repeated twice—it is in two counts.

Mr. STANBERY. I think, if the court please, that we can make points—may send the case to the Supreme Court on that indictment.

Judge BOND. It will take you some time to do that.

Mr. STANBERY. A little time, yes, sir; I have stated, if the court please, they only have to be the points upon which the certificate of division shall be certified, and will read them that the court may make any amendment that may be necessary.

Mr. Stanbery read a number of points on which the court were desired to certify a difference of opinion.

Mr. CORBIN. I don't understand that there is any division of opinion except upon whether the murder can be tried in connection with the second count.

Judge BRYAN. That is the understanding.

Mr. STANBERY. The court will send up such points as they consider proper to have the instructions of the Supreme Court upon.

Judge BOND. We seek no advisement upon these points; only on the murder counts.

Judge BRYAN. We desire advisement in regard only to that. It is a question of very great consequence to the citizen and Government.

Mr. STANBERY. As to the impaneling of jurors—that is a vital point.

Mr. CHAMBERLAIN. They expressly decided that you were entitled to ten peremptory challenges.

Mr. STANBERY. They have not agreed upon that opinion.

Judge BRYAN. My brother would rather you would exercise the challenge than to have you go up on that question. My brother yields on that point.

Mr. JOHNSON. May it please your honors, I know that the court are not divided upon several of the questions which they are requested, by that statement, to divide upon, but that the division was only as announced upon the points which arose upon the third count, which connected the offense of burglary with the principal offense of violating the other provisions of that act. I rise merely for the purpose of saying that, although the court were not divided at that time upon any question other than the one upon which they say now they were divided. I hope the court will keep the matter open, so as not to prevent us from asking the court to give us an opportunity to show that they ought to divide upon other points. If we can satisfy your honors that there should be a division upon other points, the court, I am satisfied, would willingly divide upon such points, but as the case now stands, we are not advised that the court will divide upon any other question—will divide upon any other question than the question which arose upon the murder count. I only wish the court to understand now, that when we come into court we may think it our duty to urge the court to the propriety of dividing upon other questions. Whether we succeed or not is a matter the court will dispose of hereafter.

Judge BOND. It is.

Mr. STANBERY. I suppose, if the court please, that by Monday we can be ready to present the point upon which you may certify the division, though I have already stated to your honors the point, as I suppose it was; but whether it is satisfactorily stated, I am not well aware.

Judge BOND. I do not think you stated the point clearly.

Mr. STANBERY. Will your honors allow us until Monday to state the point?

Judge BOND. Yes, sir.

Mr. STANBERY. If the court please, we have a matter to take up now, and we shall ask until Monday to get our witnesses, &c., and to prepare for this new indictment. We can occupy the court with a very important matter, with regard to the case disposed of yesterday.

Mr. CORBIN. In arrest of judgment?

Mr. JOHNSON. To show what judgment should be pronounced.

Mr. STANBERY. Which section of the act shall apply?

Judge BOND. Are there any witnesses summoned in this case you now propose to try?

Mr. STANBERY. Certainly; we have a dozen.

Judge BOND. I mean for the defense.

Mr. HART. I would state to your honors, in answer to that question, that, until we see

what names we included in the indictment, we perhaps cannot answer the question fully. Several witnesses have been summoned, but they are summoned for individuals charged in the indictment, and do not reach, perhaps, the merits of the indictment generally.

Mr. JOHNSON. As is stated by my colleague, may it please your honors, the question which we propose to discuss upon the case which has been disposed of by a plea *de facto* guilty, is, what is to be the character of the judgment the court will pronounce upon that plea of guilty, whether it is to be a judgment only for a misdemeanor, and punishable by the lighter punishments provided for misdemeanors, or whether it is to be the punishment which the law provides shall be passed upon all who conspire in such a way. We think we can satisfy the court that the only judgment is the one which the law provides for the commission of what it calls a misdemeanor; that will take some time. If the court will permit us to go on now, and give us an opportunity of coming into court on Monday, prepared to defend ourselves against this new indictment.

Judge BOND. Mr. District Attorney, can you employ the grand jury to-day in finding indictments more rapidly than they have done?

Mr. CORBIN. The grand jury have been delayed in finding bills, because both of the attorneys have been detained in court to argue these preliminary questions. We can present, perhaps, twenty bills on Monday, if the court desire it. Another reason for delay was, that we did not wish to proceed in finding indictments while the indictments were under discussion before the court.

Mr. JOHNSON, (*sotto voce*.) We do not want any more found.

Mr. CORBIN. You do not? Very well. Counsel on the other side do not complain, your honors.

The grand jury were here sent out, the district attorney accompanying them; and after they had returned, Judge Bond informed Mr. Stanbery that the court was ready to hear his argument on the measure of punishment.

ARGUMENT OF MR. STANBERY.

The question which we now propose to discuss, may it please your honors, I regard as very material, for it relates to the measure of punishment which the statutes of the United States have provided for persons who are guilty of the offense to which these defendants have plead guilty. We claim that they are to be punished according to the provisions of the fourth section of the act of 1870; while the gentlemen who appear here for the United States claim that they are to be punished according to the provisions of the sixth section of this same act. A very important matter, certainly; for if the measure of punishment fixed for their offense is fixed by the fourth section, their offense is a misdemeanor punishable by a fine not less than five hundred dollars, and imprisonment not to exceed one year. While if the gentlemen are correct, and they are to be punished according to the provisions of the sixth section, then their time of punishment may be extended to ten years instead of one, and to five thousand dollars; and more than that; they are to be—as an additional penalty attached to that section—divested forever of the privilege of holding any office of honor, trust, or profit.

Mr. CHAMBERLAIN (interrupting.) You do not mean that the limitation of fine in that fourth section is five hundred dollars? That is the minimum—not less than five hundred.

Mr. STANBERY, continuing. Yes, sir; you are right. The court sees that the question is one of very great importance to these defendants, and of very great concern and serious inquiry on all sides, in construing, and especially to the court in pronouncing judgment, under those acts. Now, our position is that the fourth section defines the offense of which we have plead "guilty," and fixes the measure of punishment. And that the sixth section has nothing whatever to do with any offense charged in this indictment.

Your honors will observe that we are now limited to the first count, and to the eleventh. Those are the only two counts left, all the others having been pronounced by the court invalid and quashed, or abandoned by the district attorney. I must add that as to the eleventh count, which purports to be under the act of 1871, I understand from the gentleman that they now do not claim that this offense is provided for under that act, but that they limit themselves to section number six for punishment under that count, without any reference to the act of 1871.

Now, I must ask your honors to give me your attention to a pretty full investigation of what is contained in this act of 1870; and I read the first section.

Counsel read in full section one of the enforcement act, of May 31, 1870, and resumed.

Your honors will observe that this relates altogether to the right of suffrage; and when you refer to the title of the act which sometimes is looked to, you find it is "An act to enforce the rights of citizens of the United States to vote in the several States of this Union, and for other purposes." The voting part of it was the one chiefly in view, and that first section is limited altogether to the suffrage right. The same is true as to the second section, which imposes penalties upon officers who, in the execution of their office, prevent parties, otherwise entitled to vote, from doing some preliminary act, such as registration, or from acquiring the proper qualifications to become voters. It is, therefore, an official offense, and refers exclusively to the suffrage.

Then the third section provides for the case of the voter who has been excluded by official opposition from receiving a certificate of his qualification, when he was ready to show proper qualification, and upon affidavit of that matter he is to be allowed to vote at the election. Still this section relates to the right of suffrage, as the first and second do.

Up to this point, the legislation of Congress has made provision, first, for enjoyment of the right of suffrage under proper qualifications; secondly, against official misconduct in preventing the exercise of that right by a denial of the proper certificate; and, thirdly, by providing how the right may be exercised by the individual who has been thus, by official misconduct, prevented from obtaining the proper certificate.

Next comes the provision against individual interference with the suffrage. Now, what is the language of section 4?

"That if any person, by force, bribery, threats, intimidation, or other unlawful means, shall hinder, delay, prevent, or obstruct, or shall combine and confederate with others to hinder, delay, prevent, or obstruct any citizen from doing any act required to be done to qualify him to vote, or from voting, at any election, as aforesaid," as stated in that first section, "such person shall, for every such offense, forfeit and pay the sum of five hundred dollars to the person aggrieved thereby, to be recovered by an action on the case, with full costs and such allowance for counsel fees as the court shall deem just, and shall also, for every such offense, be guilty of a misdemeanor, and shall, on conviction thereof, be fined not less than five hundred dollars, or be imprisoned not less than one month and not more than one year, or both, at the discretion of the court."

There is the section that protects the right of suffrage against individual interference; and it covers the whole case. It gives protection to the right, and gives remedies for its obstruction, first, by action to the party injured, in the recovery of damages to himself; second, by public prosecution for the offense, giving exactly to the court the measure of punishment, in the way of fine and in the way of imprisonment, and giving to the offense the character of a misdemeanor, not of a felony.

I understand my learned friends that they have not indicted the defendant under this section, and do not propose to punish him under this section. Then they have not indicted him for any offense that he has committed. They say their indictment is founded upon the sixth section, and of course they must show that a penalty is given in that sixth section for the act charged.

Before I refer to the sixth section, I will call attention to section five:

SECTION 5. *And be it further enacted*, That if any person shall prevent, hinder, control, or intimidate, or shall attempt to prevent, hinder, control, or intimidate any person from exercising or in exercising the right of suffrage, to whom the right of suffrage is secured or guaranteed by the fifteenth amendment to the Constitution of the United States, by means of bribery, threats, or threats of depriving such person of employment or occupation, or of ejecting such person from rented house, lands, or other property, or by threats of refusing to renew leases or contracts for labor, or by threats of violence to himself or family, such person so offending shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be fined not less than five hundred dollars, or be imprisoned not less than one month and not more than one year, or both, at the discretion of the court.

Mark, if your honors please, it still has reference to the suffrage; still relates to an infringement of the right of suffrage; but refers to that right as guaranteed by the fifteenth amendment. In other respects it is like the fourth. But I suppose it is intended to cover the case in which Congress can properly legislate, and that is as to officers to be voted for who are Federal officers, as members of Congress and electors of President and Vice-President; but, still, it relates to the suffrage, and is still a misdemeanor, although done by personal violence; although it is done by bribery; although it is affected by turning him out of his lease, refusing to renew his lease or contracts for labor. No matter how it is done, under that fifth section it is still punished merely as a misdemeanor, with precisely the same measure of punishment as in the fourth section: so it is to the defendants a matter of no consequence whether they be punished under the fourth or fifth sections.

Now, when we come to the sixth section, what do we find? These words:

SECTION 6. *And be it further enacted*, That if two or more persons shall band or conspire together, or go in disguise upon the public highway, or upon the premises of another, with intent to violate any provision of this act, or to injure, oppress, threaten, or intimidate any citizen with intent to prevent or hinder his free exercise and enjoyment of any right or privilege granted or secured to him by the Constitution or laws of the United States, or because of his having exercised the same, such persons shall be held guilty of felony, and, on conviction thereof, shall be fined or imprisoned, or both, at the discretion of the court—the fine not to exceed five thousand dollars, and the imprisonment not to exceed ten years—and shall, moreover, be thereafter ineligible to and disabled from holding any office or place of honor, profit, or trust created by the Constitution or laws of the United States.

If your honors can find the word vote or suffrage in that section, it is what I have not been able to do. Here are some general rights, "immunities and privileges," but what were in contemplation of Congress is not stated here. And the very thing—the subject-matter which, according to this indictment, is to be punished, i. e., the exercise of the right of suffrage, is nowhere so much as mentioned in this section. The thing specially provided

for in the five preceding sections, that is, the right of suffrage, is not at all mentioned here. This section must fall under that part of the title of the act which is "for other purposes;" that is, to secure other rights than the right to vote.

Now, to take up the indictment. The first count charges that these defendants "did conspire together to prevent divers male citizens of the United States," &c., qualified to vote, "from exercising the right and privilege of voting," &c.

Now, if this is a good count at all, as your honors have said it is—if this is a good count at all, is it not a good count under the fourth section? It charges a conspiracy; so does the fourth section charge a conspiracy; it charges a conspiracy to hinder—

[The associate justice here made a gesture of dissent.]

Mr. STANBERRY. Did I understand your honors not to admit that the fourth section charges a conspiracy?

Judge BRYAN. The court does not understand it to charge a conspiracy.

Mr. STANBERRY. Will your honors let me call your attention to that; for if I am wrong in that I am wrong throughout in this case. Let us see if this charges a conspiracy. If this fourth section does not punish a conspiracy to prevent men from voting, I don't want for myself to take up another law-book in my life. "If any person by force or bribery;" why, that is not a conspiracy, for one person cannot be guilty of a conspiracy. But, "or shall combine and confederate with others;" is not that a conspiracy?

Judge BRYAN. It does not take cognizance of the conspiracy.

Mr. STANBERRY. But punishes a person for a conspiracy.

Judge BRYAN. It does not take cognizance of the conspiracy.

Mr. STANBERRY. Undoubtedly, if the court please, it does take cognizance of it, for it prohibits and punishes it. "Now, if an individual is indicted under this cause, what must be proved? Why, that he is a conspirator; that he is engaged in a conspiracy to prevent and hinder." Unquestionably twenty could be indicted under that section. You might indict all the parties in the conspiracy, or you may indict one man for a conspiracy in which twenty were engaged, just as well as the twenty; for these wrongs are joint as well as several. That is the character of torts; they are not like contracts. When you come to trial you may elect to try one out of the twenty, and make his an individual case; and, however he might have violated the section in other respects, if you indict him as a conspirator, you must prove a conspiracy. That is perfectly clear.

Is not the measure of punishment, according to the judgment of Congress, fixed by this section, the one that must prevail for any such offense as this, whether committed by the person individually, or by him as one of a band of conspirators? Is that inevitable?

Why, no, say the gentlemen; certainly, that is all very well, and if you indict him under that section, as a conspirator, or an individual, you can only punish him according to this lighter punishment; his offense is not a felony, it is only a misdemeanor. But, according to the gentlemen, Congress changed its meaning as to the degree of punishment for preventing a man from voting. They change their opinion when they come to the sixth section. They reconsider the matter provided for by the fourth section, and in the sixth section of the same act they are of opinion that public policy requires that the thing denounced in the fourth section as being punishable as a misdemeanor, punishable by imprisonment, not exceeding one year, ought to be punished as a felony. They would make out that Congress had mistaken the offense when they called it a misdemeanor, as in the fourth section, and that when they came to the sixth section they found it was a felony, and added nine years of imprisonment to the punishment that might be inflicted for the offense.

They would have us believe that Congress changed their ideas altogether, and found it necessary and proper to depart from what they had enacted in the fourth section. We are, it seems, to leave the fourth section in the act for quite a new provision for the same thing, and a new punishment for the same thing. And yet they left it right there, to confuse every lawyer or judge who should be called upon to construe those sections, to ascertain what was the true measure of punishment to be meted out in case of interference with the right of suffrage. Congress meant no such thing, and has provided for no such thing in this sixth section. Congress has here no reference to the suffrage question; it has reference to conspiracies against other rights and immunities—such as are mentioned in the sixteenth section of the same act.

The gentlemen may say, here are certain words which might embrace general privileges and immunities, and which might embrace the right of voting. What are they? They are not specified in the section.

Congress has not gone into particulars, and inasmuch as it was intended by this act to protect the voting privilege and other privileges besides, we say it was these other privileges or rights, wherever we find them in the provisions of this act, that are to be protected from a conspiracy by the sixth section. And what are these? They are privileges and immunities granted or secured by the Constitution or laws of the United States, and by the sixteenth section of this act. Has not your honor already stated that that right has been secured by the laws of the United States?

Judge BOND. The right was not granted by the Constitution of the United States.

Mr. STANBERRY. Has not your honor said that the right of voting was secured by the Constitution of the United States?

Mr. CORBIN. He has not said it was not.

Mr. STANBERRY. The right is secured by the State law, and the provision is made that all shall enjoy that privilege, without respect to race, color, or previous condition. If your honor should say that this right embraces the right to vote from finding the words "secured or granted," what, I ask, are the rules of construction that prevent your honor from finding the prohibition there? Certainly it is not stated. It is made out by intendment if made out at all. The rule is this: that where a particular thing is provided for by act of Congress, or other legislative acts, and, subsequently, there is a general clause which does not name the thing, but which by intendment it might include, the clause is to be governed by the previous section that did embrace it; and is not that a sound rule of construction? Where there is a special thing provided for by the law, and, when in the same law, or any subsequent laws, in which there is a general provision, in which that special thing is not mentioned, but which would embrace other things, and might possibly embrace that thing, and where the rule of punishment is given, where the special thing is mentioned, if that rule of punishment is given where the general provision is made, which, according to the laws of construction, is to prevail, the special, particular enactment, or the subsequent general clause or general law, which should embrace other things, and might embrace this thing by intendment? Now, first of all, to go back a great way. I quote from 6th Coke's Reports, p. 19.

[Mr. Stanbery quoted from the authority referred to.]

If the former act provided a particular thing, but a subsequent act provided for, in more general terms, the latter statute leaves upon the particular enactment, which is not repealed, abrogated, or interfered with by the general enactment. That is the rule, and is supported by many authorities.

Are we not precisely within the rule? Where you are looking for the particular thing, if this statute provides for many things, for voting, &c., and if you find this fourth section provides for the particular thing, and specifies the penalty and punishment for infringement, whether done by an individual or conspirator, or is a subject-matter of conspiracy, you find that particular thing in that fourth section, where there is every word that is necessary to define the offense, and where the necessary punishment is specified for the offense, we find it called a misdemeanor, and nothing else.

It is that sort of misdemeanor where the right of civil action is given to the party to recover his damages, and then punishment afterward to satisfy the public for the infringement of that right. It is called a misdemeanor, and it is punished as such.

Now, what authorities could induce your honors to desert that very section made and provided by Congress for the particular thing, and for all branches of the particular thing, whether done by an individual or a conspirator, where the special offense is named and the punishment designated. How, I ask, can your honors leave that and come to the sixth section, which does not name this particular thing, and which only deals with general words as to "rights secured," and so on? What is the offense of conspiring to obstruct a man in the exercise of voting? The very thing provided for in the fourth section. And there is the crime now changed from a misdemeanor to a felony, and the punishment changed to ten years from one.

Besides this, that the particular thing is not to be controlled by the general, there are other rules. One is that no construction is to be put upon a statute if it leads to an absurdity. Does not this construction to which I have referred lead to an absurdity? They say this thing is provided for in the fourth section, and the conspirator is punished so and so, and in the next section but one, the same thing precisely, that of a conspiracy to interfere with the exercise of the franchise is also provided for, and the punishment is ten times as great, and is now called a felony, whereas in the former instance it was simply called a misdemeanor. Why, the gentlemen must think that Congress did not know what they were about to name an offense in the fourth section as a misdemeanor, and to name the same thing in the sixth section as a felony, and yet the position of the gentlemen leads to this absurdity.

You have no right to construe any section so that its construction leads to an absurdity. You are not to suppose that legislatures meant to involve themselves in such an absurdity as the contradiction I refer to would involve them.

There is another rule of construction which prevails, which is this: Where you find direct repugnancy between one section and another, or one clause of a section and another, you must settle which you will adopt, and you must do this upon the most reasonable construction you can give. When you cannot fulfill every section of the law because one section says one thing and another exactly the contrary, when there is a direct repugnancy and you cannot make both prevail, the rule is you must make that prevail which is most reasonable, *ut res magis valeat quam aereat*. If there is no repugnancy apparent between two sections of the law, or two clauses in the same section, then you are to give effect to both upon the proper subject-matter which they are intended to provide for, as for instance, where one section provides for a particular offense against the franchise, and another section provides for an offense against general privileges or immunities, not specifying voting privileges, and there are other privileges and immunities, such as are stated in several of their counts, such, for instance, as enjoying personal liberty, protection from seizures, from which the legislature intended to protect them, then

there is no repugnance between the two sections, then you must carry them both out. You must not set one aside; you must give effect to all.

Now, I agree that in that sixth section if it had provided a conspiracy to prevent the right of voting, why, as a matter of course, there would be a direct repugnance, and so if the fourth section had done the same thing; and the sixth recognized it, there would be a case of direct repugnance for them; it would not be possible to make both sections prevail by a rule of construction; but when, by giving a construction to both sections, so that both will stand, you are avoiding a repugnance; but that does not happen to be the case.

No unreasonable construction must be put upon any law. Now consider it upon the ground of reasonableness, when Congress in that fourth section determines what shall be the measure of punishment for conspiring against the exercise of the right of suffrage, they say it is a misdemeanor, and punish it as a misdemeanor. Now, according to the gentlemen, when they came to consider the sixth section, they were after the same thing, and to punish the same thing; but according to the sixth section it is no longer a misdemeanor, but a felony, no longer punishable as a misdemeanor, but punishable as a felony, with tenfold greater severity than it was to have been punished in a former section. Is that a reasonable construction? Would it not be infinitely more reasonable as to that particular interference with the right of voting to refer it to that fourth section and what is there provided? That would make the whole thing perfectly reasonable.

Again, this is a criminal statute. It is to be construed strictly, not with the latitude we sometimes observe in construing contracts between parties. It is to be construed strictly, and in favor of life, liberty, and the rights of the citizen. That is the rule in construing criminal statutes; they are not to be stretched by intendment. They are to be construed strictly because they involve penalties punishable with death, and the loss of liberty and property. According to that rule of construing them strictly in favor of life and liberty, when you find this fourth section providing for an inferior punishment, and the sixth section providing for a higher degree of punishment, and when your case apparently may certainly fall within the fourth section, and by intendment may fall within the sixth section, you are to be held to the strict construction, and can gain nothing by intendment where the other provision is plain. Is not that a sound rule for the construction of criminal law?

Will the gentlemen say that the sixth section, because it uses the words "conspire together," means anything else than the words used as the fourth section, where the words "combine" and "confederate" are employed?

I do not know whether the gentlemen will make use of that argument or not. They will not advise us. It, perhaps, did not occur to them that there was a change in the language; if it did they seem unwilling to commit themselves to any precise wording. What do we find in the fourth section? Do we find it provides for a different thing than conspiracy? But when we come to conspiracy we find it is first provided for in the sixth section. It says, "Combine and confederate." In the second section it speaks of "two or more shall band or conspire together." Now, is there any difference? Now we have in the English language such a thing as words of a synonymous meaning, where different words are used to express the same idea, and I suppose I shall have to go to a dictionary to show that either clause resolves itself into the other if the Government is to turn so critical and grammatical in their argument. Now what is the definition that Webster gives of the word combinations? "Intimate union, or association of two or more persons or things by set purpose or agreement for effecting some object by joint operation; in a good sense when the object is laudable; in an ill sense when it is illegal or iniquitous; when the word stands by itself it is commonly taken in a bad sense, as combinations have been formed among the people. It is sometimes equivalent to *league* or to *conspiracy*. We say a combination of men to overthrow the Government, or a combination to resist tyranny; another meaning is close union in connection." He defines "conspiracy" a combination of men for an evil purpose; an agreement between two or more persons to commit some crime in concert; particularly a combination to commit treason, or excite sedition or insurrection against the government of a State; a plot; as a conspiracy against the life of a king; a conspiracy against the Government."

What is confederation for an evil purpose but combination and conspiracy? We are taught to look at the essence of a thing, not to every particular word; we are not to attempt to expound an act by a critical or grammatical construction of single words, but rather by the essence and substance of the thing. Very bad grammar may sometimes be found in the wording of an act, but it is not regarded in the construction of the statute. An improper word may be used, but the meaning may be all right. The law does not regard it where the intention is perfectly clear.

Now, will the gentlemen say that this indictment alleges that the parties combine and confederate together to prevent the exercise of the right of suffrage if they did not mean a conspiracy? It means that they have agreed, confederated, and combined to do a certain thing. Not did it, but to do it; that is, they intended to do it. They combine and confederate together to prevent a man from voting; in other words, they conspire together. Is it not the same thing? Can you find a different offense in it? Does not the same agreement make a combination as well as a conspiracy? Is not the definition given in the books that a conspiracy is nothing but a combination? If conspiracy, then, is combination, combina-

tion is conspiracy. The words resolve themselves into one another, and are evidently intended to be synonymous.

I think I take a very weak view of the case if for a moment I entertain the idea that such an argument is to have any weight with your honors, and that you are going to look for the shadow instead of the substance. What I say is, that for all confederations, combinations, or conspiracy to interfere with the exercise of the franchise, the fourth section provides the rule and no other, and that combinations or conspiracies provided for in the sixth section must relate to other rights than those of the franchise or of voting.

I now wish to direct your honors' attention to the eleventh count in the indictment. [The counsel here read it.] In both the first and the eleventh counts it is interfering with the right of suffrage. This purports to be under the act of 1871, and the counsel, I understand, have agreed to try them under that act.

Mr. CORBIN. No; we have not.

Mr. STANBERRY. Do you rely upon the act of 1871?

Mr. CORBIN. Certainly; they are guilty under the act of 1871. We have agreed that the conspiracy was on the 22d of March, while the act of 1871 was not passed until April. But while we set up that the whipping of Amzi Rainey took place on the 22d of March, we insist that the men who did it were in a general conspiracy; that it was an organization in which they continued in the conspiracy after the act was passed.

Mr. STANBERRY. You mean that a conspiracy was formed and that the overt act was committed before; that no new conspiracy was formed, but that the old one was in operation.

I will now read so much of the second section of the act of 1871 as relates to this matter, [Mr. Stanberry here read from that section.]

It is agreed that a conspiracy to which these persons plead guilty was formed before this act took place, and that the overt act was committed nineteen or twenty days before this act of 1871 was passed. But, say the gentlemen, this act punishes a conspiracy entered into before and reaches those men, who are charged as having entered into the conspiracy, for an overt act done by them, as well as punishing subsequent offenses under it, and this under the idea that the conspiracy is a continuing thing. Certainly it does not continue after the conspiracy is accomplished, and that was performed or accomplished before the passage of this law. It must have been at the election of October, 1870, and the offense is having interfered with that privilege. Now, is the character of a conspiracy that of a continuing thing? Suppose it is a continuing thing, what conspiracy are you indicting him for? Is he a conspirator every day? May you take any day in which he is a conspirator and say prior to the time that he entered into the conspiracy that he was a conspirator? What is the rule of law? That the conspiracy is perfect? The crime is committed the moment the conspiracy is entered into, unless it is a conspiracy which can only be made out by some overt act. Is not that the law of conspiracy which makes it an unlawful crime and which makes an offense simply upon the fact of the agreement? The agreement itself makes the conspiracy and the crime, and the party can be indicted at once. It was perfect when the conspiracy was formed.

Now, in this case the conspiracy was formed before this act went into effect. The parties were liable to prosecution for the conspiracy formed before that time. Did they enter into any new conspiracy, in any violation of the provisions of this act? That is the question, not merely did they continue the old conspiracy; that is not the question, but did they enter into a new one? The gentlemen do not propose to say that; they say there is but one conspiracy, but there is a continuance. It is the same old conspiracy not yet accomplished, not yet ended. But does that bring us under the act of 1871? The act of 1871 is prospective, not against crimes that have already been committed, conspiracies already formed, but for conspiracies that should be thereafter formed. It is clearly so by the language I have quoted, "that if two or more persons in the United States shall conspire," not shall have conspired. They must come together after this law and enter into an original conspiracy before they come within the operation of this law. It is not for persons who have conspired before that is provided for in this law. This law, according to the gentlemen's construction, must have a retrospective operation to fasten it upon those persons. The conspiracy was in March, 1871. It is provided for by the act of 1870. The act of 1871 looks to the future. It is for those parties who shall from this date conspire, who shall now begin to conspire; they are to be punished in the mode provided for in this act. Is that not perfectly clear? I think your honors are bound to give it such a construction.

To punish these men by an act passed after the commission of the offense, is to introduce a new kind of punishment; that would make it an *ex post facto* law. It is a rule with *ex post facto* laws that they provide that what was innocent before shall be made a crime afterward. If it provides that an act that before was misdemeanor shall now be felony, that is *ex post facto*; or when applied to a former act, making that a crime which was before innocent. How cruel it would be to these men who entered into this matter under the supposition that it was provided for in a previous law, by which they could not be punished beyond a year, and were willing to take the consequences, if the legislature should subsequently say that the crime you have committed shall be punished by ten years' imprisonment. It is no new conspiracy, no new crime. They have not conspired again. It is still the old offense that

they have committed, and under the old law, and long before the new law was passed, and now you take them out of the punishments of the old law and provide for a conspiracy by a new law made after the act was committed. Now, I do not know what the gentlemen mean by a continuous conspiracy, so as to make it out a new conspiracy. I know there are certain things that are included in the term continuity, as, for instance, in a case of larceny, if the offense is committed in one county, and the goods are carried into another, according to English law, the thief may be indicted not merely in the county where the offense was committed, but in that to which he brings the stolen goods, and, as applied to our own domestic institutions, if a party stole a horse in South Carolina and rode him into North Carolina, why, I suppose, he could go into North Carolina and indict the man for stealing that horse; that is continuity, and the act of stealing makes him criminal in the second jurisdiction. In that case the party is still engaged in a crime, and except in an instance of that kind I should like the gentlemen to find me an instance of crime by a continuity.

We know a nuisance may be recovered against, not only at the time the nuisance was committed. If the nuisance is still continuous, the party may be indicted for the continuance of the nuisance as well as for the nuisance originally committed. To apply such a rule as that to this case, where a conspiracy is formed under the old law and then a new law comes up which says if you are guilty of the old conspiracy you shall be punished under the law, I take it your honors will wait until there is a new conspiracy. If you do not, you punish him under the old law for the original conspiracy and under the new law for the continuation of the conspiracy. You punish him twice for the same thing.

In any point of view in which I am able to look at this section of the law, your honors have but one thing to direct you, and that is to sentence these parties under the fourth section. They have broken no other law, and they have acknowledged themselves guilty of the one they have broken, and I ask your honors that the penalties of the previous statute, which makes the crime a misdemeanor, be applied. How is it possible under the circumstances that your honors can condemn these men to imprisonment for a longer period than that section of the act fixes? Are your honors satisfied that you can do it? It is a most important thing to deal with human liberty. It is a matter that should be pursued with extreme caution. The judge is bound to conform to the law, but he must take great care which law he is bound to perform, and be careful that he does not mete out punishment provided for by another law or punish an individual for an act provided for by one section by a measure of punishment far greater than that provided for by another.

For these reasons, your honors, I claim that the only judgment that can be pronounced upon these men is that provided for in that act.

Mr. Corbin said his associate suggested, and he agreed with him, that it might be well to take time to examine the authorities upon the point which had been so elaborately discussed by the learned gentleman. For himself, he thought there was a short and conclusive answer to the gentleman's argument, but not knowing how the fine points of the counsel might strike the mind of the court, he thought it well to ask a little delay in order to prepare for a reply. If, however, the court desired him to proceed, he would comply with the wishes of the court. The court granted time, and adjourned until Monday at 11 o'clock a. m.

The reported remarks of Judge Bryan, on modified and unmodified common law, with respect to the right of peremptory challenge, which some repetition employed in the remarks by him made somewhat obscure, will be indicated by the following quotation from a decision of Chief Justice Taney, and to which Judge Bryan's remarks had reference:

"Neither of these acts [1789, 1790] make any express provision concerning the mode of conducting the trial after the jury are sworn. They do not prescribe any rule by which it is to be conducted, nor the testimony by which the guilt or innocence of the party is to be determined. Yet, as the courts of the United States were then organized and clothed with jurisdiction in criminal cases, it is obvious that some certain and established rule upon the subject was necessary to enable the courts to administer the criminal jurisprudence of the United States; and it is equally obvious, that it must have been the intention of Congress to refer them to some known and established rule, which was supposed to be so familiar and well understood in the trial by the jury that legislation upon the subject would be deemed superfluous. This is necessarily to be implied from what these acts of Congress omit, as well as from what they contain.

"But this could not be the common law as it existed at the time of the emigration of the colonists, for the Constitution had carefully abrogated one of the most important provisions in relation to testimony which the accused might offer. It could not be the rule which at that time prevailed in England, for England was then a foreign country, and her laws foreign laws; and the only rule upon the subject which can be supposed to have been in the minds of the men who framed these acts of Congress was that which was then in force in the respective States, and which they were accustomed to see in daily and familiar practice in the State courts. And this view of the subject is confirmed by the provisions of the act of 1789, which refer its courts and officers to the laws of the respective States, for the qualification of jurors and the mode of selecting them. And as the courts of the United States were in these respects to be governed by the laws of the several States, it would seem necessarily to follow that the same principles were to prevail throughout the trial; and that

they were to be governed in like manner in the ulterior proceedings after the jury was sworn, where there was no law of Congress to the contrary.

"The courts of the United States have uniformly acted upon this construction of these acts of Congress, and it has been sanctioned by a practice of sixty years."—*United States vs. Reid*, 13 *Howard*, p. 185.

TENTH DAY'S PROCEEDINGS.

DECEMBER 11.

The court met at 11 a. m., Circuit Judge Hugh L. Bond presiding, District Judge George S. Bryan assistant justice.

Mr. Stanbery, in addition to his argument delivered on Saturday, called the attention of the court to two additional authorities, and spoke as follows :

May it please your honors : I wish to call to the notice of the court two authorities upon the point as to phraseology—the change of phraseology between the fourth and sixth sections, "Wharton's Criminal Law, volume 1, page 377. But wherever there is a change of phraseology, and a word not in the statute is substituted in the indictment for one that is, and the word that is substituted is equivalent for the word used in the statute, or is of more extensive significance, the indictment will be sufficient." There are, undoubtedly, exceptions to this rule where a word is used in a statute which has a technical meaning that no other word has, as, for instance, "kill and murder," there is no equivalent for that ; "burglariously," there is no equivalent for that ; "ravish," there is no equivalent for that ; but for conspiracy there is no such rule. On the contrary, if the court please, here is a precedent. Here Wharton gives precedents for all kinds of conspiracies, and now what is the first precedent, a murder. "That A. B., late, &c., and C. D., late, &c., being persons of evil &c., minds and dispositions, together with divers other evil-disposed persons, &c., wickedly, violently, maliciously, and unlawfully, did conspire, band, confederate and agree together," all equivalent words ; that is on page 607, and the same language occurs under the head of conspiracy. There are a great many given, but I think your honors will find that about the same language that conspire and confederate are just as appropriate and equivalent words for an offense as conspiracy.

Mr. CHAMBERLAIN. May it please your honors, we listened, on Saturday, to a very grave and extended argument, upon the measure of punishment to be applied to these prisoners who have pleaded guilty. Representing the Government, we do not think that we should fully discharge our duty if we did not give a careful consideration to this argument, and I may add, that we also felt that we should hardly pay a proper respect to so distinguished counsel as those who represent the defendants in this instance, if we did not give such a consideration to the argument so seriously and elaborately presented to the court. We have considered, to the best of our ability, the scope and force of that argument, and are prepared to say all that we have to say in a very few remarks this morning, and I certainly do not think it would be becoming in us to detain the time of this court with any argument beyond what the case seemed absolutely to call for. Our position is, that this question has been virtually and really settled by the decision of the court, upon the motion to quash this indictment. The court, upon a motion to quash the first count in this indictment, have held it to be good, for reasons which I desire now to call the attention of the court.

"The first section," I read now from your honor's opinion, "the first section of the act declares a right. It is referred to in this count by its number, and with sufficient certainty, it seems to us, to enable the parties charged, after trial, to plead the verdict rendered in this case, in bar of another indictment. After declaring the right, the statute proceeds in section seven to define the punishment for its violation. It is not necessary, it seems to us, that each section of the act should contain or disclose the penalty for its infraction ; that is often in this statute referred to a later and generally to the closing section of the act defining the crime or offense, and is made applicable to all the antecedent sections."

The court now have decided in the words that I have read that this count, charging a violation of the provisions of the first section of this act, is good, because, while the first section declares a right the sixth section makes the infraction of that right a crime, and affixes a penalty for it. Now, how is it, if your honors please, that in that view of this case it can any longer be a question what section affixes the punishment for this offense. The court have said, distinctly, that because the offense and its punishment are declared in the sixth section, that, therefore, this count is good, although the right is declared in the first section of the act. And now, the claim is gravely made, that, although we can indict under the sixth section for a violation of the first section, that after we have indicted and convicted, then the court must go back, away from the sixth section, under which we have indicted, and which section defines the offense, and seek in section four, for the measure of punishment.

We cannot feel for a moment that argument is necessary to be addressed to this court after pronouncing this opinion upon this point. All we have to say is that if the court are right in holding that this indictment can be drawn for a violation of the first section or the sixth section we have only to show what penalty the sixth section prescribes for a violation of the provisions of the act.

We have a word more, if your honors please, and that is, if any argument is necessary nothing is clearer than that under the proper rules of the construction of a statute, if this court had not already decided the point that these sections of this statute are all harmonious, and that each of them as to its object, which object is distinguishable, and to a certain extent, supported from every other section. Under this view the fourth section of the act is evidently designed, as your honor, the district judge, intimated during the argument of the distinguished counsel—that the fourth section was aimed at an individual offense—while we are not. We do not care to dispute that under that section we might have possibly indicted for a conspiracy, that the intent of that section is evidently to punish any person who shall commit these acts, and it is not until you arrive at the sixth section that you have any language. I mean an exact phraseology, which covers the combining of two or more persons with intent to violate the provisions of this act, but that the highest rule of construction, I may say, which requires the court to give force and effect to every part of a statute, would surely give to this count that interpretation. Those fourth and fifth sections were intended to bear against an individual who should commit the offense therein named, while the sixth section was added to cover broadly a conspiracy of two or more persons to violate any provisions of the act. So that we say that if your honors had not already practically decided this in deciding that we had a right to use the sixth section, we could easily follow the argument of the distinguished counsel, and show abundantly that such was the purpose of the act. The fourth and fifth sections were aimed at the individual offense, and the sixth section at a conspiracy. That is all, if your honors please, we have to say on that point.

We now come to the question with reference to the eleventh count. Whatever argument might have been urged under other circumstances, these prisoners have pleaded guilty to the eleventh count, as it originally stood. How now, if your honors please, is it in the power of these prisoners to claim that they are not punishable under this section when they have pleaded guilty and said that they did commit the offense, in form and manner as set forth in this count? Under other circumstances, and in the cases to follow, we are aware that this question might be raised, but all we have to say upon this count of the indictment, and the measure of punishment applicable to it is, that these parties have pleaded guilty, and the question is foreclosed and they are estopped from denying what this count ought to punish them for, an offense which they have said they are guilty of committing.

Mr. JOHNSON, (*sotto voce*.) Do you want to say anything, Mr. Corbin?

Mr. CORBIN. No, sir. It is too small a question for me to talk upon.

Mr. JOHNSON. May it please your honors, on the motion which we made to quash this indictment, the court has decided that six of the counts were bad, and have divided upon the question whether three of the other counts are good or bad. The result of that decision is to leave before your honors now the first and the eleventh counts, and the question upon which you are asked to pass your judgment is, what punishment shall be awarded for the offense described in the first count, and then whether any punishment can be awarded for the offense described in the eleventh count. Mr. Attorney General, and in that I suppose the district attorney concurs, seems to suppose that the question in relation to the first count has already been decided by your honors. Our answer to that is, that it was not made, that it would be extraordinary if a decision upon a question, not raised on either side, and not necessary to be raised at that state of the indictment, should be considered as conclusive. When the court's attention is brought to the particular objection it has now before it—

Mr. CHAMBERLAIN. I said virtually decide.

Mr. JOHNSON. I suppose a virtual decision is a decision. A decision that is not virtual is no decision. Still he relies upon it as a decision; now my friend says that what he meant was a virtual decision. I cannot catch the distinction. If he relies upon it as a decision, then the court is called upon, whether they have decided it either literally or virtually. If they have made a decision, either literally or virtually upon that decision, and they do not desire to hear an argument upon any ground that they had considered a particular question, then neither my friend nor myself have any desire to occupy the time of the court.

But I do not consider, may it please your honors, that you have decided it at all; now, suppose it to be *res integra*, and for the first time brought to the attention of the court, the question is what judgment are you authorized to pronounce against the parties who have plead guilty to the first count. That is the question of not only serious import, perhaps, to the parties, but of serious interest to the court. The court must be as desirous to ascertain what judgment they are authorized to pronounce, as the parties or their counsel are desirous of having the proper judgment pronounced. Your honors would be guilty of the abuse of the law, if intentionally you awarded a judgment which the law did not authorize; and as you are incapable of awarding intentionally such judgment, you must be, of course, desirous to know what judgment it is that the law gives you authority to pronounce. I shall occupy your honors for a very brief period in discussing that and the question which arises upon the eleventh count. The first section of the act of 1870 merely defines the right of the citizen and nothing else. If the indictment had been framed alone upon that section, or, to speak more accurately, if there had not been other sections in the same act, I suppose the attorneys for the United States would hardly contend that any judgment could have been awarded. It provides for no penalty there, pecuniary or personal. It merely says that

the parties described in that section shall have the right which the section describes, and that is all.

Well, now, your honors have decided that, notwithstanding this character of the first section, the first count in this indictment will stand good, because the counsel for the United States have a right to refer to some other section in this act, to show that the law does provide as a punishment for the violation of the right, granted by the first section.

That we admit, now, that your honors have decided.

But then the question presents itself, what other section can be resorted to for the purpose of ascertaining what judgment is to be pronounced against him who violates the first section? That is against him who violates the rights secured to him by the first section.

We say it is the punishment described by the fourth section. Counsel for the Government may maintain that it is the punishment provided by the sixth section. Which is right? Is it not the proposition upon which your honors are called upon to decide? I understood Mr. Attorney General, with that clearness which has characterized his efforts throughout this case, as admitting that they might have indicted under the fourth section. Might have indicted for what? Might have indicted for the perpetration of offense charged in the count. What is that?

Mr. CHAMBERLAIN. I know that the counsel desires to state correctly in all respects. I do not admit that we might have indicted under the fourth section. I simply said that even if we could have indicted under the fourth section, we still had the same right to indict under the sixth section.

Mr. JOHNSON. I certainly do not mean to misrepresent the attorney general, but I certainly understood him, and that it was possible that they might have under the fourth section. But whether he admitted it or not, could not an indictment have been framed under the fourth section, and when we have ascertained that, the court will have to decide whether the punishment can be awarded for the same offense as that punishment as prescribed by the sixth section? Now, I do not understand the learned counsel for the Government as admitting, as I supposed him to have admitted, that an indictment could have been framed for a violation of the right under the provisions of the fourth section. The fourth section looks to the perpetration of two offenses, or rather to the same offense, or rather of the same offense by an individual, and by an individual in combination with others. If the latter part of that section was not in the section, but provided simply against an individual wrong-doer, against him who should violate the first section, we might admit that there was no inconsistency between that section and the sixth section.

But if, under the fourth section, the offense charged in this indictment could have been charged, then it is for the court to hold whether, looking at the object of that section and the subsequent sixth section, the Government are not bound to indict under that section. Well, could it not then have been framed under the fourth section? Why not? Our learned brothers suppose, and they rendered it necessary for my colleague in advance to cite authorities, for the purpose of showing what is the meaning of the terms to be found in that section, and what is the meaning of the terms to be found in the sixth section. They maintain that what the fourth section does is to punish an individual wrong-doer. Why, that is true if the individual is alone. Nobody could be punished but him for the offense stated under the fourth section. But if, pursuing the language of the fourth section, they charge that he combined with others, or confederated with others, banded himself with others to perpetrate an offense under the first section, then he would sustain the charge, or does sustain the charge, that a confederation combination of banding together. What is that but a conspiracy? Is it not a conspiracy, if men shall go together and agree to act in concert for the purpose of accomplishing an illegal end? Who can doubt that? Can it for a moment be reasonably argued, and I mean it with no disrespect, that he who combines, he who confederates, he who bands himself with others to do the end prohibited—an end illegal and liable to be punished—is not a conspiracy? Why, what do you do under such indictment as is now before you, framed under the sixth section?

Are you going to punish these parties? Don't you punish them individually; have you not permitted them to sever in their defense, and what is the meaning of the plea of guilty, which each of them has filed, as to the charge against himself individually? It is, that he did combine, confederate, and band with others; that he did conspire; but upon trying him severally, you punish him individually. You do not punish the others, who are alleged to have been parties to the conspiracy; they are to be punished only when they are before the court for trial, so that each one in an indictment for conspiracy, there the right to sever themselves exists; and your honors have held that it exists in this case, so that each one stands before you precisely as he would have stood if none but himself had been indicted for conspiracy to violate the first section. There is a logical astuteness that I cannot exactly grasp. It is left to the young men. My mind is too blunted to see it. Age is withered.

Mr. CORBIN, (*sotto voce*.) Lost your eye-sight.

Mr. JOHNSON. Perhaps, (I wish the reporters to put that in.) I want to exclude a conclusion. They say that conspiracy means conspiracy. Well, that I don't deny, but what is conspiracy? What do the books tell us? Agreeing, banding together, confederating, and combining to do an illegal act. That is conspiracy, and if that is conspiracy, if that is the very definition of the term conspiracy, if that is all that is necessary to be proved against

the party for the offense of conspiracy, I should like to know. By what subtlety of ratiocination the learned counsel on the other side can succeed in showing that he who is indicted for a conspiracy could not be convicted for it, if it was proved that he had combined, confederated and banded himself together with others. O, no, says the learned counsel, conspiracy is combination, but combination is not conspiracy. Conspiracy is confederation, but confederation is not conspiracy. Well, if conspiracy is not confederacy or combination, what in the name of common sense is it; has it any meaning? Look to the definition of the offense, and you will find it consists of confederation and combination; the very essence of the offense of conspiracy is that the defendant is charged with it to be guilty by proof of a fact that he combined and confederated with others to do the act charged, and he is to be convicted. Well, if he can be convicted by proof, of the elements, so to speak, of the term of which conspiracy is composed, why cannot he be indicted for conspiracy under the fourth section, provided the terms combine, and confederate, and band together are to be found in this section? Then your honors have to look to that section which first punishes an individual offender for an act done by him individually. It next charges him and punishes him for combining and confederating with others to do the illegal act. Well, if confederation and combination establishes conspiracy, then proof of the conspiracy or the allegation involves alone the injury did the party charged to be guilty of the conspiracy, combine and confederate.

I think it clear, then, may it please your honors, without further taxing your time, that the offense under this sixth count, in connection with the first, might have been charged in the fourth count. Suppose the act might be charged under the sixth as far as the words are concerned, but it will hardly be maintained by counsel for the Government. It would be aspersing the intelligence of Congress to suppose—it would be libelling their sense of duty—that they intended to leave to the prosecution to select whether they would punish the same act as a misdemeanor or as a felony. When by the fourth section they made it a misdemeanor, did they intend by the sixth section or any other section in the act to make the same offense or any other a felony, so as to give to the counsel for the Government the privilege of choosing under which of these sections they would frame their indictment, leaving to them to decide whether a citizen of the United States is to be held guilty of a felonious offense instead of being held responsible for a felony? Why, it seems to me the question offers its own answer. Well now, supposing, may it please your honors, that they could not appropriate the sixth section or give effect to the sixth section in any other way, as far as that part of the fourth section is concerned, to substitute it for the fourth section, your honors, I think, would be bound to conclude that as they did not know, could not tell, under which of these sections the Government intended to punish the offense, that you will take the lesser punishment which the law provides for the same offense. Even then, if it were true that no application of the sixth section could be made which does not cover the ground embraced in the fourth section, your honors, I think, would feel yourselves at liberty and bound in pronouncing your judgment for the offense to punish it under the fourth section. But it is not true, may it please your honors, that the sixth section has no application at all broader than is included in the fourth section. There are a variety of rights. Your honors will look at the sixteenth section of this same statute. A variety of rights with which the citizen is clothed by other parts of that statute; a variety of rights, therefore, which may be violated by means of a conspiracy, and looking, therefore, to the fourth section alone. And looking to the sixth section in connection with the subsequent sections of the same law, we submit to your honors that the object of the fourth section was to punish combination—a conspiracy in relation to the exercise of suffrage, and that alone; whereas the object of the sixth section was to prescribe a punishment for a violation of all the rights, other than that of suffrage, contained in the law. As my colleague reminds me, it not only states specifically other rights than the right of suffrage, which are to be protected by force of the sixth section, but it re-enacts and adopts the civil-rights bill. And doing so, then all the rights secured by the bill known as the civil-rights bill, as well as the rights specifically contained in the sixth section, fall under the shield of the sixth section; whereas the fourth section deals alone with the violation of the suffrage contained in the first section.

I have said all that I propose to say upon the point, may it please your honors.

Now a word or two upon the eleventh count. My brother, the attorney general, says that we are estopped here. In the first place, an estoppel in criminal cases is something new. How are we estopped? We are estopped, he says, by having pleaded guilty to the eleventh count, and that count charges what? That we then did in that way punish or conspire to punish the party upon whom the conspiracy was intended to operate, for his support of a gentleman by the name of Wallace as a member of Congress. Your honors are bound to know something judicially, or, in the language of the book, take judicial notice of some facts. You are therefore bound to know that the election at which Mr. Wallace was a candidate for Congress of the United States was in October, 1870. The act of 1871 passed on the 20th of April. My friend, the district attorney, charged the offense in that count to have been committed on the 21st day after the law was passed. Was it? Now what have they said? Mr. District Attorney has said in the presence of your honors, speaking officially, that the conspiracy was on the 22d of March, 1871; that is before the law was passed—the very act I mean, that was before the law was passed. Well, now, standing there, may it

please your honors, a lawyer and everybody else would say at once, then the law is invalid, because it is *ex post facto*. There was no criminality in that act—recognized, I mean, by any law of the statute-books or anywhere else.

It may have been wrong, an outrage upon an individual man, but it was no offense against the peace and dignity of the Government of the United States, since the Government, neither in their desire to preserve its peace, government, and dignity, did not make it an offense until a month after the alleged offense was committed. How are you going to punish that? O, say my brothers, you are to punish it, because conspiracy is always a continuing act. Then, I suppose, it goes on still. I suppose, therefore, that any man who is alleged to have been initiated into the conspiracy two years ago, or one year ago, or ten years ago, might be punished now and punished at all times. Once a criminal, he is forever a criminal; once combined to prevent a man from voting, or to punish him on having voted, although he never attempted to oppose his right to vote, or never punished him for having voted, he may, at any time that Mr. District Attorney thinks proper, call upon him and punish him, upon the ground that the conspiracy lives on, although the object of the conspiracy is at an end—a conspiracy without an object. My friends will pardon me for saying it is an absurdity. A conspiracy to effect some object not criminal is equally absurd. There then can be no conspiracy which the law can punish, except as a conspiracy existing at the time the indictment is found, for the purpose of accomplishing some illegal end. Now, the individual act, which is that of having inflicted a beating, an assault and battery upon this man, for his support of Wallace, in 1870. The time is past, the end is accomplished. My brothers say that it is true the time is passed; nothing can be done injurious to the public because the conspiracy has expired, but still they have a right to drag him before a court of criminal jurisdiction, and punish him because once in his lifetime he was found combining, confederating, and conspiring with others to do an illegal act. Can that doctrine, may it please your honors, of constructive treason, which so long dishonored England, which came so near bringing to the block many of the patriots of the day in that kingdom, ceased to have the support of the intelligent and spirited judges of England aided by the burning eloquence of those men who figured and won immortal fame in defending those who had been charged with treason. Only constructive in courts of justice; but this is even worse than constructive treason, their finding in a man's chamber any written article which looked to a purpose of revolutionizing the government—any written article which looked to the establishment of a republic, which libeled the majesty for the time being, was considered as guilty of treason, because, when he wrote the article, he must have contemplated the act. That was not the doctrine of the court. Horne Tooke and Hardy, and the rest, whose trials shed such immortal luster upon the court, and upon the advocates concerned in the defense, were kept unwhipped of justice, not because they ought to have been whipped, but because justice demanded that they should not be punished, not having committed an offense known to the laws. But this is worse. Here, what they have done, what these men are charged with having done, is not conspiracy to accomplish an object. At the time when this particular count was charged, it was impossible for them to conspire and combine, to accomplish, because the object, in the nature of things, could not be accomplished at all. I have said, I believe, may it please the court, all that occurs to me, and I submit in behalf of these persons whom we represent, and in behalf of my colleague, that the only judgment which you can pronounce is the judgment the fourth section prescribes for the offense of such a conspiracy as is charged in this indictment.

Judge BOND. Gentlemen, we will determine this question when we can pronounce the judgment of the court on the indictment, and not now.

Have you any business, Mr. Corbin?

Mr. CORBIN. We are ready to proceed in the case of James William Avery.

Mr. STANBERRY. If the court please, the district attorney says he is ready to proceed in the murder case. In the murder case I have filed a motion to quash three counts in the indictment which charged murder in addition to the other matters; these are points upon which the court agreed to divide. I believe it was understood that the court would not have any more argument.

Judge BOND. We will not have any more argument upon the point.

Mr. CORBIN. Do we understand the court that upon those counts, the second and fourth, the court is divided in opinion, and will certify that difference to the Supreme Court and trial in the mean time the trial will be stayed?

Judge BOND. Yes, sir.

Mr. CORBIN. If the court please, we are ready to proceed in the case of United States against Robert Hayes, Mitchell and others. The clerk will impanel the jury.

Mr. JOHNSON. Wait until we have seen the indictment; you hurry up the indictment too quick.

Mr. CORBIN. It is high time somebody should hurry up here.

Mr. JOHNSON. I think so, too, when you were out of court for an hour yesterday. Is there any other felony charged, then?

Mr. CORBIN. O, certainly; but no other felony, no felony against the State laws.

Mr. STANBERRY. (Looking at the indictment.) The second count has already been declared

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bad, by your honors. [To Mr. Corbin.] Do you want to put me to the necessity of filing another motion to quash that count?

Mr. CORBIN. I have never heard a motion on that subject.

Mr. STANBERRY. But you have on that subject in the other case.

Mr. CORBIN. No, sir; the question has not been raised at all—the right to keep and bear arms. There was no such allegation in any indictment before the court.

Judge BRYAN. I think not.

Mr. CORBIN. You are thinking of unreasonable searches and seizures.

Mr. STANBERRY. And you think the right to keep and bear arms is secured by the Constitution?

Mr. CORBIN. We do, and propose to fight on it to the last.

Mr. STANBERRY. Well, consider a motion made to quash that count.

Mr. CORBIN. Well, write out your motion and hand it up.

Mr. STANBERRY. If the court please, it is agreed that we make our objection, or a formal motion to quash when we make the objection to the second count of the indictment now presented for trial, on the ground that the allegations of the right to be secure, as the right to bear arms; your honors have held that the right to be secure from searches, and the right to the free enjoyment of all the privileges secured by the Constitution of the United States, do not make any offense under these laws, and the right to bear arms, I suppose, is not secured by the Constitution of the United States, but stands in the nature of a bill of rights.

It is a restriction upon Congress against interfering with that right. It is one of the rights of the State.

Mr. JOHNSON. (*Silto voce.*) Tell the court we make the point.

Mr. STANBERRY. O, of course, that is understood. It is understood that we are to draw the motion in form afterward, but not to take time to draw it now.

Judge BOND. Go on; take your jury, Mr. Corbin. Mr. Clerk, impanel the jury. I understand there is a motion to quash one of the counts.

Mr. STANBERRY. The district attorney waived the hearing of the motion now, and gave me the right to make the motion *ore tenus*. That must be decided before we have the jury sworn.

Mr. CORBIN. Go on, if you have anything to say.

Mr. STANBERRY. I have stated to the court all I care about. I have said all I intend to say about it.

Mr. CORBIN. If the court please, if there is any right that is dear to the citizen, it is the right to keep and bear arms, and it was secured to the citizen of the United States on the adoption of the amendments to the Constitution. That right, if the court please—that amendment, rather—like the other amendments to the Constitution, had never been held directly to be a restriction, only upon Congress or upon Federal power as against the citizen, but the same argument, probably, which was used by the court in the case of the lessees of somebody against Maryland, that the amendments were intended generally to be a restriction upon the United States Congress, as against the citizen of the United States. In other words, that the citizens were not—the right of the citizen was not—to be encroached upon by Congress in this respect, and that they do not—those amendments did not—apply to the States. But, if the court please, the fourteenth amendment changes all that theory, and lays the same restriction upon the State that before lay upon the Congress of the United States, viz: That as Congress heretofore could not interfere with the right of the citizen to keep and bear arms, now, after the adoption of the fourteenth amendment, the State cannot interfere with the right of the citizen to keep and bear arms. That is included in the fourteenth amendment among the privileges and immunities of the citizen that were not referred to.

It seems to me that there can be no doubt about this. The right to keep and bear arms is a privilege of a citizen of the United States—was before the adoption of the fourteenth amendment. After the adoption of the fourteenth amendment that privilege was extended to the citizens as against the State power. Now, the adoption, or, rather, the passage of the act of Congress on the 31st of May, 1870, attempted to secure that right. It said all privileges and immunities, &c., guaranteed by the Constitution of the United States the State is prohibited to interfere with, and Congress adopted appropriate legislation to that end. It is attempted to punish combinations and conspiracies that have for their object to interfere with the rights of the citizen by the Constitution of the United States. But the distinguished counsel on the other side say this stands on the same footing with the other, because the court have said in this case that the right to be secure from unreasonable searches and seizures was a right to be secure at common law. Consequently, the Constitution of the United States did not secure it—it existed before. Now, will this court say, will the distinguished counsel pretend to argue to this court, that the right to keep and bear arms was a right secured at common law? Certainly not. Such a thing is allowed in common law nowhere—in common law or modified common law, or anything else.

But this right is a distinctive right secured by the Constitution of the United States, and for the first time in the history of the world, except in the case of the Protestants of England, has it been secured to the citizen. It was secured to a certain class of citizens in England by act of Parliament. That itself is sufficient to negative the presumption, or

rather the assumption, of the district attorney, that it was a right secured by common law. But in the Constitution of the United States, and in the amendments to the Constitution, the people, in their wisdom, saw fit to insist that the right should be put in among the amendments to the Constitution, and for the first time it was adopted by the people of the United States, and the right was guaranteed to all the citizens of this country. It was never guaranteed or granted before. I do not, therefore, desire to take up the time of the court to argue this question, for it appears to me to be a question as clear as it is simple, that it is a right guaranteed to the citizen by the Constitution of the United States, as against the Congress of the United States; a right guaranteed to the citizen of the State as against the State by the fourteenth amendment.

Imagine, if you like—but we have not to draw upon the imagination for the facts—a militia company organized in York County, a combination and conspiracy to rob the people of their arms, and to prevent them from keeping and bearing arms furnished to them by the State government. Is not that a conspiracy to defeat the rights of the citizen secured by the Constitution of the United States and guaranteed by the fourteenth amendment? Is not that right intended to prevent the right secured by this act of April, 1970? If it is not, may it please your honors, then this act means nothing, and we desire to know it at once.

Mr. JOHNSON. It would have been as well if my brother, the district attorney, when he vindicates the particular legislation under the fourteenth amendment of the Constitution, had read the amendment. I understand him now as broadly admitting that, under the Constitution as it stood before the fourteenth amendment was adopted, such legislation as this could not have been legally had.

Mr. CORBIN. I did not admit that.

Mr. JOHNSON. I thought you did. I thought you believed it under the fourteenth amendment.

Mr. CORBIN. I say that under the fourteenth amendment that right is guaranteed to the citizen.

Mr. JOHNSON. I thought he admitted it. But whether he did or not, it is perfectly clear that as the Constitution stood antecedent to the fourteenth amendment, such legislation as this would have been invalid, as not authorized. Now, I should like to know how the fourteenth amendment changes the power of Congress? Your honors have it before you; it is in the first section of that amendment. My recollection is that it makes every man a citizen who may be born in the United States, without reference to his color, race, or condition; or who may have been naturalized by the United States; and the States are prohibited from taking from him any privilege or immunity thus guaranteed to him. Now what is that? I suppose it is one of the immunities that a citizen of the United States is entitled to, that he shall be protected against seizures and searches for papers. And your honors have decided that the count charging us with conspiracy to defeat that right, is not authorized by the fourteenth amendment.

Now, if that right is not authorized by the amendment, upon what ground can counsel for the Government suppose that the right which exists in the citizen to bear arms can be protected by that amendment, for they stand upon the same footing? The latter is no more a right than the former, and if the former, as your honors have held, is a protection only as against the authority of the United States, it necessarily follows that the latter is a protection against the United States, and restriction of their power. In the case of Baron Baltimore, the question, I think, was whether the Congress of the United States prohibited Maryland, as the parties who were acting under the law of that State, from appropriating private property to public use. Now, if there is any right to be found in that or in any law, common or uncommon, modified or unmodified, one would suppose it would be the right to enjoy his own property, without the interference of the public, except it should become necessary to take it for the public use, and then only upon full compensation. But the Supreme Court decided unanimously that, although it was a right, and right in its nature, independent of statutory regulation or expressed law, although it was a right, the provisions of the Constitution of the United States, which the counsel in the case never claimed supposed protected him in the enjoyment of that right, did not apply, because these provisions of the Constitution of the United States upon which they relied were provisions restrictive of the power of Congress.

So my brother tells us that the right to bear arms is a right of the citizen. Where did he get the right to bear arms more than to be guaranteed against unlawful searches or against the appropriation of his property to public use without compensation? What does the Constitution of the United States say about bearing arms? Nothing. What does the fourteenth amendment say upon the same subject? Nothing. The latter is as silent upon the topic as the former, and if the former cause for silence does not cover such a case as this, the latter, for the same reason, does not embrace it.

Now, my brother imagines a case, which shows that he must give loose to his imagination to support the law. That is a very bad support of the law; for his imagination, and any man's imagination, would generally go beyond the law. He imagines, or supposes, two militia companies are authorized to bear arms, and the arms are placed in their hands, I suppose, by this government—not by the United States—they had a right, says the learned attorney, to hold on to their arms. So they had, as against the governor or the government.

so long as he permitted them to hold them. But suppose the men in whose hands the arms were placed had no more right to bear arms than any of those men in whose hands they refused to place them. Does not the act say that no distinction shall be made on account of race, &c. ? Does not that place the white man in a worse situation than the black man ? Do they not both stand upon the same level ? Does Mr. District Attorney say that it would have been in the power of the State government to deny to the white citizens the right to bear arms ?

Mr. CORBIN. I do say that the State of South Carolina cannot do it.

Mr. JOHNSON. It has done it. Cannot do it ? Why, we would be in a sad condition were it so. A band of ruffians combine together to burn, pillage, and murder all from the cradle to the grave. Indulging in imagination, which according to the district attorney is a fair source of authority, they want arms to protect themselves against the further progress of the outrages. The women and children are alarmed ; the governor either refuses to interfere, or seeks to get the arms out of the hands of the militia, but does not succeed. Terror fills the whole region ; no man knows when he retires to his rest what may be the fate of his house or that of his wife and children. Has not the State in a case like that the right to take arms from the militia company ? I think there can be no doubt of that. And if the right exists to take the arms out of their hands in such a case as that, then it is because the right to bear arms is not a right given by the Constitution of the United States ; but exists under the local law of the State.

Why, may it please your honors, there are a thousand rights which may be restrained in part, modified in part, or annulled ; but whether they are to be restrained, modified, or annulled, depends upon the inquiry, does the public safety demand it ? No. I have proposed that in this particular case, this man who has, by this conspiracy, been denied the right to bear arms, was himself one of the leaders in the acts of violence, and in the communication of these threats, which were calculated not only to fill the breast of a brave man with alarm, but to fill the minds of his wife and children with terror ; which, if not calmed, might, sooner or later, result in insanity. Has he a right to bear arms ? He has. It is an absolute right, secured by the Constitution. I submit, therefore, to your honors, that whether decided by the words of the Constitution as it originally stood, or by the words of the fourteenth amendment, or decided by general considerations, which addressed themselves to the judgment and the heart, the right to bear arms is a modified right, and it is for the State, in the exercise of its own judgment, in the discharge of the obligations imposed upon them by their own sovereignty, to decide whether all men in the State shall be permitted to bear arms to the terror of all women and children of the land ; or whether any particular class should be permitted to bear arms and every other class denied the privilege. I speak it with no disrespect to the colored man, but is he to have a musket placed in his hands and a white man refused it ? Now that I have supposed what may have been the case, merely for the sake of illustration, I have as much right to imagine, though my wings may not be as strong as those of the gentlemen on the other side, but I can very well conceive, and the heart of every man will lead him to that conclusion, that to permit one class of citizens to bear arms, and to practically deny it to the other, is to place that other in subjection to the former. And that would be tyranny unbearable and utterly abhorrent to every principle upon which our institutions rest, and in conflict with the best considered rights of the other citizens ; the right of the freeman to protect himself against aggression ; the right of a freeman not to be subject to aggression by a class whose interests, or supposed interests, it may be to wipe them off from the face of the earth. Unless, may it please your honors, that it be held to be within the authority of the United States Government.

I hazard nothing in predicting that the day will come when our institutions will totter to their very foundations ; or, as well might you attempt to uproot a mountain from its base, as to seek to fix the yoke of slavery upon men determined to be free. The black man, it is conceded, is a freeman. In the name of justice and humanity, in the name of those rights for which our fathers fought, you cannot subject the white man to the absolute and uncontrolled dominion of an armed force of a colored race.

Judge BOND. The court is not ready to determine this question. Is the counsel for the Government ready to go on with another indictment ?

Mr. STANBURY. Here is one thing, may it please your honors, we are ready to go on with, and that is the return of the writ of *habeas corpus* in the case of Leander Spencer.

Judge BOND. We desire to reach some case.

Mr. CORBIN. There are other indictments here, but they all waive indictment for attempts to deprive citizens of the right to bear arms. That is one of the principal things in connection with this conspiracy ; it was systematically done, and was one of the main objects of the conspiracy, to deprive citizens of the right to have and bear arms, and to deprive them of the possession of arms as well as to prevent them from voting. All the cases returned by the grand jury waive that count, and we will never abandon it until we are obliged to.

Judge BOND. We will go on with the matter of *habeas corpus*.

Mr. Corbin called the case of United States *vs.* R. H. Mitchell, and the defendants did not respond. Mr. Corbin insisted that when they gave bail they were notified to be present during the entire term of the court, and he wished it understood that if their bond was not now forfeited, he was not responsible.

Counsel for the defense said they had been telegraphed to, and if they were not here to-morrow morning, hereafter in all such cases the bail would be forfeited.

The court then adjourned till 6 p. m.

EVENING SESSION.

The court met pursuant to adjournment.

Judge BOND. Are the counsel ready to proceed?

Mr. CORBIN. We are waiting the decision of the court on the count as to the right of bearing arms. I might as well say here that we regard it as one of the vital grounds of this prosecution. This right has been trampled on again and again in this State in the most flagrant and systematic manner. I think if the right is denied us to prosecute for this offense that we had better stop.

Judge BOND. The court is not ready to give you an opinion on that subject now.

Mr. CHAMBERLAIN. There is one other indictment in which that count is omitted, but that has been fixed by the counsel for the defense and ourselves for to-morrow morning; all the other indictments have in them the count for bearing arms.

Judge BOND. There is one thing I would like to say to the bar. The act of Congress which authorizes the court to summon witnesses on behalf of the defense, at the expense of the United States, requires that application be made in open court. Several applications have been made to each of the judges to issue subpoenas to the marshal to bring in witnesses for the defense, but it is not in the power of the court to do it except application be made in open court during the session.

Judge BRYAN. If there is no other business before the court this evening, we might adjourn, to go on to-morrow, certainly, with the case which has been appointed.

Mr. CORBIN. I do not want the court to be too certain. I may have to appeal to the court to defer the case, in consequence of the sickness of Mr. Wilson, of counsel for the defense.

Mr. WITHERSPOON. I have received a dispatch from Mr. Wilson, announcing that he would be here to-morrow.

Judge BOND. The absence of counsel will not be received as sufficient excuse for delaying the proceedings.

Mr. McMASTER. There are, I understand, cases fixed for to-morrow morning. When the case was presented by the district attorney, it was altered after the indictment was brought in, and not according to the entry on the docket. The counsel who will appear in place of Mr. Wilson will insist upon the rule being followed of going by the docket, as thus only do they know when they will be brought up. When the case is on the docket it cannot be called out of order.

Judge BOND. The district attorney is at liberty to call up a case where an indictment has been found and the parties are required to be present.

Mr. McMASTER. This is new to us, and is not according to our code; but we will endeavor to be ready in the future.

Judge BOND. Can you give notice of any other trial?

Mr. CORBIN. None, sir; save those that have the count for interfering with the right to bear arms. There is hardly an indictment to be presented but what contains that count.

Mr. McMASTER. As the usage of the court seems to be different, I ask for information, if any case upon an indictment can be brought immediately for trial; that is of a person, for instance, who may think there is no indictment against him?

Judge BOND. A reasonable time will be given. The court will not press the trial in that case, but all who have been indicted have the information, and there can be little excuse for not being ready.

The court adjourned to meet on Tuesday, 11 a. m.

ELEVENTH DAY'S PROCEEDINGS.

DECEMBER 12.

The court, after hearing some incidental business, directed its attention to the Ku-Klux cases.

Judge BOND. Gentlemen, are you ready to go on in any cases?

Mr. CORBIN. We are waiting the decision of the court in the case of the United States vs. Mitchell.

Judge BOND. The court is not prepared to decide that case this morning.

Mr. CORBIN. Well, if the court please, we will tear the indictment to pieces and withdraw that count. We are determined to go to trial on something. We ask the court to withdraw the second count in this case.

Mr. JOHNSON. We have done that; you may save yourself the trouble. You enter a *vol. pros.* on that count?

Mr. CORBIN. Yes, sir; but do not propose to in any other case.

Judge BOND. Gentlemen, are you ready for trial? Call the parties.

Mr. JOHNSON. A *nol. pros.* has not been entered on the count yet. The gentleman is scratching it out. [To Mr. Corbin. Just enter a *nol. pros.*]

Mr. CORBIN. Mr. Clerk, the second count is *nol. prossed.*

The clerk then called Robert Hayes Mitchell, Sylvanus Shearer, William Shearer, Hugh H. Shearer, James B. Shearer, Henry Warlick, Eli Ross Stewart, and Josiah Martin, all of whom stood up and raised their right hands. The clerk also called the name of Hugh Kell, who did not answer, and Mr. Corbin stated that he was sick in jail. The names of James Neal and Allison Carroll were also called, but they were not present. The name of Miles Carroll was also called, but he did not answer.

Mr. HART. He does not answer to that name.

Mr. STANBERY. He pleads a misnomer.

Judge BOND (to the prisoner.) What is your name?

PRISONER. Milus.

Mr. CORBIN (looking at the indictment.) It is M-i-l-u. The s is not completed.

Mr. JOHNSON. But does not read Milus.

Judge BOND. He is the party taken on the writ?

Mr. CORBIN. Certainly.

Mr. JOHNSON. It is the wrong name. The parties who had answered to their names, and who stood with their hands upraised, were arraigned before the court, and the first count read, to which they plead not guilty.

Mr. CORBIN. If the court please, we would say this to the defense, as we said in the other case, and we ought to have said it: It was, perhaps, before this plea was taken, that if these parties are to be allowed ten peremptory challenges each, we shall try them separately. In other words, if they propose to sever in their challenges, we propose to try them separately.

Mr. JOHNSON. He has not read the whole indictment yet.

Mr. CORBIN. What do you say?

Mr. JOHNSON. The whole indictment is not read yet. We will answer at the proper time.

The clerk continued with the remainder of the indictment, and asked the prisoners if they were ready for trial.

Mr. HART. If it please the court, we claim the right of challenge individually.

Mr. CORBIN. We ask that the case of Robert Hayes Mitchell may be taken up, if the court please. [To the clerk.] Impanel a jury.

Robert Hayes Mitchell was required to stand up, and notified to challenge the jurors to whom he objected before they were sworn.

January Simpson, colored, was first called as a juror, and sworn on his *voir dire*.

Mr. STANBERY. Have you formed and expressed an opinion about the guilt or innocence of these parties?

JUROR. No, sir; I cannot tell anything until I've heard the evidence.

Mr. STANBERY. Have you served on any jury, or been summoned to serve in this court within the last two years?

JUROR. No, sir; this is the first time.

Mr. STANBERY. No further objection.

The juror was accordingly sworn.

Wm. Smith, colored, was next called, and sworn upon his *voir dire*.

Mr. STANBERY. Where do you reside?

JUROR. In this place.

Mr. STANBERY. Have you expressed any opinion about the guilt or innocence of these parties?

Mr. CORBIN. No; that is not the question.

Mr. STANBERY. You have not, you say.

JUROR. No, sir.

Mr. STANBERY. Let the juror be sworn.

Edward Reed, colored, was next juror called, and sworn upon his *voir dire*.

Mr. STANBERY. Have you expressed any opinion as to the guilt of the defendants?

Judge BOND. This defendant.

Mr. JOHNSON. If your honors please, they are indicted jointly for the same offense.

Mr. CORBIN. But they are not all on trial.

Mr. JOHNSON. Joint defense, certainly. Does the court say that we are not entitled to ask an opinion as to the guilt of any other party than the party on trial?

Judge BOND. I don't think you have the right, Mr. Johnson.

Mr. JOHNSON. Is that the opinion of the court, your honor?

Judge BOND. I hope so, sir.

Judge BRYAN. It seems to me that either or all of these parties might be guilty or innocent; therefore it is that the guilt of the party on trial is the one to be ascertained, and the one upon which he is to answer.

Mr. STANBERY. Have you expressed an opinion as to the guilt of all these defendants?

JUROR. No, sir.

Mr. CORBIN. What is that?

Mr. STANBERY. Well, he says no.

Mr. STANBERY. We challenge the juror.

Addison Richards, colored, was the next juror called, who was sworn upon his *voir dire*.

Mr. STANBERY. Where do you reside?

JUROR. This place—Columbia.

Mr. STANBERY. Have you expressed any opinion about the guilt of these—all of these defendants?

JUROR. No, sir.

Mr. STANBERY. You can stand aside. We challenge him peremptorily.

Henry Daniel, colored, was the next juror called and sworn upon his *voir dire*.

Mr. STANBERY. Where do you reside?

JUROR. In Columbia, at the present time.

Mr. STANBERY. But do not live here?

JUROR. No, sir; not altogether.

Mr. STANBERY. Where do you live?

JUROR. Lexington.

Mr. STANBERY. Have you expressed any opinion upon this case?

JUROR. I have not, sir.

Mr. STANBERY. Stand aside; we challenge.

David Leahy, white, was the next juror drawn, and sworn upon his *voir dire*.

Mr. STANBERY. Where do you reside?

JUROR. Laurens.

Mr. STANBERY. Are you not from Union County?

JUROR. No, sir.

Mr. STANBERY. We challenge him.

E. C. Rainey, colored, was the next juror called, and sworn on his *voir dire*.

Mr. STANBERY. Have you served upon a jury within the last two years—grand or petit jury?

JUROR. Not in Columbia. I have served in Charleston. I served in Charleston at the trial of Langley and Williams. Judge Bond presided.

Mr. STANBERY. That is a cause for challenge. We challenge him for cause.

Judge BOND. That is a legal disqualification under the act of Congress. The juror is rejected.

Andrew W. Curtis, colored, was the next juror called and sworn upon his *voir dire*.

Mr. STANBERY. Where do you reside?

JUROR. At Columbia, sir.

Mr. STANBERY. Have you heard of this case?

JUROR. No, sir.

Mr. STANBERY. Expressed any opinion about the case?

JUROR. I have not expressed any opinion, sir; not any since I have been on this jury.

Mr. STANBERY. Have you served upon any jury within the last two years?

JUROR. I've never served in the circuit court.

Mr. STANBERY. We challenge him.

Ephraim Johnson, colored, was the next juror called.

Mr. STANBERY. Have you formed any opinion in this case?

JUROR. No, sir; none at all. No, sir.

Mr. STANBERY. What part of the State do you live in?

JUROR. Georgetown, South Carolina.

Mr. STANBERY. Have you been on the jury in the United States court within the last two years?

JUROR. No, sir; have not attended court at all within the last two years.

Mr. STANBERY. The juror can be sworn.

The juror was sworn in the case.

Franklin J. MacMickin, white, was the next juror called, and sworn upon his *voir dire*.

Mr. STANBERY. Have you formed an opinion as to the guilt of these parties?

JUROR. I have not.

Mr. STANBERY. What part of the State do you live in?

JUROR. Newberry.

Mr. STANBERY. Swear him.

The juror was sworn in the case.

James McGill, colored, was the next juror called, and sworn on his *voir dire*.

Mr. STANBERY. In what part of the State do you live?

JUROR. In Georgetown district, sir.

Mr. STANBERY. Have you served as a juror within two years in this court?

JUROR. Yes, sir; last January, at Charleston.

The CLERK. That is the district court.

Judge BOND. Have you the act of Congress, gentlemen?

Mr. CORBIN. The act of Congress, if your honors please, reads as follows: "That any person shall not be summoned as a juror in any circuit or district court more than once in two years; and it shall be sufficient cause of challenge if he has been summoned and attended

said court as a juror, at any time of said court held within two years prior to the time of challenge."

We would suggest to the court that this refers to the separate courts. If he had been summoned in this court within two years it would be a cause of challenge; but serving in the district court does not.

Judge BOND. Except in the district court?

Mr. CORBIN. Except.

Judge BOND. He cannot be summoned in the district court oftener than once in two years, nor in the circuit court oftener than once in two years; but he may serve in the circuit court even if he has been summoned in the district court within two years. That is the construction that has always been given to the act.

Mr. STANBERY. The juror can be sworn.

He was sworn in the case.

W. H. Jackson, white, was the next juror called, and sworn upon his *voir dire*.

Mr. STANBERY. Have you served as a juror in this court?

JUROR. No, sir.

Mr. STANBERY. Have you formed any opinion in this case?

JUROR. I have not.

Mr. HART. Stand aside.

Gabriel Cooper, colored, was the next juror called. He was sworn without interrogation on his *voir dire*.

Joseph Taylor, colored, was the next juror called.

Mr. STANBERY. Swear the juror.

He was sworn in the case.

Andrew W. Burnett, white, was the next juror sworn.

Mr. STANBERY. Swear the juror.

Mr. CORBIN. Stand aside.

James C. Halloway, white, was the next juror called, and sworn upon his *voir dire*.

Mr. STANBERY. What part of the State do you reside?

JUROR. Charleston.

Mr. STANBERY. Have you served upon a jury in this court before?

JUROR. No, sir.

Mr. STANBERY. No further objections.

Mr. CORBIN. Stand aside for the present.

Mr. JOHNSON. I do not know what that means. Is that a challenge?

Mr. STANBERY. He means to challenge.

Mr. JOHNSON. I want to know, may it please your honors, whether the Government can set a juror aside in any other way than by challenging him. He must be sworn unless challenged; sworn when he is called, unless challenged by one of either party. The United States have a right to challenge two and the prisoner to challenge ten. Now, does my brother mean to say that he is going to exercise the right, the right of challenge hereafter, or is this intended to be a challenge?

Mr. CORBIN. We intend, if the court please, to exercise the right which the Government has of qualified challenge, having the juror stand aside for the present. If the panel shall be exhausted, and these parties are required, then we must challenge peremptorily or for cause.

Mr. STANBERY. Our statute gives no such right. The gentleman is going back to a proceeding under other circumstances than these.

Mr. CORBIN. What statute do you refer to?

Mr. STANBERY. I am speaking of the statute that gives to the United States two peremptory challenges. Not a right to set aside anybody, but a right to challenge as to these two jurors to come back again. We ask them to come back again, and he must determine now whether he challenge them or not.

Mr. CORBIN. I think that question is too well settled to demand discussion, and I will not enter upon that discussion unless the court desire to hear it.

Judge BOND. A proceeding in this court in criminal affairs is a proceeding at common law, and it was always the right at common law by the Government to tell a juror to stand aside until the panel is exhausted.

Mr. STANBERY. But the common law never gave a peremptory challenge.

Judge BOND. I know; he has that in addition by the statute.

Mr. STANBERY. That supplies the want they had before.

Mr. JOHNSON. If your honors have finally decided the matter, neither my friends nor myself will make any attempt to convince the court that the privilege is not authorized by act of Congress. Your honor is right in supposing that under the common law the Government had a right to set aside the juror; but this gives them no right of challenge. But the act of Congress gives them the right to challenge. Now, in our view, the right to challenge is substituted for the power of the Government to set aside jurors.

We have, as we think, may it please your honors—unless the court has decided otherwise—we have a right to have a juror sworn, unless the Government exercise its right to challenge.

Mr. Johnson resumed his seat; but rose again and said:

Let me add another word, may it please your honors. How are we to get a jury, if the Government has the right claimed by the district attorney? We might call up eight, ten, or twenty jurors; they may be competent, and we may be desirous to have some of them sworn; but he says: "Stand aside." How are we to get a jury then? Has he a right to call them back and select such of them as he chooses to call back, or is it not our right—a right necessary to the enjoyment of the privilege which the act of Congress gives—is it not our right to have every man sworn as a juror to whom the Government does not object, if we do not object? I submit to your honors that, if you have ever entertained a different impression, it is quite a serious matter, not so much in this case as in others, and the court had better examine the question, if there is any doubt about it, so as to settle the question, under the act of Congress, for all time.

Mr. CORBIN. If the court please, I have nothing to say in reply. I intend to observe the rules of this court, which my distinguished friend on the other side does not. Observe, that is discussing the question after the court has decided it.

Mr. JOHNSON. But I did that with due courtesy, I hope. The learned district attorney seems to think that, whatever he supposes the law to be, if the court gave him even a virtual recognition of it, is the law beyond all doubt. I accept of that.

Judge BOND. My brother tells me this has always been the practice in this State. It has been decided in several ways in the United States. We merely follow the settled fact. Go on, gentlemen.

Wm. Mooney, white, was the next juror sworn on his *voir dire*. There being no objections to him, he was sworn in the case.

Henry Fordham was the next juror called and sworn on his *voir dire*.

Mr. HART. Stand aside.

Mr. STANBERY. Is the district attorney to set aside the whole jury?

Mr. CORBIN. You set him aside yourself.

Judge BOND. You set him aside; you have not exhausted your challenges yet.

Philip Salters, white, was the next juror called and sworn on his *voir dire*.

Mr. STANBERY. Where do you reside?

JUROR. Charleston.

Mr. STANBERY. Have you served upon a jury in the circuit court of the United States at any time within two years?

JUROR. No, sir.

Mr. STANBERY. Have you formed or expressed any opinion about the guilt of this defendant?

JUROR. No, sir.

Mr. STANBERY. The juror can be sworn.

Wm. F. Dover, colored, was the next juror called and sworn in his *voir dire*.

Mr. STANBERY. Where do you reside?

JUROR. Charleston, sir—Charleston County.

Mr. STANBERY. Have you formed or expressed any opinion?

JUROR. I have not, sir.

Mr. STANBERY. The juror may be sworn.

Wm. H. Deberry, white, was the next juror called and sworn on his *voir dire*.

Mr. STANBERY. Where do you reside?

JUROR. Darlington County, sir.

Mr. STANBERY. Have you expressed any opinion about this?

JUROR. No, sir.

Mr. STANBERY. The juror can be sworn.

Mr. CORBIN. Stand aside.

Mr. JOHNSON. I should like to know whether we have a right to say stand aside too?

Judge BOND. No, sir. It is confined to the Government.

Mr. JOHNSON. [*Sotto voce*.] Can't say stand aside; it is confined to the Government!

Adam Crook, colored, was the next juror called and sworn upon his *voir dire*.

Mr. STANBERY. If the court please, I feel, in regard to the course now being taken, standing aside jurors, as they call it, by the district attorney, according to the old English common-law practice that never prevailed here in criminal cases and could not prevail, for we have no common law to make it apply, that this practice is not allowable; and what Mr. Johnson, my colleague, and myself want is opportunity to argue this question to the court. It is a very important matter.

Judge BOND. We will hear you on a motion in arrest of judgment.

Mr. STANBERY. That will do. [To the juror.] Where do you reside?

JUROR. Fairfield district, sir.

Mr. STANBERY. Do you know anything about this case now on trial?

JUROR. No, sir.

Mr. STANBERY. Have you served on the jury of a circuit court of the United States at any time?

JUROR. No, sir.

Mr. STANBERY. This is the first time?

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JUROR. Yes, sir.

Mr. STANBERY. I ask you because I see your name is entered in the list here as living at Columbia.

JUROR. No. I live in Fairfield district, about thirty-one miles from here.

Mr. HART. Stand aside.

Joseph Keene, colored, was the next juror called and sworn upon his *voir dire*.

Mr. STANBERY. Where do you reside?

JUROR. Statesburgh, Sumter County.

Mr. STANBERY. Do you know anything about this case?

JUROR. Nothing at all, sir.

Mr. STANBERY. Have you served in the circuit court within two years?

JUROR. Yes, sir; I served in this court in Charleston, last January.

Mr. STANBERY. Which court?

Judge BOND. The district court; the circuit court did not meet there then.

Mr. STANBERY. We have no objection to this juror; he may be sworn.

Nathaniel E. Edwards, colored, was the next juror called and sworn on his *voir dire*.

Mr. STANBERY. Have you formed or expressed an opinion in this case?

JUROR. No, sir.

Mr. STANBERY. You have not?

JUROR. I have not.

Mr. STANBERY. Have you been upon a jury of the United States circuit court within two years before?

JUROR. No, sir; this is the first time.

Mr. STANBERY. We challenge him.

John A. Pugh, colored, was the next juror called and sworn upon his *voir dire*.

Mr. STANBERY. Where do you reside?

JUROR. Columbia, sir.

Mr. STANBERY. Do you know anything in this case now pending?

JUROR. I've no knowledge of it, sir.

Mr. STANBERY. Formed or expressed no opinion about it?

JUROR. I could not, because I had no knowledge of it.

Mr. STANBERY. Have you served upon a jury of the circuit court of the United States within two years?

JUROR. This is the first time that I've been here as a juror.

Mr. STANBERY. The juror can be sworn.

Mr. CORBIN. Stand aside.

Mr. JOHNSON. Mr. Clerk, have you the number of those who have been told to stand aside?

The CLERK. Yes, sir; four, sir.

Mr. JOHNSON. Very well.

Isaac Black, colored, was the next juror called and sworn upon his *voir dire*.

Mr. STANBERY. Where do you reside?

JUROR. Columbia, sir.

Mr. STANBERY. Have you been a juror in the circuit court of the United States within two years before?

JUROR. I have not, sir.

Mr. STANBERY. Let him be sworn.

The jurors here answered to their names—one white and eleven colored.

The court appointed Joseph Taylor, colored, for foreman.

The indictment charging Robert Hayes Mitchell was read in the hearing of the prisoner.

Mr. CORBIN. May it please the court and gentlemen of the jury, the case now to be presented to you is one of an unusual importance. It is one of a somewhat startling character in this country. The defendant, who is now called before you, is charged with having entered into a conspiracy, and it will be our purpose, gentlemen of the jury, to prove to you that he has entered into the conspiracy, for the purpose of preventing and restraining divers male citizens of the United States, of African descent, and qualified to vote, from exercising the right of voting.

I shall first attempt to show to you that he did enter into a general conspiracy, existing in the county of York, for the purpose of preventing and controlling the colored voters of that county and keeping them from the polls.

We shall endeavor to show an organization, perfect in all its details, armed and disguised; that this organization was bound together by a terrible oath, the penalty for breaking of which was declared to be that of a traitor—death! death! death! We shall show that this organization had a constitution and by-laws; that it pervaded the whole country, or a large portion of it; that this conspiracy was inaugurated in 1868 in this county; that its active operations were somewhat suspended during the years 1869 and 1870, but that, in 1871 particularly, its operations became very active; that great numbers of colored citizens, who were entitled by law to vote in that county, were visited by the party and whipped, and many of them murdered. In this case, we shall show to you that this organization deliberately planned and executed the murder of Jim Williams, whose name you will find in this indict-

ment, in pursuance of the purpose of the organization. We shall prove to you, gentlemen, that the defendant was present, aided and assisted in carrying out the purpose of the organization, and was present at the execution of the man, Jim Williams, whose name you will find in the indictment.

The particular details will all come out in the proof that the special raid, as it was called in that county, upon civilians, consisted of some forty, fifty, or sixty persons. That it met at what is called in the county of York the "Briar Patch," an old muster-field, and was armed, disguised, and mounted; that under the command of a leader, whose name will appear in the testimony, this organization proceeded to the house of Jim Williams, broke in his door, took him out, fastened a rope about his neck, took him to the woods near by, and then hung him till he was dead. That they left a card upon him, which was found on the morning following the execution, simply stating in derisive language, "Jim Williams on his big muster." That on the same evening they visited divers other houses of the colored people, threatened them, took them out, robbed them of their arms, and informed them that if they should vote any more they would be killed. Gentlemen, this comprises, in brief words, all that we desire to show to you in the opening. We proceed, in this indictment, under the authority found in the sixth section of the act of May 1, 1870.

The second count in this indictment, and it contains but two charges, that this defendant, and divers other evil-disposed persons at York County, &c., did conspire together, with intent to oppress, threaten, and intimidate James Williams, male citizen, &c., because he exercised the right and privilege of voting on the third Wednesday of October, 1870.

We shall endeavor to show that this attack upon Jim Williams was not only for the purpose of preventing his voting in 1872, he with others, but because he had exercised the right and privilege of voting in 1870.

We shall ask you to particularly listen to the witnesses. Many of them are ignorant, and many of them never appeared in court before, and are unaccustomed to the trials of the witness-stand.

The witnesses in the case were then called and sworn.

Mr. Stanbery requested the court to direct that all the witnesses, except the one testifying, leave the court.

The court directed that all the witnesses retire.

Mr. JOHNSON. It is not usual, may it please your honors, for the witnesses for the defense to be compelled to leave. As far as I am concerned, I have no objection to it, however.

Mr. STANBERY. I see no rule for sending out our witnesses.

The COURT. All the witnesses must retire.

Mr. Hart here inquired if the court could set the day for the trial of John P. Gage.

Mr. CORBIN. The only objection for fixing specific days for these trials is that the defendants are severing in their challenges, and the Government is compelled to sever in its trials, and, it appears, we have to go through ten or fifteen trials involving the same testimony that we are now about to present to the jury. I trust that the court, the counsel on the other side, and ourselves may survive till we get to the end of the trials. If we do, we may live under the assurance of a very long life; hence the difficulty of fixing a day for the trial of any of these cases; and I would suggest to the court that the parties shall, in accordance with the practice here, take notice of the proceedings in the court and be ready for trial. We cannot assume any responsibility as to when any trial will or will not take place.

Judge BOND. The parties have asked for witnesses to be summoned, and it is not judicious to keep witnesses here a week or more; one or two days ought to suffice. The court can assure the counsel that the parties will not be tried till they have an opportunity of bringing in their witnesses.

Mr. HART. There are a number of cases for trial, and I feel a delicacy in asking the court for orders for witnesses, for the same reason that the court suggests; but we do not wish to summon witnesses until the parties are indicted; hence I asked the court to assign days of trial, so that we may not be put to any unreasonable expense in bringing our witnesses here.

Judge BOND. The act gives the court discretion in determining that. I must be satisfied of the fact that the party has not the property that will allow him to bring his witnesses. The other day an order was passed to summon a man, who gave bail for two others. But the court will summon witnesses in time, and set the trial for as early a day as possible.

TESTIMONY OF LIEUTENANT GODFREY.

Lieutenant GODFREY was the first witness called for the prosecution; being duly sworn, he testified as follows:

Direct examination by Mr. CORBIN:

Question. Are you an officer of the United States Army?

Answer. I am.

Question. What is your rank in the Army?

Answer. I am first lieutenant of the Eleventh Cavalry.

Question. Where is your post of duty?

Answer. Yorkville, Yorkville County.

Question. [A paper was here presented the witness.] Will you look at that paper and say whether you recognize it?

Answer. I do recognize it.

Question. State where and how you obtained it.

Answer. I was ordered on the night of the 20th of October, Friday, by Colonel Merrill, commandant of the post at Yorkville, to proceed to the house of Samuel G. Brown, to obtain there the constitution and by-laws of the Ku-Klux Klan. The order which Colonel Merrill gave me was signed by Mr. Brown, to procure them from his daughter.

Question. Who gave you that order?

Answer. Colonel Merrill, and the order was signed by Mr. Brown.

By Mr. HART:

Question. Where is the paper that you say was signed by Mr. Brown?

Answer. I gave it to his daughter.

Mr. HART. We object to the testimony.

Mr. CORBIN. It was an order from Mr. Brown to his daughter to deliver the paper.

Question. What was done with that paper?

Answer. I gave the order to his daughter, and she assisted me in the search for it. I found them in the desk.

By Mr. JOHNSON:

Question. Who was that order from?

Answer. The order for the constitution and by-laws was from Mr. Samuel G. Brown.

Mr. HART. We object to the testimony. The attempt is to connect Samuel G. Brown with the conspiracy.

By Mr. CORBIN:

Question. Did you obtain that paper at the time you mention, and the paper that is inclosed?

Answer. I obtained these papers the next morning at the house of Mr. Brown.

Question. How and where did you find them?

Answer. I found them in the private desk, as designated by Mr. Brown in his order.

Question. State just where you found it?

Answer. I found it in the private desk of Mr. Brown, at his residence.

Question. Who assisted you in finding it?

Answer. The daughter.

Question. Did she find it, or did you?

Answer. I found it, myself.

Question. Did she show you the place?

Answer. She did, and assisted me in unlocking the desk to get it.

Question. Did you put any mark upon it?

Answer. I did.

Question. What was it?

Answer. I indorsed upon how I found them and where I found them, and signed my name to it.

Question. Read it.

Answer. [Witness reading.] "The within papers were found by me in the private desk of Samuel G. Brown, of York County, when I sought for them by order of Colonel Merrill, commanding post at Yorkville, for a written paper signed by Samuel G. Brown, and addressed to his daughter Jennie."

Question. Is your name signed to that paper?

Answer. Yes, sir.

Question. What did you do with that paper after you found it?

Answer. I carried it back to Yorkville and gave it to Colonel Merrill.

Question. Look at it now and see if you find it substantially in the same condition as it was at that time?

Answer. It seems to be in the same condition; I see no alterations.

Question. What is that little paper you have in your hands?

Answer. This is a list of names found with the papers.

Question. Was it found with the constitution and by-laws?

Answer. Yes, sir; it was wrapped up in the same lot of papers.

The defense declined to cross-examine the witness.

ALBERTUS HOPE, having been duly sworn, testified as follows:

Question. Where do you reside?

Answer. In York County.

Question. How long have you resided there?

Answer. I have resided where I am now living for eleven or twelve years.

(A paper was here handed the witness.)

Question. Look at that instrument and tell us whether you have ever seen it before ?

Answer. I cannot be positive as to that matter, sir, whether this is the paper I have seen before or not.

Question. Did you give a paper containing the constitution and by-laws of the Ku-Klux Klan to Samuel G. Brown ?

Answer. I gave him a written document.

Question. Is that the document ?

Answer. I cannot say positively that it is ; the paper has been used ; I was not familiar with the handwriting of the document ; if this be the paper, it has been used since it passed out of my hands.

Question. What do you mean by that ? That it is dirty ?

Answer. Yes, sir ; it has been some time since it passed out of my hands, and I cannot be positively certain that it is the paper.

Question. How many sheets or half sheets of paper were there in that constitution and by-laws ?

Answer. I think the amount of paper is the same.

Question. Was it on a sheet and a half ?

Answer. Yes, sir.

Question. What is the substance of it ?

(Question objected to and withdrawn.)

Question. Have you read the paper ?

Answer. A portion of it, I did, sir ; I cannot say that I ever read it all.

Question. Have you read it now ?

Answer. No, sir ; I read a portion of it.

Question. Read it and see whether it is the same paper.

Answer. I must say that I don't recognize the handwriting.

Mr. STANBERRY. The question is addressed to the court as to the admissibility of the paper. [To Mr. Corbin.] Do you claim that this testimony goes to the jury with respect to this paper, or whether it is an examination before the court ?

Mr. CORBIN. I am endeavoring to prove this paper by this witness in the presence of the court and jury.

Mr. STANBERRY. We object to this paper till the court has decided as to its admissibility.

Judge BOND. The counsel for the Government has a right to prove the conspiracy, and he can begin at which end he pleases.

Mr. STANBERRY. The question is whether that paper is identified, and the proof of the paper must be addressed to the court.

Judge BOND. You do not connect this party with these papers ; if it is not the paper upon which the charge is based, the prosecution is at liberty to examine the witness to show the authenticity of this paper.

Mr. STANBERRY. But the testimony is always to the court.

The COURT. The counsel has not offered the paper yet.

Mr. STANBERRY. The question of its authenticity is before the court, not the jury.

Mr. JOHNSON. Some of his answers may have weight with the jury. The objection to the paper is on that ground if it be read to the jury before it is identified. The evidence as to the identity of the paper is always submitted to the court.

The COURT. He is simply endeavoring to identify the paper.

Question. Have you read that paper now ?

Answer. Yes, sir.

Question. What do you say to the substance of that paper ?

Answer. So far as my knowledge serves me, a portion of it is the same. The contents of a portion of it are the same.

Question. What do you say of the paper as a whole ?

Answer. Well, I don't know as I can say anything further than, if my memory serves me, that is a portion of it.

Question. How much of it ?

Answer. So far as my memory serves me, in regard to the constitution, part of it ; it appears to me to be about the same.

Question. Do you believe this is the paper, or not ?

(Question objected to.)

Question. Where did you get that paper that you gave to Mr. Brown ?

Answer. I think, as near as my memory serves me, that it was given me by Major Avery.

Question. When did you get that paper of him ?

Answer. Some time in 1868.

Question. How came he to give you that paper ?

Answer. From my statement to him that I would like to see the ground-work. At that time it was discussed in the newspapers all through the country that there was such a thing in some portion of the county, though not in ours. I expressed a desire to see the ground-work, and the document was handed to me.

Question. The ground-work of what ?

Answer. The Ku-Klux organization.

Question. What did you understand from Major Avery the Ku-Klux organization to be ?

Answer. I could not positively find that out.

Question. What is the general understanding ?

(*Question objected to.*)

Mr. CORBIN. This organization is one of secrecy, and its operations are in the dark, and their members endeavor to keep all they did, even their relation to the order, secret, and it is this gentleman's understanding as to who the commanding officer was that we wish to get at.

Question. Have you ever been a member of that Klan ?

Answer. I have not been a sworn member.

Question. Have you been inside the order and recognized as a member ?

Answer. I never have, as I consider it.

Question. Did you ever attend meetings of this order ?

Answer. Yes, sir ; I did attend one, a statement of which I have given.

Question. When was that meeting held ?

Answer. I have not the dates of anything, but, as well as my memory serves me, it was along about the first of last March.

Question. What other members of the Klan were there ?

Answer. If you call it a Klan, there were other members there.

Question. All the persons who attended that meeting—were they not members of the Klan ?

(*Question objected to.*)

Question. Was it a meeting of the Ku-Klux Klan ?

Answer. I did not consider it so.

Question. Were you or not elected chief that night ?

Answer. I was elected to govern that party ; and allow me to state—

Mr. CORBIN. That is all I desire.

The WITNESS. The condition of the up-country demanded something at that time. They had been burning and making threats in the country, and it certainly did demand that something should be done. Word was left to my house to go to that meeting. I came very near not going ; but when I did go I asked the object of the meeting, and it was said that, inasmuch as there had been so much burning and threats made round our county, it was necessary we should come to some understanding ; that we should know where to get assistance if we needed it.

Question. Well, you organized a Klan ?

Answer. Yes, sir ; if you consider that an organization.

Question. And they elected you chief of that crowd, did they not ?

Answer. They elected me leading officer of that party.

(*Testimony objected to.*)

Mr. CORBIN. We think this testimony is pertinent as to whether all who were present acknowledged, before proceeding to business, that they were sworn members of the Ku-Klux or other Klans.

Mr. JOHNSON. We object to that. I understand him to ask whether the persons present at that meeting acknowledged that they belonged to that Klan—as to whether they said so. The proper way is to call up the men themselves, if they can get them ; but they propose to rely upon the unsworn declaration of those who were present. We are entitled to have direct evidence of the fact that each one was a member of the Klan in point of fact ; not by his own declarations, but by something that he did, if they can show any act that he did but this in the inception of the proposed association.

Mr. CORBIN. This organization, as we shall be able to show, is one that operates in the dark, and that the members were known to each other by signs and grips, and by various means, and that, when they recognized each other, they talked and discussed the proceedings of the order.

Mr. JOHNSON. We do not object to that.

Mr. CORBIN. We wish to show that on this occasion they did not proceed to business till each man had been examined to know whether he was initiated within the order ; that this question was put to the members of the order, and that they all gave assent that they were sworn members of the Ku-Klux Klan ; and that they then proceeded to the organization, electing Mr. Hope as their chief.

Question. Was each person present at that meeting interrogated as to whether every member present belonged to the Ku-Klux Klan ?

Answer. I do not know positively that they were. It was not done by me.

Question. Was it done by somebody ?

(*Question objected to as leading.*)

Answer. A portion of it was, but it was not done by me. A portion of them had been sworn in.

Question. Did not that apply to all of them ?

Answer. I do not think it did.

Question. They did elect you commander that night, did they not ?

Answer. Yes, sir.

Question. Were there not some officers elected ?

Answer. Some were appointed.

Question. What were they called ?

Answer. Some termed them wardens, to let them know if they were needed.

Question. What are the general names by which they were known ?

Answer. I do not know ; some of them called them Night-Hawks.

Question. How many Night-Hawks did you elect ?

Answer. I do not remember exactly.

Question. Were there any other officers there ?

Answer. I think there were ; a man that kept the roll or record, in case there was any need of them.

Cross-examination by Mr. STANBERY :

Question. You speak about going yourself to that meeting ?

Answer. Yes, sir.

Question. At what season of the year was it ?

Answer. I think about the last of March, 1871.

Question. You say the reason why you went to the meeting was because of certain burnings and threats which had been made ?

Answer. Yes, sir.

Question. Had you any burnings there ?

Answer. Yes, sir ; we had a number of them.

Mr. CORBIN. We object to that.

Mr. STANBERY. It was you who proved it ; we didn't ask him if there had been any.

Question. State what burnings there were.

Answer. Dr. Masters and Mr. Castle, and Rev. James Castle and Jackson Brown, who had their gin-houses and mills and barns and stables burned, and then the smoke-house of Mr. Brown and others in the neighborhood.

Question. Had these burnings been frequent ?

Answer. About five or six.

Question. What threats had been made ?

Answer. Threats had been made.

By Mr. CORBIN :

Question. Name the person who made the threats.

Answer. It was a freedman by the name of Mick Moore.

Question. Did you hear him make it ?

Answer. No, sir.

Mr. CORBIN. We object to the testimony.

Mr. STANBERY. They are attempting to make out a conspiracy, and to show intention, purpose, and motives which instigated the parties to make the agreement. I have heard of no agreement that is before the jury, except the meeting this gentleman attended in March last. That is the only agreement which has yet been given in evidence. We want to show what were the purpose and objects of that meeting ; what measures the meeting agreed to take to avert these injuries, or burnings, or threats, supposing there had been no threats, but that the parties had been informed that threats had been made to burn their houses or other injuries. Acting upon that information, there are abundant reasons to prove the intent, animus, and motives of the meeting.

The COURT. The witness says he heard those threats, but does not know who made them.

The WITNESS. I heard of threats being made, but do not know who made them.

Mr. JOHNSON. The specific charge against the prisoner is that he belonged to a conspiracy to violate the rights secured by the act of 1870 ; that is, the right to vote, or to do anything else that was secured by the act of 1870. The counsel for the prosecution has told the jury that they proposed to prove that this was an organization for the purpose of frustrating or defeating some right belonging to our colored citizens, and especially the right of suffrage ; and he has told the jury that the conspiracy or association was to that end. Now, is it not competent for us to prove by the party, if he is a competent witness, that that was not the object of the conspiracy at all, far as is known ; that, on the contrary, his individual motives in becoming a party to that association was to protect his own property and that of his neighbors, and the lives of those who might be connected with them, from what he supposed to have been going on in the neighborhood, by some persons, whether white or black is immaterial, or whether there were threats or no threats, if they went together under the honest impression that such threats had been made, and should it turn out that such threats were made, of guarding themselves against the consequences of such threats. It dis-

proves the very ground on which the prosecution are placing their case—that they got together for a different purpose than preventing the colored man from exercising the right of suffrage. It is wholly immaterial whether there were fires or threats then or not. If they believed that these conflagrations would be continued, and honestly believed that other wrongs would be committed upon them and their neighbors, such as were indicated by the threats, then they not only did not commit the offense charged in this indictment, but they did what they had a right to do—they acted in self-defense, upon the hypothesis which we suppose to be established by the testimony of this witness; that is to say, they acted upon the natural desire of shielding themselves against outrages, and not for the purpose of perpetrating outrages upon others.

By Mr. JOHNSON :

Question. What was your motive in going to the meeting in March, 1871 ?

Answer. For self-defense and the protection of those that were helpless in my neighborhood; to guard against anything that was going on or that might be gotten up. There were other things which led my mind to believe there would be difficulties.

Question. You went to the meeting to guard yourselves against further conflagrations ?

Answer. I had no other object in view.

By Mr. STANBERY :

Question. What did you understand to be the nature of these threats ?

Answer. It was just this, that they were threats.

Question. Who did you understand that these threats came from ?

(Question objected to.)

By Mr. JOHNSON :

Question. You understood them as coming from somebody ?

Answer. Yes, sir, I did.

By Mr. STANBERY :

Question. Did you understand these burnings to be accidental or incendiary ?

Answer. They could not possibly be accidental.

Mr. CORBIN. We object.

Judge BOND. The witness has a right to answer that.

Mr. CORBIN. They insist that we shall not put in any hearsay testimony, and they are asking nothing else.

By Mr. STANBERY :

Question. Then your purpose in going to that meeting was to protect yourself and your family against those fires and the performance of those threats. Had you to guard your own house for several nights ?

Answer. Yes, sir. I walked my yard several nights. We could not sleep. There were several fires around us. I do not know how they came.

Question. Then you were impressed with the danger to yourself and family ?

Answer. Yes, sir; from their nearness to me I certainly was impressed.

Redirect examination :

Question. You replied, in answer to a question, that you went to that meeting to protect yourself and the helpless ones about you. Did that include the colored people as well as your own family ?

Answer. Yes, sir; I intended to protect all about me.

Question. Who were you to protect the colored people against ?

Answer. From any party that might molest them.

Question. Had you reference to the Ku-Klux organization in that reply ?

Answer. I had no reference to any particular organization.

Question. Do you not know that the Ku-Klux were raiding generally ? Was it not your motive to protect your colored laborers from them ?

Answer. There were raiding parties going about the country.

Question. And you intended to protect the colored people on your lands ?

Answer. I did, sir.

By Mr. STANBERY :

Question. From whom did you understand these threats to come ?

Answer. I understood them to come from a portion of the colored race.

By Mr. CORBIN :

Question. Who did you understand were committing these raids around the country ?

Answer. My understanding was that the raids were made generally by white parties.

Question. What were these raiding parties called ?

Answer. They were generally called Ku-Klux.

Question. What was the character of these raids; what were they raiding on, and what were they doing?

Mr. STANBERY. We object.

The COURT. We think he has a right to answer that.

Mr. JOHNSON. There is no conspiracy proved.

The COURT. The witness is entitled to answer, to show the conduct of the raiding parties throughout that country.

Mr. CORBIN. I do not think we will press that further.

KIRKLAND L. GUNN (white) was the second witness called for the prosecution. He was sworn and testified as follows:

Direct examination by Mr. CORBIN:

Question. Are you a resident of York County?

Answer. I was, sir.

Question. When did you reside in York County; how long?

Answer. I resided there from the time I was born until last May, sir.

Question. Were you, Mr. Gunn, during your residence in Yorkville, a member of the Ku-Klux Klan?

Answer. I was, sir.

Question. When did you join the organization?

Answer. In January, 1871, sir.

Question. Where?

Answer. At Wesley Smith's, in York County, or near his house, sir.

Question. Who initiated you?

Answer. Wesley Smith, John Osborne, and others.

Question. Did you take the obligation of the order; the oath?

Answer. I did, sir.

Question. I will read an obligation to you, and ask you if—

Mr. JOHNSON. [Interrupting.] State to us what the obligation was.

Mr. CORBIN. I propose to read it.

Mr. JOHNSON. No, sir; let him state what the obligation was.

The COURT. He is entitled to read the obligation, and ask the witness if he ever heard that obligation before.

Mr. JOHNSON. Without first asking him what the obligation was? That is telling the witness what the answer is. Our view is that, in relation to an obligation or an oath, the party must state from recollection, if he can recollect, what was the character of the obligation.

Mr. CORBIN. We have no objection to asking the general question first. What was the obligation and purpose of the Klan?

Answer. The obligation, sir, that I took was that I should not divulge any part of the secrets of the Klan that I had joined, and it was for the purpose of putting down radical rule and negro suffrage.

Question. What was the general object and purpose of the order?

Answer. That was the purpose of the organization, sir.

Question. Have you ever heard the constitution and by-laws of the order read?

Answer. I heard it read, sir, when I was initiated.

Question. How were you initiated? Describe to the jury the process of initiation.

Answer. I was knelt down, sir, and the oath was read to me, and then the constitution and by-laws were read to me, sir.

Question. Now I want you to look at that constitution and by-laws and say whether that was the constitution and by-laws of the order.

[Counsel passed to witness a paper purporting to be the obligation, constitution and by-laws of the Ku-Klux Klan, which witness examined, and answered:]

Answer. Sir, that is in substance the same that I heard read. This obligation is the same, sir, and I think the constitution is the same in substance.

Mr. CORBIN. We propose to read that paper, may it please your honors.

Mr. JOHNSON. Let us see it first before you read it.

[The paper was handed to counsel for defense.]

Mr. STANBERY. [To the witness.] This paper that they have handed you, did you ever see this particular paper before?

Answer. Yes, sir.

Mr. STANBERY. When?

Answer. I saw it in Colonel Merrill's office at Yorkville.

Mr. STANBERY. When did you first see it there?

Answer. It was about one week ago, sir, I think now, as well as I remember.

Mr. STANBERY. That is the first time you ever saw it?

Answer. Yes, sir; that is the first time I ever saw that paper.

Mr. STANBERY. You saw the same paper, however?

Answer. Yes, sir; I saw the same document and on another paper—the same instrument.

Mr. STANBERRY. But the document you speak of is not this identical paper?

Answer. No; not that paper.

Mr. CORBIN. We propose to read this paper, if the court please.

The COURT. Read the paper.

[**Mr. CHAMBERLAIN**, of counsel for the prosecution, read the document referred to, as follows:]

OBLIGATION.

I, (name,) before the immaculate Judge of Heaven and earth, and upon the holy Evangelists of Almighty God, do of my own free will and accord subscribe to the following sacredly binding obligation:

1. We are on the side of justice, humanity, and constitutional liberty as bequeathed to us in its purity by our forefathers.

2. We oppose and reject the principles of the radical party.

3. We pledge mutual aid to each other in sickness, distress, and pecuniary embarrassment.

4. Female friends, widows, and their households shall ever be special objects of our regard and protection.

Any member divulging, or causing to be divulged, any of the foregoing obligation, shall meet the fearful penalty and traitor's doom, which is death! death! death!

CONSTITUTION.

Article 1. This organization shall be known as the — Order, No. — of the Ku-Klux Klan, of the State of South Carolina.

Article 2. The officers shall consist of a cyclops and scribe, both of whom shall be elected by a majority vote of the order, and to hold their office during good behavior.

Article 3. It shall be the duty of the C. to preside in the order, enforce a due observance of the constitution and by-laws, and an exact compliance to the rules and usages of the order—to see that all the members perform their respective duties, appoint all committees before the order, inspect the arms and dress of each member on special occasions—to call meetings when necessary, draw upon members for all sums needed to carry on the order.

Section 2. The S. shall keep a record of the proceedings of the order, write communications, notify other Klans when their assistance is needed, give notice when any member has to suffer the penalty for violating his oath; see that all books, papers, or other property belonging to his office are placed beyond the reach of any one but members of the order. He shall perform such other duties as may be required of him by the C.

Article 4, Section 1. No person shall be initiated into this order under eighteen years of age.

Section 2. No person of color shall be admitted into this order.

Section 3. No person shall be admitted into the order who does not sustain a good moral character, or who is in any way incapacitated to discharge the duties of a Ku-Klux.

Section 4. The name of a person offered for membership must be proposed by the committee appointed by the chief, verbally, stating age, residence, and occupation; state if he was a soldier in the late war; his rank; whether he was in the Federal or confederate service, and his command.

Article 5, Section 1. Any member who shall offend against these articles or the by-laws, shall be subject to be fined, and reprimanded by the C., as two-thirds of members present at any regular meeting may determine.

Section 2. Every member shall be entitled to a fair trial for any offense involving reprimand or criminal punishment.

Article 6, Section 1. Any member who shall betray or divulge any of the matters of the order, shall suffer death.

Article 7, Section 1. The following shall be the rules of order to any matter herein not provided for; shall be managed in strict accordance with the Ku-Klux rules.

Section 2. When the chief takes his position on the right, the scribe, with the members forming a half circle around them, and at the sound of the signal instrument, there shall be profound silence.

Section 3. Before proceeding to business, the S. shall call the roll and note the absentees.

Section 4. Business shall be taken up in the following order:

1. Reading the minutes.

2. Excuse of members at preceding meeting.

3. Report of committee of candidates for membership.

5. Collection of dues.

6. Are any of the order sick or suffering?

7. Report of committees.

8. New business.

BY-LAWS.

Article 1, Section 1. The order shall meet at —.

Section 2. Five (5) members shall constitute a quorum, provided the C. or S. be present. •

Section 3. The C. shall have power to appoint such members of the order to attend to the sick, the needy, and those distressed, and those suffering from radical misrule, as the case may require.

Section 4. No person shall be appointed on a committee unless the person is present at the time of appointment. Members of committees neglecting to report shall be fined 30 cents.

Article 2, Section 1. Every member, on being admitted, shall sign the constitution and by-laws, and pay the initiation fee.

Section 2. A brother of the Klan wishing to become a member of this order, shall present his application with the proper papers of transfer from the order of which he was a member formerly; shall be admitted to the order only by a unanimous vote of the members present.

Article 3, Section 1. The initiation fee shall be —.

Article 4, Section 1. Every member who shall refuse or neglect to pay his fines or dues, shall be dealt with as the chief thinks proper.

Section 3. Sickness, or absence from the country, or being engaged in any important business, shall be valid excuses for any neglect of duty.

Article 5, Section 1. Each member shall provide himself with a pistol, Ku-Klux gown, and signal instrument.

Section 3. When charges have been preferred against a member in a proper manner, or any matters of grievance between brother Klux are brought before the order, they shall be referred to a special committee of three or more members, who shall examine the parties and determine the matters in question, reporting their decision to the order. If the parties interested desire, two-thirds of the members present voting in favor of the report, it shall be carried.

Article 6, Section 1. It is the duty of every member who has evidence that another has violated article 2, to prefer the charge and specify the offense to the order.

Section 2. The charge for violating article 2 shall be referred to a committee of five or more members, who shall, as soon as practicable, summon the parties and investigate the matter.

Section 3. If the committee agree that the charges are sustained, that member on trial has intentionally violated his oath, article 2, they shall report the fact to the order.

Section 4. If the committee agree that the charges are not sustained, that the member is not guilty of violating his oath or article 2, they shall report to that effect to the order, and the charges shall be dismissed.

Section 5. When the committee report that the charges are sustained, and the unanimous vote of the members is given in favor thereof, the offending person shall be sentenced to death by the chief.

Section 6. The prisoner, through the cyclops of the order, of which he is a member, can make application for pardon to the great grand cyclops of Nashville, Tennessee, in which case execution of the sentence can be stayed until pardoning power is heard from.

[At the conclusion of the reading Mr. CORBIN resumed the examination.]

Question. Mr. Gunn, you have stated the general purposes of the order, now will you please state to the jury how those purposes were to be carried into effect?

Answer. Well, sir, that is known, I think; but the way that I was told that they were going to carry this into effect was by killing off the white radicals, and by whipping and intimidating the negroes, so as to keep them from voting for any men who held radical offices.

Mr. JOHNSON. We reserve objections to that; it is of no consequence.

Question. Pursuant to that mode of intimidating and killing voters, was there anything of the kind done within your knowledge?

Mr. STANBERY. We object to that question—object to his saying what he was told.

Mr. CORBIN. I am not asking for what he was told.

Mr. STANBERY. The gentlemen have produced a constitution of the order and given it in evidence, and that has nothing in it about interfering with the suffrage. There is no such agreement in that paper. Now, I understand the witness to be asked whether he was told by some one that any other body was to intimidate voters. That is not the way to make out the case.

The COURT. We think the question may be asked. [To the witness.] State what was done in pursuance of the object of the order. What was done pursuant to the purpose of the order as you have stated it according to your knowledge?

Answer. Their principle was to whip such men as they called radicals, and men who were ruining the negro population, &c.; and they murdered some.

Question. Well, Mr. Gunn, when did they do this; night-time or day-time?

Answer. In the night, sir.

Question. Whether the organization was armed according to the by-laws?

Answer. Yes, sir; they were armed.

Question. What were their arms?

Answer. Most generally pistols, sometimes shot guns, muskets, &c.

Question. What is the Ku-Klux gown referred to in the by-laws?

Answer. It is a large gown made—all that ever I saw was made of some solid colored goods; I don't know what the color was; it looked dark in the night; I never saw a gown in daylight.

Question. What were those gowns worn for?

Answer. To disguise the person, sir.

Question. Were the purposes of the order to be carried out with the disguise on?

Answer. Yes, sir.

Question. When the Klan was assembled to prosecute any of its purposes, such as whipping and killing, were they disguised or not?

Answer. Always, sir.

Question. And always moving, when?

Answer. In the night.

Question. Whether you yourself have been on raids, or been ordered out?

Answer. I was ordered to two, sir.

Question. Who gives the order for a raid in the Klan?

Answer. The chief.

Question. Who carried the orders in the Klan?

Answer. The officers known as Night-Hawks.

Question. What raids were you ordered upon?

Answer. The first, sir, was a raid known as the Bill Kell raid.

Question. Who brought you the order to go upon that raid?

Answer. John Wallace.

Question. Who is John Wallace; what is his relation to the order?

Answer. He was what we call a Night-Hawk, sir.

Question. In whose Klan?

Answer. John Mitchell's.

Question. Were you a member of that Klan?

Answer. Yes, sir; I was told I was a member of it when I was initiate.

Question. Whether you went on that raid?

Answer. We went to where the meeting place was and met several men there, and among the rest was Hugh Kell, and, when he was found to be there, the chief declined going on the raid.

Question. On account of his presence?

Answer. Yes, sir.

MR. STANBERY. What has all that to do with it?

MR. CORBIN. General mode in which the business of the order was carried on.

Question. What was the purpose of raiding on Bill Kell?

Answer. It was my understanding to kill him, sir.

Question. What for?

Answer. Because he was a president of a Union League.

Question. You say that the raid did not proceed any further than the meeting place?

Answer. No, sir.

Question. And because his brother was there?

Answer. Yes, sir.

Question. What other raid were you ordered upon?

Answer. One known as the raid upon Jennie Good.

Question. What was the object of the raid; who brought you the order?

Answer. I don't remember who brought the order now.

Question. Was it an order from the chief?

Answer. Yes, sir; it was an order from Byers.

Question. He was the chief of the Klan that was going to make the raid with another Klan?

Answer. Yes, sir.

Question. What Byers?

Answer. Charles Byers.

Question. Did he have a Klan?

Answer. Yes, sir.

Question. How about those Klans; you say you belonged to one Klan, John Mitchell's Klan, and now you speak of Byers's Klan; tell us about the two Klans?

Answer. They were near each other, and members of the order could be called upon from one Klan by the other.

Question. Which Klan was organized first?

Answer. John Mitchell's.

Question. How came the other Klan to be organized ?

Answer. Because they wanted a Klan in their neighborhood, sir.

Question. Now you say you were ordered by Charley Byers on that raid ?

Answer. Yes, sir.

Question. Did you go ?

Answer. I went to where they met.

Question. Where was that ?

Answer. It was on Roland Thompson's plantation.

Question. Whom did you meet there ?

Answer. I met Byers, Wesley Smith, Joe Smith, and others, I don't remember now who.

Question. Members of the order ?

Answer. Yes, sir.

Question. How did you recognize a member of the order ?

Answer. By signs and passwords, sir.

Question. Did you recognize them in that way that night ?

Answer. Yes, sir.

Question. Did you go on that raid ?

Answer. No, sir.

Question. Why not ?

Answer. Because I had no saddle to ride, sir.

Question. Did the others go ?

Answer. Yes, sir.

Question. What was the object of the raid ; the reason of it ?

Answer. The reason that I was told was that they wanted to drive this negro woman from Dr. John Good's premises ; that she was a nuisance to his wife, and they thought a duty of the order to drive her away from there.

Question. Now tell us what some of the signs and passwords of the order were ?

Answer. This was the first sign, (witness here passed his hand forward over his right ear.) It was to be answered the same way by the left hand. This is the next sign, (here the witness inserted the forefingers of his right hand into his pantaloons pocket, the thumb remaining on the outside.)

Question. What was the reply to it ?

Answer. It was to be returned that way. (Witness here gave the same sign with his left hand.)

Question. Go on.

Answer. Then, when you were sitting about, you could give the sign by turning your [right] heel into the hollow of your foot, to be returned with the left the same way.

Question. Proceed.

Answer. The password was, if you met any one in the night you should spell the word, I-s-a-y, and not pronounce it ; if it was a member of the order whom you met you would spell, N-o-t-h-i-n-g, and not pronounce it.

Question. Any other signs and passwords ?

Answer. None that I know.

Question. What about that signal-whistle spoken of in the by-laws ?

Answer. I never saw one in daylight ; I cannot describe it.

Question. What sort of a noise did it make ?

Answer. A shrill, gurgling noise.

Question. Who carried the whistle ?

Answer. Each member was required to have one, sir.

Question. What was the object of it ?

Answer. To give signals with.

Question. What did it mean ?

Answer. If the chief sounded his whistle, if they were standing, and if they were stopped, the sound of his whistle meant to march on.

Question. When the Klan was ordered upon a raid how were they arranged as to names, &c. ?

Answer. The names were not given ; they were not called by the chief or any one, and were not allowed to call each other's names on the raid ; they were called by numbers.

Question. How were they numbered ?

Answer. They had different modes of numbering, sir ; sometimes they commenced—the first number was one hundred ; sometimes it commenced at five hundred, and at other times they commenced at one—the chief would be number one and go up from that.

Question. How was an order given if a detail was required ?

Answer. It was given by the chief.

Question. He told you what he wanted done ?

Answer. Yes, sir.

Question. How did he detail men; by number or name?

Answer. By number.

Question. How would he speak to a certain individual in the Klan, and order him to do or not to do certain things?

Answer. If it was number five, he told number five to do what he wanted done.

Question. Do you know Squire Samuel G. Brown, of Yorkville?

Answer. I do, sir. He don't live in Yorkville; he lives in York County.

Question. Is he or not a member of the order?

Answer. I heard him say that he was a member of the order, sir.

Question. What further did he say about his Klan?

Mr. JOHNSON. We object.

Mr. CORBIN. We found this constitution and by-laws in his possession, and want to know what his relations to the order were.

Question. Did he occupy any official position in the order?

Answer. He told me that he was chief, or told it to Wesley Smith in my presence, sir.

Mr. JOHNSON. That won't do.

Question. He told you he was chief?

Mr. JOHNSON. I object to this, if the court please.

The COURT. The court will rule it out.

Question. Well, he told you he was chief—that was all?

Mr. JOHNSON and Mr. Stanberry remonstrated with Mr. Corbin.

Mr. CORBIN. I understand the court to rule out his admission that he was a member of the Klan.

The COURT. The witness stated that he knew him to be a member of the Klan.

Mr. CORBIN. If the court please, our purpose in asking the question is this: we are now, by this witness, showing the general purpose and organization of the order.

The COURT. You have a perfect right to do so.

Mr. CORBIN. And for that purpose we ask this witness if Squire Sam Brown was known to him as a member of the order. He said he was. Now, we ask him what official position Sam Brown had in the order. He says he told him he was a chief.

Mr. JOHNSON. That won't do.

Mr. CORBIN. I think it is for us to prove the official relation to the order, because, how are we ever to get at a thing of that kind? Mr. Brown is not supposed to talk here and admit his official relation to the order, but what he has told to his brother Ku-Klux, in the affairs of the order, what his official relations to the order were supposed to be. Of course the best evidence in the world is Mr. Brown's admission that he was a member of the order. It seems to me, in this general conspiracy, we are to get at these things in this way; otherwise, we never can get at them, because it was a secret organization.

Mr. JOHNSON. We don't want to get at them at all.

Mr. CORBIN. And what we desire to go further is to prove what these official persons in the order—who were looked upon as leaders—what they have asserted to be the purposes of the order, their admission.

An attorney, as counsel for Mr. Brown. May it please your honor I would say this—

Mr. CORBIN. I don't think counsel for Brown is entitled to say anything about it.

The COURT. That won't do.

Mr. STANBERRY. I admit, if the court please, that in certain instances the declarations of co-conspirators are evidence that he was a co-conspirator; that that party did enter into an agreement with him. How is that to be shown? Can any one declare to another I am a co-conspirator with A, B, and C, and now I've something to tell you about that conspiracy, and proceeds to develop the conspiracy, and declares that he was a co-conspirator? Why is it necessary to argue that a party cannot make himself a conspirator with another, in that way, by his own declarations? not by his own declarations that he was concerned with another which makes declarations evidence against another, must it not appear that the other has agreed to be a conspirator with him?

The COURT. He may show that they were likewise members of the conspiracy; he can go on to show the general character of the conspiracy. He can show, on the testimony of parties, who admitted that they were members of it, and their declarations as to the purpose of it. You are not affected by it until he shows subsequently that you were a member of it likewise.

Mr. JOHNSON. We have no doubt about the law, may it please your honors; the only question is, whether the case, as it now stands, falls within the principles.

The COURT. You cannot prove a conspiracy except by an examination.

Mr. JOHNSON. But what I mean to say is this, that they propose now to give in evidence a man's declarations, for the purpose of affecting this man on his trial, and your honors say they may, providing he was one of the Klan.

The COURT. Not at all. It is not necessary that he should be a member of the same Klan.

Mr. JOHNSON. I don't mean that. I mean the general organization. Now, the only evidence that Brown was a member is, that Brown told him he was a member. So far as finding the constitution in his house is concerned, that presents a different subject. This man does not know that he was a member of the Klan; he never saw him doing anything toward the execution of the objects of the conspiracy. Our idea is that they must first prove that he was a member of the association before they can give any evidence against Brown, and they must prove that by legal evidence.

Mr. CHAMBERLAIN. If your honors please, all this evidence so far has been directed simply to the point of proving the general Ku-Klux conspiracy, and we have not attempted to connect these defendants with this conspiracy. The authorities agree that we can proceed in precisely the same manner. We have proceeded to prove the general conspiracy, but before you can fasten the guilt of that conspiracy upon any individual defendant, you must connect him with that conspiracy. Now we are trying to prove that York County was enveloped by this conspiracy; it was a general conspiracy; and here we have first presented the evidence of this Squire Brown, that he himself was a member of that conspiracy to which all our evidence relates. Has it not been proved, then, that Squire Brown himself admitted of this general conspiracy, and if he was a member of this general conspiracy, then are his acts and declarations evidence, not that these defendants were members of the conspiracy, but to prove the general character of the conspiracy.

The COURT. These people had a method of recognizing. [To the witness.] Had you any other way of knowing that Squire Brown was a member of the order?

Answer. Yes, sir; he gave me the sign which I have just showed you, and I answered it.

Question. Well, now, what did he say about the purpose of his Klan—the purpose of the order?

Answer. He and Wesley Smith were in conversation, and I stepped up and he gave me the sign, which I returned; he said, "Is this man all right?" and Wesley Smith said, "Yes." "Well," he then continued, as if they had been in conversation some time—he says himself, "I can kill and whip more damn niggers with my Klan than all the rest of York County."

Question. Will you now tell, perhaps you know, of the extent of this organization in York, and how the Klans were situated, located throughout the county?

Answer. I cannot give you any correct idea about the situation of Klans, and the number of Klans, but, to the best of my knowledge, I think the majority of the white people of York County belong to the order.

Question. How many Klans did you have relations with about where you live?

Answer. Only three, sir, that I had any connection with.

Question. Whose Klans were those?

Answer. John Mitchell's, Charley Byers's, and Bob Burris's.

Question. Can you tell us about how many members each of those Klans had?

Answer. Burris only had twenty; Byers had, I think, seventeen; I don't know the number of Mitchell's.

Question. Now, please state again, what, from your own knowledge of the operations of the order and its leading men, was the purpose of the order?

Answer. Just what I have said to you before was the purpose.

Question. Your own knowledge?

Answer. Well, my own knowledge was what I was told, and what I heard of being done, sir.

Question. Well, for instance, take your own chief, John Mitchell; what did he tell you, or, rather, what were his statements to you, and the purpose of the order when you were initiated?

Answer. He did not make any statements to me himself.

Question. Who did make statements to you?

Answer. Wesley Smith and others that were there at the initiation.

Question. In the first place, you heard the constitution and by-laws read?

Answer. Yes, sir.

Question. Then you heard the men talk at the meeting?

Answer. Yes, sir.

Question. And Wesley Smith you heard discuss the matter?

Answer. Yes, sir.

Question. What did he say?

Answer. Just what I have repeated; it was to put down radical rule and negro suffrage.

Question. Did you ever hear Charley Byers?

Answer. Yes, sir; that is what I heard him say it was for.

Question. And the other Klan; have you mentioned the chief of the other Klan?

Answer. It was Sam Stewart.

Question. Did you hear Mitchell, who ordered the raid on Bill Kell, say what the purpose of that raid was?

Answer. I did; he said it was for the purpose of killing him.

Question. For what?

Answer. For being a president of the Union League.

Question. Now, Mr. Gunn, can you tell us anything about the extent of this general conspiracy—this organization—not only in York County, but beyond the limits of York County, or beyond the limits of this State?

Answer. I met the same order in Georgia, sir. I don't know anything about it beyond York County, in this State.

Question. You met it in Georgia; what counties in Georgia?

Answer. I found it in Whitfield County and Catoosa.

Mr. JOHNSON. What has that to do with the question?

Mr. CORBIN. I am proving the extent of this conspiracy here.

Mr. JOHNSON. What has that to do with the offense charged to be committed in South Carolina? We are not to be bound by what they did in Georgia.

Mr. CORBIN. We are proving the general conspiracy. It is the same conspiracy all over.

Mr. JOHNSON. How can you know that?

Mr. CORBIN. I propose to ask the witness.

Mr. JOHNSON. He does not know anything about it.

Mr. CORBIN. My distinguished friend has interrupted him before he can answer.

Mr. JOHNSON. I mean to say that a conspiracy in Georgia, or any other State, is no evidence at all of the objects of a conspiracy here.

The COURT. He has stated that he knew himself; recognized it, he said, by signs.

Mr. JOHNSON. By signs? Very well.

Question. Did you attend meetings over in Georgia?

Answer. I did, sir.

Question. What counties?

Answer. The first meeting was in Catoosa County.

Question. What were they doing over in Georgia to carry out this conspiracy?

Answer. The meeting that I was at last was to raise money for the purpose of sending to South Carolina, they told me.

Question. For what purpose?

Answer. For paying lawyers' fees and paying witnesses to go to court. [Laughter.]

Mr. JOHNSON, (*sotto voce.*) I hope they raised it.

Mr. STANBERY, (*sotto voce.*) That is encouraging.

Mr. CORBIN, (*sotto voce.*) I should think that would be comforting information to you.

Question. The whole matter discussed in the meeting?

Answer. Yes, sir.

Question. Taking care of the K. K. brethren in this State, were they?

Answer. Yes, sir.

Question. Was money raised?

Answer. There was, sir.

Question. Raise it for sending on here?

Answer. They told me that was the purpose.

Question. Money paid in?

Answer. Yes, sir.

Mr. Corbin began another question, but was interrupted in it by Mr. Johnson, who stated that a juror desired to retire, and he would recommend an adjournment.

The court directed the marshal to adjourn the court until 7 o'clock in the evening, and to take the jury in custody.

The court then adjourned.

EVENING SESSION.

KIRKLAND L. GUNN, continued.

Question. Do you know J. W. Avery, of Yorkville?

Answer. I do, sir.

Question. Do you know whether he is a member of the Ku Klux order?

Answer. I do not.

Question. What is the understanding in the order with reference to it?

Answer. I understood he was a member of it.

Mr. STANBERY. We object to that testimony.

COURT. That will not do.

Question. Do you know this defendant?

Answer. I do, sir.

Question. How long have you known him?

Answer. I think about two years since I met him first.

Question. Do you know whether or not he is connected with the order ?

Answer. I do not.

Question. How far did you live from him in Yorkville ?

Answer. About twelve miles.

Cross-examination by Mr. STANBERY :

Question. What moved you to join this order ?

Answer. I was solicited by Mr. Smith and others. I was told if I did not join it it would probably go hard with me if anything should turn up; that if they got into power they would work for us; that was the language used to me.

Question. What part of the county did you then live in ?

Answer. At that time I was in the northeastern part of the county.

Question. Where did this Mr. Smith live ?

Answer. He lived in that portion of the county.

Question. Where was the house to which you went to join ?

Answer. It was at his house.

Question. Did he solicit you to join ?

Answer. Yes, sir.

Question. Was that the only motive that induced you to go ?

Answer. It was for my personal safety; that induced me to join them.

Question. You say he threatened you ?

Answer. Yes, sir.

Question. What were the nature of his threats, and when were they ?

Answer. It was at the time he first mentioned the matter to me that he told me it would not be good for me if I refused to join the order.

Question. Where was that ?

Answer. At his house.

Question. Who was present ?

Answer. There was no one present at that time.

Question. Were you on a visit then ?

Answer. I was at his house photographing; that was my business.

Question. Did he speak of any fires or dangers from any persons in that county ?

Answer. Not at that time he didn't.

Question. Had you heard anything about fires ?

Answer. Of course, sir, I had heard of fires in the county.

Question. Whereabouts ?

Answer. I do not remember the names of any persons now who had suffered.

Question. Was there a report of incendiarism in the county ?

(*Question* objected to; the court permits it only to show the motive of the party in joining the organization, irrespective of the fact.)

Mr. STANBERY. That is what I am after.

Answer. They wished me to join to protect myself.

Question. Did Mr. Smith speak to you about fires and dangers from any class of people before you joined ?

Answer. No, sir; he did not have anything to say about dangers or fires or incendiarism, or anything of that sort.

Question. But they told you it would be better for you to join ?

Answer. Yes, sir.

Question. Did you know what kind of a society it was you were going to join ?

Answer. I did not till I was initiated.

Question. How long was it after Mr. Smith told you it would be better for you to join ?

Answer. It was about two hours from the time he first mentioned to me.

Question. Who was present when you were initiated ?

Answer. John Osborn and some others; but I do not remember who they were.

Question. Was Mr. Smith himself there ?

Answer. Yes, sir; he was the man who initiated me.

Question. You say there was a constitution ?

Answer. Yes, sir.

Question. Did you see it ?

Answer. I did.

Question. Did you read it yourself ?

Answer. No, sir.

Question. Was it in a book ?

Answer. No, sir; it was written on foolscap paper.

Question. Was it on one sheet or more ?

Answer. I think it was on two sheets and a half.

Question. Were they fastened together ?

Answer. Yes, sir; they were.

Question. How were they fastened ?

Answer. At the side ; like a copy-book.

Question. That was read, too, was it ?

Answer. Yes, sir.

Question. Who read it ?

Answer. Wesley Smith.

Question. After you had heard it read, what then ?

Answer. I was sworn in before I heard it read ; after it was read to me I was considered a member.

Question. Were you sworn in before you heard it read ?

Answer. Yes, sir.

Question. What was the nature of the oath ?

Answer. The oath you heard read a while ago.

Question. I want you to state it.

Answer. I cannot repeat the oath, sir.

Question. What was the substance of it that you swore to ?

Answer. I swore to be true to that order and to maintain their constitution.

Question. Did you swear to maintain it before you heard it read ?

Answer. Yes, sir ; I did.

Question. After you read it, did you back out ?

Answer. No, sir.

Question. Did you sign it ?

Answer. No, sir.

Question. You said before that the Klan of which you became a member had for their chief Mr. Mitchell ?

Answer. Yes, sir.

Question. Was Mr. Mitchell there ?

Answer. No, sir.

Question. Have you ever met Mr. Mitchell at any of the meetings ?

Answer. At one meeting.

Question. What was that ?

Answer. It was at the meeting of the raid known as the Nunkiln raid.

Question. How long after you joined ?

Answer. I think three weeks.

Question. Where did you meet ?

Answer. It was in York County, near Bilk's Creek Bridge, called Barclay's Hill.

Question. Was it day or night ?

Answer. Night.

Question. Were you in disguise ?

Answer. No, sir.

Question. Was Mitchell in disguise ?

Answer. He was when he first came out there to Barclay's Hill.

Question. Did he come to that point in disguise ?

Answer. Yes, sir.

Question. Did he take off his disguise there ?

Answer. No, sir, not until he was returning back home.

Question. How long did he remain there ?

Answer. Half an hour.

Question. Was he in disguise all the time ?

Answer. I do not know ; I did not see him all the time he was there.

Question. Did you separate ?

Answer. He was mixing through the party as well as I was.

Question. You say he was in disguise, and that you saw him after the disguise was off ?

Answer. Yes, sir.

Question. Where did he put it ?

Answer. He put it in a sack.

Question. Did you see him ?

Answer. I did not.

Question. How do you know ?

Answer. I saw him put some of the others in there.

Question. Had he his disguise on or off ?

Answer. He had it off when he was there.

Question. Who else did you see there ?

Answer. Wiley Harris, Charles Foster, and Edward Leech. Wiley was the man who gave Mitchell his disguise to put away.

Question. Is that the only occasion on which you saw Mitchell ?

Answer. That was the only one.

Question. After the first meeting, when do you remember seeing him ?

Answer. Not until the time I told you of. I did not meet Mitchell's Klan any more after that.

Question. Whose Klan did you meet next?

Answer. Charles Byas's.

Question. When was that?

Answer. About a week after.

Question. Where was that?

Answer. It was on Mr. Thompson's plantation, in the western part of York County.

Question. Was it night or day?

Answer. Night.

Question. You still continued to belong to the Klan till that meeting?

Answer. Yes, sir.

Question. Was it a part of the constitution that you should not reveal it to anybody?

Answer. Yes, sir.

Question. When did you first make the discovery to any one not of the Klan that you were one of the Klan?

Answer. That was last June.

Question. Can you fix about the time in June?

Answer. I do not know what day it was.

Question. Where was it?

Answer. At Tunnel Hill, Georgia.

Question. Were you in Georgia in your photographing business?

Answer. Yes, sir.

Question. Who did you first discover it to?

Answer. To my brother-in-law, Mr. Macanley.

Question. Was that the place when you were in the meeting of another Klan?

Answer. No, sir; it was before I went into that meeting in Georgia.

Question. Then did you go to that meeting in Georgia of that other Klan after you had disclosed the secret to your brother-in-law?

Answer. Yes, sir.

Question. And you went into that other Klan as if you were still a member?

Answer. Yes, sir.

Question. And you gave the pass-word and signal, and claimed that you were a member?

Answer. Yes, sir.

Question. Did they put any new oath upon you?

Answer. No, sir.

Question. When was that?

Answer. That was in this last November.

Question. Had you stated the fact that you were a member prior to the time you stated it to your brother-in-law?

Answer. Never, before that, to any one. I met the Klan soon again after that in June. I met the members of the Klan and recognized them after I had made the discovery to my brother-in-law, and I met them again in November.

Question. I understood you to refer to the meeting to raise funds; that was in November. The first meeting, then, was in June?

Answer. Yes, sir.

Question. At whose house was that?

Answer. It was in the old field.

Question. How did you know there was to be a meeting there?

Answer. I was told so by some members of the Klan.

Question. And you did attend the meeting?

Answer. I did, sir.

Question. Did you go upon any raid?

Answer. No, sir; there were no raids made while I was there.

Question. Did you remain in that part of the country till November?

Answer. Yes, sir.

Question. And in November you attended another meeting?

Answer. Yes, sir.

Question. Where was that held?

Answer. Near the same place.

Question. And you had told no one but your brother-in-law up to that time?

Answer. I had told others after the 1st of June.

Question. Where did you remain from June to November?

Answer. At Tunnel Hill, Georgia.

Question. Did you tell others before this first meeting with the Klan in June?

Answer. It was after the first meeting that I made the disclosures to others.

Question. Who were they?

(Question objected to.)

COURT. The counsel for the defense has the right to ask that.

Mr. CORBIN. Then you will ask him when and where.

Mr. STANBERRY. I trust I know how to examine my own witnesses.

Mr. CORBIN. You are asking for matters in general, and not for particulars.

Question. When was it you made the discovery to other persons?

Answer. I think in September.

Question. Not before September?

Answer. I think not.

Question. Where were you when you made that disclosure?

Answer. Cartersville, Georgia.

Question. Who to?

Answer. The Attorney General of the United States.

Question. Do you mean Mr. Akerman?

Answer. I do, sir.

Question. How did you happen to go to Cartersville?

Answer. That was my business—to tell him.

Question. Did you tell him you were a member of the body?

Answer. I did, sir.

Question. Were you employed by him?

Answer. I was not.

Question. What took place upon your letting him know you were a member of the body?

Answer. He took a statement from me.

Question. That was all?

Answer. That was all that took place between me and the Attorney General.

Question. After that you attended no future meetings?

Answer. I did, sir.

Question. Still making believe you were a K. K.?

Answer. I did not tell them that I had made any disclosures.

Question. Did you receive any employment or any compensation for any services that were rendered at that time?

Answer. Not a cent at that time.

Question. Now, when were you first employed in the character of a detective, and who employed you?

Answer. I never was employed as a detective.

Question. How were you employed, and who employed you?

Answer. I never was employed by any one, sir.

Question. You say you didn't get any compensation at that time. At what time was it stipulated that you were to have such compensation?

Answer. No such a —; I never was promised anything.

Question. You were never promised anything?

Answer. Not a thing.

Question. Did you see no officer about this business, after you saw Mr. Akerman?

Answer. No, sir.

Question. Military or civil?

Answer. Not until I saw Colonel Merrill at Yorkville.

Question. Where did you come from when you saw him?

Answer. I came from Washington City.

Question. What took you to Washington City?

Answer. I went with my friends to see the city.

Question. O, you went to see the city?

Answer. I did.

Question. You found it a fine city! That was your only business?

Answer. That was all my business, sir.

Question. Had you ever been there before?

Answer. Never, sir.

Question. Where did you start from for Washington?

Answer. Dalton, Georgia.

Question. When you got to Washington what did you do?

Mr. CORBIN. About what?

Answer. What did I do, sir?

Question. You say you went to see the city. Did you do anything but look at the city?

Answer. That was all I did.

Question. Did you see Mr. Akerman?

Answer. I did, sir.

Question. O, you did go to see him; but that was not a part of your business that took you there?

Answer. It was not.

Question. Was anybody with you?

Answer. Yes, sir.

Question. Who ?

Answer. Colonel Baker, and some other friends.

Question. What did they go to the city for ?

Answer. Colonel Baker went to prosecute southern claims.

Question. Who were the others ?

Answer. Some men who had claims against the Government, sir.

Question. You came on their account, but you had no business ?

Answer. I had none at all, sir.

Question. But you went to see Mr. Akerman ?

Answer. I did.

Question. In his office ?

Answer. I did, sir,

Question. When you got there, what business did you have with him ?

Answer. None at all with him, sir.

Question. Just a friendly call upon him ?

Answer. None at all.

Question. You had nothing to say to him ?

Answer. We spoke about matters; of course we did, but not about Ku-Klux matters.

Question. How long did you stay in Washington ?

Answer. A week, sir.

Question. Did you visit Mr. Akerman a second time ?

Answer. No, sir.

Question. Just once, all that week, but looked at the city ?

Answer. That was all the business I had, sir.

Question. Did you return back to Georgia ?

Answer. I came to Yorkville, sir.

Question. What was your business at Yorkville ?

Answer. I came to see my friends, sir. My father lives in York district, and I came home to see my friends.

Question. How far do they live from Yorkville ?

Answer. Ten miles, sir.

Question. What time was that ?

Answer. I think it was about a week and a half ago.

Question. That was right from Washington ?

Answer. Yes, sir.

Question. Then you were at Washington within two weeks of this time ?

Answer. I was, sir.

Question. Was that as late as the beginning of this month ?

Answer. I can give you the date I left Washington. [Witness referred to a memorandum, and continued.] I left there on the 23d of November.

Question. Have you a memorandum of the time you left there ?

Answer. No, sir; I have not.

Question. You came immediately to your friends ?

Answer. I did, sir.

Question. When did you first go to Yorkville ?

Answer. On Monday morning, after I came home from Washington, on Saturday evening.

Question. Tell us your purpose ?

Answer. I had no purpose at all, sir.

Question. None at all ?

Answer. None at all, sir.

Question. Had you ever been there before ?

Answer. I think I have, sir.

Question. And had no business whatever ?

Answer. I had none at all, sir.

Question. What did you do when you got there ?

Answer. I didn't do anything, sir.

Question. Whom did you see ?

Answer. Well, among the rest, I saw Colonel Merrill; I saw several men.

Question. Did you go to see Colonel Merrill, or did he go to see you ?

Answer. I went to see Colonel Merrill first.

Question. Did anybody go with you ?

Answer. Mr. Wallace went with me when I first went to see Colonel Merrill.

Question. Where did you find Mr. Wallace ?

Answer. I met him a few miles below York, on the Pinckney road.

Question. When you were coming to Yorkville ?

Answer. Yes, sir.

Question. Was it agreed at that time that you and he should go to see Colonel Merrill ?

Answer. It was, sir.

Question. For what reason?

Answer. Because I had told him of the disclosures I had made.

Question. You told whom?

Answer. Colonel Wallace.

Question. Whereabouts?

Answer. When I first met him in the road.

Question. Was that the same day you went to see Merrill?

Answer. It was, sir.

Question. Did he turn and go with you to Merrill's?

Answer. We went into his house, and went back that evening.

Question. To see Colonel Merrill?

Answer. Yes, sir.

Question. What took place when you got to Colonel Merrill's house?

Answer. I don't remember now what did take place.

Question. You don't remember what took place? Why, that is the most recent thing you have been about; that was only a week and a half ago.

Answer. There was nothing special took place.

Question. Nothing special. Did you make a formal call for civility, or did you have business?

Answer. I had no business with him.

Question. Who opened the conversation?

Answer. Colonel Merrill.

Question. In what way?

Answer. Well, that I can't tell you now. I do not remember what he said to me now.

Question. You cannot recollect what you said to him about it?

Answer. About what, sir.

Question. About what he said to you, and what you said to him.

Answer. I believe we were talking about a cool night, when we first went in.

Question. You recollect that?

Answer. I recollect that much of it.

Question. Well, talk about this matter of business?

Answer. There was no business transacted, sir.

Question. No talk about it?

Answer. I believe that Colonel Merrill and some of his officers were talking about business.

Question. Do you mean that you did not join in their conversation.

Answer. I did not, sir.

Question. Then you had nothing to say to Colonel Merrill about business, and he nothing to say to you?

Answer. Not that night, sir.

Question. You cannot tell why it was that Wallace wanted you to go to Merrill's?

Answer. Colonel Merrill invited me to come back next morning, sir.

Question. Did you go back next morning?

Answer. I did, sir.

Question. Was that the business meeting?

Answer. If you call it business, I suppose it was, sir.

Question. Tell us the business with Colonel Merrill?

Answer. Colonel Merrill wanted me to come before the United States court as a witness; that was the business; he told me he wanted me to come down on Saturday after that, which I did.

Question. Did you tell Colonel Merrill anything that you know?

Answer. I did, sir.

Question. What did you tell him?

Answer. I don't remember now all that I did tell him; he made statements in writing; you can find them, sir.

Question. Did you tell him that you had seen Mr. Akerman?

Answer. I did.

Question. Did you tell him that you had gone to Washington?

Answer. I did, sir.

Question. Did you tell him that you were employed by Mr. Akerman, or anybody else?

Answer. No, sir; I did not tell him I was employed by any one, because I was not.

Question. Up to that time you say you were not employed by any person, in any way whatever?

Answer. I was not, sir, in the employ of any one.

Question. Did you receive any moneys or compensation from any one?

Answer. No promises made me, sir.

Question. Have you received any compensation?

The witness here hesitated a moment.

Mr. STANBURY. It can't take long to answer that question.

Answer. I have, sir.

Question. When did you receive it ?

Answer. When I was in Washington, sir.

Question. From whom ?

Answer. From the Attorney General's clerk.

Question. How much ?

Answer. Two hundred dollars.

Question. What for ?

Answer. For to defray expenses in going to Cartersville, and other places to see him.

Question. To see whom ?

Answer. Mr. Akerman.

Question. Two hundred dollars because you had gone to Cartersville ? How far was it from where you were, in Georgia, to the place where the Attorney General was ?

Answer. Sixty miles.

Question. By railway ?

Answer. Yes, sir.

Question. Would it take \$200 for that ?

Answer. Not quite that much, I think.

Question. What other expense was this \$200 to defray ?

Answer. I don't know anything else, sir.

Question. Did you tell that clerk that \$200 was a great deal more than your fare was ?

Answer. I did not.

Question. Did he tell you, when he handed you that \$200, that it was because you had been put to that much expense in going to see Mr. Akerman ?

Answer. No, sir; he didn't tell me anything about that at all.

Question. No explanations made ?

Answer. He counted me \$200 and I signed a receipt.

Question. Do you recollect the character of the receipt you signed ?

Answer. I didn't read the receipt, nor I didn't hear it read.

Question. Was that after you had seen Mr. Akerman or before ?

Answer. Afterward.

Question. By whose order ?

Answer. I suppose by the Attorney General's order.

Question. Did he tell you who gave the order ?

Answer. No, sir.

Question. Was it in the outer office that you got the money ?

Answer. It was, sir.

Question. Was it when you went out from the Attorney General's room ?

Answer. It was in the middle room, between his office and the waiting-room. There is where Mr. Akerman and I met; and Mr. Akerman went to his office and told me to remain, and his clerk came and gave the money, and told me that Mr. Akerman could not see me any more that day, and I left then, sir.

Question. Did the clerk tell you that that was for going to see Mr. Akerman at that place ?

Answer. He did not tell me for what purpose it was for.

Question. And you didn't know for any other purpose ?

Answer. That was all.

Question. And you took the money for compensation for that ?

Answer. I did; and would have taken that much more if he had given it.

Question. You would ?

Answer. I would, sir.

Question. Now, will you state whether you have received any other compensation ?

Answer. I have not.

Question. Have you had the promise of any other ?

Answer. No promise made me, sir.

Question. And do you again say that your purpose in going to Washington was not to be employed or get money ?

Answer. No, sir; it was not my intention.

Question. Only to see the city ?

Answer. Only to see the city; that was all.

Question. How were your expenses on the railroad paid coming back ?

Answer. I paid them myself, sir.

Question. When you had the conversation with Mr. Merrill, who opened it ?

Answer. He asked me what I knew about this Ku-Klux matter, I believe, sir. I commenced and made some statements to him, to the best of my recollection, what I knew and what I had heard.

Question. Were you asked in any way to make these disclosures upon any promise of not being prosecuted yourself ?

Answer. No, sir; there were no such promises made me.

Question. Have you had any personal difficulty with Mr. Mitchell?

Answer. Never had any personal difficulty with him at all.

Mr. CORBIN. Which Mr. Mitchell do you refer to?

Mr. STANBERY. John W. Mitchell.

Question. Do you recollect any difficulty in the church where you had your gallery?

Answer. He told me he wanted me to take my apparatus out of that, but it did not amount to a difficulty, or any hard feelings on my part. I told him I would do it as soon as I could, which I did do.

Question. That is the only difficulty you recollect?

Answer. That is all.

CHARLES W. FOSTER was the fourth witness called for the prosecution.

Direct examination by Mr. CORBIN:

Question. Where do you reside?

Answer. I reside in York County, sir.

Question. How long have you lived there?

Answer. I have lived there since the surrender. I was bred and born in that county. I went to a new county and came back again after the surrender.

Question. When did you join the K. K. organization?

Answer. I think it was about the 15th of December. Somewhere between the 15th and 20th.

Question. Last December?

Answer. Yes, sir.

Question. What Klan or organization did you join?

Answer. I joined in Aleck Smith's Klan first, and was transferred to John Mitchell's.

Question. That John W. Mitchell?

Answer. John W. Mitchell.

Question. When were you transferred to his Klan?

Answer. I don't know the date.

Question. Were you sworn into the Klan—did you take an oath?

Answer. Not in Mitchell's Klan, I didn't.

Question. But when you were initiated?

Answer. Yes, sir.

Question. Who administered that oath to you?

Answer. Herod Neal and Jim Arrowood.

Question. Do you remember the oath you took?

Answer. I suppose I could.

Question. Tell us, as near as you can, the character of that oath?

Answer. Well, sir, the first was to protect women and children, I believe—put down radicalism—put down Union Leagues, &c.

Question. What was the penalty, if anything, to the oath?

Answer. The penalty was, if a man divulged any secret of the society, he was to suffer death! death! death!

Question. Would you recognize the oath if you should hear it again?

Answer. I suppose I would, sir.

Listen to this. [Counsel here read the oath as read to Gunn.]

Question. What do you say to that obligation?

Answer. That is about the same that we had.

Question. Now, Mr. Foster, state what the general purpose of the order was?

Answer. The general purpose of the order?

Question. Yes; as you understood it, practically carried into effect?

Mr. STANBERY. I object to any such loose questioning as that. Here is the document which gives the scope and purpose of the organization. He may have understood it very differently from what others understood it. This, as far as we can understand, is the only agreement they entered into sustained by that oath. As to it we don't see anything to trouble anybody, except the man that divulges. First, we are on the side of justice, humanity, and constitutional liberty, as bequeathed to us in its purity by our forefathers. Second, we oppose and reject the principles of the radical party.

The COURT. That has been read once, Mr. Stanbery. This party can give the interpretation that they put upon that paper.

Mr. STANBERY. Here is the agreement that I was about to read to your honors, further to show that there is no criminality in it, so far as I can see. Now, when a party enters into such an agreement, either to make him criminal, because another man understands it to be something criminal—

The COURT. He only asked what he understood was the meaning and interpretation of that. There is a clause which says they shall put down radicalism; what is the meaning of that?

Mr. STANBERY. Let it speak for itself. What has the interpretation of this man to do with it?

The COURT. The interpretation that the Klan put upon it in their conduct.

Mr. STANBERY. When you come to a matter of conduct, it is another thing, but now the interpretation that this man put upon it won't answer. Here is the agreement.

The COURT. Ask the witness what the purposes were to be carried out.

Question. How were the purposes of the order to be carried out?

Answer. Well, sir, generally, whipping those men that belonged to the League, members of the League.

Question. The Union League?

Answer. Of the Union League, both white and black.

Question. Now, what do you understand—

Mr. STANBERY. I object to that.

Mr. CORBIN. We insist on that, if the court please.

Mr. STANBERY. Very well, I object to the interpretation that he puts upon this agreement.

Mr. CORBIN. I am not asking him about that agreement. I am asking him what he understood to be the purposes of the Ku-Klux organization, to which he belonged.

Mr. STANBERY. You have given the interpretation in writing, and we would like to see you proceed regularly.

Mr. CORBIN. I would like to see you proceed regularly for a little while.

Mr. STANBERY. I am not accustomed to such interruptions, if the court please. My objection to this is, that they have produced the written agreement by which these men were bound together, sustained and supported by an oath to sustain and preserve this agreement. I see nothing criminal in it; the agreement must speak for itself; the court must construe it, not the witness. It is a written paper, to be construed by your honors. It is a paper that, apparently, is innocent—that contains no criminal agreement. Is he to be made a criminal, because somebody else puts a criminal interpretation upon it? The question is, whether the paper itself is susceptible of a criminal interpretation. I have belonged to societies myself, in college; I have signed written constitutions, with a great many agreements in them about not divulging, and many other rules, very much like those rules.

Well, now, the constitution and agreement of those societies were perfectly innocent, entirely so; so that any man might sign them without committing a crime; might enter into such an agreement without being made a criminal; take for instance, myself, signing such constitutions of such societies; can I be made a criminal because some other member in that society had a criminal intent, or put a criminal interpretation upon the paper itself? Is there such a rule as that, that a man who does understand a thing, as it is to be understood, puts a right interpretation upon it, so far as the paper shows, shall be bound by a criminal interpretation put on it by somebody else? My objection, therefore, is to giving a character and construction of this paper by the instruction and interpretation put upon it by others. It is quite a different question when you come to fulfill any purpose of this paper. What did they do—that is a very different question.

The COURT. Mr. Stanbery, the difficulty is this. They present a paper to the jury which starts with a preamble and proviso, which would indicate a society similar to a charitable association, and then there is a clause which punishes with death, which punishes anybody with death who shall disclose any of its purposes, and in order to execute these charitable objects, men are required to go in disguise. It does not look much like a charitable association, and the question asks this witness to explain the meaning of that paper, as his Klan understood it, so far as he knows, and we think it is competent. [To the witness.] What was understood in the meeting at which you were when you took that obligation, and what was the meaning of that paper—you were to put down radicalism, and go in disguise, and suffer death if you divulged? Now, state how you were to do it.

Answer. The understanding was, they never were to go in disguise, only of a night; show no signs in the day-time. Toward the last of the Ku-Kluxing, there was no man allowed to give any signs.

Question. What was the purpose of the order?

Answer. The purpose of the order?

Question. Yes. What did you understand to be the general purpose of the order?

Mr. STANBERY. Does the court allow that question?

The COURT. We want to get what was the understanding of the persons who signed that paper.

Question. Well, tell us what was the understanding of the persons who signed this paper?

Answer. It was not to divulge any secrets; to attend all meetings; to go on all raids that was ordered. They were to be fined a certain fee, whatever the Klan pleased to put on them, if they did not.

Question. What were the raids for?

Answer. To put down radicalism, the raids were for.

Question. In what way were they to put down radicalism?

Answer. It was to whip them and make them change their politics.

Question. Is that your understanding?

Answer. Yes, sir. That was my understanding about the matter.

Question. That the understanding of the Klan?

Answer. I think it was, sir.

Question. And all the Klans that you were acquainted with?

Answer. Yes, sir.

Question. What Klans were you acquainted with?

Answer. I was acquainted with Parker's Klan, and before that—

Question. What Parker?

Answer. Eleazer Parker.

Question. Where was that Klan located?

Answer. It was in Union.

Question. What other Klans were you acquainted with?

Answer. None, only Smith's. That was not to any account.

Question. What Smith was that?

Answer. Aleck Smith.

Question. Do you know any other Klans?

Answer. No. I heard of several, but then I don't know them to be regular organizations. Marr—Mat S. Marr—had a Klan.

Question. How many men in that Klan?

Answer. I don't know particularly.

Question. Have you any idea?

Answer. No, sir. I suppose some twenty, thirty, or forty.

Question. How many meetings of the Klan did you ever attend?

Answer. I was on one regular meeting; that was when the Klan was organized. Then I was on two other meetings after that, to go on raids.

Question. How many raids have you been upon, by order of the chief?

Answer. Two, sir.

Question. Now, will you state to the jury what was done on those raids?

Answer. Yes, sir. We were ordered to meet at Howl's Ferry, and went and whipped five colored men. Presley Holmes was the first they whipped, and then went on and whipped Jerry Thompson; went then and whipped Charley Good, James Leach, and Amos Lowell.

Question. How many men were on these raids?

Answer. I think there was twenty in number.

Question. How were they armed and uniformed?

Answer. They had red gowns, and had white covers over their horses. Some had pistols, and some had guns.

Question. What did they wear on their heads?

Answer. Something over their heads came down. Some of them had horns on.

Question. Disguise dropped down over their face?

Answer. Yes, sir.

Question. How many men were on that raid?

Answer. I think it was twenty in number.

Question. What was the object in whipping those five men you have named?

Answer. The object was, in whipping Presley Thompson, was about some threats he had made about him going to be buried in Salem graveyard.

Question. What was the first to occur?

Answer. Well, sir, this man Webber; he was leading the Klan from the other side of the river, ran into the yard and kicked down the door and dragged him out, and led him off about two hundred yards, and stripped his shirt and whipped him.

Question. How many lashes did they give him?

Answer. I cannot tell you how many.

Question. Did they whip him severely or not?

Answer. I heard Mr. Smith say that he was sorry enough for him to cry; that his shirt was stuck to his back.

Question. What occurred at the next place?

Answer. They whipped Jerry Thompson at the next place. They whipped him about some threats he had made about an old soldier. He said he would kick the old soldier's hind parts.

Question. That was the special cause?

Answer. Yes, sir; and he was also a member of the League.

Question. Was anything said about that when they whipped him?

Answer. I think there was; told him never to go to any more meetings; to stay at home and attend to his own business.

Question. What was done at the next place?

Answer. They went there and whipped Charley Good; he was supposed to be an officer in the League. He had been seen with his stripes on. They whipped him very severe; they beat him with a pole and kicked him down on the ground.

Question. What did they tell him ?

Answer. To let radicalism alone; not to go to any more League meetings; if he did, his doom would be fatal.

Question. The next place, what did they do ?

Answer. They then went to Charley Leach's, at Mathewson Marr's house. I didn't go into the yard there; I stood out in the road. They whipped him, though.

Question. Did they break down his door ?

Answer. I think they did.

Question. Hear anything they said to him ?

Answer. I heard it, but could not tell what it was.

Question. That is the first raid you were on ?

Answer. Yes, sir.

Question. Now tell us about the second raid.

Answer. The second raid, we were ordered to meet in an old field below Dr. Whiteside's. I don't know what the purpose of that meeting was.

Question. How many men of the Klan did you meet there ?

Answer. There were some seventeen or eighteen, I think.

Question. In disguise ?

Answer. Yes, sir.

Question. Tell us all about it. Who was in command ?

Answer. Julius Howe was leading the Klan that night.

Question. Tell us where they went first.

Answer. The first place they stopped was at Mrs. Watson's; called for a nigger there; but he was sick and they didn't disturb him; went on then to Mr. Moore's quarter, and there they got a double-barrelled shot-gun; didn't whip anybody, though; went on down to Theo. Byers's; they didn't do anything there; and then they went to Chancellor Chambers's and got a gun there.

Question. From whom ?

Answer. I don't know who they got it from.

Question. Colored or a white man ?

Answer. Colored man.

Question. Get it from his house ?

Answer. Took it out of his house. I think it was an Enfield rifle, which had been cut in two; went on then down to Ed. Byers's or Theo. Byers's place, I don't know which; they whipped a couple of niggers down there; one pretty severe; he was named Adolphus Moore.

The COURT. Was he in bed when they got there ?

Answer. Yes, sir.

The COURT. What time of the night was it ?

Answer. I suppose between twelve and one o'clock; might have been not so late.

Question. What did you whip these men for ?

Answer. I don't know; I never understood what. I think that the impression was that they had been concerned in some burning, probably.

Question. Anything known about it ?

Answer. No, sir, not that I know of.

By the COURT. How far from your house was it ?

Answer. About five miles.

Question. Did you have anything personal against any of these men ? Did you know anybody in the Klan that did ?

Answer. No, sir, I didn't; no, sir.

Question. On these raids—these two raids—were you carrying out the general purposes of the order ?

Answer. I think they were, sir.

By the COURT. Ask the witness if these parties had had any trial.

Question. Had these parties who were whipped been tried in any way ?

Answer. No, sir; I don't think they had. If they had, it was unbeknown to me.

Question. When you went upon these raids, were you under perfect discipline and control ?

Answer. Yes, sir, pretty much.

Question. That is, you obeyed the orders of your chief ?

Answer. I tried to do it, sir.

Question. You have been a soldier ?

Answer. I was a soldier for four years.

Question. Most of the members of the Klan had been soldiers ?

Answer. I think so. Some of them were young boys; they had never been soldiers.

Question. Had the chief of the Klan been a soldier ?

Answer. Captain Mitchell ? yes, sir; he was a captain in the war, I think.

Question. During the late war ?

Answer. Yes, sir.

Question. Whether he carried out military discipline while on the march, &c. ?

Answer. No, sir; he never. I never was with him, only one time, and then Weber led the raid that night.

Question. Whether there was any other Klan joined you?

Answer. Yes, sir. We went as far as Ed. Byers's, and there we met—I don't recollect—I don't remember the number of men—but we met some more men there, said to be the Rattlesnake Klan, from Sharon.

Question. Who was in command of that Klan?

Answer. They said Will Johnson.

Question. Did you go on together after that?

Answer. Yes, sir; went by Mr. Stanson's, and then down to Wilson Wilson's, and they whipped him.

Question. Tell us all about that.

Answer. The whole party stopped in his yard; and after Mitchell's Klan went on, the Rattlesnakes went back and whipped him, and liked to have killed him; so one of the men told me after he came back.

Mr. STANBERY. Do you know anything about it yourself?

Answer. I suppose I do. If I did not, I wouldn't be telling it.

Question. How far were you away from where this whipping was done?

Answer. Well, sir, we started and went on down towards Bill Williams, and they overtaken us just before we got to Billy Wilson's.

Question. Did they tell you about what they had done?

Answer. Yes, sir; Hugh Kell told me. He said they whipped him, and it was all they could do to keep Will Johnson from killing him.

Question. What did you do next?

Answer. They went down, they said, after a black man by the name of John Thompson, who was accused, I think, of some burning. They were going down to whip him, I think; and they got down there and found that Mr. Wilson was in his house, and went and called him out.

Question. Is he a white man?

Answer. Yes, sir.

Question. What did you go for him for?

Answer. They said they were going down to talk to him.

Question. What did you do at his house?

Answer. They called him out and talked to him; and it was all they could do to keep the others from going into the house to Mrs. Wilson. She had been confined in the afternoon at four o'clock, and me and another young man kept them out. I knew the circumstances. He came out on the steps, and they talked to him.

Question. What was he accused of?

Answer. He was called a radical in the neighborhood; he had taught a nigger school and voted the radical ticket.

Question. Was that the reason of your visiting him? Tell us what they said?

Answer. They called him out and told him to let radicalism alone.

Question. What did you do to him?

Answer. Nothing, only talked to him. Some of them, I believe, punched him a little, and probably kicked him when he went back into the house.

Question. Where next?

Answer. I didn't get quite through, then.

Question. Well, go on and finish.

Answer. They told him if there was any more burning done within ten miles of his neighborhood they would take his life; they would hold him responsible for all the burnings in the neighborhood.

Question. What did he say?

Answer. I don't know what he said. He didn't have much to say, no way.

Question. Did anybody accuse him of burning?

Answer. Not as I know of.

Question. Anything further?

Answer. The party went on back to their horses then and dispersed and went home; the Rattlesnakes went one way and Mitchell's Klan went the other; went on this side of Bullock's creek, and there they took off their disguises.

Question. Who took the disguises?

Answer. Captain Mitchell's son took care of them.

Question. Who usually kept the disguises?

Answer. I think they were usually kept by Captain John Mitchell.

Question. Brought out when you went on raids?

Answer. Yes, sir; the biggest part of them. Some of them kept their own.

Question. What is Captain Mitchell's son's name?

Answer. Joseph.

Question. When you went out, Mr. Foster, did you usually know in advance what was their object?

Answer. Sometimes I did and sometimes I did not. They did not allow me to know

much about it no way. They only wanted me to go. I was ordered to go on raids after that, but didn't go.

Question. What raids?

Answer. I was ordered to make a raid on the treasury at Yorkville.

Question. The county treasury?

Answer. Yes, sir.

Question. Who ordered you to go on that raid?

Answer. I got the order specially from Joseph Mitchell.

Question. Did Mitchell tell you what they were going to do?

Answer. He did not; but I heard the next day where they had been.

Question. What other raid were you ordered on?

Answer. That was all the orders that I ever had.

Question. When you started out and went, whose orders did you obey?

Answer. I generally obeyed the orders of the person who was in command.

Cross-examination, (by Mr. STANBERY :)

Question. You spoke about burnings in that neighborhood. Have there been burnings there?

Answer. Dennis Crosby had a gin-house burned there.

Question. Who else?

Answer. I don't know. Yes, sir, Mr. Castles had his barn burned.

Question. What neighborhood did they live in?

Answer. Mr. Castles lives within four miles of me, on the same road toward Yorkville, and Mr. Crosby lives on the Pinckney ferry road.

Question. You spoke of threats, too. What were the threats said to be; were they threats of colored men, do you mean?

Answer. Yes, sir.

Mr. CORBIN. Well, he heard of them making threats.

Answer. I heard of them making threats.

Question. I want to know what were the sort of threats that was understood to be made?

Mr. CORBIN. We object to that, because, if they propose to show any justification of this course of conduct adopted by the Klaus, and that justification consists of threats, they must prove the threats, and not prove them by mere hearsay.

The COURT. It is no justification anyhow.

Mr. STANBERY. Shall I put the question?

The COURT. Yes.

Question. What sort of threats were they that they were understood to have made—these colored men?

The COURT. What threats did you hear them make?

Answer. I didn't hear any threats made by them.

Question. But what threats did you understand they had made?

Answer. The first was whipping of Pressley Thompson; was because he says he wanted to be buried in a white person's graveyard.

Question. And some other threats about an old soldier?

Answer. That Jerry Thompson had made, I suppose; that is what I have heard.

Question. What in regard to the old soldier?

Answer. He should have said he would kick an old soldier's hind parts.

Question. Have you spoken about the Union League? What is the nature of the Union League?

Answer. I don't know anything about them.

Question. Did you ever hear?

Answer. No, sir.

Question. Who belonged to the Union League?

Answer. I don't know who belonged to them, only what I heard.

Question. What do you say about it?

Answer. Well, I heard that these niggers—

Mr. CORBIN. If hearsay testimony is to be heard here, and act accordingly—

The COURT. What is the question?

Mr. STANBERY. I asked him what was the purpose of those Union Leagues.

The COURT. I don't see that that is admissible.

Mr. STANBERY. It may be that it is a purpose that ought to be put down. I want to know what a Union League is.

Mr. CORBIN. Well, the witness says he don't know.

Question. Do you know any members of the Union League?

Answer. Only what I heard, and hearsays will do you no good, nor me either. I heard that those men belonged to the Union League.

Question. Did you hear those parties say that were in it what they understood to be the object of the Union League?

Answer. I did not.

Question. Were those burnings attributed to these Leagues or members of it ?

Answer. I do not know, sir.

Question. What induced you to join the Klan ?

Answer. Well, sir, because this party came on me and threatened my life; shot into the house I was doing business in.

Question. What house were you engaged in at the time ?

Answer. I was selling spirits and a few other groceries, flour, tobacco, candies, and such other things.

Question. And some parties called upon you : who called upon you ?

The Courr. A Klan, he says.

Answer. There was a Klan of Ku-Klux came on me at night.

Question. What night ?

Answer. Yes, sir ; the same night that they went on Elias Ramsay, and whipped one of the whites the same night.

Question. When did the Klan come upon you ; for what purpose ?

Answer. I don't know, unless it was dissatisfaction in the neighborhood because this liquor establishment was going on.

Question. What did they say to you when they came ?

Answer. They didn't see me at all ; I was not in the house, but they left word with Mr. Osmond that they would come again, and when they came again they had the cold steel prepared for my carcase, and I thought it my duty to go into anything to save my life.

Question. Then that was your inducement in joining the Klan ?

Answer. That was my inducement in going into it.

Question. That was to give you an opportunity to put the cold steel into somebody else ?

Answer. No, sir.

Question. How long did you continue in the Klan ?

Answer. I joined just before Christmas, and never—well, I went on two raids, and never had anything more to do with it afterwards.

Question. Were you arrested as a member of the Klan ?

Answer. No, sir ; I went up and made a confession.

Question. Were you never in jail ?

Answer. Yes, sir, I was ; but I suppose I was put there as a witness.

Question. Were you put in there before or after you made your confession ?

Answer. After I made the confession.

Question. And you suppose as a witness ?

Answer. I suppose so.

Question. Whom did you make your confession to ?

Answer. Before Colonel Merrill and Major Corbin.

Question. Whereabouts ?

Answer. At Yorkville.

Question. When ?

Answer. I don't recollect the date. I think it was on the 7th of last month, as well as I recollect.

Question. How long after that was it before they put you in jail ?

Answer. The same day.

Question. After you had made your confession ?

Answer. Yes, sir.

Question. How long did you remain in jail ?

Answer. Until the 27th.

Question. How did you get out ?

Answer. I got out on a bond, sir.

Question. What kind of a bond ?

Answer. I don't know what kind of a bond it was.

Question. Before what officer ?

Answer. Esquire Clawson brought the bond to me.

Question. What jail were you in that time ?

Answer. I was in the Yorkville jail.

Question. Was that jail under military rule at the time ?

Answer. Yes, sir.

Question. Did Clawson come to the jail ; did you send for him ?

Answer. Yes, sir ; my brother was living there, and I suppose he fixed the paper.

Question. Do you know what kind of a paper it was ?

Answer. No, sir, I do not ; I think it was a bond for \$500.

Question. After you had come out, did you go and make a further confession ?

Answer. No, sir, I did not. Major Merrill sent for me to come up to his headquarters and I went, and he told me to report to Lieutenant Nolan on Saturday, and I did so.

Question. What took place ?

Answer. Nothing more than he told me to report to get transportation to go down, I

suppose. I remained until Monday and then came down. I got transportation from Lieutenant Nolan.

Question. Did you make any confession while in jail?

Answer. No, sir; I had no interview after I went into jail.

Question. I understood you to say you supposed you were put in jail to keep you as a witness?

Answer. I don't know what they put me in for; I supposed that was it after they let me out.

Question. Were you sent for by Major Merrill or Mr. Corbin at the time you made your confession?

Answer. No, sir.

Question. You went voluntarily?

Answer. I went voluntarily.

Question. Was anything promised to you in case you did make it?

Answer. No, sir.

Question. Was that confession taken down in writing?

Answer. I suppose it was, sir.

Question. Who by?

Answer. I think that is the man, [pointing to Mr. L. F. Post, the stenographer.]

Redirect examination :

Question. It has been inquired of about the fires; when did they occur?

Answer. I don't know, sir.

Question. About what time in the winter?

Answer. I cannot tell you that.

Question. Before or after you joined the order?

Answer. It was after I joined the order that Crosby's gin-house was burned, and Mr. Castle's barn was burned the same night, after they went on this raid. At 4 o'clock the barn was found on fire; I did not see it; I saw the light of it; I saw Mr. Leach, and he said he saw the light and went to it.

Question. And that was after you had gone from the raid?

Answer. Yes, sir.

Question. Did you whip any colored men around that place that night, at Mr. Castle's?

Answer. Yes, sir—no, sir; they whipped one that had been at Mr. Castle's, and it was generally supposed that he done the burning.

Question. But the burning occurred after the whipping?

Answer. Yes, sir; at 4 o'clock on the same night.

Question. When was it that these fires, that have been talked about, occurred; with reference to the burning; was the raiding first or the fires first?

Answer. This fire I was speaking of was done on the 29th of January last, and we went on that raid that night, and this fire was at 4 o'clock the next morning.

Question. When was the raiding up there commenced?

Answer. The first raiding in the country up there? The first raid that was done in our settlement was done on me.

Question. When was that?

Answer. I don't know the date.

Question. Was it before Christmas or after?

Answer. I think before Christmas a little while.

Question. Just before you joined the order?

Answer. Yes, sir.

Question. Were there other raids made around there about that time?

Answer. Yes, sir; it was not very long after that, I think, they made this raid on Pressley Holmes.

Question. What caution, Mr. Foster, did Major Merrill give you at the time you went to make your confession?

Answer. I don't recollect.

Question. Before you commenced, at the time you went to make your confession, what did he say to you before you made your confession?

Answer. He told me he wanted me to tell him the truth, and I did as far as I knew.

Question. Did he make you any promises if you told the truth?

Answer. No, sir; he did not make any promise at all.

Question. Did he hold out any inducement?

Answer. No, sir; he did not promise me anything at all.

Recross-examination :

Question. Did he say it would be better for you?

Answer. No, sir; he didn't say anything of that kind.

Question. Was there a state of terror and alarm about that part of the country at the time among the white people?

Answer. Yes sir; they were arresting almost everybody.

Question. Any about the time of these raids?

Answer. Not a great deal.

Question. But was there?

Answer. There was some excitement.

Question. What about?

Answer. I don't recollect what it was about; about this society.

Question. What society?

Answer. This Ku-Klux society.

Question. Was there any cause of alarm in that part of the country?

Answer. No, sir; I did not hear of any.

Question. What time was Ellison's mill burned?

Answer. I don't know what time.

Question. Was that in the neighborhood?

Answer. No, sir, I don't think it is.

Question. Do you know where it is?

Answer. I don't know where it is; I have heard of it, and about its being burned after 'twas done.

Question. When did you hear it; after the burning was done?

Answer. I cannot tell you.

Question. After or before you became a member of the Klan?

Answer. I think it was after, or probably before; I cannot tell you.

Question. Was Ellison's mill the first burning you heard?

Answer. I don't recollect whether it was or not.

Redirect examination :

Question. Had you heard that Mr. Ellison had said that he knew that a white man had burnt his mill?

Answer. No, sir; I did not hear that.

OSMOND GUNTHORPE was the fifth witness for the prosecution. He was sworn, and said :

Direct examination by Mr. CORBIN :

Question. Where do you reside?

Answer. I reside in York County.

Question. How long have you lived there?

Answer. About eighteen years, sir.

Question. State whether you joined the Ku-Klux Klan and when.

Answer. I joined it, sir, in 1868, in the month of August; I am not certain about the date.

Question. Where?

Answer. Down near Ebineus.

Question. In York county?

Answer. Yes, sir.

Question. Who initiated you?

Answer. Dr. Ebenezer Avery.

Question. Can you give us the substance of the oath you took?

Answer. No, sir, I cannot.

Question. What was its general import, so far as you can recollect?

Answer. I cannot recollect near all of it; that we was opposed to the radical party, and we was to protect fellow-members' widows and their households, female friends, and I believe that was about all.

Question. And what was the penalty?

Answer. The penalty for divulging the secrets of the organization was death.

Question. What was the mode in which the purposes of the organization was to be carried out--this opposing the radical party?

Answer. I think it was the intention of the organization to control elections.

Question. How were they to do it?

Answer. At that time my understanding I had was to do it by intimidation.

Question. Did you have any order to go out and assist in that business?

Answer. No, sir; I never received one.

Question. Did you have any notice to go to Rock Hill?

Answer. No, sir; I received no notice, but I understood, the day of election in 1868, they were not to use any force, but by crowding the box they were to keep all from voting they could.

Question. All who?

Answer. All of the radical party.

Question. Who were they to keep away from the polls?

Answer. All I understood was they were to keep all the radical party from voting they could by crowding the ballot-box.

Question. What did you do then ?

Answer. I never went to the election at all.

Question. What did you do in reference to the order ?

Answer. I left it, sir.

Question. Why ?

Answer. Because I believed it was not what I thought it to be. I didn't understand, when I went in, that it was a political organization, and I saw it was, and it was on these grounds.

Question. What did you think it was before you got into it ?

Answer. I thought it was an organization for the protection of each other, but not to interfere with any other party.

Question. When you came inside of it, what did you find it to be ?

Answer. I found it to be a political organization, to try to control the elections for the democratic party, at that time.

Question. What did you conclude in reference to it ; and what did you do in reference to it ?

Answer. I did nothing more.

Question. How did you get out of it ?

Answer. I got a dismissal, sir.

Question. From whom ?

Answer. Dr. Avery.

Question. How did you get it ?

Answer. I asked him for it, and he gave it to me in writing.

Question. What reason did you give him ?

Answer. I told him that I was going away and wanted a dismissal, and that I was not satisfied.

Question. And you received the dismissal ?

Answer. Yes, sir.

Question. Have you got it now ?

Answer. No, sir ; I have not got it.

Question. Have you had anything to do with the order since ?

Answer. No, sir.

Question. Have you lived in York County since ?

Answer. Yes, sir.

Question. What part of it ?

Answer. In the southwestern portion of the county, in Cherokee Township.

Cross-examination by Mr. STANBERY :

Question. I understand you to say that, when you joined the order and took the oath, you had no idea it had any political significance ?

Answer. No, sir.

Question. What did you understand was the purpose of the order when you joined it ?

Answer. I understood it was an organization for the protection of each other against anything that might come up against us.

Question. What was the apprehended danger ?

Answer. There was a general talk that there was a danger of the negroes rising.

Question. You thought it serious enough to join this order ?

Answer. I didn't know but what there might be something like it.

Question. And therefore you joined the order as an order for common protection ?

Answer. Yes, sir ; that was what I understood when I joined it.

Question. And when you came into the order you took the oath in the first place ?

Answer. Yes, sir.

Question. Was that read to you ?

Answer. No, sir ; it was not read to me—it was repeated to me.

Question. Have you heard this oath read here ?

Answer. Not to-night ; I have heard it read.

Question. Well, we will read it to you. Have you seen the oath since ?

Answer. Yes, sir.

[The counsel read the oath and the witness recognized the parts in reference to the radical party, to sickness, to females, and to the death penalty.]

Question. Then, so far as I have read this oath, it was the oath you have taken ?

Answer. So far as I can recollect.

Question. Well, when you heard it, were you willing to take it ?

Answer. I did take it.

Question. How long afterward did you understand it was something else than what that oath stated ?

Answer. Not long.

Question. You didn't discover it until afterward ?

Answer. Not until I was initiated into the order.

Question. Then you didn't know at the time that there was anything illegal in it, but after you were in you understood their purpose was something different—a political purpose—and then you wanted to leave; you wanted to leave?

Answer. Yes, sir.

Question. Now you say you understood the purpose to be political; how far political?

Answer. They intended, if they could, to control the elections.

Question. You say here that they were going to the polls and keep voters away from the polls?

Answer. That was the understanding I had that was to be carried on at Rock Hill at the election in 1868.

Question. You spoke about the crowding around the polls and excluding them in that way?

Answer. Yes, sir.

Question. And you understood the agreement was that no force should be used?

Answer. Yes, sir; no force should be used.

Question. Did you ever know anything about the Union League?

Answer. No, sir; I don't know anything about it.

Question. Whether that is a political organization or not, you don't know?

Answer. I don't know a thing about it.

Question. Have you attended the elections in that county for some time past?

Answer. I attended the last election, sir, last year in October.

Question. Was anybody interfered with?

Answer. No person that I know of.

Question. Was there any crowding around the polls so as to exclude anybody?

Answer. No, sir; not at the box I was at.

Question. Any man that had a right to vote voted without any interference?

Answer. Yes, sir.

Question. Have you ever been at an election at Rock Hill?

Answer. Not since then.

Question. Only that once?

Answer. I was not at it, sir.

Question. You have never seen anybody interfered with at an election?

Answer. I have never been at any election since last year, and nobody was interfered with at that.

Question. Were there many voters there?

Answer. Yes, sir, a good many; I don't recollect the number.

Question. Colored and white?

Answer. Yes, sir; there was both.

Question. And no man was interfered with whatever?

Answer. Not that I know of.

Question. Well, in that election, who succeeded?

Answer. The radical party; well, at that precinct where I voted the democratic party was in a large majority.

Question. Then you saw no attempt on their part to keep republican voters away?

Answer. No, sir; I did not see any.

Question. How does the population stand there?

Answer. I don't know, sir; I suppose it is about three or four to one.

Question. Three or four whites to one colored?

Answer. Yes, sir; but I am not certain, but would say three to one, anyhow.

Question. Now, at this particular election, they were to stand around the polls; you were not there?

Answer. No, sir.

Question. What election was that?

Answer. The presidential election.

Question. Who told you that they were going to get around the polls?

Answer. Mr. Cathcart.

Question. Anybody else?

Answer. No, sir; he was the one that told me.

Question. Who did he say was going?

Answer. He didn't say; he just said that they had a meeting and agreed to do that.

Question. When did you understand whether or not any force or intimidation?

Answer. No, sir; I heard nothing more; I started the next day after election to move up to Cherokee Township.

[The district attorney here noticed that the prisoners who were included in this indictment, and who were to be used as witnesses, were sitting in court, and desired their removal. They were accordingly removed.]

Question. At the time you joined the order, was there a state of alarm in the neighborhood?

Answer. None. Well, there was some little about negro alarm.

Question. Well, about what ?

Answer. There was a talk that the negroes were up in arms, and they were afraid that they would do something.

Question. Were they armed ?

Answer. I never saw any armed, but I heard that they were.

Question. There were reports that they were armed and there were fears that they would use their arms ?

Answer. Yes, sir ; there was such talk.

Redirect examination :

Question. Were the white men generally armed ?

Answer. They generally had arms of their own, sir.

Question. Was there any fear pervading the community ?

Answer. I only heard the talk ; I never was alarmed.

Question. How many more white men did you say than colored men were there ?

Answer. In Cherokee Township, I think, about three to one.

Question. Were there any militia ?

Answer. No, sir ; not in Cherokee Township.

Question. None there ?

Answer. Only the constabulary force was up there after they commenced making the raids on said county.

Question. When was that ?

Answer. It was—I declare I cannot tell the date, but I think it was in 1870. I was up there after there were some raids made. There was a house burned in the county and several men threatened.

Question. By whom were the raids made ?

Answer. Said to be done by the Ku-Klux.

Question. Any fires ?

Answer. There was a house burnt—Bill Wright's house.

Question. By whom, do you know ?

Answer. I don't know the parties.

Question. Who were accused ?

Answer. Said to be white or said to be Ku-Klux.

Question. Do you know anything about the burning ?

Answer. No, sir ; only that I first heard it to be done.

Question. Subsequent to that ?

Answer. There has been none done in that county since that time.

Question. That was the only house burned ?

Answer. Yes, sir.

Question. Any raid about there ?

Answer. Yes, sir ; there has been raiding.

Question. When did the raiding begin after the election ?

Answer. Well, not long, sir. I don't know how long, but not very long.

Question. Did any fires precede that ?

Answer. None, only what I speak of ; but that was not done. There has been no burning in that county near me only that.

Question. Did the raiding occur after the election ?

Answer. Yes, sir.

Question. How long after ?

Answer. I cannot tell you how long, sir ; not long, though.

Question. How long after the election was Tom Roundtree killed ?

Answer. He was killed on the second night in December.

Question. Last December ?

Answer. Yes, sir ; this December a year ago.

Question. Who was Tom Roundtree ?

Answer. He was a black man.

Question. What position in his race ?

Answer. He occupied no position at all.

Question. What was his character ?

Answer. I never knew anything bad of the nigger.

Question. What was his politics ?

Answer. He did not meddle in politics much, I don't think. I never heard him say anything about it.

Question. What was his politics ?

Answer. He belonged to the radical party.

Question. Who killed him, do you know ?

Answer. No, sir ; I don't know.

Recross examination :

Question. Do I understand you to say you joined that Klan because you understood it was for mutual protection ?

Answer. I understood that they were afraid that there would be something done, and they wanted to do something to counteract it; they wanted to be ready.

Question. Were you afraid also?

Answer. O, why I was afraid was this: If there was such a thing done I might suffer with the balance. I was not afraid at the present time, but if everybody was afraid I might be injured, too.

Question. Therefore, you thought it expedient to join this Klan for mutual protection against harm?

Answer. Yes, sir.

Question. Then you were sufficiently alarmed?

Answer. Well, I just looked at it in this way: If they wanted to be ready in case of any such thing, it was no harm to be prepared.

ANDY TIMONS, colored, was the sixth witness for the prosecution. He was sworn, and testified as follows.

Direct examination by Mr. CORBIN:

Question. Where do you live?

Answer. About nine miles from York, sir; Brattonsville, in York County.

Question. How long have you lived there?

Answer. I have been living in York County now for about seven or eight years, sir.

Question. Do you know Jim Williams?

Answer. Yes, sir; I knew him before he died; had been knowing him for some fifteen or twenty years.

Question. Was Jim Williams a resident and voter in York County?

Answer. Yes, sir; he was.

Question. Did he vote at the last election?

Answer. Yes, sir; he did.

Question. Were you present at the polls?

Answer. Yes, sir; I was manager at the polls.

Question. Did you see him vote?

Answer. He handed me the ticket and I put it in the box.

Question. What ticket did he vote?

Answer. He voted a republican ticket; he was a republican.

Question. What sort of a man was Williams?

Answer. I did not know anything about him. He was dead last—he was hung.

Question. Tell us the story, in your own way, about it.

Answer. It was the way I first found him; he were hanging up by the neck by a rope.

Question. Tell all the particulars you know about it. What occurred that night that he was hung, and what about him, as far as you know.

Answer. That night, sir—I think it were something after 2 o'clock—there were three disguised men came to my house—came up cussing and swearing a great deal.

Question. Tell what they said.

Answer. They said, "Here we come. We are the Ku-Klux. Here we come, right from hell;" and two rode up on one side of my house, and one to the other. They commenced with their guns and beat at the doors, and hollering "G—d d—n you, open, open the doors." I told them I would, and jumped out of bed; and before I got to the door they bursted the latch off, and two came in; and one got me by the arms and says, "We want your guns." I told them I didn't have any guns; there was one there, but not mine. It was turned over by some of the company. They got the gun, and asked for the accouterments belonging to the gun, and I got them for them; and after they got these things they asked for a pistol. I told them I didn't have any pistols at that time, and then they asked if I knew where Captain Williams lived. I told them I did. "How far?" they asked. I told them about two mile, I think. Says he, "We want to see your captain to-night. We don't want any more of you to-night." Upon this they got on their horses; asked me if I knew any of them. I told them I did not know them; but they got on their horses and bid me good night. When about between fifty and one hundred yards from my house they stopped, talking very lowly to each other. I didn't know but what they were going to come back. I jumped out and made—well, I started down across to the other house, and met up with Henry Haynes and Andrew Bratton. They heard them and left their houses.

Question. Were they colored men?

Answer. Yes, sir. Then we went down to Captain Williams's that night. When we got there Mrs. Williams was sitting in the door. I asked her—I called before I got to the house for Williams, and she said—

Mr. STANBERY. Never mind what she said.

Mr. CORBIN. Go on and tell what she said.

The COURT. No.

Question. Go on and tell what you found.

Answer. Williams was not there.

Question. What occurred there ?

Answer. Then we went from there around, and passed where Mr. Williams's company were and got them, and went back to John S. Bratton's, and there found a good portion of the company there.

Question. What company ?

Answer. Of Williams's company—the militia. We then followed the course which the Ku-Klux had went. We tracked them then by bayonets and accouterments, &c., they had dropped along the road until they came to Mr. Robert Lindsay's. Then we noticed a great many tracks left the road. We went on from there past Mr. Ed. Crawford's, and on past Mr. Mendinball's. The company thought that they saw horse-tracks—a horse and a mule track—that led into Mr. Mendinball's lot; but Mr. Mendinball's stables were locked. We went on from there on several tracks to Mr. Garwin's, and there we found a mule which was muddy and sweating, with saddle; very fresh tracks, which we did think had come from the road—which we tracked out from the road; they tracked directly from Mr. Lindsay's; we tracked them directly from there. We then went into the Black Jacks and concluded to hunt for Williams. We went across the country to Williams's, and before we got to the house we saw the tracks where they had come out of the field. We pursued on until we came to where the horses were hitched, which I thought was about one hundred yards. We saw Williams hanging on a tree.

Question. Was he dead ?

Answer. When I found him he was dead, sir.

Question. What time in the morning was that that you found him ?

Answer. Sir, I think between 9 and 10 o'clock, sir.

Question. What paper did you find on him, if any ?

Answer. There was a paper on his breast. The foreman of the jury said it said, "Jim Williams on his big muster."

Question. How high was he hanging from the ground ?

Answer. His toes were just touching the pine leaves.

Question. Was he cold ?

Answer. I didn't put my hands on him at that time.

Question. How long did he hang there ?

Answer. He hung there till—I don't think the sun was more than half an hour high that evening when he was cut down. I went from there to York after the coroner. He hung there till we came back and the jury all met.

Question. Do you know whether Jim Williams voted at the last election for Mr. Wallace, as a member of Congress ?

Answer. (No answer.)

Cross-examination by Mr. HART:

Question. Who was Jim Williams ?

Answer. He was formerly called James Rainey.

Question. But what was his position; what was he ?

Answer. He was a republican man.

Question. But what official position did he occupy ?

Answer. For labor, or what ?

Question. No; what official position in the Government, or did he occupy any at all ?

Answer. He didn't occupy any, only captain of a company.

Question. Was that company armed ?

Answer. Yes, sir.

Question. What with ?

Answer. With Enfield rifles, or I believe that was what they called them.

Question. Breech-loading rifles ?

Answer. Yes, sir.

Question. Was ammunition served out to them ?

Answer. I think they got as much as two or three balls apiece.

Question. How long before the elections ?

Answer. I don't recollect how long, but I think they had more than a ball apiece, or hardly that, at the election. A great many had none.

Question. They fired away a good deal before the election ?

Answer. Yes, sir; trying their guns.

Question. How many rounds were given out to them ?

Answer. Never more than two or three rounds.

Question. You were lieutenant in that company ?

Answer. No, sir; I was not.

Question. You never was ?

Answer. No, sir.

Question. Were you an officer in the militia ?

Answer. I was clerk of the company, sir.

Question. Did you issue the ammunition to the members of the company ?

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Answer. I did not, sir. I didn't belong to the company at that time. I was with it a great deal, but did not belong at that time.

Question. Had there been any raids made in that community previous to the October election ?

Answer. Before that ?

Question. Yes.

Answer. No, sir ; not there.

Question. Had there been none ?

Answer. No, sir.

Question. You went to the election in October, 1870 ?

Answer. Yes, sir ; I did.

Question. Where did you vote ?

Answer. I voted at McConnellsville.

Question. Did this militia company go there to vote ?

Answer. Yes, sir.

Question. Did they carry their side-arms ?

Answer. They didn't carry any guns there at all.

Question. How far from there did they leave their guns ?

Answer. About three or four miles, sir. About three, anyhow.

Question. How many of them left their guns at Shook's, a short distance from there ?

Answer. Well, if there was any left it was more than I know.

Question. Was there a meeting of that company the night before the election ?

Answer. There was a meeting in advance of the election.

Question. Were the members of that company ordered to carry their side-arms or not ?

Answer. That was not the order to carry them.

Question. But an agreement to carry them ?

Answer. The agreement was that no one should carry any arms.

Question. Well, they did carry their side-arms, their bayonets, &c. ?

Answer. Some of them, I think, did ; yes, sir ; some of them did. There was a great many arms there.

Question. Were you a member of the company at the time Mr. Mendinhal was arrested ?

Answer. I was not, sir. I was not a member of the company until after the arms were drawn.

Question. Did you know of it—that Mr. Robert Mendinhal was arrested by order of the captain ?

Answer. I does not as a matter of fact ; I was not there.

Question. How long was he kept under arrest, according to the report ?

Mr. CORBIN. That won't do.

The COURT. That won't do.

Question. You were not there when that occurred ?

Mr. CORBIN. What occurred ?

Mr. HART. Mr. Mendinhal.

Answer. No, sir ; I was not there.

Question. How often did this company meet to drill last fall and winter ?

Answer. Well, sometimes every two weeks and sometimes every Saturday evening.

Question. Squads of this company were frequently upon the field and drilling around ?

Answer. Well, I never saw them at that.

Mr. CORBIN. If the court please, we cannot see the relevancy of this sort of business.

The COURT. We cannot see the relevancy of it ourselves.

Mr. HART. The relevancy is this—

Mr. CORBIN. Go on ; we won't interfere with you.

Question. Do you say that squads were out ?

Answer. I say they were not, to my knowledge.

Question. The company were not firing guns then at night, to your knowledge ?

Answer. I have heard guns fired at night sometimes. I don't know whether it was them guns or not.

Question. Did you meet members of this company at night with their arms, traversing the country ?

Answer. There was a great talk of K. K. coming there. I did see some of them there with their guns.

Question. But no Ku-Klux had been there ?

Answer. They had not been then, but it was heavily threatened. Never saw them, though, on the by-road.

Question. How did you know that the Ku-Klux were coming there ?

Answer. It was generally reported that they were coming.

Question. Who told you ; tell me somebody ?

Answer. It was just the settlement talk ; there was talk of it around.

Question. Do you know that there was any uneasiness felt in that county on account of those guns being fired at night?

Answer. The gentlemen of that country told me that they were not uneasy about the guns.

Question. Do you know that there was any uneasiness from other parties?

Answer. I don't know, sir, for I don't think that there was any danger in it myself.

Question. You don't think so?

Answer. No, sir; I don't.

Question. You did not feel uneasy from it?

Answer. I did not, and I did not think there was any reason for uneasiness; for any one feeling it.

Question. Do you know whether Jim Williams, your captain, had any communication with Mr. Ed. Rose, at Yorkville, or not?

Answer. I never heard any myself, sir.

Question. Now I am coming to a point. You will, perhaps, recollect I called your attention to a conversation you had with myself in my office. On that occasion, do you recollect your captain, Jim Williams, saying Mr. Rose had given him some instructions what to do about burning houses?

Answer. I did hear that reported.

Question. You did hear that?

Answer. I heard it reported.

Question. How long was that before this hanging took place?

Answer. It was some time beforehand, sir.

Question. What were those instructions?

Answer. Well, if the Ku-Klux got to killing, and was killing, after, the black people, as well as I understood it, it were then for to burn the houses.

Question. You heard that from Mr. Williams?

Answer. I heard it reported from others.

Question. You heard it from him also?

Answer. I did not hear it myself.

Question. You heard the report that he gave instructions?

Answer. I heard that.

Question. What office did Mr. Rose hold?

Answer. He was a tax collector, as far as I know.

Question. County treasurer?

Answer. Yes, sir.

Question. What was his politics?

Answer. He was a republican, so I was told.

Question. Did you hear them mention it at any meeting of the company?

Answer. I did not, sir.

Question. When you went down to see John Bratton, you found part of Jim's company there at Mr. Bratton's?

Answer. Yes, sir.

Question. With their arms?

Answer. Some of them had; the Ku-Klux had taken a good many.

Question. Where did they come from?

Answer. At the plantation there was a good many.

Question. Mr. Bratton's plantation?

Answer. Yes, sir; in fact, all that were there lived on his land, or about it.

Question. Did you ever hear such an expression as this coming from Jim Rainey: "That every time he heard of any Ku-Klux being in the county, he was instructed to burn a house." Did you ever hear this: "That if his party did not carry the last election, he expected to use up the country," or expressions of that sort?

Answer. I never heard him say that; I never heard him say it, or never heard of him saying it.

Question. Did you ever hear an expression from himself of this kind: that if his party failed he expected to kill from the cradle to the grave?

Answer. I heard that man, Ed. Crawford, the night he was hung--the night he came on me for the guns he told me that.

Mr. CORBIN. What raid was that?

Answer. When they came to take the Scott guns.

Mr. CORBIN. How long after the murder?

Answer. The third night afterward; he said he expected Jim was killing from the cradle up now.

Question. You say you voted at McConnellsville?

Answer. Yes, sir; I did.

Question. Did anybody try to interfere with you from voting; or did anybody try to interfere with Jim Williams for voting?

Answer. Not that I know of.

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Question. You saw him vote; nobody attempted to interfere with him; there was no disturbance that day?

Answer. No, sir; there was not on that day; they was prepared for a large one, though, but it did not come on.

Question. Who was prepared?

Answer. The conservative party came there armed.

Question. Did you see their arms?

Answer. I did, sir; I saw a great many of them.

Question. The colored people carried their side-arms—their bayonets?

Answer. Yes, sir.

Question. And yet no disturbance occurred?

Answer. There was no disturbance that day; the election went off very pretty.

Question. You say these guns had been put into the hands of your company. How long before this election?

Answer. They received the guns on the 16th day of August. The election occurred about the 19th of October.

Question. Wasn't it about two months afterward?

Answer. I think so, sir.

Question. Your company, then, met to drill previous to the election?

Answer. Well, they had drilled right smart.

Question. Drilled twice a week previous to the election, didn't they?

Answer. No, sir; they drilled every Saturday awhile, and every two weeks, and so on.

Question. After the election you didn't drill so often?

Answer. They drilled all the time on until toward Christmas.

Question. After the election it began to slacken off?

Answer. Well, they drilled on for some time; along two or three weeks before Christmas they didn't drill any.

Redirect examination:

Question. Where is Ned Crawford now?

Answer. I have not saw him for a great many—for several weeks before I left home.

Question. What has become of him; do you know?

Answer. They said he had left the county.

Question. When did he leave; do you know?

Answer. Well, I does not, exactly; I saw him, I think, about a few days before they began arresting in Yorkville.

Question. Have not seen him since?

Answer. No, sir.

Question. How far does he live from you?

Answer. Between two and three miles, sir.

Question. How long did he reside in York County?

Answer. He had been there then about eighteen years, probably longer.

Question. White or colored?

Answer. He was a colored man, sir.

Question. You were manager at the election, I understand?

Answer. Yes, sir.

Question. When Jim Williams came to vote?

Answer. Yes, sir.

Question. Did you regard him as a qualified voter?

Answer. Yes, sir; I did.

Question. Did he swear to his qualification?

Answer. Yes, sir; he did.

Question. And you allowed him to vote?

Answer. Yes, sir; I did.

Recross-examination by Mr. STANBERY:

Question. This military company—was it for it the arms were brought there?

Answer. Yes, sir.

Question. Tell us how many were in the company, you think?

Answer. There was about 90.

Question. All colored men?

Answer. Yes, sir.

Question. And the captain of your company was this Williams?

Answer. Yes, sir.

Question. Who gave you these arms?

Answer. Well, I don't know, sir; he gave them himself.

Question. You had got a musket, hadn't you?

Answer. I had not, sir; I only had—

Question. Had each one of the companies a musket or rifle?

Answer. I don't know what you call them.

Question. Where did those arms come from?

Answer. They were said to be sent to the company by the governor; that was what was said; I don't know; I did not see the papers.

Question. And those balls and those cartridges?

Answer. I cannot give any account of them whatsoever.

Question. And this powder as well as balls all ready made?

Answer. There was nothing only balls already made and fixed.

Question. Fixed ammunition?

Answer. Yes, sir.

Question. That is, you mean cartridge, ball and powder together?

Answer. Yes, sir.

Question. And three cartridges, you understood?

Answer. Well, some got three and some got two.

Question. Was it necessary in your drilling to have that ammunition?

Answer. They did not drill with it, as I know of.

Question. What was the ammunition for?

Answer. I never inquired nothing about what it was for.

Question. Who were these cartridges to be discharged against?

Answer. No person, to my knowledge.

Question. What did they want with them?

Answer. I don't know.

Mr. CORBIN. I would like to know if he is to be interrogated as a military expert. I want to know the object of this examination.

Question. Was there any white company in that neighborhood furnished with the same sort of arms?

Answer. No; there was none furnished with the same sort of guns; there was one raised, and the captain said he asked Scott for guns, but he didn't get them, and, of course, it insulted his company, he said.

Question. But you don't know of any white company getting guns?

Answer. No, sir.

Question. None but your company got guns?

Answer. No, sir; I didn't say that; some of the companies got guns; one in York and one in Rock Hill.

Question. Were they white or colored people?

Answer. Colored people.

Question. Were they furnished with the ammunition too?

Answer. I don't know anything about that.

Mr. CORBIN. If the court please, there is no end to this testimony.

The COURT. How does this tend to show the issue here?

Mr. STANBERY. If the court please, the purpose is to show the whole intent of the purpose.

The COURT. This was all subsequent to the formation of the conspiracy.

Mr. STANBERY. It was not subsequent to the overt act; it was prior to that time, and we want to show that the overt act was connected, not with the voting matter, but with this arming matter and the danger apprehended.

The COURT. Well, the overt act has nothing to do with it. That conspiracy may have done a great many things besides that overt act. It is a question of conspiracy, and it can hardly be evidence, either to rebut the evidence of the United States or to support the plea of not guilty, "that a militia company had been formed after the formation of the conspiracy."

Mr. STANBERY. Why, if the court please, I understand that the only reason why your honors allow this testimony to go on is, that it is an act in pursuance of the conspiracy, an overt act.

The COURT. What, the arming of a militia company?

Mr. STANBERY. No, this hanging of Rainey. Your honors allowed them to give testimony as to that; it must have some relevancy to the conspiracy or it means nothing. It is an independent murder; they have not yet shown that it was connected with the conspiracy; we want to show that there was a totally different intent from that of preventing voting; that the cause of the hanging of Rainey was owing to the negroes having been armed, and to the threatenings made by Rainey, the captain of the company. We expect to show that he was a very dangerous man, and had been furnished with arms and ammunition, and that he had made threats over the county, of what he was going to do with the white people.

The COURT. Well, are you done with the witness?

Redirect examination:

Question. What was the date of that murder?

Answer. It was on the first Monday in March; I don't remember the date.

Question. Last March?

Answer. Yes, sir.

TESTIMONY OF GADSDEN STEEL, (COLORED.)

GADSDEN STEEL, was the seventh witness called, on the part of the prosecution. He was sworn, and testified as follows:

Direct examination by Mr. CORBIN:

Question. Where do you live?

Answer. In North Carolina.

Question. Where did you live last spring, in March?

Answer. Near Yorkville and McConnellsville, York County.

Question. How long had you lived in York County prior to that time?

Answer. Until about the middle of April. I moved to North Carolina about the middle of April.

Question. How long had you lived in York County before you moved to North Carolina?

Answer. Until that time, all my life.

Question. Were you a voter in York County?

Answer. Yes, sir.

Question. Vote at the last election?

Answer. Yes, sir.

Question. Are you twenty-one years of age?

Answer. Twenty-six.

Question. What ticket did you vote?

Answer. Voted the radical ticket.

Question. Vote for Mr. Wallace?

Answer. Yes, sir.

Question. Now, tell the jury about the Ku-Klux coming to your house last March, on the night that Jim Williams was killed; what they said and did, and what you said, and all about it.

Answer. They came to my house on a Monday night.

Question. What Monday night was that?

Answer. I don't exactly know what day of the month it was.

Question. Well, sales-day in March?

Answer. No, sir; I don't exactly know.

Question. Which Monday?

Answer. It was on a Monday night; I don't know what day of the month it was.

Question. The first or third?

Answer. I don't know exactly whether it was the first or third; I cannot exactly tell.

Question. Very well; tell what occurred.

Answer. They came to my house about 10 o'clock, and I was in bed at that time, and I was asleep and my wife she heard them before I did; and she shook me and woke me up and told me she heard a mighty riding and walking, and said I had better get up, she thought it was Ku-Klux. I jumped up and put on my pantaloons and I stepped to the door and looked out, and very close to the door I seen the men and I stepped right back into the house so when they knocked the door open they couldn't see me, and they came in and called for me to give up my gun, and I says I has no gun, and when I spoke they all grabbed me and taken me out into the yard.

Question. What sort of looking people were they?

Answer. They was all disguised, as far as I could see; they was all disguised, and struck me three licks over the head, and jobbed the blood out of me, right forinst my eye, with a pistol, and down by my mouth here, [indicating,] and four of them walked around to Mr. Moore's, and, when they started off, one touched the other and said, let's go around and see this man, and then the crowd that had me taken me to Mr. Moore's and asked Mr. Moore if I had a gun, and he said no, not that he knew of; and they asked if I had a pistol, and he said no; they asked if I belonged to that company; he said no.

Question. What company?

Answer. Jim Williams's company; asked him was I a bad boy and run about into any devilment; he said no, I was a very fine boy, as far as he knew; they asked how I voted; he said I voted the radical ticket; they says, "There, G—d d—n you, I'll kill you for that;" they took me on out in the lane, and says, "Come out and talk to No. 6;" they locked arms with me, and one took me by the collar and put a gun agin me and marched me out to No. 6; when I went out there he was sitting on his horse; I walked up to him; he bowed his head down to me [illustrating with a very low bow] and says, "How do you do," and horned me in the breast with his horns; had horns on the head about so long [indicating about two feet]; I jumped back from him, and they punched me and said, "Stand up to him, G—d d—n you, and talk to him;" I told them I would do so; he told me that he wanted me to tell him who had guns.

Question. Who said that ?

Answer. No. 6; I told him I knew a heap that had guns, but hadn't them now; they had done give them up. "Well," says he, "ain't Jim Williams got the guns?" I says I heard folks say that he has them, but I do not know whether he has them or not; then he says to me: "We want you to go and show us the way to Jim Williams's house." Says I, "I have never been there since he built on that road." Says they, "We want you to go and show us to where his house is; if you don't show us to where his house is we will kill you." And then one looked up to the moon, and says, "Don't tarry here too long with this d—n nigger; we have to get back to hell before day-break; it won't do to tarry here too long." Says he, "Get on." There was a man standing to the right of me with his beast; his head was turned from me; I stepped around and got on behind him, and rode on around until they turned toward the school-house, about sixty yards down the road, and he ask me did I want to go, and I told him no; says I, "The fix that I am in, if you don't do anything to me, may kill me." I hadn't nothing on but a shirt, pantaloons, and drawers. They started in a lope then, and he hollered to me that he could not keep up; that I was too heavy. Says he, "This God-damn nigger is too heavy." No. 6 hollows back to him, "Let him down;" and he rode close enough to the fence so that I could get down, and I stepped off. Says he, "You go home and go to bed, and if you are not there when we come along we will kill you the next time we call on you; we are going on to kill Williams, and are going to kill all these damn niggers that votes the radical ticket; run, God damn you, run." I ran into the yard, and I heard somebody talking near the store, and I slipped up beside the palings, and it was Dr. Love and Andy Linsey talking; and Love seen me and says, "Gadsden, did they hurt you?" "No," says I, "not much; they punched the blood out in two places and knocked me two or three times about the head, but they did not hurt me very much." Says he, "You go to bed, and I don't think they will trouble you very much." I went home and put on my clothes, and goes up to the mill to get the other boys out of the way, for fear they might go on them; but they were out and the others were lying in bed, and I waked the others up, and we all went out into the old field and laid there until the chickens crowed for day, and went back to Mr. Moore's, near the house, and lay there there till clear day-light, and I goes into the yard there, and Mr. Moore came to me and looked over my face and seen where they had punched the blood out of me, and says then for me to go on to my work and make myself easy; that they should not come and bother me any more; I never seen any more of them after that.

Question. Now, what time the next day did you learn that Jim Williams was dead ?

Answer. It was about eight o'clock when I heard of it.

Question. Did you go down near him ?

Answer. No, sir; I didn't go. I was busy employed and didn't go. I didn't quit my work to go. I was working at the mill, and some come there to the mill very early that morning and told it.

Question. Told you what ?

Answer. Well, they didn't tell me, but they told Mr. Dover and Mr. Guthrie that he was killed.

Question. Who ?

Answer. I don't know who it was that said it was Jim Williams. They said he was killed, but the man that said it I didn't know. They was white men.

Question. Jim Williams was killed that night, was he ?

Answer. Yes, sir; he was killed that night.

Question. Repeat, if you please, what that man told you when he let you go off from the horse—what they said to you.

Answer. When they let me off the horse they say, "You go home and go to bed, and if you are not there in the morning when we come along, the next time we call you we will kill you. We are going to kill all you d—n niggers that vote these radical tickets. We are going to kill Jim, and are going to kill all these d—n niggers that vote the radical ticket." The man that I was riding behind—he was the one that talked to me.

Cross-examined by Mr. STANBERRY :

Question. When they came to your house they inquired about your gun ?

Answer. Yes, sir.

Question. You told them you had no gun ?

Answer. Yes, sir.

Question. Had you belonged to the company before ?

Answer. No, sir; I had not belonged to the company; I worked on the railroad and had no time.

Question. This man then wanted you to tell them where Jim Williams lived, and wanted you to go as a guide ?

Answer. They wanted me to tell them who had the guns before they asked me where Williams was; and then after I told them that I knew who had guns, but didn't have

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them now, they wanted me to direct them the way to Williams's house; I told them that I heard that Williams had guns, but I could not swear that he did have them.

Question. Was that before they asked for Williams's house or afterwards?

Answer. I told them afterwards.

Question. What did they ask you?

Answer. They asked me did he have the guns; I told them I didn't know, I heard folks say so; and then they wanted me to go with them.

Question. How far did he live from you?

Answer. About three miles.

Question. On a main road?

Answer. Well, it was across the country, between two roads.

Question. Did he live on a road?

Answer. I does not know whether he lived on the side of the road or not.

Question. You heard anybody speak about voting except this man that had you on his horse?

Answer. That had me behind him; he spoke to me about it after he let me down.

Question. His horse didn't keep up?

Answer. No, sir; he said I was too heavy; these two was the hindmost men.

Question. What?

Answer. The man that I was riding behind and the one that was beside him.

Question. And the man you was riding behind made this remark to you?

Answer. Yes, sir; and then they both told me to run.

Redirect examination by Mr. CORBIN:

Question. Did I understand you to say that No. 6 asked about your voting; who was it asked you at Mr. Moore's?

Answer. They asked Mr. Moore what ticket I voted, and Mr. Moore told them that I voted the radical ticket; and says he, that man what was there, says: "There, God damn you, we will kill you for that;" that was, voting the radical ticket, and then says to me, "Come out and talk to No. 6;" and when I went out to talk to No. 6, he asked me who had the guns; I know a heap that have had them, but hadn't them now.

Question. The conversation was altogether about the guns, and not about voting?

Answer. Yes, sir; he asked about the guns and about Williams.

TESTIMONY OF MRS. ROSY WILLIAMS.

Mrs. ROSY WILLIAMS, (colored,) widow of Jim Williams, was the eighth witness called for the prosecution. She was sworn, and testified as follows:

Direct examination by Mr. CORBIN:

Question. Are you the wife of Jim Williams?

Answer. Yes, sir.

Question. Where do you live; where did you live when Jim Williams was living?

Answer. On Bratton's place.

Question. In what county, York County?

Answer. Yes, sir.

Question. When was Jim Williams killed—your husband?

Answer. The 7th of March.

Question. Tell the court and jury all about it—all you know about it.

Answer. They came to my house about two o'clock in the night; came in the house and called him.

Question. Who came?

Answer. Disguised men. I can't tell who it was. I don't know any of them.

Question. What do you call them?

Answer. I call them Ku-Klux.

Question. How many came?

Answer. I don't know how many there was.

Question. How many do you think?

Answer. I reckon about nine or ten came into the house, as nigh as I can guess it.

Question. What did they do?

Answer. He went under the house before they came, and after they came in he came up in the house and gave them the guns; there were but two in the house, and then they asked him for the others, and cussed, and told him to come out. He told them he had never had any of the guns. He went with them, and after they had took him out-doors they came in the house after me, and said there were some guns hid. I told them there was not; and after I told them that they went out, and after they had went out there I heard him make a fuss like he was strangling.

Question. Who?

Answer. Williams. Then I went to the door and pulled the door open, and allowed

to go down and beg them not to hurt him. They told me not to go out there. Well, I didn't go out. Then they told me to shut the door and take my children and go to bed. I shut the door but didn't go to bed. I looked out of the crack after them until they got under the shadows of the trees. I couldn't see them then.

Question. Did they take Jim Williams?

Answer. Yes, sir; but I couldn't tell him from the rest.

Question. Was that the last you ever saw him alive?

Answer. Yes, sir.

Question. Or did you see him again?

Answer. No, sir; the next morning I went and looked for him, but I didn't find him. I was scared, too. Then I went for my people, to get some one to go help me look for him; and I met an old man who told me they had found him, and said he was dead. They had hung him; but I didn't go out there until 12 o'clock.

Question. Did you go out there then—did you see him?

Answer. Yes, sir.

Question. What was his condition?

Answer. He was hung on a pine tree.

Question. With a rope around his neck?

Answer. Yes, sir.

Question. Dead?

Answer. Yes, sir; he was dead.

Mr. CORBIN, [to Mr. Stanbery.] You may cross-examine her.

Cross-examination by Mr. STANBERY:

Question. Do you say, when they came in, did they ask you for the guns before your husband came?

Answer. No sir; asked where he was at first; they asked me about that after they took him out there.

Question. When he came in they asked him for what guns he had?

Answer. Yes, sir.

Question. Very well; and did he produce the guns?

Answer. Yes, sir; he gave them to him.

Question. Two guns?

Answer. Yes, sir.

Question. And accouterment?

Answer. There was nothing else there except one bayonet, and they got that.

Question. And did they take him out at that time?

Answer. Yes, sir.

Question. How long after that was it that they came in to look further about them?

Answer. Well, it was not long.

Question. What did they ask you then?

Answer. They told me to get the guns—there was more there.

Question. What did you tell them?

Answer. I told them there was not any but what they had got.

Question. Then they asked about the pistol?

Answer. Yes, sir; I told them we didn't have any; we had about one, but we carried that back home.

Question. How many were in the house at the time they went in?

Answer. Nobody but Dave Black, that night.

Question. I want to know of these men in disguise how many come in?

Answer. About six or seven, I reckon, came in the house.

Question. The first time, or the second?

Answer. Did not more than three or four the last time.

Question. Not so many the last time as the first time?

Answer. No, sir; I cannot tell how many there was, because I was scared; because I thought they was going to kill me, too.

Question. You did not know who they were—did you know that your husband was captain of that company?

Answer. Yes, sir.

Question. Did you know of his going down to Chester for anything; how far is that from where you live?

Answer. Some ten or eleven miles, I reckon.

Question. Don't you know what he went down there for?

Answer. He went down there one Sunday to see about getting these guns.

Question. Who did he go to see?

Answer. Mr. Rice, I believe.

Question. Were you at home when he came back?

Answer. Yes, sir.

Question. What did he bring back from Chester? Does Rice keep a store there?

Answer. I don't know. I don't know him.

Question. Do you know whether Rice has anything to do with those colored companies ?

Answer. I don't know ; can't tell you anything about them.

Question. Do you know, whether or not, that Rice keeps any ammunition ?

Answer. I don't know, sir ; don't know anything about them there.

Question. Did you never see any of the ammunition ?

Answer. Yes, sir.

Question. Where did you see it ?

Answer. Jim had some.

Question. Where did Williams get it ?

Answer. He got it at York.

Question. Who from ?

Answer. I don't know.

Question. How do you know he got it at York ?

Answer. He said so.

Question. Did he bring home any.

Answer. Brought it home in a little paper box.

Question. What was in the box ?

Answer. Minnie balls, they call them.

Question. What number ; were those just separate bullets

Answer. They had some nine or ten, just a little small box

Question. Nine or ten Minnie balls, as they called them ?

Answer. Yes, sir.

Mr. CORBIN. She didn't see them ; I don't see the relevancy in all this.

Mr. STANBERRY. You don't see the relevancy of anything we ask.

Mr. CORBIN. I think it would trouble you to see it.

Question. Was that the only ammunition you have seen him to bring to your house ?

Answer. Yes, sir ; that is all he brought there

Question. What did he do with that which he did bring ?

Answer. Gave them out to his men in his company.

Question. Do you say he gave them to his men ?

Answer. Some came there and got them.

Question. How many did he give to them ?

Answer. Gave them all two apiece there.

Question. Did he give them any powder at the same time ?

Answer. Never had no powder.

Question. Nothing but balls ?

Answer. Yes, sir.

Question. Were those balls in what they call cartridges, or were they just balls ?

Answer. Called them cartridge balls ; they had caps on them.

Question. You say he gave two of these to each man of the company ?

Answer. Yes, sir.

Question. Was it just two, or did he give any more than two ?

Answer. He gave more, but gave them where they mustered at.

Question. How long before he was hung was it that he gave these balls out ?

Answer. When they first got them, a long time.

Question. How often did he muster about that time ?

Answer. When they did muster, mustered sometimes every two weeks and sometimes every three weeks.

Question. Where was the place they mustered ?

Answer. I cannot tell exactly the place, because I was never up there when they was mustered.

Redirect examination :

Question. How long before the election, do you remember, did he give those cartridges, or how long after he got the guns did he get the cartridges ?

Answer. I don't know exactly how long.

Question. Was it a long time ?

Answer. It was a good while.

Question. Long time before the election ?

Answer. A good while ; I cannot tell you how long because I don't know.

Question. Did he give any cartridges after they had stopped mustering ?

Answer. No, sir.

Question. When did they stop mustering ?

Answer. Good while before Christmas.

Recross-examination :

Question. Did you ever hear Williams say that he had been ordered to return those guns ?

Answer. Yes, sir ; heard him say they wanted him to give them up, but he said he didn't allow to do it.

Question. Who did he say ordered him to return the guns?

Answer. He didn't say; they had a meeting up the road somewheres, one day, and they went up there.

Question. And when he came home he said he was ordered to turn over the guns?

Answer. Yes, sir; and he didn't allow to do it, without Governor Scott gave the orders.

Question. Did he say who had given him orders?

Answer. I don't know the man.

Question. Would you know the name?

Mr. CORBIN. We think, if it please the court, that if this is material at all they must prove it in a proper way.

Mr. STANBERY. That is the proper way to do it.

Mr. CORRIN. No, sir; that is all hearsay, every word of it.

The witness was here discharged, and the court, at 10.30 p. m., adjourned.

TWELFTH DAY'S PROCEEDINGS.

DECEMBER 13.

The court met pursuant to adjournment, Hon. Hugh L. Bond presiding judge, Hon. George Bryan, district judge, associate.

Mr. Wilson applied for bail for John Miller, now in jail for conspiracy.

Mr. Corbin said it was an unusual case, and the bail ought to be at least \$5,000. Robert Miller, E. M. Campbell, and George Steele were accepted as sureties in a bond for \$5,000.

TESTIMONY OF HIRAM LITTLEJOHN.

HIRAM LITTLEJOHN, being sworn, testified as follows:

Examination-in-chief by Mr. CORBIN:

Question. Where do you live?

Answer. Yorkville Creek.

Question. Where did you live last spring?

Answer. I lived at the same district, between York and Chester road.

Question. State whether the Ku-Klux came to see you, and what time, what they said and what they did.

Mr. JOHNSON. We object. It has not been shown that the defendant has been in any way connected with the conspiracy.

COURT. You have first to show that there has been a conspiracy before you can show that anybody was connected with it.

Mr. STANBERY. We made no objection while they were attempting to show a conspiracy; but now they are attempting to show acts done in a conspiracy before showing that the defendant participated in those acts.

COURT. His connection will be shown in the progress of the trial.

Mr. STANBERY. That may keep us here forever without getting to our client at all; they cannot go into these overt acts to which we are not parties.

COURT. That has to be proved.

Mr. JOHNSON. Can they go into the acts of other parties before we have been proved to be one of the conspirators.

COURT. They are seeking to establish the conspiracy by the acts of these parties in disguise.

Mr. JOHNSON. I wish to bring before the court what I believe to be the law. Before a party can be charged at all with any acts alleging conspiracy, it must be proved that he was one of the conspirators. You might as well go into the evidence of any other conspiracy. I understand they have a long list of a thousand or more conspirators, and it is not for us to state here, while they prove what A, B, and C said, in order to affect our client in the absence of any positive proof that he knew anything of the conspiracy. It is calculated to influence the jury, and must influence the jury more or less. What they offer has nothing to do with the conspiracy till they have offered evidence to show that we are one of the parties. The rule is, that before any evidence can be given of the acts or declarations of any supposed conspirator in a conspiracy, in order to affect the party under trial, it must be proved that he is one of the band of conspirators.

Mr. CORBIN. The counsel has occupied the time of the court in arguing a question that I supposed was among the first principles of evidence, and known to everybody. I beg to call attention of the Court to 2 Russell, p. 700, to show that we are entitled to the evidence asked for. [Mr. Corbin here read the passage referred to.]

Mr. STANBERY. I understand the rule to be that you can begin at either end, so that it be to establish the conspiracy and involve the defendant in it. And it is generally done under the assurance that he will connect the defendant with it; but with

or without that assertion on the part of the prosecutor, I admit that he can begin by proving a conspiracy. Afterward, when he has proved the conspiracy, made it out as he claims to have done, yet not having implicated the defendant, shown him present or agreeing to the conspiracy, yet they now attempt to go into all that was done by the conspirators that are proved to have been engaged in it. All their raids are to be gone into, and as yet they do not bring the defendant into them at all, or show that he was one of the leaders, or that he knew anything about the raid. The prosecuting attorney must connect him with the conspiracy outside of the independent acts of these parties or their declarations.

The COURT. We think the evidence asked for strictly permissible.

Question. State whether the parties in disguise, called Ku-Klux, came to visit you last March; what they said, and what they did.

Answer. They came in and stood about the door, then opened the door.

Question. Who came in?

Answer. I don't know who they were; they were in disguise; two came in.

Question. How did they look?

Answer. I don't know how they looked; they were pretty much white.

Question. What kind of disguises had they on?

Answer. They were white all over, and had horns about their ears.

Question. What did they say to you?

Answer. When they came up they said, "Have you any guns here?" Said I, "We have got a double-barrel shot-gun." "Hand it down here," said they; "we have hung Jim Williams to-night; we intend to rule this country or die." Said he, "I am a radical man. Next time you go to vote you vote the democratic ticket, you hear?"

Question. Did they leave you then?

Answer. They went off with the gun.

Question. What time in the night was that?

Answer. It was before daylight, but I don't know the time.

Question. Did they take your gun?

Answer. Yes, sir; they did.

Question. Did you hear that Jim Williams had been killed?

Answer. I only heard from what they said.

Question. Did you hear next day that Jim Williams had been killed?

Answer. O, yes, sir. Of course I heard it next day.

Question. Do you know the fact that he had been killed?

Answer. Only from what I heard; I heard several say so; I heard my folks talking about it.

Question. When was this? Was it some time in March?

Answer. I do not know.

Question. Do you know what time sale-day is?

Answer. It is generally the first Monday in March.

Question. Do you know if it was that night?

Answer. No, sir; I did not pay any attention to what day of the month it was.

Question. Did you see Andy Tim?

Answer. Yes, sir; he came down, he and Pete Bratton.

Question. Where were they going?

Answer. He came and inquired if the K. K. had been there.

Question. Where did the Ku-Klux go to? Which direction did they take when they left you that night?

Answer. They went up toward York.

Question. Which direction did they come from?

Answer. They came from the direction where they had hung Jim Williams.

No cross-examination.

TESTIMONY OF JOHN CALDWELL.

JOHN CALDWELL was the next witness called, who, being duly sworn, testified as follows:

Direct examination by Mr. CORBIN:

Question. What is your name?

Answer. John Caldwell.

Mr. Johnson objected to the witness's testimony, in consequence of his having been present in court yesterday contrary to the orders of the court.

Mr. Corbin explained that he was a prisoner in the custody of the marshal, and was ignorant of the order of the court.

The court allowed his testimony to be received.

Question. How long have you resided in York county?

Answer. Twenty-seven years. I was born and raised there.

Question. How old are you?

Answer. About twenty-seven years.

Question. In what portion of York county do you reside ?

Answer. In the western portion.

Question. Have you ever been a member of the Ku-Klux organization in York County ?

Answer. Yes, sir ; I have.

Question. When did you join the order ?

Answer. In 1868.

Question. Where was that ?

Answer. At Yorkville,

Question. Who initiated you ?

Answer. Major J. W. Avery.

Question. What was his relation to the order at that time ?

Answer. He just came to me and asked me to walk up to his store. He took me into a room and said he wanted me to join an order. I asked him what he was getting it up for. He said it was in self-defense.

Question. Were you initiated by him then ? Did he administer the oath ? Can you tell us about what that oath was ?

Answer. I cannot remember.

Question. Can you tell us the substance of it ?

Answer. Only the last portion of it.

Question. What was that ?

Answer. I understood that any person who divulged the secrets of the organization should "suffer death, death, death."

Question. Do you think you would recognize the oath were you to hear it again ?

Answer. No, sir ; only that portion of it.

Question. Who was Major Avery ?

Answer. He is a citizen of Yorkville.

Question. What was his office in the order ?

Answer. At that time, I do not know.

Question. Did you know at any time since ?

Answer. Yes, sir ; I knew he was the chief of that county.

Question. How do you know it ?

Answer. I was present when he was appointed.

Question. Where was he appointed, and when ?

Answer. It was some length of time after I was taken into the order.

Question. Was that before or after the election of the fall of 1868 ?

Answer. He was made chief after the election.

Question. Where was that election held at which he was made chief ?

Answer. In Bratton & Mason's store, up in the third story.

Question. How many of the order were present ?

Answer. There were a good many ; I do not know how many.

Question. Do you know the defendant now present, Robert Hayes Mitchell ?

Answer. Yes, sir.

Question. Is he a member of the Ku-Klux organization ?

Answer. Yes, sir ; I suppose he is ; I don't know ; I never saw him initiated.

Question. Have you recognized him as a member of the order ?

Answer. Yes, sir ; I have.

Question. Where was that ?

Answer. Along the road when we were on our way to Jim Williams's.

Question. Did you see him with the party that night ?

Answer. Yes, sir.

Question. Where did you first see him ?

Answer. About four miles from York, on the Pinekney road.

Question. Did you have any conversation with him ?

Answer. I had no conversation with him at all, I just saw him.

Question. Did you speak with him ?

Answer. No, sir ; I don't think I did.

Question. Which way was he going ?

Answer. He was on the road then ; there were some six or seven men in the party that I met on the road.

Question. Was he with the crowd ?

Answer. Yes, sir.

Question. Commence at the beginning and describe the raid on Jim Williams ; when you got the order to go ; where you went to muster ; who took command of the men, and what road you traveled ; what you did when you got to Jim Williams's house, and all about the matter.

Answer. The first I heard of it was at Yorkville ; I was told there by Dr. Bratton that they were going down to McConnellsville ; I asked him what he was going after ; he said he was going for some guns ; he asked me if I would go, and I said I would

have nothing to do with it; I had never been on a raid; he asked me the name of the chief man in our county; I told him I understood it was William Johnson or Alouzo Brown was the leading man in our county.

Question. Do you mean in your portion of the county?

Answer. Yes, sir.

Question. Go on and tell all you know.

Answer. Johnson came to me and told me to meet him at the muster-patch; that was William Johnson.

Question. What is his relation to the order?

Answer. He was chief.

Question. Of what Klan?

Answer. Of the Rattlesnake Klan. I went out to the muster-ground that night; it is called the brier-patch; I met several men there; I do not know that I could call them over; I have a memorandum of them here, written down.

Mr. JOHNSON. When was that memorandum made?

Answer. It was made since I came down here.

Mr. JOHNSON. That won't do.

Mr. CORBIN. Did you make that memorandum yourself?

Answer. Yes, sir; I made one; I did not make this.

Question. Is not that the memorandum of the names you gave?

Answer. Yes, sir; except the name of one man.

Mr. JOHNSON. We object to the testimony. What is that list?

Answer. I made the list of the names myself, and this is the copy of it.

The COURT. You may name them from your recollection.

Answer. I met William Johnson and Harvey Gunning, Chambers Brown, Holbrook Good, James Neill, Sam Ferguson, Richard Caldwell, Pinckney Caldwell. I don't remember the others, but there were more men than these there.

Question. Was that the crowd you found at the brier-patch; did others come there?

Answer. Dr. Bratton came there, and Lindsay Brown and Rufus McLain.

Question. Did you know any of the others?

Answer. No, sir. There were some men there, but I don't remember them.

Question. Did any more come to that place after that?

Answer. Not at that place.

Question. Who took command of the crowd?

Answer. Johnson was chief of that party when we started from the brier-patch.

Question. Tell us where you went and who you met on the road.

Answer. We went across the Pinckney road about three miles.

Question. Did you put on your disguise at the brier-patch?

Answer. Yes, sir.

Question. What sort of disguises are they?

Answer. Most of them were black gowns, with heads and false-faces.

Question. What sort of heads were they?

Answer. They were made out of black cloth, or dark cloth.

Question. How were they ornamented?

Answer. Some had horns, and some had not.

Question. Had you horses there?

Answer. Yes, sir.

Question. Were the men armed?

Answer. No, sir. I don't believe I saw a gun in the party.

Question. Had they pistols?

Answer. I didn't see any pistols.

Question. Now tell us where they went.

Answer. We went down to the Pinckney road, and there we met another party of men.

Question. How far was it before you crossed the Pinckney road?

Answer. About three and a half miles above Squire A. S. Wallace's, the member of Congress.

Question. Who did you meet there?

Answer. We met the four Shearer boys, Robert Hayes Mitchell, (this man here,) and Elias Ramsay. I don't remember any more; but there was more men there.

Question. What did they do there?

Answer. We stopped then, and there were four men initiated there.

Question. Who were they?

Answer. They were the four Shearer boys.

Question. Can you give their names?

Answer. James, William, Sybranus, and Hugh Shearer.

Question. Who swore them?

Answer. I don't know.

Question. After they were initiated what was done?

Answer. We started in the direction of McConnellsville.

Question. Who was in command of the party?

Answer. Bratton was at the head of the party. He was riding in front.

Question. What Bratton was that?

Answer. Dr. J. Rufus Bratton, of Yorkville.

Question. Go on with what you had to say.

Answer. We went on then to McConnellsville, and about 200 or 300 yards from there we halted; and they said there were some guns down at that place, and they sent a party to search and get them. A man then came from the party that went forward and said, bring up the horses; and they took them down. They said there was a gun at Mr. Moore's; and they went up there for a black man; but I don't know who he was.

Question. At whose place was this?

Answer. They said it was Mr. Moore's place.

Question. What did they do with the black man?

Answer. They asked him about Jim Williams; how far away he lived. They asked him if he knew it Williams had any guns. He said he thought there were twelve or fifteen guns there. Then they took this black-masked man and mounted him on a horse or mule, and carried him a piece; then they halted and turned the black man loose, and he went back home. Then they went on from there about three miles, and stopped in a thicket, and a party of ten went off—I don't know whether there were more than ten—and were gone probably an hour.

Question. Can you describe the place?

Answer. It was in an old piney thicket on the side of a hill.

Question. What did you do?

Answer. I remained there with the horses. I was not well, and I just remained there with the horses.

Question. Did the party go forward?

Answer. Yes, sir. Before I got off my horse I heard some one call for ten men, and that party then went off. I saw them go off; and they were gone probably one hour when they returned.

Question. Did you hear anything of them while they were gone?

Answer. Not a word.

Question. Did the same crowd return?

Answer. Yes, sir.

Question. What was said by any of them as to what they had done?

Answer. I asked if they had found the black man Jim Williams, and if they saw him. I got no answer, and they just got on their horses to leave.

Question. Who ordered them?

Answer. I heard some man say, "Mount your horses," and then they mounted and took across over the fence, and I got up forward to the foremost man—Dr. Bratton. I asked him if he had found the negro. He said yes. Said I, "Where, where is he?" Said he, "He is in hell, I expect."

Question. What further was said?

Answer. I asked him, "You didn't kill him?" He said, "We hung him." I said, "Dr. Bratton, you ought not to have done that." He then pulled out his watch, and said, "We have no time to spare; we have to call on one or two more."

Question. Where did you go then?

Answer. I went down to the bridge and crossed it, and fell into the Brattonville road. I went, I reckon, a half or three-quarters of a mile. There was a gun at this house. They stopped and went, but I don't know whether they touched the gun or not. We went up the road till we got beyond Brattonville, and after passing it about 300 yards, or may be more, one party went one road and fifteen or twenty went another road.

Question. In what general direction were they going?

Answer. In the direction of Yorkville.

Question. How far were you then from Yorkville?

Answer. I don't know; but I understand that it was about ten miles from Brattonville.

Question. What time in the night was it when the parties separated?

Answer. It was about 3 o'clock.

Question. What time was it when Jim Williams must have been hung?

Answer. I don't know; but I think it must have been about 2 o'clock.

Question. Which party did you go with from this place?

Answer. I went on the right-hand side, and took the right-hand road.

Question. Did you go to Yorkville?

Answer. No, sir.

Question. Which side of Yorkville did you go home?

Answer. On the left-hand side. I went directly to my home. I left Yorkville on my right.

Question. Tell us what occurred on your way home.

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Answer. Nothing occurred after we left that place. We just went straight, as fast as we could, right for home.

Question. What portion of this crowd lived in Yorkville ?

Answer. There were two men there—Dr. Bratton and Rufus McClain.

Question. After you left the place where you hitched your horses when Jim Williams was hung, what was said by Dr. Bratton about refreshments ?

Answer. Nothing was said there ; but Dr. Bratton told me I needn't be afraid of getting hungry ; that he would get something to eat for us ; but he did not tell us where.

Question. Did you get refreshments that night ?

Answer. Yes, sir.

Question. Where did you get them ?

Answer. Some distance from Brattonsville. We fell in with a crowd some distance above Brattonsville, and with this party we had something to eat—crackers, cheese, and, I think, two bottles of whisky.

Question. Did you get any ham ?

Answer. If so, I did not get any.

Question. Can you tell exactly where that was ?

Answer. I could not. It was some distance from Brattonsville. I never was on the road before in my life.

Question. Then, after the two parties separated, you went home ?

Answer. Yes, sir.

Cross-examination by Mr. JOHNSON :

Question. How long had you known the prisoner before that time ?

Answer. I had known him a good while.

Question. Did you know him very well ?

Answer. Yes, sir ; I was in the war with him.

Question. Did you ever see him on any raid except this one ?

Answer. No, sir ; I never did.

Question. Did you ever see him at any meeting of the order ?

Answer. No, sir.

Question. When you saw him at the place where he joined you, had he any disguise on ?

Answer. No, sir.

Question. Were the rest disguised ?

Answer. A good many were not disguised. Mostly the men who met us on the Pinekney road were not disguised.

Question. Was he one of the ten that were detailed to guard the house of the negro man ?

Answer. No, sir ; he was not one of the men that went.

Question. He was not ?

Answer. No, sir.

Question. Where was he ?

Answer. He was with the horses with me.

Question. When did you say you were initiated ?

Answer. Eighteen hundred and sixty-eight.

Question. In Yorkville ?

Answer. Yes, sir.

Question. Who made the application to you to become one of the party ?

Answer. Major Avery.

Question. What did he tell you was the object of it ?

Answer. He said this thing was intended for self-defense.

Question. How long were you present in the room when you were initiated ?

Answer. Just for a short time—not over five minutes.

Question. Was anything said by Avery in anybody's hearing that the object was to prevent the blacks from voting ?

Answer. No, sir ; I never heard of it.

Question. What did you understand from them was their object in going to the house of this colored man ?

Answer. To know if they had any arms ; that was my understanding ; and they had been told by the negro man that there were from eleven to fifteen arms there.

Question. He said there were twelve to fifteen guns there ? Then, as far as you know, their purpose was to get these guns ?

Answer. Yes, sir.

Question. Did you, during that night, or after they went to the house of the poor negro, or when you returned home, were you told that the object of the society was to prevent their voting ?

Answer. I didn't hear anything of that said.

Question. Where did you live at that time ?

Answer. Within five miles of Yorkville.

Question. What did you understand from Mr. Avery's speech were the matters from which they desired to protect themselves ; had anything occurred ?

Answer. No, sir ; nothing had occurred at that time.

Question. Any fires ?

Answer. Not when I was initiated.

Question. Did you hear at that time of any threats having been made ?

Answer. No, sir ; not at that time.

Question. When did you hear, if at all, that threats were made ?

(Question objected to.)

Question. Did you hear that threats of violence were made before you went on that raid you speak of ?

Answer. Yes, sir, I did.

Question. What were the threats you heard that had been made ?

Answer. I heard this black man, Jim Williams, was formerly in a Ku-Klux party down there, and that he intended to Ku-Klux the white people of that county.

Question. Was his threat of Ku-Kluxing confined to the white men, from what you heard ?

Answer. Yes, sir.

Question. Was anything said about white women ?

Answer. No, sir.

Question. Was anything said about children ?

Answer. No, sir ; but I heard such things.

Question. Who did you hear it from ?

Answer. Well, I heard reports of that kind—that this man said he intended to kill from the cradle to the grave.

Question. How many places do you say you were at that night you visited Jim Williams ?

Answer. We stopped at two other places.

Question. Did they belong to colored people ?

Answer. Yes, sir. We stopped at McConnellsville, and went for a black man there ; and we went from there to Dr. Love's, and halted there, and called for a black man.

Question. Was anything said upon either of those occasions about their not being permitted to vote ?

Answer. I never heard anything.

Question. Then, if I understand you, from the time you were initiated up to the time of the raid, you never heard that the object of the association was to prevent the colored people from voting ?

Answer. No, sir ; and I never was at a meeting except that one.

Question. You say you did not recollect any conflagrations or fires at the time you were initiated ?

Answer. No, sir ; I did not.

Question. Were there fires afterwards ?

Answer. Yes, sir ; there were some fires afterwards.

Question. Whereabouts were they—how far from Yorkville ?

Answer. They were pretty much in all directions from Yorkville.

Question. What kind of houses were burned ?

Answer. Mostly gin-houses.

Question. Were many burned ?

Answer. Yes, sir ; several gin-houses were burned.

Question. Who were the owners of these houses ?

Answer. Dr. Addison had a gin-house burned that was run by water, and Widow Thomas and Dr. Lowry had a gin-house burned, and Mr. Warren had another burned.

Question. Were they white people ?

Answer. Yes, sir.

Question. Was the house of Mrs. Ray burned ; was the house of Mrs. Aleross burned ?

Answer. Yes, sir ; I heard about that.

Question. Was the house of Mr. Thomas burned ?

Answer. I do not know.

Question. Was the house of Mr. Jacob Smith burned ?

Answer. He had a barn burned.

Question. What time were those burnings ?

Answer. It was in January, I think, of this year, some of the burnings. Dr. Addison's, I think, was the 1st of January. Some burnings were, I think, in October, 1870.

Question. The rest you think were in January, 1871 ?

Answer. Yes, sir ; about that time.

Question. Was there a good deal of alarm in the neighborhood on account of these fires ?

Answer. Yes, sir ; there was a great deal of alarm.

Question. Did you ever hear of a threat to burn down the town of Yorkville ?

Answer. Yes, sir.

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Question. From whom did you understand that threat came ?

Answer. There was a man from Yorkville came into our county ; he said there had been a difficulty on Sunday night at Yorkville. This was on Monday that he came, and the negroes said they intended to burn down Yorkville on Monday night. He wanted us to turn out and help defend the place.

Question. What night was that ?

Answer. I do not recollect.

Question. Was that before you went upon that raid ?

Answer. Yes, sir ; it was before.

Question. Do you recollect the month ?

Answer. No, sir.

Question. Was it in a winter month ?

Answer. Yes, sir ; it was in a winter month.

Question. Can you tell whether it was December, January, February ?

Answer. I think it was January, 1871.

By Mr. CORBIN :

Question. Did you ever hear any negroes make such threats as those you have been speaking about ?

Answer. No, sir ; I never heard them.

Question. Did you ever see a man who did hear them ?

Answer. No, sir ; I never saw a man who said he had heard them ; nothing only what Dr. Bratton told me.

Question. Did Dr. Bratton say that he heard the negroes say it ?

Answer. He didn't tell me that he heard the negroes say so.

Question. All this talk about the negroes burning down Yorkville and killing the white people at Brattonsville was all mere rumor ?

Answer. Yes, sir ; it was to me.

Question. You never heard a negro say so yourself, and you never heard a white man say that a negro had told him ?

Answer. No, sir.

Question. You have spoken about rumors—first about Dr. Allison's house. Did not you hear that he said that a white man burned his place out of revenge ?

Answer. No, sir ; I never heard that rumor. I never heard Dr. Allison say so ; but I have heard, and believe, that white men did it.

Question. When did these burnings you speak of occur ?

Answer. I could not tell exactly ; but it was in January some time—about the middle of the month.

Question. When did the raids of the Ku-Klux, generally, throughout the country commence ?

Answer. The first raid I heard of was on Rufus White. I think that was in October, of 1870.

Question. Was this the October previous to the fires ?

Answer. Yes, sir ; after the raid on White, it was not more than a week till Dr. Allison's house was burned.

Question. What was the next raid you heard of ?

Answer. I think the next was the Roundtree raid.

Question. What did they do there ?

Answer. I understand they killed him.

Question. Who was Roundtree ?

Answer. He was a colored man who lived in the northeastern part of the county.

Question. When did that occur ?

Answer. I don't remember.

Question. Who is reported to have done it ?

Answer. I never did hear.

Question. Was it done by the Ku-Klux ?

Answer. I suppose it was ; but I know nothing about that.

Question. What month was that ?

Answer. It was before Christmas ; I think last fall.

Question. What other raids of the Ku-Klux did you hear of about that time ?

Answer. I think the next raid was on John Ferris.

Question. When was that ?

Answer. I think it was before Christmas.

Question. What other raids of Ku-Klux do you know of ?

Answer. I don't remember which were next.

Question. Were there rumors of raids all about the country at that time.

Answer. Yes, sir ; there were.

Question. State whether the raids of the Ku-Klux had been going on, had not been going on, weeks and weeks prior to January, when you said those fires occurred ?

Answer. I don't remember whether they had or not.

Question. With the exception of the Allison raid they had been going on before Christmas?

Answer. Yes, sir; but most of them were done in January and February, 1871.

Question. Was that at the time that most of the fires occurred; when was that rumor about burning Yorkville?

Answer. That was in February or March.

Question. Did you ever have any reason to think there was any truth in that rumor?

Answer. I do not know. From what came to me I concluded there was something in it. I did not think a man would leave Yorkville to ask me to join, unless there was something in it.

Question. You had no reason to think there was any truth in it?

Answer. Only from what I heard.

Question. Did you hear it from anybody who pretended to have heard persons threaten it?

Answer. There was a young man who came there to me, who said the darkies had met, and that they would burn the place that night.

Question. Who was it?

Answer. Harvy Clawson.

Question. How old is he?

Answer. I suppose he is twenty-two or twenty-three.

Question. Is he a member of the Klan?

Answer. Not that I know.

Question. Did he not give you any signs?

Answer. No, sir; not one.

Question. Did you go to Yorkville that night?

Answer. Yes, sir.

Question. Did you see any signs of burning?

Answer. No, sir; there was no attempt to burn it that I saw myself. I did hear that there was some fire seen under Mr. Graham's house, or had been put under Mr. Graham's house. I heard so, but I did not know it to be so.

Question. Did you hear anybody say that they had seen it?

Answer. No, sir; I just heard that as a rumor that night.

Question. Did you come to the conclusion that it was all a hoax?

Answer. Yes, sir.

Recross-examination by Mr. JOHNSON:

Question. What is the name of the young man who told you of the intention to burn Yorkville?

Answer. Harvy Clawson.

Question. Whose son is he?

Answer. He is the son of lawyer Clawson.

Question. Is he the registrar in bankruptcy?

Answer. Yes, sir.

Question. Did you go to Yorkville armed?

Answer. Yes, sir.

Question. How many men did you find there?

Answer. I found a pretty big crowd.

Question. Were they armed?

Answer. Yes, sir; pretty generally armed with pistols.

Question. What did you understand from them was the object of their being there?

Answer. They heard the same thing that I did—that the darkies intended to burn the town.

Question. And they were there to protect the town?

Answer. That was my understanding.

Question. How many were there?

Answer. It was a pretty big crowd. It was in the evening; I got there before night, and the crowd gathered there betwixt sun-down and dark.

Question. How many were there?

Answer. There were over 100 men there.

Question. How many were armed?

Answer. I cannot tell how many.

Question. Was there a colored company in town that night?

Answer. Yes, sir.

Question. Were they armed?

Answer. Yes, sir.

Question. Where were they stationed?

Answer. The lower end of the town.

Question. Where were the crowd to which you were attached stationed themselves?

Answer. We were stationed nearly in the center of the town.

Question. And the black company was at the lower end of the town?

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Answer. Yes, sir.

Question. Were they armed?

Answer. They had their arms at that time.

Question. Were they armed that night—the arms had not been taken from them?

Answer. No, sir.

Question. Was there any military or martial music?

Answer. I heard a drum beat.

Question. Did it come from the neighborhood of the colored company?

Answer. Yes, sir; it was down in that neighborhood.

Question. And the most of them you think were armed staid in Yorkville?

Answer. Till after 12 o'clock at night. Only a few had guns, and they who had guns set them away; I think most of them had pistols buckled round them.

Question. Were you armed?

Answer. I had a double-barreled gun.

Question. Was your gun loaded?

Answer. Yes, sir.

Question. What with?

Answer. It was loaded with small shot and buck-shot.

Question. Did you not in fact go up there to protect the town from what you might suppose was a threat to burn it?

Answer. Yes, sir; that was my intention.

Question. How far were you from Yorkville when you were told to come up?

Answer. I was at a neighbor's house, near them.

Question. Did you meet citizens of the town?

Answer. Yes, sir; I met one man.

Question. Did he express any alarm?

Answer. One man told me there would be nothing done, and the best plan would be to disperse and go home.

Question. Was anything done?

Answer. No, sir.

Question. Who was it told you that?

Answer. F. J. Bell.

Question. Who was the Mr. White referred to?

Answer. He was a man living out there seven or eight miles from Yorkville. I know very little about him. I know the man when I see him.

Question. Did you hear he had been convicted of larceny—did you hear that he had been in the penitentiary?

[Question objected to and withdrawn.]

ANDREW KIRKPATRICK, a witness for the prosecution, being duly sworn, testified as follows:

Direct examination by Mr. CORBIN:

Question. State your name?

Answer. Andrew Kirkpatrick.

Question. Where do you live?

Answer. Seven and a half miles from Yorkville, on the Pinckney road.

Question. What direction from Yorkville?

Answer. Westerly.

Question. How old are you?

Answer. Twenty, last June.

Question. When were you initiated into the Ku-Klux organization?

Answer. Last February.

Question. Where?

Answer. At home.

Question. Who initiated you?

Answer. Chambers Brown.

Question. What is his relation to the order?

Answer. He was the chief at that time.

Question. Can you remember the oath or the substance of it?

Answer. No, sir.

Question. Can you remember any portion of it?

Answer. I remember the last thing.

Question. What was it?

Answer. The traitor's doom shall be death! death!! death!!!

Question. Then you joined this Klan?

Answer. Yes, sir.

Question. Have you attended a good many meetings of the order?

Answer. Yes, sir; I was at one regular meeting.

Question. Can you tell who was there?

Answer. There were the four Shearer boys—they were brothers—and Robert Hayes Mitchell.

Question. What man is that?

Answer. That man there, [pointing to the prisoner.]

Question. Who else was there?

Answer. Chambers Brown, Hugh Kell, Elias Ramsay, Eli Ross Stewart, Samuel Ferguson, Napoleon Miller, John Miller, Squire Sam Brown, Robert Riggins, and Hugh Wallach. I don't mind whether there were any more there or not.

Question. What did they do at that meeting?

Answer. They elected a new chief and Turk.

Question. Who was the chief?

Answer. Robert Riggins.

Question. Who was elected Turk?

Answer. Napoleon Miller; I think they elected Chambers Brown as monarch.

Question. What else did they do?

Answer. I don't recollect anything more.

Question. Did they elect any "Night-Hawks?"

Answer. No, sir.

Question. Do you recollect if they elected any council or advisory board?

Answer. I do not recollect.

Question. Did you attend any other of their meetings? When was that regular meeting held?

Answer. I don't remember what time it was. I think it was after corn-planting time.

Question. Was you on the raid on Jim Williams?

Answer. Yes, sir.

Question. Commence and tell us all about that raid. Who gave the order to go; where you assembled; where you went to, and what you did?

Answer. Well, we met at the Briar Patch.

Question. Who gave the order to go there?

Answer. Chambers Brown.

Question. Who did you meet at the Briar Patch—tell us all about it?

Answer. Wm. Johnson, Harvey Gunning, Bascom Kennedy, Holbrook Good, Chambers Brown, Elias Brown, Dixon Brigham, Napoleon Miller, Samuel Ferguson, John Caldwell, Bob Caldwell, Pinckney Caldwell, Jim Neil, Miles Carroll, Ad. Carroll, Dr. Rufus Bratton, and Rufus McLain.

Question. Were you armed and equipped?

Answer. Some of them had pistols, and some had guns.

Question. What sort of uniform did they put on?

Answer. They had different sorts.

Question. What were they?

Answer. Some were red, and some were white.

Question. Were they gowns?

Answer. Yes, sir.

Question. What did they wear on their heads?

Answer. They had capes that came down over their heads.

Question. What sort were they?

Answer. They were made out of black cloth.

Question. How were they ornamented?

Answer. Some of them had horns on them.

Question. Were their horses disguised in any way?

Answer. Some of them were.

Question. How?

Answer. Some of them had blankets over them.

Question. Did the blankets conceal them?

Answer. Yes, sir.

Question. What was the object in putting blankets over them?

Answer. To keep anybody from knowing them.

Question. Who took command at the Briar Patch, and gave the order to march?

Answer. I do not know who it was told us to march.

Question. What did you do after you assembled there?

Answer. We got on our horses and started.

Question. How many different Klans were represented there?

Answer. I think there were two.

Question. Which were they?

Answer. Will Thompson's and Chambers Brown's.

Question. How many men do you think there were at the Briar Patch?

Answer. I do not know.

Question. How many do you think there were?

Answer. Some thirty or forty, I reckon.

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Question. Where did you go?

Answer. We went up to the cross-road above Squire Wallace's, crossed the Pinckney road, when we met the four Shearer boys, Hugh Kell and Bob Riggins, and Robert Hayes Mitchell.

Question. The defendant?

Answer. Yes, sir; and Elias Ramsay.

Question. What was done with the Shearer boys?

Answer. They initiated them.

Question. Who administered the oath?

Answer. Harvey Gunning.

Question. What was done next?

Answer. We started and went down by Squire Wallace's, went by the house and took the left-hand road, and went down by Tom Harkness's, and got some water at Anderson Latham's. We went on until we got to McConnellsville; we stopped there at Mr. Joe Moor's, and called the colored man out and talked to him.

Question. Who brought him out?

Answer. I do not know.

Question. Do you know who the colored man was?

Answer. No, sir.

Question. What did you do with him?

Answer. We didn't do anything with him.

Question. What did they say?

Answer. I didn't hear.

Question. What was done next?

Answer. They mounted their horses and went on.

Question. What did you do after taking this colored man out?

Answer. I believe the next house we stopped at was on the left-hand side; I do not know whose house it was. We stopped there and asked for a colored man that lived there, but we did not find him, and we went on until we came to the big road; then we took to the left, and to the big road, and to Jim Williams's.

Question. What did you do there?

Answer. We hitched our horses up on the hill-side like. Myself and Bob Riggins sat down. That is about all I know. What they did in the house I don't know.

Question. Did the others go to the house?

Answer. Yes, sir.

Question. How many went to the house?

Answer. I don't know.

Question. Did you hear any noise while they were gone?

Answer. I don't remember now whether I did or not.

Question. How long were they gone?

Answer. I don't know; I suppose about a half an hour.

Question. What did they say when they came back?

Answer. I heard some one say they had hung him.

Question. Did they use any profane language about him?

Answer. Not that I have heard.

Question. What did you do next?

Answer. We got on our horses and went across the fields till we came to another by-road, and then we started toward Yorkville and went home.

Question. About what time in the night was it that Jim Williams was hung?

Answer. I don't know.

Question. What time did you get home next morning?

Answer. About daylight.

Question. Did you hear before you got there what they were going to do with Jim Williams when they found him?

Answer. No, sir.

Question. You only know that if they went up to his house they had been gone half an hour, and that they had hung him?

Answer. Yes, sir.

Cross-examination by Mr. JOHNSON:

Question. Do you know if the prisoner went to the house?

Answer. No, sir; I do not think he did.

Question. Where was he?

Answer. He was with the horses, I think.

ELIAS RAMSAY, a witness for the prosecution, being duly sworn, testified as follows:

Question. Where do you live?

Answer. York County.

Question. How long have you lived there?

Answer. I was born and raised there.

Question. What portion of the county?

Answer. The southwestern part.

Question. How far from Yorkville?

Answer. About ten miles.

Question. Did you ever join the Ku-Klux organization?

Answer. Yes, sir.

Question. When was this?

Answer. On the 26th of February, 1871.

Question. Whose Klan did you join?

Answer. Chambers Brown's.

Question. Who swore you in?

Answer. Chambers Brown.

Question. Can you remember any portion of the oath?

Answer. I remember the first part; I remember the words, "I solemnly swear," but I don't remember any more of it.

Question. Was there anything in it about the radical party?

Answer. Yes, sir; it was to put down the radical party.

Question. Was there any penalty for divulging the secrets of the order?

Answer. Yes, sir; any one who divulged the secrets, his should be the traitor's doom—death! death!! death!!!

Question. What meetings of the order did you attend?

Answer. Only one.

Question. What one was that?

Answer. It was at the Sharon meeting-house.

Question. Who was present, and what was done?

Answer. There were several persons present: Esquire Sam. Brown, Chambers Brown, Robert Riggins, Hugh Kell, Pinckney Kell, Sherrod Childers, Napoleon Miller, John Miller, Samuel Ramsay, Robert Harkness; there were the four Shearer boys, and Robert Hayes Mitchell.

Question. This defendant?

Answer. Yes, sir.

Question. How long have you known him?

Answer. I have known him for about eighteen months.

Question. What were those raids for?

Answer. It was to go round visiting colored people.

Question. For what purpose?

Answer. For the purpose of voting.

Question. Are you positive about that?

Answer. I heard them say that was their purpose.

Question. Were they members of the order?

Answer. They were members of other orders.

Question. What was the common understanding?

Answer. That was the understanding.

Question. Did you hear anybody talk about it at the Sharon Church meeting?

Answer. No, sir.

Question. What was done at that meeting?

Answer. A company was organized, and it was for electing new officers.

Question. Who was elected?

Answer. Robert Riggins, Chambers Brown, he was elected monarch; Napoleon Miller, he was elected Turk. Three members of a committee, I don't know for what purpose; I was one, William Shearer was another, and Pinckney Carroll another.

Question. Who was first proposed at that committee?

Answer. Chambers Brown. They organized that committee to examine members. They examined them before they took them in.

Question. Do you know if any other person that was nominated a member of that committee before you were elected?

Answer. No, sir; but a number was nominated.

Question. Was Squire Hope nominated?

Answer. He was nominated that night for one committee.

Question. Why was he not elected?

Answer. Napoleon Miller said they had no use for him; he must be held off. He also ran against me.

Question. Why did he object to Squire Hope?

Answer. For not riding on raids. I understood he would not.

Question. Was he defeated for that reason?

Answer. I do not know that that was the reason.

Question. Were you on the raid on Jim Williams?

Answer. I was one of that raid.

Question. Do you know what the object of that raid was?

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Answer. All that I can learn was that it was to seize guns.

Question. Commence at the beginning, when you first heard of that raid?

Answer. I heard of it that evening at home. Robert Kell came to me and told me to meet the Klan on the big road. I went with Hugh Kell, Robert Hayes Mitchell, the four Shearers, and Henry Warlick.

Question. Was that Robert Hayes Mitchell, the defendant?

Answer. Yes, sir.

Question. When did you meet with him?

Answer. Two miles from where I lived, and about four miles from Squire Wallace's.

Question. Did he ride with you there?

Answer. He rode in the crowd to the cross-roads.

Question. Where did you put on your disguise?

Answer. They had them on when they came up with me. I rode on the road near Mrs. Warlick's. They had on their disguises when they came there—Hugh Kell, Robert Hayes Mitchell, and the four Shearer boys, and Warlick—I am not certain whether he had his disguise or not.

Question. Do you know Robert Hayes Mitchell?

Answer. Yes, sir.

Question. How long have you known him?

Answer. I have known him for the last ten years; I knew him in the war.

Question. Were you a soldier in the confederate service?

Answer. Yes, sir.

Question. Were you in the same company?

Answer. No, sir; we were both in same regiment; I personally knew him.

Question. Did you talk with him that night that you went on the raid?

Answer. Yes, we talked with each other.

Question. What time did you get to the cross-roads?

Answer. About 9 o'clock.

Question. How long did you wait for the other party?

Answer. About an hour.

Question. When you came, who was in command?

Answer. I do not know; they all came up with their disguises on, and I did not know one from another, at the time they rode up. Orders were then given to halt the other squad.

Question. Who halted them?

Answer. Our squad did.

Question. What did they do that for?

Answer. To know whether they were friendly or not.

Question. How did you do it?

Answer. We first stood out in the road, and hollowed out, "Who goes there?" They said, "Friends." We said, "Friends to whom?" "To our country," they said.

Question. Is that the usual way of recognizing friends in the night?

Answer. That was the first I knew of it.

Question. Who did that?

Answer. Hugh Kell.

Question. After that had occurred, rode up to where you were?

Answer. Yes, sir; the four Shearers were initiated there.

Question. Who swore them in?

Answer. Charles Brown. After hollowing, they started for water; they went on another road, passed by Sam. Wallace's, turned to the left, down to Henry Larken's, to get water; then they went on to another road to McConnellsville, and after they got there the order was to keep quiet; we were going to seize some guns.

Question. Did they mean that there should be no conversation?

Answer. Yes, sir; it meant no loud talking. We went on to another place; a portion of the other men went on first. I went on, but was ordered to stay with the horses, and went back. He said if a pistol fires, then you with the horses will come up. I staid with the horses while them two men came up behind, and I halted them. I asked who they were. They said they were fox-hunters and had their dogs with them. I asked who they were. One was Dr. Love and one was Mr. Latham. I told them to remain there till further orders. In a short time we moved up there. There was no pistol fired.

Question. What occurred there?

Answer. I said to Alonzo Brown that Dr. Love was behind. Alonzo Brown then walked up and spoke to him. He asked him where the guns were. Brown saw they were not there. He asked Love if he knew anything about it. Love said he thought that they were over at the Bethesda church. There was a colored man there, a militia man; he thought they were turned over to him, as I understood. From that, we started to cross the railroad; the biggest part of the crowd was ahead, and a part was behind. There was a colored man taken up behind one of them; I don't know who he was.

Question. What was he taken up behind for?

Answer. I don't know; some man took him up behind, but he was told to put him down. I don't know who said "put him down."

Question. Go on.

Answer. The black man was then set down from the horse. We went on through the country then, where I knew nothing about. I had been to McConnellsville before.

Question. Where did you go?

Answer. We went on. I heard no orders where we were going to. I suppose about two miles. I heard some one say in front of me, the men was not in a regular line. The road was muddy and bad, and the line was a hundred yards long. Some one said in front of me, four or five horses from me, that they were going to hang Jim Williams.

Question. This the first time you heard what they were going to do?

Answer. The first time I heard Jim Williams's name called.

Question. Did you know who it was that said that?

Answer. No, sir; I did not recognize the voice.

Question. Go on now.

Answer. We went on some distance—a mile, I suppose—through the woods, and went through the woods some distance and stopped, and then all in front of me got down, hitched their horses up, and all the men in front of me went off. I heard no orders given.

Question. How many went off, do you think?

Answer. I don't know, sir; I think the biggest part of the crowd. I heard no orders given, and didn't know where they were going. I got down and hitched my horse up and sat down. Hugh Kell told me to notice his mule while he was gone; didn't say where he was going; and I sat down, and John Caldwell came up and sat down and said he was sick; that he had the colic; and the four Shearer boys were sitting off aside just behind where I was sitting. Robert Hayes Mitchell, I heard his voice. There were some more, but I didn't see nor notice how many there was.

Question. They hitched their horses and set down?

Answer. Yes, sir.

Question. What did you hear of the party who had gone on in front?

Answer. Never heard a word where they were gone to, nor what they were going to do.

Question. Where did you understand they were then, with reference to Jim Williams?

Answer. There was no understanding where they was.

Question. Do you say you heard anything while they were gone?

Answer. No, sir.

Question. How long were the party gone?

Answer. I suppose they were gone twenty or thirty minutes; then they returned. Well, I heard a fuss during the time they were gone, something like a woman in distress.

Question. What do you mean—crying?

Answer. Yes, sir.

Question. Was that all?

Answer. That was all that I heard.

Question. Can you give any more particulars about it?

Answer. No, sir; nothing more.

Question. Except that you heard a woman crying?

Answer. Yes, sir; it appeared to me like it was a woman's voice; like she was in distress.

Question. How long was that before the party returned?

Answer. But a short time, sir; I suppose in ten minutes they came back.

Question. What did they say when they returned?

Answer. I heard nothing said. The horses were all scattered, and every man held to his horse, mounted his horse, and moved off out of the woods into an old field. The first that I heard, James Neil said to me, "Some men are powerful hard-hearted."

Question. Well?

Answer. He said no more, sir. We went on through the fields, fell out into the big road, the Chester and Yorkville road, and went from there on. At the first house we came to—it was a black man's house, on the right-hand side—I rode up in front. A parcel of them was at the black man's house looking up his gun. Dr. Bratton said that he was an old man, and said he should not be bothered any more.

Question. Did they take his gun?

Answer. I didn't see any gun. Someone went and told the old man. From that they mounted and rode on past Brattonsville. They call it ten miles from York. Passed on up there, and just below there the party divided, one party taking the right, and the other kept on up the big road to the left. I was with the party that was on the left.

Question. Now, before you divided there, did you have anything to eat?

Answer. No, sir, not there. The party I was in went on up above to John S. Bratton's house. There we stopped; the other party came around.

Question. Joined you there?

Answer. Came around; yes, sir, and joined us there.

Question. What was done there?

Answer. There was—I rode up into the crowd that came. The biggest part of the crowd had gone on. I heard that they were passing around some crackers and whisky and some meat, but I didn't get any meat.

Question. Any ham?

Answer. I didn't get any ham, nor no cheese; I only got some crackers and whisky.

Question. Was there ham and crackers there?

Answer. I did not see any.

Question. You saw the whisky; who furnishes those things?

Answer. I don't know.

Question. That near John Bratton's house?

Answer. Just above his house, sir.

Question. What did you do next, after you got through with your lunch?

Answer. Some of the crowd hollered, hold up the guns, and see how many guns they had got. The guns were held up. I did not understand how many there was, but from the looks of them it looked like there might be twelve or fifteen guns.

Question. Did you hear anybody say that Jim Williams would be hung that night?

Answer. No, sir. Just then Will Johnson said that he wanted a squad of men to go down to John Bratton's house—called parcel of men. I was one of the men. I didn't understand what I was called to go for. I walked out with them down to John S. Bratton's house. We come up on the piazza, and they hollered for him several times to come out, and at last he came out. He was very slow before he came out. He came out with his underclothes on, and they asked him what he meant by leaving his place armed with guns, having all his men on his place armed with guns. He said he could not help it; the State had armed them. Bratton said if he got any more guns on his place he would hold him responsible for the last gun. He said it looked hard if a man would be held responsible for what the State would do.

Question. That is, Bratton said so?

Answer. He said he voted no radical ticket; that he had not armed the negroes. There was nothing more said as I remember. We left there, got on our horses, and the front of the column came into the road and up in the direction of Yorkville. We overtaken them this side of Guthresville. We came in from there on up. Well, we stopped at some houses just this side of Guthresville for guns.

Question. They kept dropping into houses as they went along for guns, this side of Guthresville?

Answer. There was several houses passed that I don't know whether they stopped or not. We were behind, and I and a squad of men that had been left at John Bratton's. The first houses we past by where we didn't stop. The head of the column was still ahead. We made no halt at the first house. We was some short distance behind, but just this side of McCounellsville they stopped at Major Wallace's and looked there for guns.

Question. Do you know any of the colored people whom they visited?

Answer. No, sir; don't know the first man's house. We passed on from them by Mr. Sam Hemphill's; from there by Mr. Sam Lindsay's; from there by Mr. Sanders's. Stopped at some of the houses there. Got no guns from there. Went on to Philadelphia church, and there I left them.

Question. What time did you get home in the morning?

Answer. I got home, sir—it was after daylight. I and Robert Riggins went from there home.

Question. Did you ever hear of any democratic niggers, as they call them, being visited by the Klan? Was not it the understanding that they were not to raid on such?

Answer. Well, I didn't hear the democratic mentioned very much about it.

Question. Didn't have many of that kind?

Answer. No, sir; not many.

Question. Now, what did you understand was the motive of killing Jim Williams?

Answer. I heard Chambers Brown say, on Thursday afterward, that he was a leading radical amongst the niggers down there; consumed a good deal of time of the men that belonged to the company.

Question. He was a leading radical among the negroes down there and consumed a great deal of time?

Answer. Yes, sir.

The COURT. Of the members of the company?

Answer. Yes, sir.

Question. Did you discuss with him at the time of the murder?

Mr. JOHNSON. With whom?

Mr. CORBIN. Chambers Brown.

Answer. He said that he was hung.

Question. And mentioned that he was the leading radical down there?

Answer. Yes, sir.

Question. Where is Chambers Brown now; do you know?

Answer. No, sir.

Question. When did he leave the country, if he left the country?

Answer. He left a few days before I was arrested.

Question. When were you arrested?

Answer. On the 21st of October.

Question. Have you heard of him since?

Answer. No, sir; I have not heard of him since.

Cross-examination by Mr. JOHNSON:

Question. Didn't hear anything said of democratic negroes, I understand you to say, Mr. Witness, being raided upon. Do you know any negroes supposed to be democratic being arrested by the military and confined in jail?

Answer. No, sir, I don't remember.

Question. How many others did you visit that night—the Klan of which you were a member—besides Rainy's house. You have mentioned a good many, but I forget the number of them?

Answer. I don't know the number of them myself.

Question. Was it eight or ten?

Answer. There was more places than I knew. I didn't know how many was visited. I didn't know many were visited in the rear of John S. Bratton's house.

Question. But the places visited that you did know; was anything done except to search for guns?

Answer. Nothing done, sir; only wanting guns; they give up their guns.

Question. And the result of the raid was that twelve or fifteen guns were found?

Answer. Yes, sir.

Question. What other place did they go to?

Answer. Went up the road, sir, in the houses on the other side of the road, hunting for guns.

Question. Do you know how many guns did they get in the whole?

Answer. No, sir; I don't know of their getting any more after they left Bratton's.

Question. Do you know what kind of guns they were?

Answer. They looked like the Army guns.

Question. Do you not know that they were guns furnished to the blacks by the State, or did you know anything about it?

Answer. I did not know; I only heard that the State had furnished those guns.

Question. You did find that they were muskets?

Answer. They were breech-loaders.

Question. You don't know where they came from?

Answer. No, sir.

Question. How far do you live from Yorkville?

Answer. Ten miles.

Question. On what day was the raid, of which you were on, which ended in the hanging of this poor fellow?

Answer. I don't understand you.

Question. You say you went on a raid which ended in the hanging of Rainy?

The COURT. Williams.

Answer. Williams was the name that I understood.

Question. What is the other name?

Answer. Well, I have heard since I was in jail—Jim, *alias* Rainy.

Question. What day of the month was it, or what month?

Answer. It was March—6th of March; sixth night.

Question. Well, at that time, or before that time, had you any knowledge that there had been fires in the neighborhood?

Answer. Yes, sir; there had been several fires.

Question. Had you then any knowledge, or had you heard that threats had been used by the blacks or some one of the blacks, to burn and destroy or kill the whites—to murder from the cradle to the grave, there.

Redirect examination:

Question. Did you hear anybody say it among the negroes?

Recross-examination:

Question. What I asked you was whether you heard that such threats had been made?

Answer. I heard by white people; I didn't hear by negroes.

Redirect examination:

Question. It was hearsay?

Answer. All hearsay.

Question. You didn't know anything about it?

Answer. No, sir.

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TESTIMONY OF SAM FERGUSON.

SAM FERGUSON was the next witness called for the prosecution ; he was sworn and said :

Direct examination by Mr. CORBIN :

Question. How old are you ?

Answer. Sixteen years old.

Question. When did you become a Ku-Klux ?

Answer. The 16th day of last March.

Question. Who initiated you ?

Answer. Hardy Grunnings.

Question. Was that the night of the raid on Jim Williams ?

Answer. Yes, sir.

Question. Where did he initiate you ?

Answer. Yorkville.

Question. At what time in the day ?

Answer. About the middle of the evening.

Question. Middle of the evening ? What time in the afternoon, after dark or before ?

Answer. It was before dark.

Question. After he initiated you, what did he tell you to go and do that night ?

Answer. He told me he wanted me to go to the old field—the Brier Patch.

Question. In the first place he blindfolded you ?

Answer. He blindfolded me and told me to get down on my knees.

Question. And then what ?

Answer. Then he came over the oath then.

Question. Can you tell us what the oath was ?

Answer. I can tell you some of it.

Question. Tell us what you know ?

Answer. Well, they were not to tell any secrets or signs.

Question. What was the penalty if you did ?

Answer. Death.

Question. Well, after you were initiated he told you you must go meet them at the Brier Patch ?

Answer. Yes, sir.

Question. What did he tell you they were going there for ?

Answer. He didn't tell me what ; said there was going to be a meeting there.

Question. Did you go ?

Answer. Yes, sir.

Question. Who did you go with ?

Answer. I went with Bill Miller and Josiah Martin, part of the way.

Question. How many people did you find there when you got there.

Answer. I don't know how many were there.

Question. A great many ?

Answer. No, sir ; not a great many.

Question. Yes ?

Answer. I don't know how many there was—I reckon there was about twenty—I reckon.

Question. What did they do then ?

Answer. Well, they put on their disguise.

Question. Did you put on one ?

Answer. I put a piece of cloth over my face.

Question. What did you do that for ?

Answer. Well, because they told me to do it.

Question. For the purpose of covering your face up, was it ?

Answer. Yes, sir.

Question. They all put cloths over their faces ?

Answer. Yes, sir.

Question. What did you do next ?

Answer. Well, they got on their horses.

Question. Who took command ?

Answer. I don't know who.

Question. Were the men numbered or not ?

Answer. Yes, sir, I think they were.

Question. How were they numbered ; what number did they give them ?

Answer. They just say No. 1 and 2.

Question. Each man present was given a number, commencing with No. 1 ?

Answer. Yes, sir.

Question. What was your number ?

Answer. I don't remember.

Question. You had a number ?

Answer. Yes, sir.

Question. When were they numbered ?

Answer. I don't know.

Question. When did you start off then, where did you go, and what did you do ?

Answer. Then we went on down to the Pickney road, the cross-roads ; then they met another crowd there.

Question. Whom did they meet there ?

Answer. There were the four Shearer boys.

Question. Brothers ?

Answer. Yes.

Question. Who else was there ?

Answer. There were Bob Riggings and Hugh Kell

Question. Who else ?

Answer. I don't know who else. I didn't know all of them.

Question. How many were there ?

Answer. I don't know how many there was, wasn't very many, though.

Question. What was done then, anything ?

Answer. They swore them four Shearer boys.

Question. What did you do there ?

Answer. Well, they got on their horses again and started down the big road.

Question. Where did they go to ?

Answer. Went down below Squire Wallace's, and started off to the left-hand.

Question. Go on ; what was it they did ?

Answer. They went on and stopped at Anderson Latham's, and got a drink of water.

Question. What next ?

Answer. They went on and stopped at a lane ; went on a good piece and stopped at a lane, and some of them got off their horses and left them there, and went up across the field.

Question. Go on as far as you can.

Answer. Then they went on up the railroad, the balance of them.

Question. Whereabouts on the railroad ?

Answer. Right where the road crosses the railroad.

Question. What did you do there ?

Answer. We stopped there, and they fetched out a nigger man out there.

Question. Who was it ?

Answer. I don't know who he was.

Question. What did they do with him ?

Answer. Some of them took him up on behind.

Question. On the mule ?

Answer. Mule or horse.

Question. Who was it ?

Answer. I don't know.

Question. What did they do that for ?

Answer. I don't know what for. They took him on a little piece and they let him down.

Question. Why did they let him down ?

Answer. I don't know why.

Question. Where did you go ?

Answer. They went on and some of them stopped at another house by the side of the road.

Question. What did they do there ?

Answer. I don't know. I don't know whether they done much of anything ; I was off a piece. Then they went on a good piece further and took off through a piece of woods, and went on through the woods a good piece, and then they all got down off their horses.

Question. What was done then ?

Answer. Some of them went down across the woods.

Question. How many ?

Answer. I think about ten or twelve.

Question. What did they do down there ?

Answer. I don't know what.

Question. What did you hear while they were gone ?

Answer. I didn't hear anything about them.

Question. Do you know how long they were gone ?

Answer. No, sir.

Question. How long were they gone ?

Answer. I don't know ; I reckon about an hour.

Question. What time of night was it ?

Answer. I don't know.

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Question. When they came back what was done?

Answer. They staid for everything to get on their horses.

Question. Did they say anything about what they had done? Did you hear anything about having killed a d—d radical?

Answer. No, sir; not there.

Question. Where did you hear that remark?

Answer. I didn't hear it anywhere.

Question. Tell us what you did hear about it?

Answer. We went on a piece further that day; had hung a nigger that night; Chambers Brown told me they had hung a nigger that night.

Question. Tell you what it was?

Answer. No, sir.

Question. Tell you what they hung him for?

Answer. No, sir.

Question. When did he tell you that?

Answer. He told me that before we got down to the branch.

Question. How far was it from where you hitched the horses?

Answer. A good piece; I don't know how far.

Question. After that where did you go to?

Answer. We came up the road right straight.

Question. What did you do on the way? If you stopped to visit houses say so, say so.

Answer. I expect some of them stopped to visit houses, but I didn't see any of them do it. Then they went on up there above the big white house.

Question. Whose house is that?

Answer. I don't know. I reckon some of the Brattons' houses.

Question. What did you do there?

Answer. They stopped there and had something to eat.

Question. What?

Answer. They had some crackers.

Question. Anything else?

Answer. That is all I got.

Question. Where did you go from there?

Answer. Went right straight up the road off home.

Question. Where else; what did you do—go home?

Answer. Yes, sir.

Question. What time did you get home?

Answer. I got home just before day, a little while.

Question. Who went home with you to Yorkville? Who was with you?

Answer. Bill Miller was with me when I got home.

Question. Do you live in Yorkville?

Answer. No, sir.

Question. How far from Yorkville?

Answer. About three miles.

Question. Did you go through Yorkville?

Answer. No, sir.

Question. That is the only raid you were ever on?

Answer. That is all.

Question. You were initiated that night?

Answer. That day.

Question. That day?

Answer. Yes, sir.

Question. Why did you join the organization?

Answer. Well, I was—because—

Question. Who induced you to join the Klan, and what reason did he give?

Answer. Pole Miller told me he wanted me to join it.

Question. What reason did he give for wanting you to join it?

Answer. He did not say why he wanted me to join it.

Question. Did he say anything about whether it would be better or worse for you to join it?

Answer. No, sir.

Question. Did he tell you what the object of the organization was?

Answer. No, sir.

Question. Had you known any of the members of the organization before that time—know any of the members of the Klan?

Answer. I knowed one; I knowed Pole Miller and Avery Stewart. They came along and called me out.

Question. What for?

Answer. They asked me the way to York.

Question. Did they have disguises on?

Answer. I don't think they were disguised; they had white cloths on their horses.

Question. Did he speak of this to you, or did you speak of having seen them—"Tell Pole Miller that I know him?"

Answer. I did.

Question. What did he say?

Answer. He first said it was not him, I believe. I told him I knew it was him.

Question. What did he say then?

Answer. He said it was him; he said it was Avery Stewart along with him.

Question. Then what next?

Answer. He told me he wanted me to join.

Question. And you told him you would?

Answer. Yes, sir.

Question. You are the son of a widow?

Answer. Yes, sir.

Question. The only son?

Answer. No, sir; I have one brother.

Question. Older or younger?

Answer. Older.

Question. Where is he?

Answer. He is at home.

Question. Is he a member of the Klan?

Mr. JOHNSON. What has that to do with it?

Answer. Yes, sir.

Question. Are you the only support of your mother—you and your brother?

Mr. JOHNSON. What has that to do with it?

Question. Are you the only support of your mother?

Mr. JOHNSON. We object to that.

Mr. CORBIN. We are giving the motive of this institution. Our distinguished friends on the other side have chosen to resort to all sorts of shifts to indicate the motives of individuals to join this order. I want to show by this lad that he was the only support of a widowed mother, and he was simply induced to go on this raid.

Mr. JOHNSON. I don't see that the question whether he is the only support of his mother has anything to do with it.

Mr. CORBIN. We have nothing more to say.

Mr. JOHNSON. I know, but you have said it.

The COURT. It is not pertinent to show it.

Mr. CORBIN. It is the same course pursued by the counsel on the other side.

Mr. JOHNSON. I beg your pardon.

Mr. CORBIN. I insist that it is.

The COURT. Gentlemen, go on.

Mr. CORBIN. (To the witness.) Come down.

Mr. JOHNSON. Wait, you have no right to set him aside.

Cross-examination by Mr. JOHNSON:

Question. You live three miles from Yorkville?

Answer. Yes, sir.

Question. Are you often in Yorkville, or were you at that time?

Answer. Yes, sir.

Question. Did you hear or know anything of there being fires in that neighborhood before the 6th of March?

Mr. CORBIN. Now, I want the court to understand that they ask these witnesses about fires; about fires. We insist that it is all hearsay testimony, and is not entitled to come in.

Mr. JOHNSON. The court has decided that.

The COURT. Go on, Mr. Johnson.

Question. The question I put to you is: at that time had you heard, or months before, that there were fires in the neighborhood?

Answer. Where, in our neighborhood?

Question. In the neighborhood of Yorkville.

Answer. I don't mind that I heard tell of some fires. Not certain much about it.

Question. Did you hear that any threats had been made by any black person to burn and destroy the property of whites, or murder whites from the cradle to the grave?

Answer. No, sir, didn't hear anything of it.

Question. Did you see this man on the night of that raid?

Answer. What man?

Question. The man on trial.

Answer. No, sir, I don't mind recognizing him.

Question. You don't know him?

Answer. O, I know him very well.

Question. Did you recognize him that night?

Answer. No, sir.

Redirect examination :

Question. Didn't know whether he was or not ?

Answer. No, sir.

Question. Did you know half the people that were there ?

Answer. I don't know whether I did or not. I expect I did.

Question. That is, you didn't recognize half of them that night, did you ?

Answer. I don't expect I did.

Mr. CORBIN. Elias Ramsey, who was just on the stand, informs me that he desires to be recalled, because, he says, in the excitement of the moment, he omitted to name some parties that were there. I ask that he may be recalled.

Mr. JOHNSON. We do not object.

ELIAS RAMSEY RECALLED.

Question. You have requested to be recalled to state some names that you omitted in the excitement of the moment ?

Answer. Yes, sir.

Question. Who were they that you omitted ?

Answer. Well, John Caldwell, Pinckney Caldwell, Robert Caldwell, Andrew Kirkpatrick, Sam Ferguson, Napoleon Miller, Will Johnson, Harvey Gunning, among others; some other names that I have set down here, that I could call the names over in the writing, that I was with.

Question. Well ?

Mr. JOHNSON. We admit, may it please your honors, that all he says were there.

Mr. CORBIN. Go on and name them.

Answer. (Reading from memorandum.) The four Shearers, Robert Riggins, Hugh Kell, Henry Warlick, Robert Hayes Mitchell, Chambers Brown, Alonzo Brown, Will Johnson, Dr. Bratton, Milus Carroll, John Caldwell, Robert Caldwell, Pinckney Caldwell, Harvey Gunning, James Neal, Anderson Carroll, Robert Bigham, Andrew Kirkpatrick, Samuel Ferguson, Pole Miller. These are men that I recognized on the raid that night.

Mr. CORBIN. If the court please, we rest here—do not propose to introduce any more testimony in this case.

The court here took a recess for fifteen minutes.

At three o'clock p. m. the proceedings were resumed.

Mr. CORBIN. If the court please, I have mentioned to the counsel on the other side that we would like to call one witness, and Mr. Johnson tells me that he does not object.

TESTIMONY OF AMZI RAINEY.

AMZI RAINEY was then called for the prosecution, and, being sworn, testified as follows :

Question. Where do you live ?

Answer. On Mr. Gill's place.

Question. In York County ?

Answer. Yes, in York County.

Question. How long have you lived in York County ?

Answer. I have been born and raised there.

Question. How old are you ?

Answer. About twenty-eight years old.

Question. Have you been a voter in York County ?

Answer. Yes, sir.

Question. Have you voted ?

Answer. Yes, sir.

Question. Nobody has ever questioned your right to vote there, have they ?

Answer. No, sir.

Question. Did you vote at the last election ?

Answer. Yes, sir.

Question. Vote for A. S. Wallace ?

Answer. Yes, sir.

Question. Vote the rest of the republican ticket ?

Answer. Yes, sir.

Question. Now, will you tell the jury whether the Ku-Klux raided on you, and what they said and what they did to you ? Tell us all about it.

Answer. Well, on a Saturday night, about ten o'clock.

Question. When was that ?

Answer. It was about the last of March, as near as I can recollect. I was laying down. I laid down at the first dark, and was laying down by the fire. The rest done

been abed, and about ten o'clock my little daughter called me and said, "Pappy it is time we are going to bed. Get up;" and just as I got up and turned around I looked out of the window and I see some four or five disguised men coming up, and I ran up in the loft, and they come on; come to the door; and when they come to the door they commenced beating and knocking. "God damn you, open the door! open the door, open the door!" and commenced beating at each side. There is two doors, and they commenced beating both doors, and my wife run to one of the doors and they knocked the top hinges off of the first, and she run across the house to the other, and agin that time they got the two hinges knocked off the other door, and the bolt held the door from falling, and she got it open; that is, she pulled the bolt back and throwed it down, and when they come in they struck her four or five licks before they said a word.

Mr. JOHNSON. We object to all this, may it please your honor.

The COURT. Let him go on.

Answer. They asked her who lived here. She said, Rainey—Amzi Rainey. "What Amzi Rainey?—what Amzi Rainey?" And she said, "Amzi Rainey," and he struck her another lick, and says, "Where is he, God damn him, where is he?" and she says, "I don't know;" and one said, "O, I smell him. God damn him, he has gone up in the loft." He says, "We'll kill him, too," and they come up then. This Sam Good, they made him light a light.

Question. Who is Sam Good?

Answer. It is a black man that lives on the same place.

Question. You say he had come on with them?

Answer. Yes, sir; and he lit a-light, and they made him and my wife go up before, and he followed them up there, and I was in a box, and they said, "O, he is in this box, God damn him; I smell him; we'll kill him," and the other says, "Don't kill him yet," and they took me down. This man that struck my wife first, ran back to her and says, "God damn her; I will kill her now; I will kill her out," and the one that went after me, he says, "Don't kill her," and he commenced beating her then, struck her some four or five more licks, and then run back and struck me. He run back to her then, and drewed his pistol and says, "Now, I am going to blow your damn brains out," and this one by me threw the pistol up and says, "Don't kill her." He aimed to strike me over the head, and struck me over the back, and sunk me right down. Then, after he had done that, my little daughter—she was back in the room with the other little children—he says, "I am going to kill him," and she run out of the room and says, "Don't kill my pappy; please, don't kill my pappy." He shoved her back, and says, "You go back in the room, you God damned little bitch. I will blow your brains out," and fired and shot her, sure enough.

Question. Did he hit her?

Answer. Yes, sir; he hit her, and after he had done that she went back into the room, and they commenced shooting over me—two shots over me and two shots over my wife. They shot about fifteen shots, and I had a sleeve-jacket on. It was woolen, and they set fire to it—just in a light blaze of fire—and after that was done they hollered to me, "Put out that fire," I would burn up, and damned if I wouldn't go to hell. Then my little daughter had catched her hand full of blood, got to the door, and just throwed it out; and they looked around and see that, and see her, and then they took me—

Question. Where did they hit your daughter?

Answer. Hit her on the forehead. The ball glanced off from her head. Then they took me right off.

Question. Off where?

Answer. Off up the road, about a hundred and fifty yards; and they wanted to kill me up there, and one said, "No, don't kill him, let's talk a little to him first." Then he asked me which way did I vote. I told him I voted the radical ticket. "Well," he says, "now you raise your hand and swear that you will never vote another radical ticket and I will not let them kill you." And he made me stand and raise my hand before him and my God that I never would vote another radical ticket against my principle.

Question. Did you swear so?

Answer. I did raise my hand and swear. Then he took me out among the rest of them and wouldn't let them shoot me, and told me to go back home.

Question. Did they make anybody else swear right there that they wouldn't vote the radical ticket? Was Sam Good there?

Answer. Yes, sir.

Question. What did they do to him?

Answer. They asked him which way he voted. He says, "The radical ticket," and they asked if he would ever vote any radical ticket, and Sam told them, "No, sir," and that was all that I heard passed 'twixt them and Sam.

Question. What did they do when you went home?

Answer. After I went back my wife she hobbled out—

Question. When you left them what did they do to you?

Answer. Told me to run, and throwed two big rocks after me about the size of my fist.

Question. Did they hit you?

Answer. No, sir; one went one side into a wood-pile and the other struck the chimney.

Question. How many of the Ku-Klux were there?

Answer. It looked to me like there was about twenty-five.

Question. How were they dressed?

Answer. Had on—some of them had on white gowns and some of them had on red ones, and had on false faces and something over their heads.

Question. Did you know any of them?

Answer. No, sir.

Question. Didn't you know any of them?

Answer. Didn't know any of them.

Question. What time in the night was this?

Answer. About 10 o'clock—'twixt 10 and 11 o'clock.

Question. Do you know what they did to your daughter in the other room?

Answer. Yes, sir.

Question. Did you see it yourself?

Answer. I didn't see it; have only her word for it.

Question. I won't ask you that, then.

Answer. I didn't see that.

Mr. CORBIN. You may have the witness.

Mr. JOHNSON. We have no questions, may it please your honors.

Mr. CORBIN. We will stop here, if the court please, inasmuch as we agreed with the other side that we wouldn't call but one witness.

Mr. JOHNSON. We have no objection to your calling more.

Mr. CORBIN. You have no objections?

Judge BOND. Do you propose to call anybody else?

Mr. JOHNSON. We want to know if they are through, sir.

Mr. CORBIN. We will call one other.

Mr. JOHNSON. I don't like to object to the course which counsel for the United States has pursued. It is suggested to me that what he is doing now—

Mr. CORBIN. I thought that you didn't object?

Mr. JOHNSON. The purpose now, as I understand it, is merely to offer cumulative evidence. If there is any new fact—

Mr. CORBIN. This is a new fact.

Mr. JOHNSON. If it is to be a new fact, it is another matter.

Mr. CORBIN. It is a new fact.

TESTIMONY OF DICK WILSON.

DICK WILSON was then called for the prosecution. He was sworn, and testified as follows:

By Mr. HART, for the defense:

Question. Have you been in the court-room to-day?

Answer. No, sir.

Question. Yesterday?

Answer. No, sir.

The COURT. That is a question of credibility and not admissibility.

Direct examination by Mr. CORBIN:

Question. Where do you live?

Answer. I live in York district, sir.

Question. On whose place in York County?

Answer. Dr. Lowry's.

Question. Did you vote at the last election?

Answer. Yes, sir.

Question. Which ticket did you vote?

Answer. I voted the republican ticket.

Question. Did you vote for Mr. Wallace?

Answer. Yes, sir.

Question. Have you voted there before?

Answer. Yes, sir.

Question. Nobody questioned your right to vote when you did vote?

Answer. Not particularly, at the ballot-box.

Question. Now tell us whether the Ku-Klux visited you, and where?

Answer. Well, they visited me on the 11th of April, about two hours before—well, about 'twixt 2 and 3 o'clock in the morning. I had been up till it was light, and laid

down and got into a sleep, and I woke up and these men were in the yard. Two of the men came to the house, and the other four went to my son's house.

Question. What is his name?

Answer. Richard. These men came to my house; first words I noticed them to saying was, "Open the door;" next word was, "Make up a light, make up a light." I immediately then jumped up and draw on my pants, and by that time the door fell in the middle of the floor. They commenced firing under the door and around the house. I stood still then. They stopped then for a minute and asked me to make up a light again. I jumped to the fire and made up a light. The next question, "Who lives here?" Says I, "Dick Wilson." "Is this old Dick?" I told them "Yes, sir." "Where is your son?" "I don't know, sir, where he is." "You are a damned liar, sir; walk out here. I have a word with you, sir." "Very well, I will come out." "Come out, come out right now, come out." I walked out. "Go on down here before me, sir, to the other house." And there was four men in there, a big light in the house, a good knot of pine on the fire, and they went searching cupboards and trunks, and looking everywhere. I could see them as plain as I can see you right now. Well, they searched the house all over and they could not find him. They said, "Look under the floor." Well, they tried to get up the floor, but the floor was so well nailed they didn't get it up. One of the men, in the middle of the house, turned around and says, "What God damned rascal you've got there?" Some man says, "That is old Dick Wilson." "What do you going to do with that damned old son of a bitch?" "Well, we haint determined on yet what we'll do with him." They still searched on and couldn't find him.

Question. Couldn't find what?

Answer. Couldn't find my son, and they came out. After they came out, then the question is put me then, "Where is your son?" Says I, "Gentlemen, I don't know." "Your son; don't you call me gentleman; we are just from hell-fire; we haven't been in this country since Manassas; we come to take Scott and his ring; you damned niggers are ruining the country, voting for men who are breaking the treasury; where is your son, I say?" "I don't know, sir, where he is." "You are a damned liar, sir, and I will make you tell where he is. Don't you rather the men of this country would rule it, sir, as these men as is ruling it?" Says I, "I didn't know there was any other men ruling but the men of this country." "Is Scott a man of this country, sir?" Says I, "I don't know; I never seen him." "Then, why is it you don't go to some good old citizen in the country who would tell you how to vote?" Says I, "I went to men who I thought knowed and ought to know." "Who were they?" "Well," I says, "that was Mr. Wallace." "Yes, just as damned a rascal as you are." I went to Mr. Wallace, and I went to several other gentlemen that I did not name out. "Well, what about the League?" I told him that I did belong to the League.

Question. What—the Union League?

Answer. Yes, sir.

"I suppose, then, you are a good old radical?" Says I, "I don't know whether I have been; I have tried to be." "Yes, and damn you, we'll make a democrat of you to-night." That was the next word. Another little one jumped up there, with some horns on his head, and says, "We'll take the damned rascal off and remind him of what we have told him before this. We have told him this long ago, and we want to be obeyed. Now we will take satisfaction. Walk on here, sir; take the road before me." I walked on. "Drop your breeches, God damn you." I just ran out of them. "Stretch out; we want to make a democrat out of you to-night." I stretched out full length—just as long as I could get. I would have got a little longer if I could.

Question. Did you drop your pants?

Answer. Dropped them down—just fell out full length.

Question. And then what?

Answer. One went that side, and two on this side. Well, they commenced whipping me; I commenced begging them so powerful. "Don't beg, God damn you. If you beg I'll kill you." One of them said, "Stop this whipping, right off. One of you gentlemen take that pistol and go to his head, and t'other to his feet, and if he hollows or moves I will blow his brains out." Then they commenced whipping me; they just ruined me; they cut me all to pieces; they did do it, and I wouldn't mind it so much if they had scattered the licks, but they whipped all in one place. That is what they done. They stopped on me then for a while. "Will you vote the democratic ticket next time?" "Yes, I will vote any way you want me to vote. I don't care how you want me to vote, 'master, I will vote." Says he, "There now, put it to him. God damn him, he has not told us yet where his son is. We have got that much, and will get the balance." They commenced whipping me again. I told them at last I did not know where he was, and I didn't know where he was. After they got done whipping me they ordered me then to get up, and I got up as quick as I could; I couldn't get up very fast; quick as I got up I drawed up my pants; couldn't button them nohow; had them in my hands. "Now, let's see how fast you can run." Well, I was going to strain every lead that

was in me, because I was hurt so that I could hardly move; but I intended to do my best. The other says, "I have a word or two to speak to him. I will give you ten days—you and your son both—to go and put a card in Grist's office, and show it, and let it come out in the papers in ten days from now, to show that you are done with the republican party, Scott, and his damned ring; and if you don't do it I will come back for you both again; and if I can't get you at night, I will take you in daylight. Go off in the house." I went off in the house, and shut the door—sure enough I shut the door. I was lying down on the floor. I wasn't able to go to bed. I got worse after I got to the house.

Question. How bad were you whipped?

Answer. I was whipped badly. I had on me a pair of pants too large, and next day I had to tie a string on them so they would meet.

Question. Your back was all whipped to pieces?

Answer. Just all hove up. It was not cut up so, but was bruised.

Question. What did they whip you with?

Answer. With ramrods.

Question. Take them out of their guns?

Answer. Took them out and twisted them up.

Question. What were they—iron ramrods?

Answer. I don't know. There was one felt very much like it. I can't say positive that they was iron ramrods. They had this brass put on them where they rammed the powder and stuff down in the guns. These was there next morning—white-oak ramrods.

Question. Did you find them?

Answer. Yes, sir.

Question. How much did you find of the ramrod?

Answer. I found two pieces right at the house, and betwixt my house and the creek I found the other.

Question. There were three broken?

Answer. Yes, sir; both of them.

Question. How big were they?

Answer. About the size of my finger.

Question. Did you go and put a card in the paper, as they told you to?

Answer. No, sir; I did not; I did not do anything.

Question. Did you stay at home nights after that?

Answer. Yes, sir; I staid at home; they told me to stay at home, and I done so.

Question. How long before you were able to work after that?

Answer. I went and knocked about, but I wasn't able to do a piece of work under a week; and to do a good day's work, I wasn't able to do it in two weeks, because I couldn't walk. I couldn't sit down, and when I lay down I would have to lay right flat down on my stomach.

Question. How many were they there?

Answer. I didn't see but six.

Question. All have disguises on?

Answer. Yes, sir.

Cross-examination by Mr. STANBERY:

Question. Did you know any of them in their disguise?

Answer. Well, sir, I did.

Question. You did know?

Answer. I did know.

Question. How could you tell, if they were disguised?

Answer. I saw the men's hands, shoes, clothing—everything they had on.

Question. Did you know the men?

Answer. One was Dr. Parker.

Question. Who was the other?

Answer. Was Mr. John James Miller.

Question. The other?

Answer. John Lytle.

Question. Who was the other?

Answer. The other one was Mr. Bill Lowrey.

Question. Who was the other?

Answer. Now, the other man—I believe there were more—but will not swear to that man. I believe they were there.

Question. I only ask who you knew were there.

Answer. I won't be positive that that man were there; and that was Mr. Bishop Sandifer and Mr. Thomasson; but the other men, I did not say I knew them two men, but these other four I know them; there were six altogether.

Question. And you told four of the six, notwithstanding they were disguised?

Answer. I knew four of them out of the six.

Question. How were they disguised ?

Answer. Well, they had a little cloth over the head that came down and fastened back of the head. They had on common coats. This one had on a calico dress, the other had on a red dress, opened down before ; the other had on, looked like black overcoats, come way down here, [indicating below the knee.]

Question. Had they false-faces ?

Answer. Well, they first had simply a false-face, made to cover over the head, eyes, and nose, and all the mouth was out, just a place where they could see, you know.

Question. It was cloth ?

Answer. Yes, sir.

Question. All the head and the eyes and the nose, everything, and the face was concealed, but the mouth ; but you told four of them, because you saw their under-clothing ?

Answer. Yes, sir.

Question. You told it from their shoes, and saw their under-clothing ?

Answer. I knew their hands, and I knew the men by their conversation. I got a full understanding of their voices.

Question. How far did they live from you ?

Answer. Mr. Miller lived about three miles and a half, or four miles, I will say, at the outside.

Question. How far did either of the others live from you ?

Answer. Dr. Parker lived about three miles from me or a little better.

Question. How far did the other live ?

Answer. Mr. Lytle, sr., lived about a mile and a half from me.

Question. How far did the fourth live ?

Answer. Mr. Lowrey lived on the same plantation, about two miles.

Question. Now, you told them by their hands, as well as by their under-clothing ?

Answer. Yes, sir.

Question. How can you be so familiar with their hands ?

Answer. I know Mr. Lowrey by his hands ; I've been working with him ; he had been with me the day before.

Question. What sort of a hand has he ?

Answer. He has a white hand, but has a finger that stands crooked ; and he had sores on his hands, and that is the way I knew him.

Question. Did each of the other three have fingers of that sort, and sores on their hands ?

Answer. No, sir.

Question. How did you know their hands ?

Answer. I knew the men by their discourse ; I knew them by their hands and by their discourse ; I didn't say I knew them all by their hands ; by their hands I knew two of them.

Question. You knew one by his hands ?

Answer. Yes, sir ; I went into this thing when they came to my house ; they said they had risen from the dead ; I wanted to see what sort of men they was ; I went a purpose to see who they was ; whether they were spirits, or whether they were human, but when I came to find out, they was men like me.

Question. They told you they would come back unless you published a card they told you to publish, renouncing radicalism and so forth ; they would come back and pay you another visit ?

Answer. Yes, sir.

Question. Well, did they ?

Answer. No, sir ; they did not.

Question. They all lived in that neighborhood ?

Answer. Yes, sir.

Question. Did you publish the card ?

Answer. No, sir ; I didn't.

Question. No such card was published, then ?

Answer. Not by me.

Question. Was there a grog-shop near your house ?

Answer. There was, three miles from where I lived.

Question. Do you know this man on trial now ?

Answer. I don't know him, as I know of.

Question. Could you tell him by his hand ?

Answer. I know he is a man ; that is all I know about him.

Question. Tell the jury whether you know.

Answer. If I had been accustomed to that man and known what suit of clothing he wore, and known his voice—I knew those other men's voices—I could tell more about them, but just fetch out a stranger—I can't tell anything about it.

Question. But answer my question, whether you recognized this man as one of the men who were at your house ?

Answer. No, sir ; I don't recognize him as one of them.

Redirect examination :

Question. Did they use the word Ku-Klux ; did they call themselves Ku-Klux ?

Answer. I don't mind them saying anything about that.

Question. You understood them to be Ku-Klux ?

Mr. JOHNSON. That will not do.

The COURT. O, no.

Mr. CORBIN. I think we will stop here, if the court please.

Mr. JOHNSON. No, we want to know, may it please your honors, whether they have stopped, not whether they think they have stopped.

The COURT. We will understand that they have stopped.

Mrs. JULIA RAINEY was then called for the defense.

Question. Do you reside in your county ?

Answer. Just over the line.

Question. Do you know this man Captain Jim Rainey ?

Answer. I do.

Question. How far did this man Jim Rainey live from you ?

Answer. Two miles.

Question. Were you well acquainted with him ?

Answer. I am.

Question. How long have you known him ?

Answer. Twelve years.

Question. I believe he was a servant in the family ?

Answer. Belonged to my husband.

Question. To what ?

Judge BOND. He was her former slave.

Answer. My former slave.

Question. He has been in that neighborhood for the last four or five years ?

Answer. Yes, sir, except one year absent.

Question. What was his official position in the neighborhood ?

Answer. When ?

Question. Why recently—just before his death.

Answer. Captain of a militia company.

Question. Was this company armed ?

Answer. Yes, sir.

Question. Did you have any occasion to see the members of it after ?

Answer. Occasionally.

Question. Well, first state, Mrs. Rainey, in reference to that company ; state what was its conduct and character in the neighborhood, as also of its captain.

Answer. Well, sir, that company caused a great deal of disturbance and uneasiness generally ; they were under his control entirely, and they were not very orderly managed ; he had been absent one year with Sherman's army ; he left that and came up to Chester ; he went off, and told me on his return ; he came in, when he returned, to see his old master, my husband ; he told us he had been absent one year in Sherman's army ; that he had been in the army, and that was the principal part of that conversation ; then he was elected captain of this militia company, and remained a captain, I suppose, nearly a year ; their conduct was disturbing, indeed ; they had come to alarm the whole country. I knew him very well, having belonged to my husband, and my husband treated him very kindly, retaining all the old family, and living immediately on the York road, between his house and Chester ; he always felt at liberty to enter my kitchen at any time to see the old family servant ; there was always a great deal of politeness between us, and, therefore, saw and heard a great deal of him, and his threats became very dangerous indeed. Indeed, sir, for two months, before his death, I suppose he averaged twice a week in my kitchen, passing backward and forward to Chester. I did not know his business, but it was something very urgent, and seemed to be disturbing the neighborhood generally ; his threats were very common to me, through the servants ; I never heard him myself.

Mr. CORBIN. Well, I don't think, if the court pleases, this sort of testimony will do.

The WITNESS. I heard it through my family servants.

The COURT. That won't do.

The WITNESS. I was just saying that the feeling in the country had become very alarming ; that was the condition of the country.

Question. State what the conduct of these armed men under his control in the neighborhood.

Answer. Very boisterous.

Question. Did they pass your house frequently ?

Answer. Not mine ; they passed up toward Yorkville.

Mr. CORBIN. Testify as to what you know yourself.

The WITNESS. Well, ask me questions, and I will answer you.

Question. What was the character of the disorder that those men committed? Do you know of some of the disorderly acts?

Answer. I saw nothing, sir, with my own eyes.

Question. Was it a frequent occurrence?

The COURT. That is a leading question.

Question. Were there any fires in your neighborhood previous to the death of this man?

Answer. Yes.

Question. How long previous to his death?

Answer. Some two or three months.

Question. Were those fires committed by incendiaries, have you reason to believe?

The COURT. O, that will not do.

Mr. CORBIN. Ask her who committed this burning, if you want to.

Question. Do you know, Mrs. Rainey, who committed those acts, or what was the character of the act?

Answer. It was of the incendiary.

Question. It was?

Answer. It was.

Mr. CORBIN. What fire was that?

Answer. The burning of my own gin-house.

Question. Was any other property consumed with it?

Answer. Twenty-five bales of cotton.

Question. What time did that occur?

Answer. The 13th day of December.

Question. Of last year?

Answer. Yes, sir.

Question. Had you heard of any raids by the white people in that neighborhood, or in that part of the country previous to that?

Answer. No, sir.

Question. Were there any acts of disorder committed there, of a similar character, that you know of?

Answer. Not that I know of.

Question. Have you any facts in your knowledge that will direct you as to the persons committing these incendiary fires, or the character of persons?

Answer. What did you ask?

Question. Are any facts within your knowledge that leads you to determine the class of persons?

Answer. Yes, sir.

Mr. CORBIN. Tell us what the threats are.

Answer. Threats were made to a white man.

The COURT. That will not do.

The WITNESS. The threats were heard to be made to burn it before they left the gin-house that evening.

The COURT. Did you hear them?

Answer. No, sir.

The COURT. That will not do, gentlemen.

Question. Do you know that, in the point of fact, there were a great many fires?

Answer. Yes, sir; a great many.

Question. Do you know whether people in that neighborhood were in a state of alarm?

Answer. They were.

Question. Alarmed about what?

Answer. Alarmed by fires.

Question. Any other cause of alarm?

Answer. Until later, until just before Jim was hung.

Question. What was the cause of the alarm later?

Answer. The disorderly conduct of the militia.

Question. How did they cause alarm; what alarm did they produce?

Mr. CORBIN. I would like to know if she knew any disorderly conduct herself.

Question. Well, in point of fact, madam, was there an alarm in the neighborhood?

Answer. There was, sir.

Question. Alarm for what; what were they afraid of?

Answer. They were afraid of an attack of the negroes.

Question. Did you participate in that alarm?

Answer. I did, sir.

Question. What did you do in consequence of it to promote your own safety?

Answer. I left.

Question. Left what?

Answer. The neighborhood.

Question. Where did you go?

Answer. To my father's.

Question. Where is that ?

Answer. In Union District.

Question. You were so alarmed by the state of things existing there that you left your own house and went into another county ; what were you afraid of ?

Answer. I was afraid of having my house burned.

Cross-examination by Mr. CORBIN :

Question. Did you ever hear that Jim Williams made any threats at all ?

Answer. I did not.

Question. And never saw his company near the house ?

Answer. Yes, sir ; often in the night.

The court at 4 o'clock adjourned until 11 o'clock, Thursday morning.

THIRTEENTH DAY'S PROCEEDINGS.

DECEMBER 14.

The court met at 11 o'clock, pursuant to adjournment. Hon. Hugh L. Bond presiding judge ; Hon. George S. Bryan, district judge, associate.

Mr. WITHERSPOON, on behalf of Reuben McCall, in the case of Lawson, Armstrong, and others, desired that the court should receive the affidavit of the assessor, who was in court, as to the inability of McCall to pay witness fees.

The COURT. Let the assessor make his affidavit.

Mr. HART desired to offer bail in the case of W. D. Barns.

Mr. CORBIN said that Barns was charged with conspiracy, also with being in a raid, whipping, and offering personal violence to colored people, and suggested that his bail should be the same as in similar cases already passed on.

James A. Saunders and T. J. Gibson were accepted as securities, bail being fixed at \$5,000.

JOHN A. MOROSO, witness for the defense, being duly sworn, testified as follows :

Direct examination by Mr. STANBERY :

Question. State where you reside.

Answer. Charleston.

Question. What was your occupation or business in the fall of 1870 ?

Answer. I was editor of the Charleston Courier.

Question. You were on the corps of the paper ?

Answer. Yes, sir.

Question. Had you any occasion during that canvass to visit various parts of the county and precincts ?

Answer. Yes, sir.

Question. For what purpose ?

Answer. For the purpose of reporting the progress of the canvass for our paper, the Charleston Courier.

Question. Do you mean reporting speeches that were made during the canvass ?

Answer. Yes, sir ; and writing letters describing the state of the country.

Question. In the course of these journeys, had you occasion to visit Yorkville ?

Answer. Yes, sir ; I was in Yorkville, and a greater part of York County.

Question. What other places than Yorkville were you at ?

Answer. I was at Chester ; I traveled by buggy from Yorkville to Lansford, a place on the Catawba River, on the borders of York County ; the river divides York and Lancaster ; I was also at Rock Hill, on the Charlotte, Columbia and Augusta road.

Question. How long was this before the election ?

Answer. About a month or six weeks previous to the election of 1870.

Question. At that election, did they vote for members of Congress ?

Answer. Yes, sir ; members of Congress and State officers.

Question. Do you say you traveled through this county and surrounding country ?

Answer. Yes, sir.

Question. Was there any violence or outrages of any sort ?

The COURT. That will not do, unless you bring it home to the knowledge of these defendants.

Mr. STANBERY. Bring what home ?

The COURT. The knowledge if any conspiracy was formed to stop these burnings ; you must bring that home to the knowledge of the defendants.

Mr. CORBIN. We object to this examination on account of its irrelevancy.

Mr. STANBERY. We were about showing that there was a state of order.

The COURT. Well, then, go on.

Mr. STANBERY. I was going on when your honor interrupted me.

Question. What was the condition of things at Yorkville when you passed through there and if you saw any violence; and, if so, what was it?

Answer. The only condition of things of which I know anything was at the time of the canvass; meetings were held at Yorkville; a meeting of reformers was advertised to be held there, at which I was not present. I was present at Yorkville three days, and during that time there was a great deal of excitement, caused, it seemed to me, the day before the meeting, by reports of the negro militia coming into town; on the morning of the meeting I saw five militiamen armed with Winchester rifles; they were State constables; they came galloping into town before the meeting was called; they proceeded down the street to a place called the militia headquarters where I understood their arms were kept; at this place there were a kettle and a bass drum, and two men were employed to keep these drums going; the reform meeting was held at the court-house, about fifty yards from this place; these men, who afterward dismounted, some of whom I afterward recognized as speakers; they collected a crowd, and they kept up a noise at the meeting of the reformers, which was held within ear-shot; the excitement was caused by the noise they made, and I heard white people expressing much anger at the attempted interruption.

Question. Were speeches made by what was called reform candidates?

Answer. Yes, sir; also by Mr. Wallace, the radical member who was invited to speak.

Question. Was it a reform meeting?

Answer. Yes, sir.

Question. Who were the reform speakers?

Answer. Judge Carpenter was there. I don't remember whether General Butler was there or not.

Question. You said Judge Carpenter was there?

Answer. Yes, sir; he was the candidate for governor on the reform ticket; so that his ticket was in opposition to the republican ticket.

Question. Was it the only ticket in opposition to the republican one?

Answer. Yes, sir.

Question. Judge Carpenter, being a candidate, was there to speak, was he?

Answer. Yes, sir; and did speak.

Question. Who made the first speech?

Answer. A. S. Wallace, I think, but am not quite positive.

Question. How long did he speak?

Answer. He spoke for some time.

Question. Who followed him?

Answer. I cannot tell exactly, without reference to my letters.

Question. What time was the meeting broken up in consequence of this drum-beating?

Answer. It was after Mr. Wallace finished speaking that the meeting was broken up in consequence of the noise of this drum-beating, and a riot was imminent; how it was prevented I do not know.

Question. You say Mr. Wallace had spoken before the noise commenced?

Answer. Yes, sir.

Question. Do you recollect the next speaker and whether he was on the reform side or not?

Answer. When Judge Carpenter began to speak, the uproar became greatest; the uproar was so great that he could not be heard. It was great, not only in consequence of the drum-beating, but I noticed that when any colored people would stray across the reform meeting, these constables would send out men to bring them in.

Question. You say that as the colored people come up within hearing these parties would send out skirmishers to bring them back?

Answer. Yes, sir.

Question. Did that occur more than once?

Answer. Yes; during the whole of the meeting.

Question. You say a riot seemed to be imminent?

Answer. Yes, sir; in consequence of the interruption of the reform meeting.

Question. Did you hear the language that was used?

Answer. I heard language but I am not able to testify what it was.

Question. Had any of these men from the barracks arms at the meeting?

Answer. Not at the time of the meeting; they were galloping through the streets in the morning.

Question. Did you hear what was said by them; did you judge that a riot was imminent by their gestures?

Answer. No, sir; I cannot testify as to the substance.

Question. Can you give us the substance of what was said; were you under the impression that the language used was to incite a riot?

Answer. Yes, sir.

Mr. CORBIN. I want to know the significance of this testimony; if they intend to show that this was a meeting of the Ku-Klux Klan, we have nothing to say, but if they don't propose to show that the Klan was present, I do not see the relevancy.

Question. State whether in that portion of the country you were present at any other meetings?

Answer. I was also present at the meeting at Rockhill.

Question. Is that one of the voting precincts of that county; were speeches advertised to be made by reformed candidates at the meeting?

Answer. Yes, sir.

Question. Were the candidates there?

Answer. Yes, sir.

Question. Was there an attendance of people to hear them?

Answer. Yes, sir; a large attendance.

Question. What time did they open the meeting?

Answer. About 11 o'clock in the morning.

Question. Who was present?

Answer. Judge Carpenter, General Butler, and Colonel McKissick.

Question. Had you seen any excitement or disturbance before the meeting?

Answer. No, sir; not at that precinct.

Question. Who made the first speech?

Answer. Colonel McKissick.

Question. Who made the next speech?

Answer. General Butler, and Judge Carpenter the third. I do not desire to be taken down as stating this positively.

Question. During these speeches, what took place?

Answer. Nothing of any consequence that I know.

Question. Was it quiet there?

Answer. Yes, sir.

Question. Were they allowed to speak?

Answer. Yes, sir.

Question. Now, what was your next place?

Answer. Previous to that I had been to Chester Court-House, where there was some disturbance.

Question. How far is that from Yorkville?

Answer. Ten or twelve miles, I think, but I'm only judging from the time it took me to go from Chester to York.

Question. What took place at that meeting?

Answer. There was a big row.

Mr. CORBIN. I fail to see the relevancy or pertinency of this testimony to the issue; I am willing that the counsel for the defense shall have any amount of latitude; I understand the issue in this case is whether these parties banded together a conspiracy to prevent divers persons of African descent from the privilege of voting; we have confined our testimony to that issue; now, in reply, we are having a newspaper reporter on the stand, and I suspect, from the names of witnesses that have been furnished, we shall have the speakers themselves who participated in the State campaign.

Mr. STANBERY. Your honors will acquit me of any idea or intention of endeavoring to introduce anything immaterial when delay is of such great inconvenience to me; it is not my way of trying a case.

The COURT. The witness must be confined to material matter.

Mr. STANBERY. We are endeavoring to show that there was no sort of intention to interfere with the elective or voting franchise, which is the thing in controversy; arms were put into the hands of colored people, not of colored people generally, but of colored radicals, or republicans, as they were called in their particular district; we shall show that nobody had interfered with the right of voting, and that the only interference with the exercise of that right was by themselves. We will show that this political meeting, got up by the reform party, was constantly interrupted by them, and that the speakers were put down and assaulted. We expect to show that there was not only the noise of kettle and bass drums, not merely a noisy demonstration, but also that these outside parties who belonged to the other party were determined to put down the right of free speech by noisy demonstrations, dangerous assaults, hurling stones at them, and putting their lives in jeopardy, and preventing the candidate himself from addressing his own party. Our object is to show that there was interference with elective franchise, that this reform party—the party in the field, were prevented from the exercise of their right by assaults on the speakers and interference with the actual business of voting. It will be for us to show that the chief of these militia-men was a dangerous character and a violent man; that he commanded this company, and had a formidable force under him, armed with the best arms of the day, in an inoffensive community, attempting interrupting with other men's voting in a neighborhood were nothing like Ku-Klux had ever been seen; that these men had arms and the most approved ammunition, and that he was constantly drilling them as if he were preparing them for war; that he had been a soldier in the army of Sherman; that he drilled his men and threatened again and again injuries to the whites, threatening on an occasion that they should be destroyed from the cradle to the grave; that he came to be regarded in the community

as an outlaw and a dangerous man, and that his threats becoming so violent and intimidating the people saw there was nothing left but to disarm him and put it out of his power to follow out his evil intention; that this was the state of alarm and intimidation in that community, not only on the part of the colored people but on the part of the whites; we intend to show that in going upon this raid this man had no idea of interfering with any man's voting privileges; but that he went there in the society of others to get arms out of the hands of men commanded by such a captain as that, and who were wholly under his command and who followed him implicitly; he was the leading spirit and it was considered wholly unsafe that that man should have the means of carrying out these threats, and that such was the condition of things that not only women but men were alarmed.

The COURT. What was done at these political meetings throughout the country has no relation to this conspiracy; the present is a charge of conspiracy.

Mr. STANBERY. We are charged with interfering with the elective franchise, and now we wish to prove the fact that there was no interfering with the franchise or at the meetings.

The COURT. You may show that there was no disturbance at the polls.

Mr. STANBERY. The next thing is to show that there was no disturbance at the meetings; and the election always begins at the preliminary meeting, and we wish to show that there was not the slightest disturbance on our part, and all that there was came from the other side.

Mr. CORBIN. These parties are charged with entering into this conspiracy in March, nearly six months after the canvass to which this disturbance refers; we do not charge, and have never attempted to prove on our side, that these parties did interfere with the elective franchise at the election of 1870.

Mr. STANBERY. Does the gentleman say that he limits himself to the conspiracy commenced on the 8th of March.

Mr. CORBIN. It existed on the 8th of March.

Mr. STANBERY. Then it refers back. Have we not that testimony relating to the conspiracy as far back as 1868; but the conspiracy the gentleman relies on, the formation of this Klan, took place long before, so that it is during the time; the gentleman relied upon that; he says we were interfering with the right to vote; I don't know how to answer this proof, except by testimony like this, to show that instead of interfering with the right to vote and being in conspiracy of that kind there was not a single instance in which the right of a republican or radical colored man was interfered with; there were interferences, but they came entirely from the other side; it seems important to us to show that the elections were quiet and orderly.

The COURT. We have no objection to that.

Mr. CHAMBERLAIN. How is it possible that any interference with any political meetings held in August, 1870, is proved to negative the charges in this indictment; the testimony is not relevant unless it is to negative some charge against them; anything that the defense can show, or any acts or declarations of the Ku-Klux, to negative what we have proved, would be legitimate evidence.

The COURT. If the reform party, or any other party, are shown to be identical with the Ku-Klux, this line of defense would be legitimate; but how is it legitimate to meet the charges that have been made against the Ku-Klux to prove the acts of republicans or reformers in a political campaign? What do you propose to ask?

Mr. STANBERY. What took place in the way of interference at that meeting.

The COURT. Where your parties there?

Mr. STANBERY. I do not know.

The COURT. What pertinency has that with the conspiracy?

Mr. STANBERY. Whether they were or not there was no interference with the voting franchise; we can trace every election around there and show that there was no interruption, so that this conspiracy to interrupt and interfere with the voting franchise is absolutely contradicted by the facts.

The COURT. How does it go to negative the fact that a man committed an offense on Monday by showing that he was quiet on Tuesday?

Mr. STANBERY. We show by evidence that he was quiet all the time; that he was not given to any such violence as that; we are going upon the field of presumption that there was no intention to interfere with the right of the voter, because no acts of that kind have transpired from first to last, and if this is not a material fact on which to rest a presumption against this pretended proof of conspiracy, I do not know what is.

Mr. CHAMBERLAIN. The only parties involved in the first or second counts are these defendants or the parties belonging to the organization known as the Ku-Klux Klan; now, of what avail is it to tell us of the conduct of a crowd who assembled at Yorkville to listen to political speeches, unless there is something to indicate that they were members of the Ku-Klux, or that this defendant was there and did something; if the Ku-Klux were there, and the gentleman could show they behaved themselves and allowed the negroes to vote, they would connect it with this organization which we are seeking to ferret out; without that it has no possible connection or relevancy. I

repeat that the only parties that can be affected by this are those connected with this organization which we have charged as existing in the first count, or with this defendant, whom we have charged with interfering with Jim Williams; if anybody answering the description of a member of this organization, or the party who went on the Jim Williams raid were then at McConnellsville or Chester, and behaved themselves well, that might be evidence, but is there anything to show—of course the gentlemen do not intend to show that this defendant belonged to the organization which went upon the Jim Williams raid, and that that was the same organization that listened to Judge Carpenter's speech; then how does it negative any evidence as to the purpose of this organization, or the acts of the parties who went on the Jim Williams raid; if they will admit that they were Ku-Klux, and went to that meeting and behaved themselves and did not interfere, it might go to negative what we have established as to the purpose of this organization.

The COURT. It is competent to prove in general that there was no interference at such elections as those parties were present at.

Mr. CHAMBERLAIN. We are not indicting the whole community but certain defendants, and the general conduct of the community is not the issue.

Question. Were you present at any elections held in that part of the county?

Answer. No, sir.

Cross-examination by Mr. CHAMBERLAIN:

Question. You state that there was a good deal of excitement in Yorkville on the occasion of that meeting on account of the negro militia?

Answer. Yes, sir.

Question. Did you see any negro militia on that day?

Answer. I do not know that I stated that I did. I stated there was considerable excitement in consequence of the colored people gathering at the place where the militia arms were kept.

Question. Did you not testify that there was considerable excitement on account of the negro militia?

Answer. There was considerable excitement at the meeting.

Question. Had it anything to do with Jim Williams's company on that occasion?

Question. By Mr. STANBERY. I understood you to say there was alarm throughout the country?

Answer. When I passed through that county they were in great alarm about the militia, who were armed and parading about the country at that time; that was the impression on all sides, and they were in a great state of alarm.

Question. By Mr. CHAMBERLAIN. Do you say they were in a great state of excitement on account of the negro militia?

Answer. I say they were in a great state of alarm throughout the country.

Question. Was this excitement at Yorkville in consequence of the colored militia?

Answer. I saw no negro militia at Yorkville; the excitement there seemed to be in consequence of the constabulary to gather up the militia, and the excitement seemed to be created by that fact; the impression conveyed to my mind was that these men came there early in the morning; I think it was in August, directly after the meeting at Chester.

Question. It was, however, in August that you were at Yorkville?

Answer. I think so.

Question. Do you remember the date of the meeting at Chester?

Answer. I do not remember.

RICHARD B. CARPENTER, a witness for the defense, being duly sworn, testified as follows:

Direct examination by Mr. STANBERY:

Question. Were you a candidate at the last fall election for office?

Answer. Yes, sir; for governor of the State.

Question. Did you, in the course of your travels throughout the State, visit the part of the country about Yorkville and Chester?

Answer. I did, sir.

Question. What season of the year were you there?

Answer. I am not certain whether it was August or September of 1870; I think it was the latter part of August or the early part of September.

Question. Do you know the fact whether it was before or after the militia companies had been organized and armed in that part of the country?

Answer. It was after; at least many companies had been armed.

Question. Do you know whether or not there was a state of anxiety and alarm on the part of the people in consequence of this fact?

Answer. Yes, sir; there were a good deal of feeling about it, and a good deal of anxiety with some of the people, and a good deal of alarm.

Question. What was the cause and what was the nature of the alarm?

Answer. There were armed companies of militia throughout the country with ammunition distributed, as was understood, as if on the eve of battle.

Question. Was this alarm confined to a few, or did it seem to be general?

Answer. There was a good deal of talk about; I do not think the people were, as a general thing, alarmed; it seemed to have more terror to the colored people than the whites in that country.

Question. Do you say the colored people were alarmed?

Answer. Yes, sir; because some were armed and some were not.

Question. Were the colored people alarmed because a part were armed and a part were not?

Answer. Yes, sir; I suppose those not armed were most alarmed; those not armed were more alarmed without doubt; there was a good deal of alarm more or less among all classes of people, white and colored.

Question. Among the colored people, which part was most alarmed?

Answer. Of course, the conservative colored people were very much alarmed.

Question. Was it understood that those who were armed all belonged to one party?

Answer. That was the general understanding.

Question. What party was that?

Answer. The party supporting the then and present State dynasty.

Question. That is, the radical or republican party; what was the party with which you were connected called?

Answer. It was called the reform party; the name had no national significance.

Question. Reform of what?

Answer. It was a party for the reform of the State government; men of all political parties belonged to it; and its object was the reform of the State government.

Question. Which party was in power in the State government?

Answer. The radical party was in.

Question. And it was proposed to reform the party in power?

Answer. It was not proposed to reform that; it was conceived by the gentlemen who acted with me that they were a long way beyond reform.

Question. It was to put other persons in their place?

Answer. Yes, sir; that was the idea.

BILL LINDSAY (colored) was the next witness called for the defense, who, being duly sworn, testified as follows:

Direct examination by Mr. STANBERY:

Question. Whereabouts do you live in York District?

Answer. On the lower edge.

Question. How far did you live from Jim Williams?

Answer. Three miles and a half.

Question. Did you know him?

Answer. Yes, sir.

Question. For how long?

Answer. About four or five years.

Question. Did you know anything about his having a militia company?

Answer. Yes, sir.

Question. Did you know any members of it?

Answer. I knew some of them.

Question. Who was the captain?

Answer. Jim Williams was captain.

Question. When was that company formed?

Answer. Last year, sir.

Question. What time?

Answer. I don't know what time.

Question. When it was first formed had they any muskets or arms?

Answer. No, sir.

Question. How long after the company was first formed did they get arms?

Answer. It was about two months.

Question. After they had arms, did they muster with their arms?

Answer. Yes, sir.

Question. Do you know if they had any ammunition?

Answer. Yes, sir; they got some after they had their arms.

Question. At what point was it that ammunition was distributed to the men?

Answer. Allen Bratton went to York and got the ammunition and took it out there.

Question. What kind of ammunition was it?

Answer. Cartridges.

Question. Was Bratton a member of the company?

Answer. Yes, sir; he was lieutenant.

Question. By whose orders did he get ammunition ?

Answer. He got it from Mr. Rose at York.

Question. Who sent him there to get it ?

Answer. I think Williams and Tims.

Question. How many rounds did each man get ?

Answer. About three at first.

Question. What time was it they got ammunition ?

Answer. It was in the night ; they went over in the night.

Question. Was that before the election or after ?

Answer. It was before the election.

Question. Did they mostly muster in the day or the night ?

Answer. They mustered mostly at night.

Question. Did they keep on mustering up to the time of the election ?

Answer. Yes, sir.

Question. How often ?

Answer. Sometimes once and sometimes twice a week.

Question. Did you ever have any conversation with Jim Williams about getting ammunition ?

Answer. Yes, sir.

Question. When was it ?

Answer. He told me he was going to get ammunition from York.

Question. What further did he say ?

Answer. That he was going to kill from the cradle up.

Question. When was that ?

Answer. That was Friday after we went to pay taxes ; Friday before March.

Question. Where were you going to pay taxes ?

Answer. At York.

Question. Where did you meet together ?

Answer. He came right up to my house.

Question. Did you go to York on foot or on horseback ?

Answer. On horseback.

Question. Did this conversation take place on the road ?

Answer. Yes, sir.

Question. Did he get any ammunition that day ?

Answer. I don't think he got any that day.

Question. When you say Friday before March, do you mean the March when he was killed ?

Answer. Yes, sir.

Question. Do you know whether in that part of the country such threats were made by Williams as you have spoken of ?

Answer. Yes, sir ; there were.

Question. Who do you say it was that made these threats ?

Answer. Jim Williams.

Question. What other people spoke of having heard him make this threat ?

Answer. Michael McCall said so.

Question. Did you hear other people speak of it ?

Answer. Yes, sir.

Question. Was it a general thing ?

Answer. I heard it from other folks that it was a general thing in this neighborhood.

Question. Do you mean that people generally understood that Williams had made that threat ?

Answer. Yes, sir.

Question. Up to that time had there been any violence or raids of Ku-Klux or anybody else ?

Answer. None ; there hadn't been any through there at that time.

Question. Had there been any violence at any election at that time ?

Answer. No, sir.

Question. Had you attended any election ?

Answer. Yes, sir ; at McConnellsville.

Question. Is that the same place that Rainey attended ?

Answer. Yes, sir.

Question. Was there any interference there ?

Answer. Not as I know.

Question. Was there at any other election you have been at ?

Answer. I have not been at any but there.

Question. Do you cast your vote there ?

Answer. Yes, sir.

Question. Did ever anybody interfere with you ?

Answer. No, sir.

Question. Did anybody ever interfere with Rainey when he voted ?

Answer. Not as I know.

Question. Is that the fall election that you speak of?

Answer. Yes, sir.

By Mr. JOHNSON:

Question. Do you know if there were any fires in that neighborhood up to that time?
The COURT. We cannot allow but one person to examine a witness.

By Mr. STANBERY:

Question. Had there been any fires in that part of the country?

Answer. Not by us; there was a fire before at Mr. Bratton's.

Question. How far off did he live?

Answer. About half a mile.

Question. What was burned?

Answer. The gin-house and thrashing-machine.

Question. According to report who burned them?

Answer. Jack Brooks did that.

Question. Were there any other fires before that?

Answer. Not that I know of by us.

Question. Was Brooks a colored man?

Answer. Yes, sir.

Question. Did you hear of any, outside of your part of the county, at Yorkville?

Answer. Yes, sir; I heard of that above Yorkville, but none on this side.

Question. Then you heard of a number of fires occurring about Yorkville?

Answer. Yes, sir.

Question. According to public report who were supposed to be a party to it?

(Question objected to and withdrawn.)

Question. Where you at home on the night that Jim Williams was hung?

Answer. Yes, sir.

Question. Did any party call at your house that night?

Answer. Yes, sir.

Question. Who were they?

Answer. Ku-Klux, they said.

Question. Were they disguised?

Answer. No, sir; they just came natural.

Question. How many came to your house?

Answer. Two.

Question. What did they do?

Answer. They asked me if there were any guns there. I said no. I told them I did not have any. I told them I had one old gun there. "Take it down," said they, "and hand it to the men outside." The man outside hallooed: "It's a double-barrel gun; give it back to him again."

Question. What kind of gun did they want?

Answer. The guns that had straps on them.

Question. When you produced your squirrel rifle, they said they did not want that?

Answer. Yes, sir.

Question. Did they say anything about voting?

Answer. Not a word.

Question. Are you certain that this is the same night that Williams was hung?

Answer. Yes, sir; that was the same night.

Question. Did you see any more of them?

Answer. I saw them on the road.

Question. How many do you think there were on the road?

Answer. It looked like a great many—perhaps twenty or thirty.

Question. Was there anybody else at your house that night?

Answer. Yes, sir.

Question. Who else came there?

Answer. A militia party came up there.

Question. How many of them were there?

Answer. About fifteen or twenty.

Question. What did they do?

Answer. The head man hallooed out to come out quick; "Come out quick," said he. I told him I was under no obligation to come out quick; he said I must come out damn quick; they asked me if there had been any Ku-Klux there; then they asked which way they went; up the road, said I; "Slip on your shoes," said he; I said I had no right to go; I didn't want to leave my home that time of night; "By G—d," said he, "you have to go or die;" I told him that there was but one time to die; that would be now, said he, if I didn't march. Henry Haynes then cocked his gun on me; they then mounted the fence; I was outside; they went back into the house, and one of them took my gun and took it away; they sent it back to me the next day.

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Question. Were they part of the colored militia who came ?

Answer. Yes, sir.

Question. Did you attend the same polls of election that any of these militia men did ?

Answer. Yes, sir ; at the same place.

Question. Was it at McConnellsville ?

Answer. Yes, sir.

Question. Did this company, or any part of them, take their arms to the election ?

Answer. Not as I know of ; they had their accouterments.

Question. Do you mean their bayonets ?

Answer. Yes, sir.

Question. What did they do with their guns ?

Answer. I don't know ; I was driving a wagon till about 4 o'clock, when I went over there.

Question. But you say they had their side-arms on.

Answer. Yes, sir ; they had their guns the night before drilling ; that was the night before the election that they were drilling.

Question. Where was that ?

Answer. Right there in Mr. Wallace's old field.

Question. Do you know if any orders were given them as to what was to be done ?

Answer. I do not know.

Question. Was the full company out that night ?

Answer. Yes, sir.

Question. Did you see some of them at the election ?

Answer. I seen some of them.

Question. Were they in squads ?

Answer. Yes, sir ; some seven or eight at a time—in right smart squads.

Question. Had they their side-arms on ?

Answer. Yes, sir ; the whole of them.

Question. You say you got to the election late in the afternoon ?

Answer. It was about 4 o'clock in the afternoon when I got there.

Question. This house that was burned, did it belong to colored or white people ?

Answer. I don't know which.

Cross-examination by Mr. CORBIN :

Question. Are you known as "Gentleman Bill ?"

Answer. Yes, sir.

Question. Whose place do you live on ?

Answer. John S. Bratton's.

Question. You say that Jim Williams said, on Friday before March, that he was going to kill "from the cradle up."

Answer. Yes, sir ; from the cradle up. He did not say white or black.

Question. Did he say why he was going to do this ?

Answer. Because they said he was to give up his arms.

Question. Who said this ?

Answer. Mr. Russell brought him down word to give up his arms. He said he did not mean to give them up, except from Mr. Scott.

Question. Who was that, Governor Scott ?

Answer. Yes, sir.

Question. What was the reason he gave for "killing from the cradle up ?"

Answer. I do not know ; he did not give me any explanation.

Question. Do you think he would ?

Answer. I don't think he could. I know it was out of any man's power to do it.

Question. Was he in fun when he said so ?

Answer. He seemed to be in earnest when he said so.

Question. Who have you ever told that to ?

Answer. I have told it to a heap of people.

Question. Name some one to whom you told it.

Answer. I told it to Lowry. I told him at the same time I told others

Question. When was that ?

Answer. When I was on the road to York with him.

Question. Was it before Williams was killed ?

Answer. It was about ten days before.

Question. Who else did you tell ?

Answer. I told Major Wallace and Minor McConnell.

Question. When was that ?

Answer. When we were going to church Sunday.

Question. When was that ?

Answer. The Sunday after Jim told me.

Question. Who else ?

Answer. Ave Thompson. That was after Jim was dead.

Question. Anybody else?

Answer. I think that was all. I may have told more, but I disremember whether I did or not.

Question. Did Jim Williams say anything about the Ku-Klux at that time.

Answer. Not at that time to me.

Question. Had you heard anything about the Ku-Klux?

Answer. Yes, sir; but they hadn't been in our town. I heard they had been in the neighborhood. They hadn't been out this side of York then.

Question. Did you know the colored people lying out around there?

Answer. Yes, sir. They went out about the church and lay out. I do not know what they were after.

Question. Do you know that they laid out because they feared the Ku-Klux Klan?

Answer. I do not think they did then.

Question. Did they lay out before the Ku-Klux came who murdered Williams?

Answer. Not as I know of.

Question. Did you ever lay out?

Answer. Never a night.

Question. Were you afraid of the Ku-Klux?

Answer. I was not—no more scared than I am now.

Question. What is your politics?

Answer. Do you mean when the Ku-Klux came? I had no politics when the Ku-Klux came.

Question. What were your politics before that time?

Answer. We didn't have any politics before that.

Question. Are you not a democrat?

Answer. Yes, sir; I'm a democrat.

Question. You vote the democratic ticket?

Answer. Yes, sir; all the time.

Question. Why did you vote the democratic ticket?

Mr. JOHNSON. What has that to do with the case? But we have no objection if the court has none.

Question. You have always been a democrat?

Answer. Yes, sir; all the time.

Question. You were not afraid of the Ku-Klux, you say?

Answer. I was not a bit scared when they came there that night.

Question. You didn't think they would hurt you, did you?

Answer. I didn't know whether they would or not. I staid in the house.

Question. They didn't ask you anything about your politics?

Answer. Not a bit.

Question. You are pretty well known in that country, are you not?

Answer. Yes, sir.

Question. And your politics pretty well known?

Answer. Well, I think so, sir.

Question. Did you hear other colored men around there talk of being afraid of the Ku-Klux?

Answer. Yes, I heard them talk about it.

Question. Who did you hear?

Answer. Almost all in the neighborhood who lay out of their houses.

Question. Did they ask you how they would be safe?

Answer. No, sir.

Question. What did you tell them?

Answer. I did not tell them anything.

Question. Didn't you tell them that if they would say that they would be democrats that they would have no trouble?

Answer. I never told them any such thing.

Question. You slept in your house while all the rest were sleeping out?

Answer. Yes, sir; all the time.

Question. And felt perfectly safe?

Answer. Perfectly so—trusted to Providence about that.

Question. Did you know of any other colored men who slept right around you in their houses all the time?

Answer. I think Winsor McConnell did.

Question. Is he a democrat?

Answer. Yes, sir.

Question. How about Dave Thompson?

Answer. I think he slept in his house all the time.

Question. Is he a democrat?

Answer. Yes, sir.

Question. Do you know of any republican colored men who slept in their houses all the time ?

Answer. No, sir; I do not.

Question. When was that fire at John S. Bratton's ?

Answer. I disremember what time it was. I know it was this year. I disremember what time in the month, for I don't know; it was on a Sunday night, though.

Question. Was it this summer or fall ?

Answer. This summer, near about "laying by time;" laying by the crop.

Question. Was it just before last court at York ?

Answer. Yes, sir.

Question. Was the man tried at the court there who was supposed to have done it ?

Answer. Yes, sir.

Question. What was his name ?

Answer. Jack Brooks.

Question. Was he convicted ?

Answer. Yes, sir.

Question. Who were the men that came to your house that night the Ku-Klux visited you ?

Answer. Andy Tims was one.

Question. No, but of the Ku-Klux ?

Answer. I don't know, sir; I don't know them.

Question. They did not have any disguises on ?

Answer. No, sir; they did not.

Question. How do you know they were Ku-Klux ?

Answer. They said so—asked if I ever seen any. I told them I did not; said here they was.

Question. What else ?

Answer. The way it first started, they halloed, "Wake up, nigger! Wake up, nigger, I am coming! Open the door! Open the door! God damn it, open the door!" I was standing right by the door agin they got there.

Question. Did Mr. J. S. Bratton tell you that the Ku-Klux wouldn't disturb you ?

Answer. No, sir; didn't open his mouth to me about it no way.

Question. Did he, after this Jim Williams was hung, tell you so ?

Answer. No, sir; he did not.

Question. Now, when Andy Tims with his militia-men came to your house that night, what did he want you to go with them for ?

Answer. Wanted to go help hunt the Ku-Klux; that is what he did.

Question. He didn't come to hurt you ?

Answer. The intention looked like, when he spoke—looked like he was more Ku-Klux than they was. Told me I had to go or die.

Question. Nobody shot you ?

Answer. No, sir.

Question. Nor shot at you ?

Answer. No, sir. One cocked a gun on me.

Question. Andy wanted to hunt up the Ku-Klux ?

Answer. That's what he said.

Question. What for ?

Answer. He didn't say, sir, to me what for.

Question. Did you know what the Ku-Klux had been doing ?

Answer. I heard what he said. He didn't tell me then, but I heard afterward, when I went over to the mill that day, what was done; they had hung Jim Williams.

Question. Andy Tims was hunting them up ?

Answer. That's what he said, sir.

Question. And he took your gun ?

Answer. Yes, sir; he took my gun.

Question. Brought it back next day ?

Answer. Yes, sir; brought it home next day. I wasn't home when he brought it, but it was there when I came home.

Question. Did you ever know Jim Williams to do anything bad in that community ?

Answer. No, sir; I did not.

Question. Good reputation ?

Answer. Yes, sir; as far as I knowed.

JAMES LONG (white) was the next witness called for the defense, who, being duly sworn, testified as follows :

Direct examination by Mr. STANBERRY :

Question. Where do you reside ?

Answer. In York.

Question. How far from Jim Williams ?

Answer. About five miles.

Question. Did you know him?

Answer. Yes, sir; I knowed him.

Question. Have you talked with him and heard him talk?

Answer. I have talked many a time, and heard him talk.

Question. Now state whether you had any conversation with him, or had any talk of this, shortly before he was killed, and what it was.

Answer. I heard him talking, sir, at the blacksmith-shop of Dr. Loves.

Question. Were other parties there?

Answer. Yes, sir.

Question. How many others?

Answer. Don't know; the two men that worked in the shop, and some three or four black men besides. There was one white man, but I am not certain whether he was gone when we had this talk or not.

Question. The blacksmith was there?

Answer. Yes, sir.

Question. And his two hands?

Answer. Yes, sir.

Question. And some colored men?

Answer. Some colored men.

Question. What did he say?

Answer. Said he had been down here a little while before that.

Question. Down where?

Answer. Down to Columbia; been among the members of the legislature. He said they wasn't worth one damn, but only for drinking and gambling.

Mr. CORBIN. Who?

Answer. Members of the legislature; and he said as for Governor Scott and Neagle, they were both damned old rascals; they had not done what they promised; and he said that he had said to his men the other day at the old field, at his muster-ground, that he wanted them to come to the field, and the longest pole knocked the persimmon down, and the strongest man eat them, and kill from the cradle up. That is what he said; and he had as much sense as any damned white man in York district.

Question. When you speak about his men, what men did he refer to?

Answer. He did not name any names.

Question. What did you understand him to refer to?

Mr. CORBIN. No.

Answer. He named no names. I thought it was his company.

Mr. CORBIN. You have no business to say that.

Question. When was he going to do that?

Answer. He didn't say when. He said he named to them that he wanted them to do it; no time set particular.

Question. Did he repeat what he said to them?

Answer. He said that was what he said at his muster-ground the other day.

Question. How long was that before his death?

Answer. This was on the 4th of March, and I think it was about the 6th of March he was hung, I think.

Question. Well, sir, when you left them, did you mention it to other persons?

Answer. I wasn't anywhere for several days. I was talking about it after I went home, but I don't think I was away from home.

Question. But you mentioned it at home?

Answer. Yes, sir.

Question. How many persons are there about your house who constitute your family?

Answer. There are some four or five.

Question. To whom you communicated?

Answer. Yes, sir.

Question. As soon as you went home?

Answer. I don't know as soon as I went home, but some time in the course of a day or two.

Question. Had there been any violence or outbreaks in that part of the country at that time?

Answer. Well, there had been fears about their mustering and shooting, but I don't know any particular facts, no way.

Question. Do you know who did that shooting?

Answer. They were mustering at nights.

Question. Did you hear shooting at nights?

Answer. Just regular.

Question. Near your house?

Answer. Yes, sir; heard it clear to where I live.

Question. Who was shooting?

Answer. Well, I don't know who they was shooting; might have been his company; might have been some others, I can't say.

Question. Do you mean—

Answer. Every night or two, and heard a drum, too.

Question. Was there any alarm in your part of the country?

Answer. Folks were pretty much scared.

Question. What about—what was the cause of alarm?

Answer. They did not know but what the niggers might come with their arms and kill them.

Question. Was that pretty general among the white people?

Answer. It was, sir, in my neighborhood.

Question. As to the women, were they frightened?

Answer. Yes, sir; they were worse than the men.

Question. Do you know of their getting together up in that neighborhood?

Answer. No, sir; I did not.

Question. You know there was that state of alarm?

Answer. No, sir.

Question. Do you know of any fires?

Answer. I know some fires up above us. Some gin-houses were burned.

Question. How far above you?

Answer. About six miles.

Question. Toward Yorkville?

Answer. No, sir; rather to the right of Yorkville.

Question. What fires?

Answer. Nealy, Miller's and Hugh Warren's gin-house was burned, both tolerably close together; not more than a mile apart.

Question. What other?

Answer. Well, I heard of Dr. Ellison having houses burned.

Cross-examination by Mr. CORBIN:

Question. How did Jim Williams come to tell you that he was going to kill from the cradle up?

Answer. Did not tell me; just told the folks that.

Question. Who was he telling that to?

Answer. To these other niggers. I was gitting outside of the house, by the side of the door.

Question. Who were there?

Answer. I don't know the names of the other niggers—only two.

Question. Name them.

Answer. The men working in the shop named Jeff. Bratton, and the other one used to belong to a Bratton, too, by the name of Jim. The other boys I didn't know.

Question. What was Jim Williams talking about?

Answer. Well, I don't know what he was particular talking about before I came into that conversation.

Question. You did not hear any of that?

Answer. Well, I heard him talking, but I didn't mind anything he was saying much, until he came on to that.

Question. Didn't you hear that he was saying if the Ku-Klux came around about his men, that he would kill other persons?

Answer. No, sir; I did not hear him say that.

Question. Do you know whether he said that or not?

Answer. I don't think he said it while I staid.

Question. Do you know?

Answer. I know he did not while I staid.

Question. And yet you didn't hear his conversation until he got to the place where he was going to "kill from the cradle up?"

Answer. Never heard him say that.

Question. But did you not have the conversation until he came to that?

Answer. No, sir. I said I didn't mind what he was saying.

Question. How do you know but what he said it?

Answer. That was the first I heard him talking about fighting, or anything of the sort.

Question. Do you know now, after your attention is called to that fact?

Answer. I did not say that I was there.

Question. And yet did you hear all that he said while you were there?

Answer. I did not say I heard all.

Question. How do you know whether he said it or not?

Answer. Well, I think if he had said it I would have heard it.

Question. But you don't recollect?

Answer. I do not, sir.

Question. Anything except that he was going to kill from the cradle up ?

Answer. Yes, sir ; I told you more than that.

Question. You say you went home that night ?

Answer. Yes, sir ; I went home before night—before 12 o'clock.

Question. You mentioned it to your family ?

Answer. Don't know as I did that day, I told you.

Question. When did you mention it ?

Answer. I cannot tell you exactly ; it might have been a day or two before I mentioned it.

Question. You were not very much frightened, then, about it ?

Answer. No, sir ; I was not no ways frightened myself about it.

Question. You did not think there was any occasion for alarm ?

Answer. I didn't know what there might be.

Question. Well, but if you had thought there was occasion for alarm, you would have spoken at once about it ?

Answer. Don't know whether I would or not. I didn't think of it.

Question. If you had felt that your family and your neighbors were in danger of being murdered you would have told it, wouldn't you ?

Answer. Well, I might, or might not ; for I didn't think of it.

Question. Did you ever know of Jim Williams killing anybody ?

Answer. Never heard of his killing any person in my life.

Question. Did he have the reputation of being a man that would kill people ?

Answer. Well, folks talked so.

Question. You never heard of his doing it ?

Answer. Never heard of his murdering any person.

Question. You say this was on the 4th of March ?

Answer. On the 4th of March.

Question. And when was Jim killed ?

Answer. On the 6th, I think.

Question. Now, do you know whether you ever mentioned it to anybody, what he said, until after he was killed ?

Answer. I named it before he was killed.

Question. Who did you name it to ?

Answer. I think I told Nicholas Johnson of it.

Question. When did you tell him ?

Answer. I couldn't mind, exactly.

Question. How long before Jim was killed ?

Answer. Maybe that day, and maybe it might have been two days.

Question. Or it might have been that day ?

Answer. I cannot say.

Question. You don't know ?

Answer. No, sir ; I ain't going to take an oath to anything I can't tell.

Question. Did you go and tell this gentleman in order to alarm him and put him on his guard ?

Answer. No, sir ; not to alarm him.

Question. Were the white people in that country generally armed ?

Answer. No, sir ; they had no arms. There was some little old shot-guns.

Question. Yet every person had a gun of some sort, didn't they ?

Answer. Well, a heap hadn't any ; I didn't have any, I know.

Question. Didn't they have a pistol ?

Answer. No, sir.

Question. If you had been very much alarmed, you would have got a gun, wouldn't you ?

Answer. Maybe I couldn't have got it ; might not be able to buy it ; nobody would have given it to me.

Question. This shooting around at nights ; do you know whether it was white men or colored men ?

Answer. I don't know who it was, but suppose it to be Jim Williams's company.

Question. Don't know anything about it ?

Answer. He was all the one in that direction where the shooting was that had a company and drum-beating there.

Question. Did you know the Ku-Klux were raiding about that country ?

Answer. I heard of their raiding, for I did never see one in my life.

Question. But you heard of their raiding long before that ?

Answer. Yes, sir ; I had heard of their raiding before that.

Question. You heard of the colored people lying out about you there ?

Answer. They never did come through our neighborhood.

Question. Never disturbed you ?

Answer. Never in our neighborhood.

Question. How near you ?

Answer. Never come nearer than a mile. The big road was the nearest that I heard of their coming.

Question. Do you know whether or not the negroes were generally alarmed about the K. K. raiding around them?

Answer. I don't think they were; not bad.

Question. Were they at all?

Answer. Some that I heard talk didn't talk as though they were alarmed.

Question. But I am asking as a fact whether a state of terror did not exist among the colored people from the Ku-Klux?

Answer. Some were alarmed and some were not.

Question. Were not the republicans among the men that were alarmed?

Answer. No, sir; there was a heap that was not. The biggest part were not alarmed.

Question. Don't you think, as a matter of fact, that the colored people were more alarmed from the K. K. than the white people were from the colored people?

Answer. I don't think they were.

Question. How many more white people in that county than colored?

Answer. I don't know.

Question. There are more white people than colored?

Answer. I expect there is at this time.

Question. Were there not as much as two or three white men to one colored man?

Answer. No, sir; I think not.

Question. What do you think the proportion is?

Answer. I don't know.

Question. Do you think there are more white people than colored?

Answer. I think there is.

Question. Don't you think the white people are quite as able to take care of themselves as the colored people?

Answer. If they had the means.

The COURT. That won't do.

Mr. CORBIN. The point is simply this: These distinguished gentlemen on the other side of the table are trying to show a state of alarm among the white people.

The COURT. You have a perfect right to show a state of alarm among them, but when you go to build up an argument—

Mr. CORBIN. But we propose to show it is a fact.

The COURT. Well, we don't think it necessary.

Mr. CORBIN. We don't insist on it. We don't think any of it is of very much importance.

Mr. JOHNSON. What do you ask it for?

Mr. CORBIN. The counsel on the other side has led us into this sort of business.

Question. What about Dr. Ellison's fire; you said you had heard of it?

Answer. I heard of it, but don't know anything about it.

Question. Did you or not understand that that fire is charged upon white people?

Answer. I didn't never hear it charged upon them.

Question. Never heard it charged upon anybody?

Answer. No, sir; I never heard it charged on any one.

Redirect examination:

Question. You never asked as to this man's manner when he made these threats; now describe his manner.

Answer. He was mad.

Question. What evidence did he give?

Answer. I knowed he was mad, from his talk when he started out.

JOHN B. FUDGE was the next witness called on the part of the defense, who, being duly sworn, testified as follows:

Direct examination by Mr. STANBERY:

Question. Do you live near this Jim Williams?

Answer. I do.

Question. How far from him?

Answer. About a mile and a half from him.

Question. Do you know the man?

Answer. Yes, sir.

Question. Know him well?

Answer. Yes, sir.

Question. Did you have a talk with him at the election last October?

Answer. Yes, sir; I did about a week or ten days before.

Question. Where at?

Answer. My own house.

Question. He had come there?

Answer. Yes, sir.

Question. What business had he ?

Answer. I don't know any business. He first came and called, and I was told that there was a colored man at the gate wanted to see me, and I walked around to see who it was. When I got around the corner of the house I saw it was Jim Williams. I walked up and spoke to him, and he did to me.

Question. Was the conversation there at the gate ?

Answer. At my gate.

Question. Now tell us what it was.

Answer. I then asked him if he wanted to see me on any business, and he said he wanted to have a talk with me; and I said to him, if it is on politics, says I, I don't wish to talk; and his reply was, it was.

Question. Were you of opposite politics from him; what were your politics ?

Answer. Well, mine was for—of course mine was for the democratic party.

Question. You said you didn't want to talk any politics ?

Answer. Yes, sir.

Question. What did he say ?

Answer. He says, "You must." Says I, "No, no." He then said to me, "Mr. Fudge, I would like very well if you and I could vote together in the next election, which is coming off shortly." I said, "Very well; we can." He then said "Yes." "But," he says, "I reckon you would want me to vote your way." Said I, "You can." I just said to him this: says I, "You can; we can vote together." He says, "That would be Judge Carpenter and General Butler," and he says, "I would see them in hell before I would." "O, well," says I, "Jim, it don't matter particularly; I reckon you will allow me the same chance." He said, "Yes."

The COURT. What has this to do with it ?

Mr. STANBERY. We have not done with the conversation.

The COURT. Let us get to the point.

Mr. STANBERY. It is not my fault that he don't get to it any sooner.

The COURT. What is the point about, which you wish to have him testify ?

Mr. STANBERY. The point of direct threats.

The COURT. Let us hear what the threats are.

The COURT. Go on.

Answer. He then said to me, he says, "In case"—I think was the words—"In case we don't succeed in carrying the next election," he says, "we will kill from the cradle to the grave, and we will apply the torch in every direction; we will lay waste to this country generally." Says I, "You go on;" says, "Go on, now;" and at that he turned his mule, and as he turned his mule, he said, "I can go to Governor Scott and get as much money as I want, and you can't." Says I, "Go on home."

Question. What was his manner—serious, or how ?

Answer. I think he was serious; he spoke cool and deliberate.

Question. He did ?

Answer. He did.

Question. What election was he speaking about ?

Mr. CORBIN. Last October.

Question. How long was this before the election ?

Answer. I can't say positive; it was a week or ten days, I think.

Question. Where did Williams come from to that part of the country; where had he been before; did you ever hear him say ?

Answer. Before when ?

Question. Before he came to that part of the country to live ?

Answer. I never heard him say. Well, in '66 I got acquainted with him first. Mr. Wilson, a neighbor of mine, sent for me to go out oats for him one day—

Judge BOND. O, dear me, alive; Mr. Stanbery, can't you ask the question ?

The WITNESS. I was telling him where I got acquainted with this nigger.

Cross-examination by Mr. CORBIN :

Question. How long do you say you had known Jim Williams ?

Answer. Since '66.

Question. Live within a mile and a half of him ?

Answer. Yes, sir; I suppose within a mile and a half.

Question. Did you ever know Jim Williams to kill, or attempt to kill ?

Answer. No, sir; I never know him to be in any rows of killing people.

Question. What was his reputation as an orderly, quiet citizen ?

Answer. Well, I would term him bad.

Question. What is that ?

Answer. I would his reputation.

Question. When did you think his reputation bad first ?

Answer. I thought so when he was talking to me.

Question. You had never known anything bad before that ?

Answer. Well, I had heard things.

Question. But what was his general character in the community—good or bad?

Answer. Well, it was considered bad.

Question. Do you know whether it was considered bad through the community?

Answer. It was.

Question. When; at first?

Answer. I would say that last year was the first time.

Question. What time last year?

Answer. I cannot exactly designate the time, but it was some time through the summer or fall.

Question. He was a leading politician, was he?

Answer. Yes, sir; thought to be.

Question. Leading among the colored people?

Answer. Yes, sir.

Question. Leading republican among the colored people?

Answer. Well, as to being a leader amongst them, I was not certain of that, but I took him to be so.

Question. Made speeches, did he; republican speeches?

Answer. I never heard of him making but one speech in my life.

Question. Held in high esteem among the colored people?

Answer. Yes, sir.

Question. Were you alarmed at him when he said what you say he said to you; were you frightened yourself?

Answer. For my own part?

Question. Yes.

Answer. In my own person, do you mean?

Question. Yes.

Answer. Well, there was but one man there, and I was but one, you know.

Question. Exactly.

Answer. Well, as to being frightened at one man, I never have been yet; not much.

Question. What Jim Williams said then did not scare you?

Answer. In regards to my family, it did.

Question. Did it scare you yourself?

Answer. Not particularly me alone.

Question. Well, you were included in that list of persons between the cradle and the grave?

Answer. Yes, sir; I was, I was.

Question. Did you think that Jim Williams was going to do that thing?

Answer. I did. I thought he exactly meant what he said.

Question. That he was going to kill from the cradle to the grave?

Answer. I did; I thought he would do precisely what he said.

Question. What did you do to prevent him from killing you and your family?

Answer. I did nothing.

Question. Did you keep a guard about your family to protect them from Jim Williams?

Answer. No, sir; I thought that I was guard enough while I would last, for him alone.

Question. Did you expect that Jim was going to do that as his business, from that time, everywhere?

Answer. As a matter of course I expected it; he told me.

Question. Did you expect him to do it?

Answer. As a matter of course I expected him to do it; he told me that he would do it.

Question. I want to know whether you did or not?

Answer. I did.

Question. And yet you did nothing to protect your family?

Answer. Me?

Question. Yes.

Answer. No, sir; I did nothing to protect myself; I thought I would be there myself.

Question. You expected Jim Williams to undertake that business alone?

Answer. As to that I can't say; one man would be enough to burn my house up, and my family in it.

Question. Did you take any steps to have him arrested or bound over to keep the peace?

Answer. No, sir. I expected to be home pretty much all the time myself.

Question. And you would use your eyes night and day?

Answer. No, sir; I expected to sleep.

Question. You didn't lay out in consequence of that threat, or have your family lay out?

Answer. No, sir, while I was there; I was there every night.

Question. Did you ever hear anybody say that Jim Williams did carry out that threat before he was killed, or attempted to carry it out?

Answer. What is the question?

Question. I ask you if you ever heard of him attempting to carry out that threat, to kill from the cradle to the grave, at any time before he was killed.

Answer. I never heard it, only from him; he told me that he intended to do it.

Question. I ask you did you ever hear that he did do it, or attempted to do it?

Answer. No; I never heard of him commencing.

Question. Did you go to an organization of the Ku-Klux Klan to protect yourself from Jim Williams?

Answer. Never did.

Question. Did you join the Klan?

Answer. Never did.

Question. You didn't think it necessary to go and join the Ku-Klux to protect yourself from Jim Williams?

Answer. Never did.

Question. Are not a member yourself?

Answer. No, sir.

Question. You knew of K. K.'s raiding around the country during the winter?

Answer. I heard of it.

Question. Long before Jim Williams was killed?

Answer. I won't say positive whether it was long or not; it was some time before.

Question. Do you know whether the colored people were lying out around there?

Answer. I was not.

Question. Didn't you understand that to be a fact?

Answer. That was hearsay; I heard it, but do not know it to be so.

Question. You never saw them laying out?

Answer. Never did.

Question. But you understood it was so?

(The question was objected to, and not pressed.)

Redirect examination.

Question. You have said that this Jim Williams stood in great respect by the colored people around?

Answer. Very much.

Question. Do you know whether or not he had great influence over the colored people?

Answer. He did.

Question. Was he a passive or violent man in temper?

The COURT. Mr. Stanbery, don't make a man state his opinions as facts.

Mr. STANBERY. He is giving the character of the man. The other side called it out.

The COURT. No, he was giving the general reputation of the man. Now, you ask what sort of influence this man had, and that cannot possibly be put in.

Mr. STANBERY. I am following the gentleman. He has got from the witness the fact that he was respected by his colored brethren. I am following it up, and that has led me to it.

Question. You stated that he had made a political speech. Were you present when he made that speech?

Answer. Sir?

Mr. CORBIN. You were not present?

Question. What do you say?

Mr. CORBIN. You were not present when he made that speech?

Answer. No, sir.

A. F. HINSON was the next witness called on the part of the defense, who, being duly sworn, testified as follows:

Direct examination by Mr. STANBERY:

Question. Are you acquainted with this Jim Williams?

Answer. Yes, sir.

Question. How long had you known him?

Answer. The last four or five years, sir.

Question. Did you talk with him last fall?

Answer. Yes, sir.

Question. Before or after the election?

Answer. After the election, sir.

Question. Where was it?

Answer. At my own house.

Question. How far from where he lived?

Answer. I suppose about three miles, sir, to the best of my knowledge.

Question. Tell us what the talk was?

Answer. He came to my house one morning—about the middle of last February, or the latter part of it—and appeared to be very much out of humor. I spoke to him and asked him, says I, "What's the matter this morning?" "Well," he says, "there is some of my company wanting to give up their guns." Well, I told him I thought that would be a very good thing, and he says, "No." Says he, "If I don't get what has been promised me," says he "I will take from the cradle," and says, "There has been no burning done to what there will be," and rode right off and left me immediately.

Question. What was his manner?

Answer. Well, he appeared to be very much out of humor.

Question. Had there been any burning in that neighborhood at that time?

Answer. Before that there had been burning. I don't know whether right in the immediate neighborhood; some distance off; four or five miles, probably.

Question. He did not state what had been promised him?

Answer. No, sir; I don't know what that was. He didn't give me time to ask him that question. He rode off immediately after making those remarks.

Cross-examination by Mr. CORBIN:

Question. Where do you live?

Answer. I live in York district.

Question. How far from York, and how far from Jim Williams's?

Answer. Nine miles from Yorkville.

Question. What road?

Answer. On Armstrong's Ford road.

Question. How far from Jim Williams's?

Answer. About three miles.

Question. You and Jim Williams on friendly terms?

Answer. Yes, sir.

Question. Why did he make this remark to you?

Answer. Well, he rode up to my house and appeared to be very much out of humor. He was in company with some one else, and I heard him talking going up the road. He and his friend parted where the road leads off, and he came up to my shop, and I asked him what was wrong; then he just made those remarks that I have just related.

Question. How long was this before he was killed?

Answer. Well, I don't—it was in the latter part of February, as well as I remember, that he made those remarks to me, and I expect it was some time in March when he was hung.

Question. How long, how many days?

Answer. Probably some fifteen or twenty days; something like that.

Question. Was it before or after a company of United States troops came to Yorkville?

Answer. Well, I don't remember as to that.

Question. Do you remember when they came there?

Answer. Yes, sir. I don't remember the time; I remember about their coming there.

Question. You remember the fact?

Answer. Yes, sir.

Question. Now, do you remember whether this remark was made before or after that company came there?

Answer. No, sir; I don't.

Question. Do you know whether it was before or after the order by Governor Scott as to collecting arms?

Answer. No, sir; I don't remember that either.

Question. Don't know anything about it?

Answer. No, sir; I do not.

Question. What was he out of humor about?

Answer. He told me it was because some of his men were wanting to give up their guns, and he didn't approve of it.

Question. Did he give you any explanation of what he meant when he said if he didn't get what he wanted that he would do so and so?

Answer. No, sir, he didn't explain that point; in fact, he didn't give me time to ask the question.

Question. You don't know what he meant by that?

Answer. No, sir.

Question. Do you know whether he wanted anything of anybody at that time?

Answer. No, sir; I do not.

Question. Do you know whether he demanded anything of the white people generally at that time?

Answer. No, sir; nothing in particular; I don't, sir.

Question. Did he mean white people or colored people he was going to kill?

Answer. White people.

Question. Did he say white ?

Answer. No, sir.

Question. How do you know ?

Answer. I judged on that.

Question. He did not say white or colored, did he ?

Answer. No, sir ; he never made no respect of any color.

Question. Do you know whether he attempted to kill any one ?

Answer. No, sir ; I don't think that he did.

Question. Never heard that he did ?

Answer. No, sir ; not that I know of.

Question. What was his character and reputation in that neighborhood heretofore, since you have known him ; character as a quiet, orderly citizen ?

Answer. Well, sir, I don't know anything much about his character ; nothing more except about his character that he was a captain of the militia, and was said to be a very bad boy.

Question. What was his general reputation ?

Answer. That is his general reputation.

Question. Was a very bad boy ?

Answer. Yes, sir.

Question. Bad for what ?

Answer. Well, that he was very impulsive, and tried to carry out any point that he had taken sides with.

Question. What point ; what kind of a point ?

Answer. None in particular ; but anything that he took a notion to ; anything that he sided with.

Question. That he was very impulsive. Do I understand you that he was a pretty independent negro ?

Answer. Yes, sir ; pretty independent.

Question. And stood up for his rights ?

Answer. Well, he claimed to do that.

Question. And he was called, consequently, a pretty bad boy ?

Answer. Yes, sir ; to the best of my knowledge.

Question. You never knew of his doing any of those acts, did you ?

Answer. No, sir ; I did not.

Question. Ever hear of his stealing anything ?

Answer. No, sir.

Question. Ever hear of his burning anybody's house ?

Answer. No, sir.

Question. Any criminal conduct against the laws of the country ?

Answer. Nothing more than making threats.

Question. You heard him make the threats ?

Answer. Yes, sir.

Question. Were you frightened by what he said that day ?

Answer. Yes, sir ; somewhat.

Question. Did you take any precautions to protect yourself against him ?

Answer. No, sir ; not any particular ; I didn't.

Question. Or to protect your family ?

Answer. Yes, sir.

Question. What precautions did you take to protect your family ?

Answer. Well, I always had. When I laid down I was always prepared for any assault.

Question. Did you ever expect any assault from Jim Williams ?

Answer. No, I don't know as to that.

Question. Did you expect it ?

Answer. I didn't know, probably, but what he may ; he made these threats to me.

Question. Answer directly whether you did or did not ; did you expect him to come and murder yourself and family ?

Answer. I don't know.

Mr. CORBIN. We insist upon an answer, if the court please.

Judge BRYAN. He said he might do so.

Mr. CORBIN. That does not answer it. The question is, did you expect Jim Williams to come and kill you or your family.

Answer. No, sir ; I cannot say that positive.

Question. Did you ever have any fears from the Ku-Klux ?

Answer. No, sir ; not particularly. I have heard that there was threats made on me by them.

Question. For what ?

Answer. Well, sir, for keeping spirits in my house for sale.

Question. Did you have any fear of them ?

Answer. Yes, sir ; I had awhile.

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Question. Were they raiding around the country, more or less?

Answer. They were, I believe; that I heard; I don't know it to be true.

Question. In what portions of the county did you know they were raiding?

Answer. I heard of them being in different portions of the county.

(Objection.)

(Objection sustained.)

Question. When did you have this fear of the Ku-Klux?

Answer. Some time along last spring, sir.

Question. What time in the spring?

Answer. I believe it was in—as well as I remember, it was in March, perhaps.

Question. That is about the time Jim Williams was killed?

Answer. Yes, sir.

Question. Had you more fear of the Ku-Klux than you had of Jim Williams?

Answer. No, sir; not in particular, I didn't.

Question. Which did you fear the most, Jim Williams or the Ku-Klux?

Answer. Well, sir, didn't know which—to tell the truth, sir.

Question. Did you join the K. K. for your protection; never joined them?

Answer. Well, I joined a society in '68.

Question. What were they called?

Answer. There was no name for it. There was a time appointed to make an organization of some sort, and I went to the place appointed, and there was but two or three men that went there, and the thing just dropped.

Question. Who were the men that met you to form the society?

Answer. Captain Crawford.

Question. Neil Crawford?

Answer. Yes, sir. Mr. Kuykendall.

Question. Where was that meeting?

Answer. It was in Mr. Swann's land.

The COURT. What has that to do with it?

Question. You went there to form an association, but it fell through?

Answer. Yes, sir.

Question. Any constitution and by-laws read there?

Answer. No, sir; not at all.

Mr. JOHNSON. We object.

Question. What did you propose to have; that is what I want to know; what was the name of the thing.

Answer. As I told you before, there was no name given.

Question. What did you understand the name was to be?

Answer. It was protection for the country.

Question. I didn't ask what it was going to be; I asked the name of it

Answer. I don't know, sir.

Question. You don't know what the name was to be?

Answer. In York County, sir. Not then, I didn't.

JOHN J. LOWRY was the next witness called on the part of the defense, who, being duly sworn, testified as follows:

Direct examination by Mr. CORBIN:

Question. Where do you reside; at what place?

Answer. About a mile and a half from the court-house.

Question. On a plantation?

Answer. A little farm.

Question. Were you residing there in the fall of 1870?

Answer. Yes, sir.

Question. How long prior to that?

Answer. I have been residing there since '55.

Question. And you reside there still?

Answer. Yes, sir.

Question. Now, state whether you have been at elections there.

Answer. Yes, sir; I have been to many since the one of last year.

Question. That fall election?

Answer. Yes, sir.

Question. Where at?

Answer. Up in the village of York.

Question. Was there any interference?

Mr. CHAMBERLAIN. Wait.

The COURT. Unless you show that your party was there.

Mr. STANBERRY. The democratic party was there.

The COURT. That will not do, unless you mean to show that they were identified with the conspiracy.

Mr. STANBERRY. Can't I prove the fact that there was no disturbance there?

The COURT. I don't see the pertinancy to the case.

Question. State condition of the neighborhood. In the first place, was there any case of violence or incendiarism there that fall, and the winter and spring following; were there any fires?

Mr. CORBIN. I don't see any more pertinancy to that question than the other.

Question. Did you see any man at that election who has been arraigned as a Ku-Klux?

Answer. I have not, sir. I am not acquainted with those men; those young men.

Question. But you see them now?

Answer. I am not acquainted with those young men; they have grown up so fast that I would not remember them if I would see them out. I know the old men.

Question. You don't recollect seeing any man at that election who is charged with being a Ku-Klux?

Answer. Do you mean any one in this house?

Mr. CORBIN. No, that will not do.

Question. Did you see Major Owens there?

Mr. CORBIN. He is not one of these parties that you are trying here.

Question. Did you see "Major Avery" there?

Answer. I don't recollect about seeing Avery there.

Mr. CHAMBERLAIN objected to the question on the ground that it was irrelevant.

Question. Was Dr. Bratton there?

Answer. Yes, I think he was there, sir. I saw him in the afternoon, because I stopped at his house.

Question. Your impression is that he was there?

Answer. I stopped at his house.

(Counsel for the Government objected to these questions, on the ground that Bratton was not included in the indictment.)

The COURT held the question to be admissible.

Question. Now, state whether there was any interference.

The COURT. That must be confined entirely to somebody whom the prosecution has identified with the conspiracy.

Mr. JOHNSON. We are now confining it to Dr. Bratton.

Question. Now, state whether there was any interference with anybody's right to vote on that day.

Mr. CORBIN. That is not the question.

Question. Now, will you answer?

Mr. CORBIN. What is the question?

Question. Whether there was any interference with the right to vote on that day?

Mr. CORBIN. No, sir; that is not the question ruled in.

Mr. JOHNSON. Ask the court.

Mr. CORBIN. On the part of these people, or Dr. Bratton?

Mr. JOHNSON. Well, on the part of Mr. Bratton. If there was no interference on the part of anybody, there was no interference on the part of Dr. Bratton.

Mr. CHAMBERLAIN. The question must be confined to this conspiracy.

Question. Was there any interference by any one, or by Dr. Bratton?

Mr. CHAMBERLAIN. Which?

Question. Did Dr. Bratton interfere with anybody's right to vote at that election?

Answer. I did not see nor I did not hear him interfere; I was up there only an hour or so.

Question. Whilst you were there?

Answer. Yes, sir; in the vicinity of Yorkville.

Question. Of Yorkville?

Answer. Yes, sir; there was a state of alarm from the time that Scott armed the blacks.

Question. Was it from that cause?

Answer. Yes, sir; I think it was from that cause.

Question. What was the nature of the alarm?

Answer. Well, there was a feeling of insecurity and uneasiness, from having arms in the hands of those people—the blacks.

Question. Did that generally pervade the white people that were not armed?

Answer. Yes, sir.

Question. From this cause?

Answer. Some time after they were armed I saw a subscription in the village to subscribe to get these army rifles—Winchester rifles; it was after they were armed that I saw this subscription.

Question. Was there or not any state of alarm among the white people in that neighborhood?

The COURT. You mean a petition?

Answer. No, sir; it was called a subscription for those Winchester rifles.

Mr. CORBIN. For whom ?

Answer. For the white people ; only for defense, mind you.

Question. Was it a common question among the white people ?

Answer. Yes, sir ; it was a very common topic of conversation.

Mr. CORBIN. What was a common topic ?

Answer. Their being armed, and the state of the country, from the fact that they had arms and ammunition.

Question. Now, about the state of the country afterward. Were there any burnings ?

Answer. Yes, sir ; there were a good many.

Question. About that part of the country ?

Answer. Well, just where I lived there were none. The only burning that I know of, from where I live from the village or down to the Chester line, was Mrs. Rainey's gin-house ; but up the other side there was plenty of burning ; but in that area of country, that was the only one that was burned.

Question. Those houses that were burned—who did they belong to ?

Answer. I cannot recollect, perhaps, all of them, because took no account ; but I think the first house burned was Dr. Ellison's saw-mill and gin-house, and, perhaps, some straw-house.

Question. Is there any other house ?

Answer. Yes, sir ; one Mr. Hiram Thomasson, old Mrs. Thomasson, and Hugh Warren.

Question. White people ?

Answer. Yes, sir ; all white people. And in Ebenezer, Dr. J. M. Lowry ; a gin-house for him was burned.

Question. Can you give us any idea of the number ?

Answer. Well, I can't do it exactly ; have heard it estimated at about twelve or fifteen houses—twelve or fourteen or fifteen or somewhere there. There might have been over that, but I didn't hear.

Question. Had you heard or was it the common talk that threats had been used ?

Answer. Well, the first threats that I heard was—I don't know as I can state the time ; but in Yorkville, one night, they had some disturbance with the negroes. They went in the hotel and got the arms.

Question. That is, the colored people—the colored people went to Yorkville ?

Answer. O, no ; those living in Yorkville went and got the arms. There was some little quarrel that had taken place in the street between Dr. Thompson and a colored man.

Question. Do you know this of your own knowledge ?

Answer. I wasn't there ; I didn't know for two days afterward.

Question. You say you know that there were threats, that the people were alarmed on account of threats. Now, tell us any of those threats.

Mr. CORBIN. Did you hear this ?

Answer. What threats—what do you mean ?

Question. Why threats made by colored people toward the whites ?

Answer. Now, I heard this from a man one day, a white man, and I saw him after and asked him about it. I met him in the road, and said to him that I heard that he had been sleeping out of his house, and if so, he could come down and stay with me.

Mr. CHAMBERLAIN. He is not stating a fact.

The COURT. State the facts.

Question. My question is, whether in the neighborhood among those people ?

Answer. There was a state of alarm in consequence of those threats.

Question. Do you know that there was then a state of alarm there in consequence of those threats ?

Answer. There were—from fires—incendiary fires—threats from them.

Question. There were threats of that character ?

Answer. There were.

Question. You understood that threats—that burnings would take place ?

Answer. Yes, sir.

Question. Did you know Jim Rainey ?

Answer. Yes, sir.

Question. How long had you known him ?

Answer. Sixteen or eighteen years, I suppose.

Question. What was the character of the man for order ?

Answer. Well, as far as I knew, he had sustained, up to the time he got those guns, a very good character, just as good as any colored man would sustain. He was idle ; didn't work much.

Question. After he got those guns, what was his reputation ?

Answer. Well, I think he was very foolish, after he got the guns ; very foolish.

Question. Had you any conversation with him ?

Answer. Yes, sir.

Question. State what it was.

Answer. In the summer after Mrs. Rainey's gin-house was destroyed—a few days afterward—I saw him and asked him if he wouldn't send the guns again to Governor Scott, that Mrs. Rainey and others were uneasy, and she said she was going away from home; I asked him if he wouldn't send the guns to Governor Scott, that he had no use for them, that they would not answer for hunting, and that they were an army gun. His reply was that he would consult the company, and asked me why we didn't want them to be armed. I told him it was reported around there what he threatened to do, and asked if it was so. He replied that I need feel no uneasiness, or any of our own people, that he didn't intend to hurt them. I asked him who was his own people? He said he meant the family and other relations of Mrs. Rainey; and I asked him then, that if he commenced any such things, he couldn't control the company. He said he could, and I saw him no more for two or three weeks. I told him, then you didn't give up the guns. He said that the company did not want to give them up, and that he didn't want to. I told him, from your threats you might be hurt, and for two or three weeks you had better get out of the way, if you keep the guns. He didn't deny the threats.

Question. What did he say in reply to that?

Mr. CORBIN. Threats by whom?

Answer. His threats, sir. I asked him if it was so—that he made those threats. He said in reply, that you need not feel any uneasiness, there is not anybody going to hurt you; but I told him that I was not the one, it was the people down there. This was twelve or fourteen miles from where I lived; he didn't deny the threats, nor he didn't say that he made threats; after that, when I saw him he seemed to be angry. I had these conversations with him in two or three weeks; after that I asked him again, and asked him and said to him that the people were uneasy down where he lived; it was not where I lived; but I had a plantation down there. I asked him if he wouldn't give the guns up, that it would allay the uneasiness in the country from his threats; and he told me that he would not, after consulting his company. He said that he had been in Sherman's army. I told him he was not with him, had only straggled off with Sherman's army, and that he knew how to carry on war; this is what he said, and that he had as much right to arrest anybody as any of General Sherman's officers; he arrested one man, they said, or it was reported he had, and I asked if he had, and he said he had the same right as any of General Sherman's officers; I told him he hadn't.

Question. Was he talking seriously at this time?

Answer. He was a little angry—he was a little excited from some cause then at the other conversation I had with him; he went up to York, I think, Thursday or Thursday week before he was hung, and I asked him then if he would give the guns up; he told me he would; I told him that if he would, I would let him have something to haul them up to the sheriff.

Cross-examined by Mr. CORBIN:

Question. You say the last conversation you had with Jim Williams he told you he would give up the arms?

Answer. He did.

Question. How long was that before he was killed?

Answer. It was Thursday before or Thursday week, I don't know which; it was some short time; seven or eight days, but on Thursday, I know.

Question. Now, Mr. Lowry, did he tell you at that time that the Ku-Klux were raiding about the country, and the colored people were greatly disturbed?

Answer. There was no Ku-Klux over in that point, no riding in that area of country.

Question. But there had been in other portions of the country?

Answer. In the western portion, southwestern, and northwestern, and some in the eastern and northeastern, but in that area that was the only raid.

Question. But they had been raiding?

Answer. Yes, sir; I heard so, mind you.

Question. Certainly, I don't understand you were present. Did Jim Williams express any fear of a raid down there?

Answer. Yes, sir; he did.

Question. Did he say the people were alarmed down there?

Answer. Didn't hear anything of that kind.

Question. Colored people, on account of those raids?

Answer. No; he never said that. The last conversation I had with him, though, when he told me that he would give the arms up, he said that he was—he said that he found that what I had been telling him was so, and he was then willing to give the guns up; he didn't say that any one else was alarmed.

Question. Was it a fact within your knowledge, that the colored people were very much alarmed over the county?

Answer. Yes, sir; they were.

Question. On account of the Ku-Klux raids?

Answer. On my own plantation they were—but now I recollect, there was a panic.

Question. They were alarmed ?

Answer. They were alarmed.

Question. They slept out ?

Answer. I could not restore confidence to them, no way.

Question. How long did they sleep out last winter ?

Answer. I don't know ; it may have been once in a while, and it may have been once a week.

Question. How long did this panic among the colored people last ?

Answer. About two months, I think.

Question. Commencing when ?

Answer. Well, just over in the vicinity where I lived, and from there on down to the line, it commenced, I suppose, in February.

Question. When did it commence in the other parts of the county ?

Answer. In the upper parts of the county—in the extreme upper part—northeastern part—it commenced in November. That was the time this Tom Roundtree nigger was killed.

Question. That was in November ?

Answer. I think it was somewhere about that time—the last of November, I think, or the first of December.

Question. Had any of those burnings taken place before these raidings, in any part of the country ?

Answer. I cannot say positively, but I think old Dr. Ellison's. I can't state positively, though, as to that fact.

Question. That is the only one, if there was any, that you know of ?

Answer. I think that was the first one.

Question. Now, haven't you understood that the burning was done by white men ?

Answer. Yes ; by white republicans, if you want the truth.

Question. You have heard it was done by white republicans ?

Answer. Yes, sir.

Question. Not by negroes ?

Answer. Yes, sir ; you can get men from that district who heard them say they would apply the torch.

Question. For what reason ?

Answer. Well, I can't tell you anything else more than just the general opinion, that there was an antagonism between the Union League and this K. K. organization.

Question. Have you understood from Mr. Ellison himself ?

Answer. I have not seen Dr. Ellison, the old doctor, for some time.

Question. Have you understood from anybody that that burning was in retaliation for something done by Dr. Ellison ; a personal quarrel ?

Answer. No, sir ; I never heard anything of that.

Question. But the other burnings were after the raiding commenced ?

Answer. Yes, sir ; they were done after, and I will answer if you want to know ; a man who was a republican told me that he saved the town of Yorkville from ashes twice, and I took it for granted when he said it was in retaliation.

Question. Who was it ?

Answer. Milus Johnson ; and the time he said it I took it for granted that it was in retaliation.

Question. Who was going to burn it ?

Answer. I never asked him ; I just said, "You gentlemen must have had it up for consultation." He did not answer.

Question. When did he say he saved it ?

Answer. Didn't say the time. It was in December that I had the conversation.

Question. Any action by the authorities in reference to it ?

Answer. I never heard any. O, yes, there was too. I don't know whether it was the authorities or not, but the people they guarded the place for some time with arms, and they got the citizens to come out. I was asked to come up to help to guard it.

Question. Any other official action taken in reference to it ?

Answer. I never heard of any ; if there was, I didn't know it.

Question. When was this ?

Answer. In last December I told him that I heard he was sleeping out, and I told him he could come down and stay in my house. He was apprehensive for some talk by the Ku-Klux, and he pulled out some papers signed K. K., and showed them to me.

Question. What were those papers ?

Answer. I didn't look at the papers. I just saw they were signed K. K., in big letters, and he said they were threatening letters.

Question. You saw K. K. ?

Answer. I saw only the three K's, but it was written in a very bad hand.

Question. Didn't read the papers ?

Answer. I did not.

Question. He said they were threatening letters ?

Answer. He said they were.

Question. And he was lying out in consequence of them ?

Answer. I told him I heard he was ; he didn't say he was ; I told him if he was he could come and sleep at my house.

Question. What for—for protection ?

Answer. Yes, sir.

Question. Did he tell you who it was that was going to burn the town ?

Answer. He did not say who it was, and I did not ask him.

Question. Did you say that he was in a state of alarm or not ?

Answer. No ; he appeared to be cool and deliberate ; but he seemed apprehensive. He said he was not scared.

Question. Was he a republican or democrat ?

Answer. A republican, sir.

Question. In what time in the fall was that ?

Answer. In December.

Question. In reference to Jim Williams, you say he sustained a good character, generally, where he lived ?

Answer. Well, he did not live right close to me ; it is about twelve miles from me ; he was a carriage-driver for Sam Rainey, who was often at my house, and in that way I knew Jim Rainey.

Question. Now, from your knowledge of Jim Rainey, did you consider him a bad man—a man who would carry out threats of burning and pillage and slaughter ?

Answer. Yes, sir ; I would, sir, under evil influences ; but under other influences he would not.

Question. He was a bright, spirited man ?

Answer. No, sir ; he was a humble nigger, only he was ignorant.

Question. Did you ever know of his ever committing anything bad ?

Answer. No, sir ; I don't think I ever heard anything bad about him. He always treated me very politely ; but, as he said, he always called myself one of his family people.

Question. You felt no apprehension from him personally ; from him alone ?

Answer. O, no ; not from him alone, but he started his company with those arms in his hands on expeditions that he claimed he had a right to do ; I would have felt then, but if I happened on just alone I would not.

Question. Do you know why he and his company didn't want to give up their arms ?

Answer. No, sir ; I do not.

Question. Don't you know that they wanted to retain them to protect themselves against the Ku-Klux ?

Answer. There was no Ku-Klux, I tell you, in that whole country.

Question. But you say that they were in almost all parts of the county ; was not that the report ?

Answer. Yes, sir.

Question. Do you mean to say right where he lived ?

Answer. I mean to say from between Yorkville—between the Concord road and the creek. That area of country.

Question. How big an area was there ?

Answer. It is from five miles one way ; say eight miles by fourteen.

Question. It did turn out, though, that the Ku-Klux went down there in force ?

Answer. Yes, but they were Ku-Kluxed from the other part of the district.

Question. Were the negroes lying out ?

Answer. In that neighborhood ?

Question. Yes.

Answer. I cannot say, sir. As for that, I lived ten miles from there. There was a panic among the negroes on the plantation that I have hired, about five and a half miles from the village.

Question. What direction from the village was Jim Rainey living ?

Answer. Right south, on the Chester road. His house was about one hundred yards from the road.

Question. Wasn't that right in the area—within fourteen miles by eight—that you spoke of ?

Answer. What place ?

Question. Your place.

Answer. It was in the area that I spoke of ; yes, sir.

Question. Then you know that the negroes were frightened within that area ?

Answer. Just around my plantation.

Question. But not down where he lived ?

Answer. I don't know.

Question. Mr. Lowry, don't you understand that Jim Williams himself was reluctant to give up the arms because of this panic that existed among the colored people?

Answer. I don't know, sir; I recollect this one expression to me, all he said on the subject; he said that the other captains were cowards who gave up their guns; they had given up their arms, and they were cowards; but he, when I first saw him, was willing to give them up.

Question. But along towards March he was not willing to give them up?

Answer. Yes, sir; but Thursday or Thursday week before he was hung he went to the village, and told me that he was willing to give them up.

Question. Did you advise him to go away?

Answer. Yes, sir; I did.

Question. Why?

Answer. I thought it was best, from what I heard.

Question. From whom?

Answer. I cannot name any special one; only this general report.

Question. How did you understand from the general report that he was in danger of these Ku-Klux organizations?

Answer. It was from the talk of his threats.

Question. And you advised him to leave the country for a while?

Answer. I advised him to go and stay two or three weeks, until the excitement was over.

Question. He didn't go, so far as you know?

Answer. No, sir; he told me he would, but he didn't do it.

TESTIMONY OF DAVID THOMASSON.

DAVID THOMASSON was the next witness for the defense; he was sworn and testified as follows:

Direct examination by Mr. STANBERY:

Question. Were you acquainted with Jim Williams?

Answer. Yes, sir; I was.

Question. Did you know anything about the colored company which was under his command?

Answer. No, sir; I did not; didn't belong to it.

It was here discovered that the prisoner was absent, and proceedings were suspended until his return.

Mr. STANBERY. Mr. Lowry, we shall want you again; will you require him to go out while this witness is examined?

The COURT. You had better finish Mr. Lowry first.

Mr. STANBERY. I propose to do that.

MR. LOWRY RECALLED.

Mr. Lowry was then recalled, and testified as follows:

Question. Mr. Lowry, in that interview did you communicate to Mr. Rainey the fact that it was understood that he had made threats?

Answer. I communicated to him in the first and second interview.

Question. What threats did you tell him it was understood he had made?

Answer. Yes, sir; I told him.

Question. What were they?

Answer. The first interview I had with him I told him that I heard threats that he would take his company and he would start out with them, and he would kill from the children up, or from the cradle up, and I just said to him, that could not be so; and he turned off and didn't answer me.

Question. At the second interview did you repeat it to him?

Answer. Yes, sir; I saw him right close home, and I had met him in the road, and I told him I had heard talk, and was still uneasy about him—his threats, and I wanted him to give the guns up.

Question. Did you again repeat what the threats were?

Answer. Yes, sir; I did.

Question. What did he say?

Answer. He said he said so; and if these white people, he says, didn't let him alone—some of them had been interfering with him; I asked him who they was, and he said Captain Crawford and Mendinball; he said these white people had been interfering with him, and I asked him what white people, and he specified those two—and if they didn't let him alone that he would have his company out here some morning, and when the sun rose there wouldn't be anybody in the country; and he went on to say that the Government—the Yankoes, as he called them—had promised him forty acres of

land, and they hadn't given it to him; and he said that if war had to take place that he would have a whole plantation. I told him that he had no right to carry on war. He said that captains in General Sherman's army had the right to do it, and he had the same right; he had, as he called it, a paper from Governor Scott that authorized him to carry it on.

Mr. CORBIN. Carry on what?

Answer. War! war! just the same as he said General Sherman and his captains could; that was the second interview.

Question. Now, at the third interview?

Answer. He told me he would give the guns up.

Mr. CORBIN. Wasn't going to carry on war?

Answer. No; he was a little uneasy in the matter.

TESTIMONY OF DAVID THOMASSON RESUMED.

Question. You say you are acquainted with Williams?

Answer. Yes, sir.

Question. How far do you live from him?

Answer. About six miles.

Question. Had you any talk with him before his death?

Answer. No, sir; not very much; only one time me and him had a talk at a grog-shop.

Question. Whereabouts?

Answer. About a mile of where I live.

Question. State what it was.

Answer. Me and him got to talking with one another about arresting one of the citizens, and he said that he intended to sweep from the "cradle up," because he had the means to do it with.

Mr. CORBIN. Sweep the cradle; there is nothing wrong about that.

Question. Is that all that he said?

Answer. That is all the discourse that me and him had.

Question. What citizen was it he spoke of his having arrested?

Answer. Mendinhal, sir.

Question. Did he state where he arrested him?

Mr. CORBIN. Let it be of your own knowledge, my friend.

Question. What did he tell you about arresting Mendinhal?

Answer. Nothing particular; only me and him was drinking, and got to joking, and I got to talking to him about arresting Mendinhal; and he said, yes, he intended to sweep from the cradle up, because he had the means to do so.

Mr. CORBIN. I suppose he had a broom.

Question. Do you know the fact that he arrested Mendinhal?

Answer. No, sir; I do not know, but I had heard.

Mr. CORBIN. No; stop there.

Question. Did you hear Mr. Rainey yourself?

Answer. No, sir; I did not.

Cross-examination by Mr. CORBIN:

Question. You belong to the democratic party?

Answer. I don't know what party I belong to.

Question. You voted the democratic ticket?

Answer. I did.

Question. You were never raided on by the Ku-Klux?

Answer. No, sir.

Question. You didn't feel afraid of them?

Answer. No, sir; I was under no obligations to feel afraid of them.

Question. Do you know Hector Love?

Answer. Yes, sir, I do.

Question. Do you know whether he was afraid of the Ku-Klux?

Answer. No, sir, I do not.

Question. Don't you know that he laid out nights?

Answer. No, sir; not to my knowledge.

Question. Did you ever have any talk with him about the Ku-Klux?

Answer. No, sir, I did not.

Question. You certain about that?

Answer. Yes, sir; I'm certain about that.

Question. Do you remember telling Hector that if he would join the democratic party he would not be troubled?

Answer. I told you that once in York, that I never told him that.

Question. Do you say so now?

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Answer. Yes, sir; I do.

Question. You didn't tell him that?

Answer. I never told him that.

Question. Is he a pretty good man?

Answer. I never knew anything bad about Hector.

Question. He is a republican, ain't he?

Answer. I never asked him that.

Question. Don't you know he voted the republican ticket?

Answer. I cannot swear that, because me and him wasn't at the ballot-box together, to my knowing.

Question. What was it you told me in York about it?

Answer. About what?

Question. About your talk with Hector Love.

Answer. What was it?

Question. Yes.

Answer. I don't mind.

Question. Did you ever see me in York at all?

Answer. Yes, sir; I saw you there in Colonel McCaw's house; I know you.

Mr. CORBIN. Colonel McCaw's house?

Mr. STANBERY. Yes; I'm trying to locate myself.

Question. What did you tell Colonel Merrill there about this conversation with Hector Love?

Answer. Didn't I tell Colonel Merrill there that I never told Hector Love that?

Question. Don't ask me, but tell; I am not on the witness stand.

Answer. I told Colonel Merrill that I never visited Hector Love.

Question. Did you ever tell him anything about it at all?

Answer. Of course I did.

Question. Tell us what it was.

Answer. Colonel Merrill asked me if I didn't try to persuade Hector Love to change his politics and to join mine, and there would be no danger of Ku-Klux, and I told him I didn't.

Mr. STANBERY. Colonel Merrill asked you what?

Answer. He asked me if I didn't try to persuade Hector Love to change his politics and join me, and join the night meetings, and the Ku-Klux would not hurt democrats, and I told him I didn't.

Question. You saw the Ku-Klux?

Answer. No, sir.

Question. They visited you?

Answer. No, sir; if they were in the neighborhood where I lived I don't know.

Redirect examination :

Question. Were you put under arrest?

Answer. Yes, sir.

Question. How did you go before Major Merrill?

Mr. CORBIN. We object.

Mr. CHAMBERLAIN. Go on; we don't care.

Question. You were arrested?

Answer. Yes, sir.

Question. Who arrested you?

Answer. The soldiers from York arrested me; I was put in jail and staid in jail three days, and then I was put in the guard-house, and staid there until I reported to Major Merrill.

Question. Then what took place; what was the charge?

Answer. That was the charge that I spoke of just now.

Question. Who told you that was the charge?

Answer. Major Merrill never told me that was the charge, but he asked me if I did not hold night meetings, and tried to get Hector Love to change his politics and join mine; and the Ku-Klux wasn't going to hurt democrats; he never told me any other charges he had against me.

Question. Were you dismissed then?

Answer. Yes, sir; I was.

Recross examination :

Question. Were you not charged with being a Ku-Klux yourself?

Answer. No, sir; not to my knowledge.

Question. Do you know that Hector Love charged you with being a Ku-Klux?

Answer. No, sir; I don't.

TESTIMONY OF MINOR McCONNELL.

MINOR McCONNELL (colored) was the next witness called for the defense; testified as follows:

Direct examination by Mr. STANBERY:

Question. Were you acquainted with Jim Rainey?

Answer. Yes, sir.

Question. State if at any time before his being hung you talked with him.

Answer. Yes, sir; I had a talk with him on the Sunday before he was hung—in the evening.

Question. When did you understand he was hung?

Answer. On Monday night; I talked to him on Sunday night, before sundown.

Question. Whereabouts was it?

Answer. At my house.

Question. Where was he going?

Answer. He was going home; he had been to Philadelphia preaching.

Question. And going home from that church he passed your house?

Answer. Yes, sir; and stopped there, and talked to me a good while.

Question. What talk had he in reference to anything going on around?

Answer. He said—he told me that he was going Ku-Kluxing, and the people and me would see mighty work done then; and he said, too, he arrested Mr. Mendenhall, and he arrested him after dark, and if it had not have been, that he would have killed him; and then on Monday morning some of his company had passed my house.

The COURT. That went do.

WITNESS. Monday morning some of his company passed my house.

Question. Was he with them?

Answer. No, sir; he was not with them.

Question. Who was to do this mighty work?

Answer. He was allowed to take his company and do it; that was what he told me.

Question. Did he explain to you what this mighty work was?

Answer. He didn't explain any more than that.

Question. Then what?

Answer. Then he allowed the people and me, myself, would see mighty work when he took his company and went to Ku-Kluxing.

Question. Had you heard of any threats that he had made?

Answer. Yes, sir; I had heard threats what he had made.

Question. What kind?

Answer. That he would go out and kill from the cradle up.

Question. You heard that report?

Answer. Heard of it.

Question. You didn't hear him say that?

Answer. No, sir; I never heard him say that; he told two other ones, though.

Mr. CHAMBERLAIN. Wait.

Question. Was it a report in the neighborhood?

Answer. Yes, sir; it was.

Question. Who was this Crawford that had prevented from killing Mendenhall?

Answer. Ed Crawford.

Question. Do you know the man—there was such a man?

Answer. Yes, sir, there was; I know him.

Question. What position had he?

Answer. He beared a good character; he was a friendly man to both white and black, and black and white both liked him.

Question. Did he tell you how Crawford prevented him?

Answer. Crawford went Mendenhall's bail.

Question. Stop; do you know?

Answer. That is what I know; he told me that.

Question. Did he arrest him with his company or not?

Answer. Yes, sir; with his company; and when Crawford went his bail he let it stand until Monday morning, and took part of his company and went to York with them.

Mr. CHAMBERLAIN. Do you know anything about this yourself?

Answer. Yes, sir; I seen the company coming up past my house to York.

Question. What did he tell you about arresting him?

Answer. He said if Crawford hadn't went his bail he would have killed him.

Question. Did Rainey tell you what he arrested him for?

Answer. He was coming out of the field and he was said to be drunk amongst the company.

Mr. CORBIN. Who was drunk?

Answer. Mendinhall, and he was coming out of his field, and he and one what they call Horace, he struck him somehow or other.

Mr. CORBIN. Who struck him ?

Answer. Mendinhall and him fell out, then they fell on him and beat him ; he said about twenty of them jumped on him and beat him.

Mr. CORBIN. I understood Mr. Mendinhall struck one of his men.

Mr. STANBERRY. And he arrested him.

Mr. CORBIN. He had a right to.

Question. Do you know Gunn—Kirkland Gunn ?

Answer. Yes, sir ; I know him.

Question. Have you lived in the neighborhood with him ?

Answer. Yes, sir ; I lived in the neighborhood where he lives, not very far apart ; he lives above Oliver church.

Question. What is his character for truth and veracity ?

The COURT. What is his general reputation ?

Mr. CORBIN. In the first place, whether he knows him ?

Answer. I know the man.

The COURT. But do you know what his general reputation is among his neighbors, not what you know, but what the neighbors know ?

Answer. Well, the neighbors knows all of him in my neighborhood ; they know right smart about him.

Question. What do they say of him ?

Answer. They don't say much of him.

Question. How does he stand as a man of truth ?

Answer. Nobody never hardly took his word.

Cross-examination by Mr. CORBIN :

Question. You are a good democrat, are you, Minor ?

Answer. Yes, sir ; I am a democrat.

Question. You voted the democratic ticket ?

Answer. Yes, sir ; always voted that ticket.

Question. Where's Ned Crawford now ?

Answer. Well, Ned Crawford, he is near Yorkville, about a mile off the public road from Bob Linsey's.

Question. Is he there now ?

Answer. I don't know whether he is there now or not, I ain't been there for some time myself.

Question. Do you know that he left there about a month ago, and hasn't come back ?

Mr. STANBERRY. We object to that. Do you know that he ran away ?

Answer. I don't know ; I don't know whether he ran away or not.

Mr. JOHNSON. We object to it as irrelevant.

The COURT. It has nothing to do with it.

Question. You belong to a democratic club ?

Answer. No, sir ; I don't belong to no club ; I am a democrat without any club.

Question. Most of the democrats in that county had a club ; were you afraid of the Ku-Klux ?

Answer. No, sir ; I wasn't afraid of them.

Question. Why not ?

Answer. They never bothered me none ; I wasn't afraid of nothing but the militia ; I was afraid of that.

Question. You knew that the other colored people were afraid of the Ku-Klux ?

Answer. Yes, sir ; I knew that.

Question. All through January and February last ?

Answer. Yes, sir.

Question. And March ; have they got done being afraid of them now ?

Answer. Well, I don't know.

Question. Were they afraid of them three weeks ago, when you were home ?

Answer. I don't know, sir ; not as I know of, sir.

Question. Do you know when they got over being afraid of the Ku-Klux ?

Answer. No, sir ; I don't know when they got over it.

Question. You don't know whether they are over it yet, do you ?

Answer. I can't say nothing about that.

Question. Do you know they used to lay out all about you there last winter ?

Answer. Yes, sir ; I heard some of them say that they laid out.

Question. Did they use to come to your house for safety, some of them ?

Answer. No, sir ; none came to me to protect them.

Question. Did they use to come around there so as to be safe at night ?

Answer. No, sir ; they did not.

Question. Are you sure about that ?

Answer. Certainly.

Question. Did you never tell them that you could take care of them if they would be good democrats?

Answer. No, sir.

Question. You did not?

Answer. No, sir.

Question. You say they never visited you at all, and you were not afraid of them?

Answer. Who?

Mr. CORBIN. That is all right, you may come down.

Adjourned.

FOURTEENTH DAY'S PROCEEDINGS.

DECEMBER 15.

The court met pursuant to adjournment, Hon. Hugh L. Bond, presiding; associate justice, Hon. George S. Bryan.

TESTIMONY OF WILLIAM BRATTON.

WILLIAM BRATTON, (colored,) a witness for the defense, being duly sworn, testified as follows:

Examination-in-chief by Mr. STANBERY:

Question. Where do you reside?

Answer. In York district.

Question. Did you know Jim Williams?

Answer. Yes, sir; I was well acquainted with him.

Question. Were you at any time a member of his militia company?

Answer. Yes, sir; I was a private.

Question. Were you at any time an officer of his company?

Answer. Yes, sir; before he drew his arms, I was first lieutenant; when he drew the arms, I was a private in the ranks.

Question. How did it happen that you were reduced in the ranks?

(Question objected to as irrelevant.)

Mr. Stanbery said the intention was to show that he was reduced on account of his politics.

Objection sustained.)

Question. Had you any conversation with Jim Williams before his death?

Answer. Yes, sir; several times.

Question. What were those conversations?

Answer. In those conversations with Williams, he made threats that he would rule the country, and, if he could do it in no other way, he intended to Ku-Klux the white ladies and children, gin-houses, and barns. He said if he could not rule it in that way, that he would kill from the cradle up.

Question. Where was it you heard him make these threats?

Answer. At John Bratton's.

Question. Who was present when he made these threats?

Answer. No person but he and myself.

Question. When was that?

Answer. I do not know; it was along in January.

Question. Were you a member of his company at that time?

Answer. Yes, sir.

Question. Was that the only occasion on which you heard him make those threats?

Answer. That was the only time.

Question. What was his manner at that time?

Answer. Only just in an angry manner.

Question. Was that all the talk you had at that time?

Answer. Yes, sir; but I have heard him make the same threat over and over several times.

Question. Whereabouts were those threats made?

Answer. It was always at Mr. Bratton's. He was on Mr. Bratton's plantation.

Question. How far from there did he live?

Answer. About two miles.

Question. Was he often at Mr. Bratton's plantation?

Answer. Yes, sir; very often.

Question. Were you and he intimate?

Answer. Yes, sir, of course; we were raised together. We once both belonged to Mr. Bratton.

Question. Did you mention the fact that he made these threats to other people?

Answer. Yes, sir; I did.

Question. How long before he was hung was it that he made those threats.

Answer. It was along in January; about the last of January.

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Cross-examination by Mr. CORBIN :

Question. Are you a colored or a white man ?

Answer. I have always passed for a colored man.

Question. You did not like it very much when you were deposed in the company ?

Answer. Not very much.

Question. Were you offended with Jim Williams when he deposed you ?

Answer. Not at all ; it did not matter to me.

Question. Were you not mad with Williams and the company ?

Answer. No, sir ; it did not disturb me.

Question. When you heard Jim Williams say this, you had heard about the Ku-Klux, had you not ?

Answer. Yes, sir.

Question. How long had they been raiding about before that ?

Answer. I do not know.

Question. Was it a long or a short time ?

Answer. It was not very long.

Question. Did Jim Williams talk about the Ku-Klux at that time ?

Answer. Yes, sir ; he had a good deal to talk about them. That was the cause of his making the threats. He said the Ku-Klux came down into that settlement and bothered the colored people ; that he would commence Ku-Kluxing white women and children, gin-houses, barns, and stables with fire ; and if he was in power, and if he could rule the State in no other way, that he had the means of carrying on war, and if he carry on war he would kill from the cradle up.

TESTIMONY OF SCOTT WILSON.

SCOTT WILSON, witness for defense, being duly sworn, testified as follows :

Examination-in-chief by Mr. STANBERY :

Question. Where do you live ?

Answer. I live in York County.

Question. Do you know Jim Williams ?

Answer. Yes, sir, I do.

Question. Did you have any conversation with him shortly before he was hung ?

Answer. I had been intimate with him ; he worked on my place about two and a half years ; he lived within three or four hundred yards of my house ; I think the last conversation of any length I had with him was at Christmas ; we had perhaps a three or four hours' conversation ; he had been down here to see Governor Scott ; as he told me, he had gone down, he said, for the purpose of handing in his resignation ; I asked him if he was going to quit mustering, and if he could get away from Mr. Bratton I would allow him to come back and live with me.

Question. State if you ever heard him make threats on any occasion ?

Answer. The only threats I heard him make were against white men ; he said he had lived awhile among the Yankees, and didn't like them ; he preferred living among our own people, and he would be damned if he would vote for any white man ; if there was a white man's name on the ticket he would cut it off.

Question. Is that the only threat you heard him make ?

Answer. That was the only threat I heard him make, that he would not vote for a white man.

Question. Have you heard of threats that he had made ?

Answer. Yes, sir.

(Question objected to ; objection sustained.)

Question. State whether there were such rumors afloat ?

Answer. I have heard it said by parties that they heard him make threats ; it was a general rumor over the country, about burnings and murder.

Question. Were the people in a state of panic and alarm ?

Answer. Yes, sir ; they were very much alarmed. They thought they would have their property insured ; that was my condition.

Question. At that time had there been any raids of K. K. in that part of the country ?

Answer. There was only one raid in that neighborhood ; none before or none since.

Cross-examination by Mr. CORBIN :

Question. How do you know that fact ?

Answer. I never heard of any.

Question. Are you a member of the Ku-Klux Klan ?

Answer. No, sir ; I do not think there was one in the neighborhood.

Question. You don't know anything about it, do you ?

Answer. No, sir.

Question. Were not their operations in the night, as far as you know ?

Answer. No, sir; but if they had been in my neighborhood I would have heard of them.

Question. Were you out at night watching for them?

Answer. No, sir.

Question. How do you know, then, that they were not out every night?

Answer. I never heard of them.

Question. How about their operations out in the country?

Answer. I live near the line, and I suppose I don't go to York more than once a year.

Question. You know the Ku-Klux were reported raiding about the county about that time?

Answer. Not of my own knowledge.

Question. Do you know that Jim Williams made any threats?

Answer. No, sir; not to my knowledge; I never heard him directly.

Question. What was the common reports of the Ku-Klux operations in that country?

Answer. On the northwestern side, there were reports of them.

Question. When did you first hear of them?

Answer. It was, I think, in January.

Question. Did you ever hear of Jim Williams burning any buildings?

Answer. I heard of him receiving bribes for the purpose of burning.

Question. Please to answer my question; who was it bribed him?

Answer. I heard it was Mr. Rose.

Question. Did you know anything about it?

Answer. No, sir; I didn't.

Question. Did you ever hear of his burning a gin-house, or Ku-Kluxing women and children?

Answer. No, sir; I never heard of that.

Question. Were you not in fear of them; what did you do to protect yourself from him?

Answer. I did not do anything to protect myself individually; I had my property insured to protect it from fire.

Question. Did you never have it insured before?

Answer. Never, sir, till the gin-house was burned near us.

Question. Did you ever lay out at night for fear his company would come and kill you?

Answer. We have watched at nights.

Question. Did you lay out in the woods and hide away?

Answer. No, sir; we never hid away.

Question. Did you or not know that the colored people laid out?

Answer. Not of my own knowledge. I had one or two in my employ and they did not lay out.

Question. Did you understand that they did lay out all about you?

Answer. Not those in my employ or my nearest neighbors.

Question. Did you tell your colored people they would not be raided on if they staid at home?

Answer. No, sir.

Question. You did not feel afraid of the Ku-Klux yourself?

Answer. No, sir; I do not know that I did.

Question. You voted the democratic ticket a year ago, did you not?

Answer. Partly.

Question. Did you vote the republican ticket?

Answer. I voted the reform ticket.

Question. Did you consider that a democratic or republican ticket?

Answer. There were some republicans on it.

Question. Judge Carpenter was on it, was he not?

Answer. Yes, sir.

(Testimony objected to.)

Mr. CORBIN. There is good reason for asking that question. We have shown that the Ku-Klux were raiding on republicans. We would like to find a democrat that was raided on.

W. H. ATKINS, a witness for defense, being duly sworn, testified as follows:

Examination-in-chief by Mr. STANBERY:

Question. Where do you live?

Answer. At York District, about nine miles this side.

Question. Did you know Jim Williams?

Answer. I knew a little about him.

Question. Did you live near him?

Answer. I lived about five miles from him.

Question. Have you heard him make any threats?

Answer. Yes, sir.

Question. At what time ?

Answer. That was about last February.

Question. Where were these threats made ?

Answer. I heard him make these threats at Mr. Gordon's mill.

Question. State to the jury what those threats were.

Answer. He said to me one morning when he came to the mill, "Mr. Atkins, I will tell you the way to decide between the blacks and the whites is to go into the old field and fight it out, and, by God ! if my side gains the day, I am going to take from the cradle up ;" then he turned into the mill and I did not see any more of him.

Question. Did you hear any more from him ?

Answer. No, sir.

Cross-examination by Mr. CORBIN :

Question. You say this was last February ?

Answer. Yes, sir ; I think it was just before he was killed.

Question. How long before he was killed ?

Answer. I think a week or ten days.

Question. That was the way he intended to settle the difference between the white and colored people ?

Answer. Yes, sir.

Question. What did you understand by it ?

Answer. I understood that he wanted to have some fuss.

Question. Did you know the Ku-Klux had been raiding around a long time before that ?

Answer. I heard they had.

Question. Was it not that fuss he referred to ?

Answer. He didn't mention the Ku-Klux.

Question. Did you understand him as referring to the Ku-Klux ?

Answer. No, sir.

Question. With whom, then, was the fuss ?

Answer. To that he did not say.

Question. Did he threaten anybody living around there ?

Answer. No, he didn't.

Question. Was there not some disturbance up there in the month ?

Answer. No, sir.

Question. Are you a member of the Ku-Klux organization ?

Answer. No, sir, I am not.

Question. Do you know anybody who is ?

Answer. No, sir, I do not.

Question. Do you know this defendant, Robert Hayes Mitchell ?

Answer. No, sir.

Question. Did you never see him before ?

Answer. Not as I mind of.

Question. Did you never hear of him ?

(Question objected to and withdrawn.)

Question. What do you know about the Ku-Klux raiding about the county ?

Answer. I heard that they were about.

Question. When did you first hear that they were about ?

Answer. I first heard about it last Christmas, before December.

Question. What did you hear they were doing ?

Answer. I did not hear what they were doing.

Question. Did you hear they were out nights whipping colored people ?

Answer. I didn't hear of their doing that.

Question. You say you did not hear that ?

Answer. No, sir ; I did not.

Question. What did you hear ?

Answer. I heard that the Ku-Klux were raiding around.

Question. On whom were they raiding ?

Answer. They didn't say whom.

Question. You say you did not know what was meant by raiding around at night ?

Answer. I didn't.

Question. Did they visit you ?

Answer. No, sir.

Question. Do you not know that the colored people were very much frightened ?

Answer. No, sir ; I don't.

Question. Did you know the colored people lay out night after night, and month after month, for fear of them ?

Answer. No, sir ; I never heard of any of them lying out.

Question. Did any of them work for you or with you ?

Answer. No, sir.

Question. Then you don't know much about the fear among the colored people; answer that?

Answer. No, sir.

Question. Were you afraid of Jim Williams and his company?

Answer. I cannot say that I was.

Question. You don't think there was any occasion for being afraid of them?

Answer. Well, I don't know.

Question. Did you think that Jim Williams was going to kill "from the cradle up?"

Answer. I don't know.

Question. But he proposed to fight it out in the old field in a manly way, did he not?

Answer. Yes, sir.

C. J. FRYE, a witness for the defense, being duly sworn, testified as follows:

Examined-in-chief by Mr. STANBERY:

Question. Where do you live?

Answer. In Rock Hill, York County.

Question. Do you know Mr. Gunthrop?

Answer. I do not.

Question. Do you know anything about the organization of 1868?

Answer. I belonged to the organization called—

Question. What was the organization called?

Answer. Some called it the Council of Safety; others called it the Ku-Klux.

Question. Had it the same constitution that this organization had?

Answer. In this organization, there is something about death! death!! death!!!

That is not the oath I took. I didn't take any such oath as that.

Question. You say you joined that organization in 1868?

Answer. Yes, sir.

Question. Was there any other organization in that part of the country?

Answer. No, sir; not with white people—of colored people; Loyal Leagues and the like.

Question. The only organization you knew of was the one you belonged to?

Answer. Yes, sir.

Question. What was the object of that organization?

Answer. It was self-protection, in case there was any outbreak in the country.

Question. Had you a constitution and articles?

Answer. I really don't know whether there was or not. I went up and joined at Moore's Hill, about 2 o'clock in the day-time—in open day-light. I was told if there was any outbreak in the country, I was to be called up to go to it.

Question. Did you tell any one of this?

Answer. I told Colonel Merrill.

Question. What did you tell him?

Answer. I told him I had joined that organization, and I told him that I was at another meeting at the yard, which he asked me about, and the proposition was made to take arms from the negroes—old shot-guns—because they might do some damage with them. The organization was broken up.

Question. Had that organization anything to do with the voting franchise?

Answer. I never heard anything of that kind, sir.

Question. Are you a trial justice?

Answer. I am, sir, under Governor Scott.

Question. When were you appointed?

Answer. About the 15th day of last February.

Cross-examination by Mr. CORBIN:

Question. Will you please listen to this obligation?

(Mr. Corbin read the constitution and by-laws of the Ku-Klux, taken from Mr. Sam Brown.)

Question. Is that the same obligation that you had?

Answer. I am not able to say; I am not able to say that that is the one, but I don't remember, death! death!! death!!!

Question. Do you remember that the object was to oppose the principles of the radical party?

Answer. I cannot say it was that, for I have been a square-out republican all my life.

Question. Can you name anybody that belonged to it? Who was the chief?

Answer. I don't recollect; I think Mr. Tyler Jones officiated when I joined.

Question. Who else was there?

Answer. I think I went in with about twenty-five, but I don't recollect who they were.

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Question. Do you know if that organization paraded one night after dark ?

Answer. Colonel Merrill told me so ; I do not know it of myself.

Question. Do you know whether this organization to which you belonged ever went on a raid upon anybody ?

Answer. Not that I know anything about, or that I ever heard.

Question. Have you heard from members of the organization that it did ?

Answer. No, sir ; I heard something from members. One member told me that he had told Major Merrill. Mr. Rattery told me that he had told Major Merrill about it—that he had raided on the Ferris's.

Question. What did they raid on Ferris for ?

Answer. I don't know ; I was not there.

Question. Who is Mr. Ferris ?

Answer. He is a very clever gentleman, and lives above Rock Hill.

Question. Is he a republican or democrat ?

Answer. I don't think he takes any part in the republican ticket.

Question. Don't you know he voted the republican ticket ?

Answer. I do not.

Question. Do you know what they went there for ?

Answer. I do not ; I only know that Mr. Rattery told me that he had told Major Merrill that he had been in that raid.

Question. Didn't they go there for a negro ?

Answer. I do not know.

Question. Didn't Rattery tell you that he was wounded in that raid ?

Answer. Yes, sir.

Question. Where ?

Answer. He had a little wound on the face.

Question. What by ?

Answer. I don't know.

Question. Did he not tell you he was shot ?

Answer. He told me that he had got a wound, and that he had told Major Merrill about it.

Question. You say that you do not know anything about the organization since that time.

Answer. I do not ; I have not met with him since.

Question. You say you never heard the constitution and by-laws read ?

Answer. No, sir ; and never joined them.

Question. Haven't you talked with Mr. Iredell Jones about being in that organization ?

Answer. Yes, sir ; frequently.

Question. Who was chief at that time ?

Answer. I do not know.

Question. He presided at the meeting you attended, did he not ?

Answer. Yes, sir.

Question. Was not this organization just previous to the election ?

Answer. I joined it in July, 1868, and that was the only time I was in it.

Question. Have you any knowledge at all what its political purpose was ?

Answer. I really didn't understand that there was any political purpose in it.

Question. Did you not understand that it was an organization in aid of the democratic party ?

Answer. Well, sir, I certainly did not, and never understood that it was intended to intimidate any man at the election.

Question. Have you not understood since that it was so ?

Answer. I have heard so.

(Testimony objected to.)

By Mr. JOHNSON :

Question. Were you ever arrested ?

Answer. I never was by force of arms ; I had been requested to appear at Colonel Merrill's office, which I did.

Question. Were you not kept by Major Merrill after the explanation ?

Answer. No, sir.

By Mr. CORBIN :

Question. You were not arrested, were you ?

Answer. No, sir ; I had a very pleasant interview with him for two or three hours ; then left on my own business.

(The defense rested.)

TESTIMONY OF ANDY TIMMS.

ANDY TIMMS, a witness for the prosecution called in rebuttal, testified as follows :

By Mr. CORBIN :

Question. Do you know about a meeting called by white and colored people down in that neighborhood in reference to those guns ?

Answer. Yes, sir.

Question. State what the object of it was, and who were present.

Answer. Mr. Moore and Mr. Robert Moore and Mr. Crawford, and I was there myself, and there were many colored men ; the object of the meeting was to call upon the whites to call upon the democratic party to know whether the guns were a bone of contention in that section.

Question. When was the meeting held ?

Answer. It was held on the 9th or 10th of February last.

Question. What took place at that meeting ?

Answer. The result of that meeting was that, as far as the guns was the cause of the excitement, they said it was not so. Crawford said that he was afraid the guns would get into the hands of foolish young men, who would go shooting in the woods. Crawford asked Jim Williams if he was willing to give up the guns, and Mr. Russell also asked if he was willing to give up the guns. Said he, "I will take charge of them, if you give them up." Said he, "We can see that Jim Williams is not willing to give up the guns until he is ordered to do so by Governor Scott."

Question. What did they say about being afraid ?

Answer. They said they were not afraid of the guns, except in the hands of foolish boys. That is what Captain Ed Crawford said. He said he was not opposed to us settled men having them who knew how to shoot with them. Said he, "They are not fit for hunting-guns ; they would cut rabbits all to pieces."

Question. How did that meeting happen to be called ?

Answer. They had taking to calling in the Yorkville guns. We went to Yorkville, Mr. Bratton and Jim Williams, to consult with Russell, what he thought about the guns. In the country, Russell proposed to me to call in Mr. Smith, and we would appoint to have a meeting, and call the most prominent citizens to see if we could have a settlement. I applied to Major Hart to write the letter, [pointing to Major Hart.] He wrote the letter to ask the gentlemen to meet us.

Question. What took place at that meeting ?

Answer. Well, sir, it was pleasant and agreeable.

Question. Was there any contention or quarreling at a great deal of trouble to get there ?

Answer. Jim Williams said he was willing to give up the guns if he got an order from Governor Scott.

Question. Now tell us about that Mr. Mendinhall interfering with Jim Williams's company on drill and being arrested ?

Answer. I was not present at that time ; Williams and Bratton were present.

Question. Were you intimate with Jim Williams ?

Answer. Yes, sir.

Question. Did you ever hear him make any threats ?

Answer. I did not, sir.

Question. Did you ever hear of his making any threats ?

Answer. I did the third night, when they made a raid on the Scott guns.

Question. Did you ever hear of it before he was killed ?

Answer. I did, sir.

Question. Who did you hear it from after ?

Answer. I heard it from Edward Crawford ; said Jim said he would kill from the cradle up ; said he, "I reckon he is now killing from the cradle up ;" said he, "I suppose you have heard that ;" said I, "No, I never heard it till I heard you say so."

Question. What class of persons reported these things about Jim Williams after he was dead ?

Answer. I heard it from white people and some few democratic niggers.

Question. Do you know whether the colored people were laying out then to keep away from the Ku-Klux ?

Answer. Some of them were watching and laying out before Williams was killed, but not many ; but it came that every man had to lie out.

Question. How long was it that every man had to lie out ?

Answer. It was some five or six weeks that they lay out—some in the thickets, and the woods, and all about.

Question. What was that for ?

Answer. For fear they would be killed by the Ku-Klux Klan.

Question. What stopped their lying out ?

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Answer. There were meetings held in Yorkville, where they made the first compromise.

Question. When was the first Ku-Klux raid in York County?

Answer. I cannot say, exactly; it was in the fall that I first heard of it. It was after the election.

Question. How soon after?

Answer. I don't remember exactly.

Question. Was it some time before Christmas?

Answer. Yes, sir.

Question. When were the fires that were generally reported; when did they take place?

Answer. It was after Christmas, except Dr. Allison's burning; I don't remember exactly when that was.

Question. Then all the rest were after Christmas?

Answer. I think they were, sir.

Question. Did Dr. Allison tell you about the burning of the house?

Answer. Yes, sir; he said he didn't believe it was burned by the colored people, from the tracks.

Question. What did he say about the tracks?

Answer. He said it was a No. 5 or 6 boot or shoe track, and that was too fine and neat a track for a colored man to wear.

Question. Do you know what Jim Williams's general reputation for truth and veracity was, and as to being a quiet, peaceable citizen?

Answer. I never heard of him stealing, or being in any way a quarrelsome man.

Question. What was his reputation? Was it good or bad?

Answer. It was good, as far as I knew.

Question. Did you ever hear anything against him till after he was killed?

Answer. Till after he was killed; that I never did, sir.

Cross-examination by Mr. STANBERY:

Question. When you went to Yorkville about the arms, what reason had you for going?

Answer. We understood the Yorkville guns were called in, and we went to see about it. Williams and Allen and Bratton went with me to inquire about that.

Question. Who did you meet?

Answer. We met a great many persons on that business. Russell and Sam Smith and Jim Williams and I agreed, with others, to set a day and invite both parties to this meeting. This was in General Anderson's office.

Question. Who is this Mr. Russell?

Answer. Dave Russell; he lives at Yorkville.

Question. Who is this General Anderson that you spoke of?

Answer. General Anderson, who was sent up by Governor Scott.

Question. Did you understand that Governor Scott had sent General Anderson to receive the guns?

Answer. The Yorkville guns were called in while we were there.

Question. Was he authorized to receive the guns?

Answer. Not to my understanding.

Question. What did Russell tell you?

Answer. Russell didn't tell me that Anderson said so; he showed no authority, and we did not propose to give up the guns; I said, if the guns were the bone of contention, I felt disposed to think it would be better to give them up; but when we held the meeting we didn't find that the guns were the bone of contention.

Question. When Russell asked Rainey to give up the guns what did Rainey reply to it?

Answer. That he would not give them up unless he had orders from Governor Scott.

Question. Did he reply in that way, or did he curse Russell?

Answer. I do not think he did curse him.

Question. Did he not use profane language?

Answer. He was not a profane man, and I had not heard him curse for over a year—not an oath.

TESTIMONY OF MR. P. J. O'CONNELL.

Mr. O'CONNELL, a witness for the prosecution in rebuttal, being duly sworn, testified as follows:

Question. Did you know Jim Williams, sometimes called Jim Rainey?

Answer. Yes, sir.

Question. What was his general reputation for truth and being a quiet and peaceable citizen?

Answer. As far as I knew, I think he was a truthful man; he was one of the quietest and most peaceable men that I knew in York County.

Question. How long have you known him ?

Answer. I cannot really say ; it was some time before the last election, and, during that time, I always found him a genuine, jovial, and good-hearted fellow ; he was a peaceable man and not disposed to disturb anybody.

Question. Did you ever hear of his making threats of killing people, from the cradle up ?

Answer. No, sir ; I never heard him make any threats of that kind ; I have spoken to him in regard to threats of that description, and always found him to be opposed to anything of that kind.

Question. Did you hear these reports of him making threats after he was hung ?

Answer. I did hear reports to that effect.

Question. From whom did you hear reports of these threats ?

Answer. I might mention the names of many, but I don't think anybody told me who was intimately acquainted with Williams. I heard he had made threats, but it was after he was killed ; they were made by persons who were, I thought, opposed to Williams.

Question. Did you have any conversation with Jim Williams previous to his death in reference to Ku-Klux outrages ?

Answer. We did talk in reference to that, but more in regard to the feelings abroad generally ; and he was opposed to outrages or anything of that kind ; he was altogether opposed to it.

Question. Were the raidings going on at that time ?

Answer. I could not say ; there was some disposition to violence in York County at that time.

Question. When did the Ku-Klux outrages commence in York County ?

Answer. It was last winter, as far as I can remember.

Question. About what time did they commence ?

Answer. About January last.

Question. Did you hear of any raid before that ?

Answer. I believe I did hear of their raiding before that.

Question. When did the fires that have been complained of occur ; was it before or after the raiding ?

Answer. It was after the raiding.

Question. Are you sure about that ?

Answer. Yes, sir ; that is my impression.

Question. Do you know anything about the burnings and who committed them ?

Answer. No, sir ; I do not.

Question. Who was understood as doing the raiding upon the negroes at that time in York County ?

Answer. They were called Ku-Klux.

Question. State whether a reign of terror existed among the colored people.

(Question objected to.)

Mr. HART. Ask the witness whether or not he was there.

Question. Were you there at the time ?

Answer. I was not in York County during the summer, but I left when the legislature met here.

Question. Were you there at the fall election ?

Answer. Yes, sir.

Question. Did you return after the close of the legislature ?

Answer. Not immediately afterward.

Question. Why not ?

Answer. I had received letters that it would not be safe to return ; I received a letter from my father that a raid was to be made upon my house.

Question. Did you go back, and if not, why ?

Answer. I didn't go back, because I thought I was going to be killed if I did.

Question. By whom ?

Answer. By Ku-Klux.

Question. Are you a republican ?

Answer. Yes, sir.

Question. Why did you expect that they were going to kill you ?

Answer. On account of my republican principles. Nothing else, that I know of.

Question. Can you go back there now safely ?

Answer. Yes, sir.

Question. How long since ?

Answer. Ever since Major Merrill has got the Ku-Klux into order.

Cross-examined by Mr. JOHNSON :

Question. How came you to talk to Williams about threats of violence ?

Answer. I heard of threats of violence before the conversation.

Question. What threats were they ?

Answer. They were threats of a violent character, and threats to the members of the republican party.

Question. Did you hear of threats from Jim Williams?

Answer. Jim Williams said he was opposed to anything like retaliation. He understood there was an organization in York County that was gotten up for the purpose of committing outrages upon members of the republican party, and that these outrages were to be deplored; but certainly that he was opposed to anything like retaliating upon those parties.

Question. Did you apprehend at that time that there might be violence on the part of Jim Williams and other colored people?

Answer. No, sir; not from Jim Williams.

Question. Did you hear that houses were to be burned?

Answer. No, sir.

Question. At any time?

Answer. No, sir, not in York County; I didn't hear from any colored man that there were any houses to be burned.

Question. Did you hear that there were any houses to be burned?

Answer. Some members of the democratic party told me that colored people were combined to burn their houses and gin-houses.

Question. Were not a great many houses and barns burned?

Answer. I heard reports to that effect, but I do not know of my own knowledge.

Question. Did you hear of gin-houses or barns of any republican citizens being burned?

Answer. No, sir.

Question. As far as you heard about the burning it was confined to democratic owners?

Answer. I heard about burnings, but I don't know anything about them.

Question. Do you know if there was any alarm in the neighborhood on the part of white men?

Answer. They pretended to be alarmed, but I don't believe that there was any actual alarm about it.

Question. You say you had heard they were alarmed, but you don't believe it?

Answer. I didn't say I heard that they were alarmed; I had conversation with them, and they made pretense of being alarmed, but I didn't believe it.

Question. How do you know it was a pretense?

Answer. For this reason: that I did not believe that there was any white men in our county who were scared about the colored militia.

Question. You think there was nobody scared then?

Answer. I do not, sir.

Question. Do you live in York County?

Answer. Yes, sir.

Question. How far from Yorkville?

Answer. Twenty-one miles.

Question. How far from the house of Jim Williams?

Answer. I could not say; he lives at McConnellsville; I do not know the distance.

Question. Do you know where he lives?

Answer. I do not know exactly.

Question. How long have you lived in that neighborhood?

Answer. I went up there to live in 1866.

Question. I understand you to say that, although you were told by some white men that they had fears about the burning of their houses, that you now tell the jury that you didn't believe it—that it was a mere pretense?

Answer. When you asked me the question, I understood you to ask if there were any fears in York County. In regard to outrages, I don't think there were any fears of that kind existing.

Question. Please answer my question. I understand you now to say that you were told by white men that they had fears that their houses would be burned, but that you didn't think they had any fears—that the whole story was a pretext?

Answer. I don't remember having said that, but I can say it now.

Question. Did you not say it three minutes ago?

Answer. I don't know whether I did or not, but I can say it now.

Question. Did you not say that you believed the reports which you heard from white men—that their apprehended fear was a pretext, and they had no fears; was not that your testimony?

Answer. Their fears in regard to the militia were a pretext. That is what I meant to say.

Question. What did you say as to their fears about burning their houses?

Answer. I expect that there might have been fears about their burning their houses.

Question. I thought you said they had told you they had fears about burning their houses?

Answer. I never had any conversation with them about burning their houses.

Question. Had you any conversation about burning their houses?

Answer. I may have heard something in regard to these burnings.

Question. Did they express any apprehension at that time consequent upon those burnings?

Answer. I believe they did, but those apprehensions were all visionary.

Question. Did you not tell the jury just now, in your opinion, that they really did not entertain any such apprehension?

Answer. What I said was in regard to the militia.

Question. Now you tell the jury that when they told you that they feared the militia, you believe that was all pretext, and that they did not apprehend any danger?

Answer. Yes, sir.

Question. Do you belong to any militia company?

Answer. No, sir.

Question. Did you never belong to one?

Answer. I was a colonel of militia, but I resigned.

Question. Had you any military command?

Answer. I was colonel of a regiment of militia at one time, but I resigned.

Question. When was that?

Answer. It was previous to the last election.

Question. Do you mean the election of October, 1871?

Answer. The last State election.

Question. What companies composed your regiment?

Answer. I never took the trouble to find out.

Question. Was Captain Williams's company one of your regiment?

Answer. It is my impression that it was.

Question. Have you any impression in relation to any other company belonging to your regiment?

Answer. There was one company at Yorkville belonging to my regiment.

Question. How many more?

Answer. I could not tell.

Question. Did you ever call them out?

Answer. No, sir; never.

Question. When did you resign?

Answer. Immediately arms were sent up to Yorkville.

Question. You commanded them as colonel when they were without arms?

Answer. Yes, sir.

Question. What did you resign for?

Answer. Because I didn't like the position; I thought it was too much honor without any pay.

By Mr. CORBIN:

Question. When did you come down to the legislature?

Answer. Generally about when the legislature was called.

Question. How long was it in session?

Answer. Until March.

TESTIMONY OF J. H. WHITE.

J. H. WHITE, a witness for the prosecution in rebuttal, being duly sworn, testified as follows:

By Mr. CORBIN:

Question. Are you a member of the house of representatives?

Answer. Yes, sir.

Question. How long have been a member?

Answer. Ever since the reconstruction in 1868.

Question. Were you re-elected last fall?

Answer. Yes, sir—from York County.

Question. How long have you lived there; have you been a voter since the war; did you know Jim Williams?

Answer. Yes, sir; I knew him very well and the people among whom he lived.

Question. What was his character as a peaceable, quiet citizen?

Answer. It was always good.

Question. Do you know anything about his making threats; did you hear of his threatening to kill people from the cradle up?

Answer. I never heard of it but since he was murdered.

Question. From whom did you hear it after he was murdered?

Answer. I don't remember; it was generally talked of in the country among the white people.

Question. From your knowledge of Williams, do you believe in such stories ?

(Question objected to and withdrawn.)

Question. Do you know anything about raiding by the Ku-Klux ?

Answer. Yes, sir.

Question. When did it commence ?

Answer. The first raid that I heard of was about at the time of the presidential election ; the very night before.

Question. What raid was that ?

Answer. It was somewhere near Wylie's store.

Question. Who did they raid upon ?

Answer. There were half a dozen came into my house and told me of the circumstance. I told them we would go up to Mr. Rose's, who was the trial justice. Some parties were arrested there. I think most probably one of the Leechers were arrested on the charge.

Question. What was the next raid ?

Answer. I think the next raid of any consequence was the one upon Tom Humphrey.

Question. When did that occur ?

Answer. Some time last December.

Question. Did you know Tom Humphrey ?

Answer. Very well, sir.

Question. What was his politics ?

Answer. Republican, or radical, as they call them.

Question. Did you know anything about the raid on Reubin Black about that time ?

Answer. I do not remember exactly when it occurred, but I do know when he came to York to report it.

Question. When was that ?

Answer. The year before last. I was in court at the investigation, when the matter was turned over to the authorities.

Question. Was that a raid by the Ku-Klux ?

Answer. It was said to be by the Ku-Klux.

Question. Was it done in the night ?

Answer. Yes, sir.

Question. Did you hear anything about the raid on Bill Wright ?

Answer. Yes, sir ; that was the same year.

Question. Was it a Ku-Klux raid in the night ?

Answer. Yes, sir ; it was said so.

Question. What was the next raid made by the K. K. ?

Answer. Some time directly after January, this year.

Question. State whether they were general in the county last December ?

Answer. Yes, sir ; they were about that time. There was a great deal of terror amongst the colored people about that time. I know it from the fact that the colored people thought that it would be best to declare martial law ; and I know I opposed it, for if we did that, we should have the Ku-Klux organization fired. I thought we had better call upon the United States for aid.

Question. Do you know anything about burning school-houses ?

Answer. I heard that a great many school-houses were burned.

(Question objected to.)

The COURT. You have had a good deal of testimony about fires.

Mr. JOHNSON. We have not offered any evidence as to the burning of schools.

Mr. CHAMBERLAIN. An attempt has been made to confine these burnings to gin-houses and barns. We want to show that colored school-houses were burned as well.

Question. Tell us if any school-houses were burned and how many of them ?

Answer. I don't remember how many, but it was generally said that the K. K. burned them ; that was common report.

Question. What reports did you hear ?

Answer. That one school-house was burned down in the Bethel settlement, and another in the western portion of the county ; that I know of.

Question. Do you know anything about the Green Pond school ?

Answer. Yes, sir ; that was the one I spoke of ; that, I believe, was burned down three times.

Question. Who by ?

Answer. By unknown parties.

Question. Who was supposed to have done it ?

(Question objected to.)

Answer. That was the general supposition—that it was the Ku-Klux.

Mr. JOHNSON. We object to all that evidence.

Mr. CORBIN. We admit, if the court please, that it would not be proper evidence if the other side had not introduced the same kind.

Question. When were the first fires ?

Answer. The first fires was in 1868 ; on the night of the presidential election a man's

house was burnt down; he said that he was told if he went to the election that he would be killed.

Mr. JOHNSON. What sort of testimony is that ?

WITNESS. The man came to me.

Mr. STANBERY. Will the court allow that to go in ? It was said by some man as to what somebody else told him.

The COURT. It is not evidence.

Mr. CORBIN. We don't care anything about it.

Mr. STANBERY. We are tired of objecting.

The COURT. You are not more tired than the court is, Mr. Stanbery, by the loose way of examination, but I don't think it is the part of the defense to complain.

Question. Do you know anything about Ellison's gin-house being burnt ?

Answer. Yes, sir; heard of it.

Question. When was that burnt ?

Answer. Last year.

Question. What time ?

Answer. Some time in the fall.

Question. Did Dr. Ellison tell you anything about who he believed burnt it ?

Answer. Dr. Ellison told me that he believed it was white men burnt it, sir

Question. Why did he think so ?

The COURT. It don't make any difference why.

Answer. The reason why—

The COURT. Hold on.

Question. Now, when was the next burning ?

Answer. It was during the session of the legislature. I don't exactly remember.

Question. After Christmas ?

Answer. Yes, sir.

Question. New Year's ?

Answer. Yes, sir.

Question. Was it before or after the raiding by the Ku-Klux ?

Answer. The burning was done after the raiding—the killing and whipping—the killing of Tom Roundtree, and whipping a number of persons in Clay Hill and along the western portion of the county.

Question. What means did the colored people generally take to protect themselves from the Ku-Klux raiding ?

Answer. They generally lay out.

Question. What do you mean by that ?

Answer. They took to the woods for it.

Question. When ?

Answer. Of nights, sir.

Question. How long did they stay there ?

Answer. Well, a number of them did lay out all winter, sir.

Question. Do you mean to say that the colored people, at dark, went out to the woods and lay down and slept there all night ?

Answer. Yes, sir; they did. Many of them built up brush-tents in the woods to protect themselves from these raids.

Question. Were the school-houses burned last winter, or this summer, or when ?

Answer. About the burning, I don't think there were any burnt in the summer, but they were torn down.

Cross-examination waived.

TESTIMONY OF GEORGE WITHERSPOON.

GEORGE WITHERSPOON, called as a witness for the prosecution, in rebuttal, being duly sworn, testified as follows:

Direct examination by Mr. CORBIN :

Question. Where do you live ?

Answer. Yorkville.

Question. How long have you lived there ?

Answer. About twenty-eight or twenty-nine years.

Question. Voter there ?

Answer. Yes, sir.

Question. Do you know Jim Williams ?

Answer. Yes, sir.

Question. Do you know the people among whom he lived ?

Answer. Yes, sir.

Question. Were you in his company ?

Answer. No, sir.

Question. What was his reputation as a peaceable, quiet individual ?

Answer. I knew nothing else of him but a peaceable, quiet man.

Question. Was that his reputation among his people ?

Answer. Yes, sir.

Question. You knew him intimately ?

Answer. Yes, sir.

Question. Did you ever hear him make any threats against the white people ?

Answer. Never did, sir.

Question. Did you hear of them ?

Answer. I heard of them after his death.

Question. Ever hear of them before his death ?

Answer. Never heard of it before, sir.

Question. From whom did you hear them after he was dead ?

Answer. From Dr. Bratton—Dr. Rufus Bratton.

Question. Who is he ?

Answer. He is a physician there in York, sir.

Question. Do you know where he is now ?

Answer. No, sir; I do not.

The COURT. That is not rebutting testimony.

Mr. CORBIN. I want to know, for perhaps I might call him.

Cross-examination by Mr. STANBERY :

Question. As to Williams—what qualities had he that induced those persons of color out there to make him captain of the company ; what qualifications had he ?

Mr. CORBIN. I don't see the materiality of that.

The COURT. Did they make him—

Mr. STANBERY. Yes, sir; he was elected.

The WITNESS. That I cannot say, whether they made him or whether he was appointed.

Question. Had he such qualifications as would fit him for that position ?

Answer. I suppose so.

Question. Was he a man likely to do what he said ?

Answer. I don't know, sir ; I always known him as a quiet and truthful man.

Question. Did you find him to be a man that was as good as his word ?

Answer. I never found him any other way, sir.

TESTIMONY OF LEWIS HOWSER.

LEWIS HOWSER was called as a witness for the prosecution, in rebuttal ; he was duly sworn, and testified as follows :

Question. Where do you live ?

Answer. I lived in York County the last ten years, but I have been from my wife ten months. I have been down here.

Question. How long did you live there before ?

Answer. I lived there ever since the year 1865.

Question. When did you come down here ?

Answer. Came down here about the 17th of March.

Question. Why ?

Answer. The Ku-Klux run me off, sir.

Mr. JOHNSON. Is that rebutting ?

Mr. CORBIN. No ; I didn't know that he was going to say that.

Question. Did you know Jim Williams ?

Answer. I did, sir.

Question. How long have you known him ?

Answer. Since the year 1865.

Question. Do you know the people among whom he lived ?

Answer. Yes, sir.

Question. Do you know what his reputation was as a quiet citizen ?

Answer. Yes, sir.

Question. What was it ?

Answer. Well, sir, he was a colored man ; he was a upright gentleman in every respect, so far as I knew of him.

Question. Was he a man that would make trouble ?

Answer. No, sir ; he was not.

Question. You knew him intimately ?

Answer. I did, sir.

Question. Did you belong to his company ?

Answer. I did, sir.

Question. Did you muster with his company ?

Answer. I did, sir.

Question. Drill ?

Answer. Yes, sir.

Question. Did you ever hear him make any threats against the white people ?

Answer. I did not, sir ; white nor colored.

Question. Do you know whether he instructed his company that they were to kill from the cradle up ?

Answer. No, sir, I did not ; never heard anything of the kind.

Question. Have you heard it any time ?

Answer. No, sir, I have not.

Question. Since he was killed, have you heard that he was going to kill from the cradle up ?

Answer. Yes, sir ; some time since he was killed.

Question. Never before ?

Answer. Never before, sir.

Question. Whom have you heard it from since he was killed ?

Answer. From citizens that lived in Yorkville before I came away.

Question. White or colored ?

Answer. The lady that I lived with.

Question. Who ?

Answer. Mary Williamson.

Question. A white lady of Yorkville ?

Answer. Yes, sir.

Question. When did you commence to lay out ?

Answer. I commenced to lay out after Jim Williams was killed, sir.

Question. Were the colored people frightened there and lie out at the same time ?

Answer. They was, sir.

Question. Did they commence to lie out at the same time ?

Answer. They did, sir.

Cross-examination by Mr. JOHNSON :

Question. You say you were a member of the company ?

Answer. I was, sir.

Question. When did you last muster ?

Answer. Last mustered about three weeks before last Christmas, sir, a year ago.

Question. Were you present at a muster a few days before Williams was hung ?

Answer. No, sir ; I was not.

Question. Didn't you know there was a muster of his troop ?

Answer. No ; I don't remember.

Question. Did you attend all the musterings ?

Answer. I did, when I was well ; but when I was sick I did not.

Question. Were you sick in February or March last ?

Answer. I was, with some chills, sir ; I was not fit for any duty towards mustering.

Question. Then you don't know, in point of fact, that his company was mustered in February before he was killed ?

Answer. No ; I do not.

Question. Do you know anything about his refusing to give up his arms ?

Answer. I do ; I was at the Cross-Roads ; a meeting was called to meet there—between Yorkville and where I live—on a Saturday morning ; there was two men from Yorkville that he said wanted him to give his arms up ; I went there to meet him.

Question. Were they given up ?

Answer. Of course they gave them. They was not given up that day, but they gave them up since.

Question. Were they given up then ?

Answer. No, sir ; they was not.

Question. Why not ?

Answer. Well, Jim Williams wouldn't consent to give them up.

Question. How long was that before the poor fellow was hung ?

Answer. To the best of my knowledge, I suppose, sir, more than about two weeks, as well as I can remember.

Question. You were then well enough to be present at that meeting ?

Answer. I was.

Question. How far was the meeting from Yorkville ?

Answer. I suppose about nine miles, sir.

Question. But you cannot say whether you were well enough to attend a muster if there was one that met on the Friday before he was hung ?

Answer. No, sir ; I don't remember anything about his having a muster on Friday. I am speaking of that what I remember ; what I don't remember I won't speak of.

Question. But you were present when the guns were refused to be given up ?

Answer. I was present when he was called on to give up his guns.

Redirect examination :

Question. Did you hear Williams give any reason why he wouldn't give up the guns ?

Answer. I did, sir. He told them that they hadn't given him any arms, and he didn't know how to give his arms to them.

Question. Whom did he tell this to ?

Answer. Mr. Edward Crawford, Mr. Joe Moore, and Jim Pursue, and David Russell, from Yorkville. I was present and heard it all.

Question. Did you have any notice to muster the Friday before Jim Williams was killed ?

Answer. I did not, sir.

Question. Did you hear of anything of the kind ?

Answer. I never heard of anything of the kind.

Question. You lived very near Jim Williams ?

Answer. Within a mile of him, sir.

Question. If there had been a muster you would have known it, wouldn't you ?

Mr. JOHNSON. That wont do ; that is for the jury.

Question. What do you say ?

The Court. No ; that wont do.

TESTIMONY OF ALLEN WHITE.

ALLEN WHITE was next called for the prosecution, in rebuttal ; he was duly sworn, and testified as follows :

Question. Where do you live ?

Answer. In Yorkville.

Question. How long have you lived there ?

Answer. All my life.

Question. A voter there ?

Answer. Yes, sir.

Question. Republican ?

Answer. Yes, sir.

Question. Did you know Jim Williams ?

Answer. Yes, sir.

Question. Do you know the people among whom he lived ?

Answer. No, sir ; I did not. When he lived in York I knew Mr. Rainey, whom he belonged to.

Question. How long have you known Jim Williams ?

Answer. About seventeen years.

Question. Do you know what his character was as a quiet, peaceable citizen ?

Answer. As far as I ever knew of him, he was, sir.

Question. Did he have such a reputation as that ?

Answer. I never heard anything else.

Question. Did you ever hear any threats that he had made against the white people ?

Answer. Never until I heard of them here in the court-house, sir.

Cross-examination by Mr. JOHNSON :

Question. How far do you live from where he lived ?

Answer. Where I live—I live about ten miles now—not then—he used to live in York.

Question. What is the nearest that you have lived from Jim Williams's house ?

Answer. Now ?

Question. No ; at any time ?

Answer. Well, I used to live, when he lived in York, about a quarter of a mile, but now it is about where he lived—from York now, about ten miles.

Question. How long have you lived where you now live ?

Answer. Well, I am living about eighty miles now of where I used to live ?

Question. I thought you lived now in the same place ?

Answer. No, sir ; I am about eighty-five miles from home ?

Question. What do you mean by that ; is your residence eighty-five miles from home ?

Answer. I am at this time eighty-five miles from home, now.

Mr. JOHNSON. I am a good deal more ; where is your home ?

Answer. In Yorkville.

Question. How long have you lived at the home which you now have in York ?

Answer. I have been living there about four years.

Question. What is the distance of that home from where Williams lived ?

Answer. About ten miles.

TESTIMONY OF ANDY TIMS.

ANDY TIMS was recalled for the prosecution, in rebuttal, and testified as follows :

Direct examination by Mr. CORBIN :

Question. When did your company muster last ?

Answer. Three weeks before Christmas, sir.

Question. That the last regular muster of it ?

Answer. That was the last time they was called together.

Cross examination by Mr. JOHNSON :

Question. Don't you know some of them mustered the Friday before Williams was killed ?

Answer. No, sir ; they did not.

Question. You are sure of that ?

Answer. I know that.

Question. How ?

Answer. Because I was company clerk ; they didn't go without my orders.

Question. Now, I understand you have stated positively to the jury that the last muster of the company, or any members of the company, was, when ?

Answer. Three weeks, before Christmas ; that was the last muster that was held ; some of the boys met, yes, sir, at the muster-ground, but there was no muster order.

Question. Did they meet afterwards ?

Answer. There was no more meeting after that.

Question. Did any of the boys meet there ?

Answer. No, sir ; not that I heard or know, and I was right close to the muster-ground.

Mr. CORBIN. I think we close here ; of course, except as to this point, the defense has still left open as to the character of the organization in 1868.

Mr. JOHNSON. The witness we expected is not here, and we will not ask the court to wait ; we have finished.

Mr. CORBIN. If the court please, it is suggested by my associate, and in that suggestion I concur, that the vast mass of testimony which has been adduced in this case would seem to require some little examination and arrangement before we go into the argument, and we would request the court to adjourn until 10 o'clock to-morrow morning.

Ten o'clock, it was thought by the court, might interfere with the meeting of the grand jury, and therefore court was adjourned until 11, Saturday morning, December 16, 1871.

FIFTEENTH DAY'S PROCEEDINGS.

DECEMBER 16.

The court met pursuant to adjournment, Hon. H. L. Bond, presiding ; Hon. G. S. Bryan, associate judge.

The testimony in the case of United States vs. Robert Hayes Mitchell being all before the court the case was submitted to argument.

ARGUMENT OF HON. D. H. CHAMBERLAIN.

Hon. D. H. Chamberlain spoke as follows : May it please your honors and gentlemen of the jury, you are now approaching the close of a long trial. The issue between the United States and this prisoner is now to be submitted to you upon the law and upon the evidence as developed in this trial. You cannot, gentlemen of the jury, be unaware that this case, in all its features, is a most remarkable and interesting one. You cannot be unaware that not only the community in this State is interested in this trial, but that the entire country is watching with unusual interest and anxiety for the issue of this inquiry. You know, gentlemen of the jury, that not only your individual interests, your safety, your protection, your security as citizens is involved in this trial, but you know, before I remind you, that broader interests than yours or those of this defendant, are to be determined by your verdict.

I do not feel, gentlemen of the jury, as I have sometimes felt, in commencing this argument, and in urging upon you a verdict of guilty against this defendant, that I am pressing for the life or the liberty of a man whose interests and whose defense has not be entrusted to competent and capable hands ; I can have no fears, gentlemen of the jury, in this trial, that everything that can make for the defendant will not only be presented to you but that it will go to you commended with all the learning, and forced upon you with all the eloquence, that the bar of the United States can boast. I shall not, therefore, feel that I can possibly exceed the measure of my duty to the Government of the United States if I present to you in all its enormity, and in all its details, and with whatever of force I can command, all the circumstances and consid-

erations which point to the guilt of this prisoner; and, gentlemen of the jury, not only that, but I am urged to a more than usual effort to discharge my full duty by the consciousness of what I have already urged upon you, that this trial and its results stretches far beyond this defendant, and far beyond this court-room, and touches the vital interests of every citizen, and goes down to the very foundations of our American liberty and government.

Now, gentlemen of the jury, and if it please your honors, I believe that there are no contested legal points about which it is proper that I should address myself to the court; at this time I am not aware that there is any contest between the counsel for the defense and ourselves, as to the nature and definitions of the conspiracy, or what it is necessary for the Government to prove in order to maintain this indictment; and I shall therefore proceed to lay this case before you as set forth in the indictment and the evidence which has been prosecuted in support of it.

This indictment contains two counts against this defendant. The first charges him with conspiring with others to violate the provisions of the first section of the act of 1870, by hindering and preventing divers male citizens of African descent from voting at future elections, and names the elections to occur in October, 1872, at the time when this prevention and this intimidation was to take effect.

The second count charges him with conspiring with others to injure, oppress, and intimidate Jim Williams because he had voted at a former election for a member of Congress of the United States—that is the scope of this indictment.

And now, gentlemen of the jury, the first indictment charges a general conspiracy on the part of Robert Hayes Mitchell, and others, to deprive certain colored citizens, qualified to vote, of their right to vote at future elections. Let me tell you, gentlemen of the jury, before I proceed further, what a conspiracy is. A conspiracy is an agreement or combination between two or more persons, by their concerted action, to do an unlawful act. You mark the definition, gentlemen of the jury. It is the agreement or combination to do the unlawful act. The unlawful act may never be done. No step may ever be taken to accomplish that unlawful purpose; but the essence of the offense—the crime—is completed when the agreement and combination is formed to do the unlawful act. That is all that it would be necessary in this instance to prove, simply that Robert Hayes Mitchell, this defendant, did conspire, combine, or agree with other persons to do an unlawful act by their united action.

Now, gentlemen of the jury, I beg you carry this definition through this examination and argument, that a conspiracy is not an act—an overt act—but that it is an agreement—an agreeing together with parties united to accomplish, by their unlawful action, an unlawful act or purpose.

And now, gentlemen of the jury, before I go another step, let me call your attention to another important principle, which must be carried in your mind throughout this examination, to accomplish an unlawful purpose, as one individual. If there are twelve men, twelve individuals in the conspiracy when that conspiracy begins, they are, in the eye of the law, one man, they breathe one breath, they speak one voice, they wield one arm; and therefore it is, gentlemen of the jury, that the law says that the acts, the words, the declarations of one of these twelve individuals, while in the pursuit of their unlawful purpose, is the act, the word, the declaration of all. What, therefore, gentlemen of the jury, any one of the conspirators, whom we shall convict with this transaction while they were on that raid, as it is called, said, or what one of them did, what any one of them declared to be the purpose of that conspiracy, is the declaration of Robert Hayes Mitchell and every one who joined with that conspiracy; and it binds him as much as if the words had come from his own lips or the acts from his own hands.

Now, gentlemen of the jury, in proving a conspiracy, there are two ways. We may prove a conspiracy directly, by bringing before you the written agreement—the conspiracy as recited and written out and agreed upon in terms and in words; or we may prove conspiracy indirectly, by proving the acts, and the words, and the declarations of those who were engaged in the conspiracy. We enter upon both methods of proof. We have to lay before you now the agreement written and expressed upon paper, and after that we have to lay before you the acts, the declaration, the things said and done by those who joined in this conspiracy.

The evidence, gentlemen of the jury, in this case has been long and circumstantial, and I shall do you the credit at the outset to assume that your recollection of this evidence is as perfect as my own, and I shall not expect, when I desire to call especial attention to some parts of this evidence, to be in the least obliged to rehearse the testimony again to you. Our first method, therefore, of proving this conspiracy against this defendant is by asking your attention to the written agreement, to the terms and purposes of the conspiracy as they were written down and assented to by the conspirators, and as they were bound to by an oath, to be carried into effect by this defendant and his fellow-conspirators. Now, gentlemen of the jury, I hold in my hand what the Government says is the written agreement, the terms and the purposes of this unlawful combination in which defendant was engaged. What is this paper? What is the

evidence that connects this paper with this defendant? You remember, gentlemen of the jury, the first witness that the Government put upon the stand testified that this paper was found among the private papers of one Samuel G. Brown, a citizen of York County; you remember that Mr. Albertus Hope, the second witness, testified that in 1868 he expressed to Mr. James Avery, Major Avery, a desire to see the groundwork, to use his own expression, of this order about which he had heard, and that Major Avery gave to him a paper in response to his request containing the "groundwork" of the order, and he delivered that paper to Mr. Samuel G. Brown. He also testified that this paper, which I hold in my hand, and which has been presented to you, appeared in its general terms to be that which he received from Major Avery; and, further, that the paper itself which he received from Major Avery and which he delivered to Mr. Brown, consisted of one sheet and a half sheet, as this paper does which I hold in my hand. Now, then, gentlemen of the jury, who was Samuel G. Brown in his relation to this conspiracy? We have upon the testimony of "Mr. Gunn," that he recognized Mr. Brown as a member of the Klan, that he made the sign of the Klan, and Mr. Brown responded to those signs; and that in a conversation with Wesley Smith, another member of the order, they discussed the affairs of the order and it was then, in the presence of Mr. Gunn and Mr. Wesley Smith, that Mr. Brown made the declaration that he was a member of the order, and that his Klan—he claimed to be the chief—could kill and whip more niggers than any Klan in York County. Is that all of the evidence, gentlemen of the jury, to prove that Mr. Samuel G. Brown was a member of the Klan? No; Elias Ramsey meets him at Shaw church, at a meeting of the Klan, when a new chief is elected. Andrew Kirkpatrick, and other members of the order meet Samuel G. Brown at Shaw church; and both of them have been heard upon the stand to testify to the presence of Samuel G. Brown upon that occasion. Samuel G. Brown, therefore, by his own proven statements, and by the testimony of two of his fellow-members of the order, was a member of the order known as the Ku-Klux Klan. This paper, moreover, gentlemen of the jury, in my hand, is taken from the private papers of a proved conspirator and member of the order. There is, in addition to this, evidence which identifies this paper as the same that was given by Major Avery to Mr. Albertus Hope, and by Mr. Hope to Mr. Samuel E. Brown, a member of the order.

What, then, gentlemen of the jury, is this paper? It purports to be the oath, the constitution, and by-laws of the Ku-Klux Klan of the State of South Carolina. By the evidence which we have presented it is shown to come from Major Avery, and who is he? Let us pause a moment to inquire. John Caldwell, who acknowledges himself to be a member of the order, states that Major Avery was the chief of the Klan for York County, and he does not state this upon hearsay or report, but he tells you that he was present at the meeting at a store in the town of Yorkville, where Major Avery was elected chief of the county. This paper, therefore, gentlemen of the jury, comes from the chief of the order of York County. It comes to Mr. Albertus Hope, who acknowledged himself to be a member of the order; it goes from him to Mr. Samuel G. Brown, proved to be a member of the order; and from Samuel G. Brown it comes to you to-day. What does it purport to be?

It declares itself to be the oath, constitution, and by-laws of the Ku-Klux Klan of South Carolina. This sheet and a half, gentlemen of the jury, is the groundwork of the order for York County; from Major Avery to Albertus Hope, and from Albertus Hope to Samuel G. Brown, all members of the order, and now it comes to you. Therefore, I say to you, gentlemen of the jury, that you stand face to face with the written agreement, with the detailed conspiracy, with which we propose to connect this defendant. Now, let us examine it, and see if it purports to be the constitution and by-laws of the Ku-Klux Klan. Let us see whether it is an innocent agreement, such as good citizens who look to the peace and welfare of the country might well be engaged in, or whether it is not, upon its face, an agreement that seems to put to the blush every claim of the age to advancing civilization. Let us see whether it is not an agreement that ought to make us fear whether we have advanced yet beyond the age when might was right, and nothing but power prevented the destruction of every liberty.

What is this paper, and what are its purposes, and how is this Ku-Klux Klan to move on in its operations? Why, gentlemen of the jury, the first provision of the constitution, to which I desire to call your attention is, that article 51, section 1, requires that every member of this order is to provide himself with a pistol, and Ku-Klux gown, and a signal instrument. Note that, gentlemen of the jury; this conspiracy or this agreement is to be carried out, in the first place, by arming every member with a pistol, and by disguising him in a Ku-Klux gown, and providing him with a signal instrument. Armed, disguised, and with a signal instrument, which shall make it unnecessary to use the human voice, is the first feature of this agreement. Now, what is the next significant agreement? That any person who shall divulge, or cause to be divulged, any of the doings or purposes of this organization, shall suffer death. Is that an innocent agreement, gentlemen? Every member armed with a pistol, disguised in a gown, with a signal instrument, and if he makes known any of the affairs of this order he

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shall die! Does that look like innocence? I read further: "We oppose and reject." What? False principles and government? unconstitutional laws? assaults upon our citizens? "We oppose and reject the principles." What, bad political principles? There may be, and perhaps are, bad men in all parties, but this declaration says, "We oppose and reject the *principles* of the radical party, and we arm ourselves with a pistol, we disguise ourselves with a gown, we carry our signal instrument, and we punish any man who discloses any of our affairs with death; and all in order to oppose and reject the principles of the radical party." What, gentlemen of the jury, have we come upon in this agreement? It is an agreement to oppose a political party without discrimination. It is not individuals of the party whom we are to oppose, but we are to "oppose and reject the principles of the radical party." We are to do it with "pistols and in disguise," and with our "signal instruments," and any man who tells of it shall die. Now, then, look at this agreement. We have discovered that there is an organization, armed and disguised; we have a penalty of death for a divulging member; and all, according to its own declaration, in order that we may oppose and reject the principles of a political party of the State.

What next? "No person of color shall be a member of this order." The lines are now removed, and this order is seen not only to be a political organization, but it is found now to be aimed against those of a particular color. "No person of color shall ever be admitted a member of this order." Why not? Can we not suppose that persons of color may be on the side of "justice, humanity, and constitutional law, as bequeathed to us in their purity by our forefathers," in the language of this oath? Yet no person of color, whatever his principles, whatever his life, shall ever be a member of this order. Here you reach the touch-stone of this conspiracy, and you find it an armed, secret, disguised confederacy, punishing its members with death for divulging its secrets, and aimed against the radical party and excluding every person of color from its membership. That, gentlemen of the jury, is what they have written, but I need not tell you that no *conspirators* ever committed to paper the entire scope of their agreement. They don't trust it to any paper to disclose to the world the extent of their purpose for which they combine; and, therefore, you don't expect that even this agreement, as it has now been presented to you, would disclose the entire purpose and plan and mode of operation of this Klan. But this much appears, and you will not forget it, that under the written terms of this agreement, it is a secret, disguised, armed conspiracy, directed against a political party, and ultimately against the colored portion of our fellow-citizens. That, gentlemen of the jury, is what we find to be the nature of this conspiracy, simply from an examination of its written agreement.

I now come to another kind of evidence which will determine for you what was the purpose of this organization. It is the declaration and testimony of its own members. You have seen what there is in this paper; what they say they meant in explicit terms. Now, let us see how this was interpreted by those who have acknowledged that they took this oath, and subscribed to this constitution, and who have become full members of this order.

You recollect the testimony of Mr. Osmond Gunthorp that he joined this order of Ku-Klux in 1868; that he thought, and was told, that it was an organization simply for self-protection, and that he joined it with that intent; not that he himself apprehended any danger, but seeing that all of his neighbors joined this mutual-protecting society, he therefore joined it himself. And what does he tell you he found, when he got beneath its written oath and constitution, was its purpose? He tells us that it was a political organization; that its purpose was to control the elections, and while they had not yet risen to the height of killing negro voters, they even then proposed, in 1868, to go to the election at Rock Hill, and without the use of any great violence, still to control the election by crowding away the radical voters from the polls. You remember, gentlemen of the jury, that this was in 1868, and that Osmond Gunthorp was then a member of the Ku-Klux Klan, and that that was its purpose, as he discovered for himself after he had taken its oath and found out its principles and purposes. Now let us turn to the testimony upon this point. I will read a portion of the testimony of Mr. Gunthorp:

"*Question.* State whether you joined the Ku-Klux Klan, and when?"

"*Answer.* I joined it, sir, in 1868, in the month of August; I am not certain about the date.

"*Question.* Where?"

"*Answer.* Down near Ebineus.

"*Question.* In York County?"

"*Answer.* Yes, sir.

"*Question.* Who initiated you?"

"*Answer.* Dr. Ebenezer Ayery.

"*Question.* Can you give us the substance of the oath you took?"

"*Answer.* No, sir; I cannot.

"*Question.* What was its general import, so far as you can recollect?"

"*Answer.* I cannot recollect near all of it; that we was opposed to the radical party;

and were to protect fellow-members' widows and their households, female friends; and I believe that was about all.

Question. And what was the penalty?

Answer. The penalty for divulging the secrets of the organization was death.

Question. What was the mode in which the purposes of the organization was to be carried out—this opposing the radical party?

Answer. I think it was the intention of the organization to control elections.

Question. How were they to do it?

Answer. At that time, the understanding I had was to do it by intimidation.

Question. Did you have any order to go out and assist in that business?

Answer. No, sir; I never received one.

Question. Did you receive any notice to go to Rock Hill?

Answer. No, sir; I received no notice, but I understood the day of election, in 1868, they were not to use any force, but by crowding the box they were to keep all from voting they could.

Question. All who?

Answer. All of the radical party.

Question. Who were they to keep away from the polls?

Answer. All I understood was, they were to keep all the radical party from voting they could, by crowding the ballot-box.

Question. What did you do then?

Answer. I never went to the election at all.

Question. What did you do in reference to the order?

Answer. I left it, sir.

Question. Why?

Answer. Because I believed it was not what I thought it to be. I didn't understand, when I went in that it was a political organization, and I saw it was, and it was on these grounds.

Question. What did you think it was before you got into it?

Answer. I thought it was an organization for the protection of each other, but not to interfere with any other party.

Question. When you came inside of it what did you find it to be?

Answer. I found it to be a political organization, to try to control the elections for the democratic party, at that time."

That is his testimony of the purposes of this order in its young days, and probably before it had enveloped in its meshes the greater part of that community; but as far back as 1868, Osmond Gunthorp, a member of that order, discovered that its principles were political and that it intended to control the election in the interest of the democratic party.

I come now to the testimony of Cornelius S. Gunn, also a member of the order; who was in communication and conversation with members of the order, a man of intelligence, and a citizen of York County, well informed, and acquainted with the persons and purposes of the order, and what does he tell you? He tells us in precise terms that its purpose was political, that it was aimed against the radical party; and especially against the colored members of the radical party; and that its mode of operation was killing and whipping of prominent radicals and the terrorizing and intimidation of the negroes generally throughout the country. And let me call your attention, gentlemen of the jury, to the fact that this testimony is totally uncontradicted. Our witnesses tell you that its purpose was directly political, and aimed directly against the colored people, and they did this by whipping and killing. Now, if that was not the purpose of the order, where are its members that they do not come forward to-day and rescue this imperiled brother? If it is a charitable association for mutual self-protection, where are its members that they do not own their membership and keep their oaths to rescue a distressed brother? Is not this a brother Ku-Klux in distress? What hinders them from coming forward to-day and saying, we are members of the order, and we will prove to you that our purposes were innocent; that we did not aim against a political party, but simply to protect our lives, our children, and our friends from negro outrages. I will tell you why, gentlemen of the jury, why it is. It is because every one of them knows that if he puts himself upon that stand and confesses that he belonged to the order described in this paper, he is a felon and goes to the penitentiary. That is what keeps his brother Ku-Klux from coming to rescue an imperiled brother; that is what keeps them out of this court and from contradicting Mr. Gunthorps' and Mr. Gunn's testimony. An innocent order indeed! Our friends tell us it is a charitable association, and yet, when one of those members who is simply in the execution of the purposes of this charitable order is put upon his trial they are as silent as the grave. Not one of them to-day dares to acknowledge himself to save Robert Hayes Mitchell, his brother, who belonged to that organization. Where are they? And echo answers, where? The officers of this court cannot find them, and those who sit here to-day sit with sealed lips.

Well, gentlemen of the jury, what does Mr. Kirkland L. Gunn tell you? He says that

it was political, that it was against negroes, and that its purpose was killing and whipping and intimidating the negroes of that county generally, in order to control the elections.

For one moment, gentlemen, let me call your attention to some of the testimony of Kirkland L. Gunn :

" *Question.* What was the obligation and purpose of the Klan ?

" *Answer.* The obligation, sir, that I took was, that I should not divulge any part of the secrets of the Klan that I had joined, and it was for the purpose of putting down radical rule and negro suffrage.

" *Question.* What was the general object and purpose of the order ?

" *Answer.* That was the purpose of the organization, sir.

" *Question.* Have you ever heard the constitution and by-laws of the order read ?

" *Answer.* I heard it read, sir, when I was initiated.

" *Question.* How were you initiated ? Describe to the jury the process of initiation.

" *Answer.* I was knelt down, sir, and the oath was read to me, and then the constitution and by-laws were read to me, sir.

" *Question.* Now, I want you to look at that constitution and by-laws and say whether that was the constitution and by-laws of the order."

[Handing to the witness the constitution and by-laws which we have here.]

" *Question.* Mr. Gunn, you have stated the general purposes of the order ; now, will you please to state to the jury how those purposes were to be carried into effect ?"

Gentlemen of the jury, I am sure you do not forget that this witness is a Ku-Klux—is a member of the order.

" *Answer.* Well, sir, that is known, I think ; but the way that I was told that they were going to carry this into effect was by killing off the white radicals and by whipping and intimidating the negroes, so as to keep them from voting for any men who held radical offices.

" *Mr. JOHNSON.* We reserve objections to that ; it is of no consequence.

" *Question.* Pursuant to that mode of intimidating and killing voters, was there anything of the kind done, within your knowledge ?

" *Mr. STANBERY.* We object to that question—object to his saying what he was told.

" *The COURT.* We think the question may be asked. [To the witness.] State what was done in pursuance of the object of the order ; what was done pursuant to the purpose of the order as you have stated it, according to your knowledge.

" *Answer.* Their principle was to whip such men as they called radicals, and men who were ruining the negro population, &c., and they murdered some.

" *Question.* Well, Mr. Gunn, when did they do this ; night-time or day-time ?

" *Answer.* In the night, sir.

" *Question.* State whether the organization was armed according to the by-laws ?

" *Answer.* Yes, sir ; they were armed.

" *Question.* What were their arms ?

" *Answer.* Most generally pistols ; sometimes shot-guns, muskets, &c.

" *Question.* What is the Ku-Klux gown referred to in the by-laws ?

" *Answer.* It is a large gown made—all that ever I saw was made of some solid colored goods ; I don't know what the color was ; it looked dark in the night ; I never saw a gown in day-light.

" *Question.* What were those gowns worn for ?

" *Answer.* To disguise the person, sir.

" *Question.* Were the purposes of the order to be carried out with the disguises on ?

" *Answer.* Yes, sir.

" *Question.* When the Klan was assembled to prosecute any of its purposes, such as whipping and killing, were they disguised, or not ?

" *Answer.* Always, sir.

" *Question.* And always moving, when ?

" *Answer.* In the night."

He then testifies that he himself was ordered upon two raids. I now pause for a moment to consider the value of Mr. Gunn's testimony. It was developed in the cross-examination that Mr. Gunn had been to Georgia, and had visited the Attorney General of the United States, and that he afterwards saw him and made the disclosures to him of his connection with the order, and of its purposes and methods. That he afterward went to Washington, and in an interview with the Attorney General of the United States, he received \$200. Now, gentlemen of the jury, I understand that if a party before giving testimony, or divulging secrets, is promised any reward, or any inducement is held out to him to make his confession or give his evidence, that it tends to destroy and diminish the credibility of the witness if it can be shown that before he gave that testimony and made these disclosures, before he stated to the Attorney General of the United States that he was a member of the order, and what its purposes were, he had been promised or received a reward ; but as to any evidence that Mr.

Gunn, previous to his disclosures to the Attorney General of the United States, being promised, or that he received any bribe or offer of reward, there is none. He went and made his disclosures, and there is not a tittle of evidence in the case that his disclosures were prompted by any offer or any expectation of reward.

Now, gentlemen of the jury, it was not improper for Mr. Gunn, who was a man of business, whose time had been occupied, and who had been diverted from following his occupation, from disclosing this conspiracy which up to that time had maintained its secrecy, nor was there anything objectionable on the part of the Attorney General of the United States that he gave Mr. Gunn that money under those circumstances. I say there was not, gentlemen of the jury, and his testimony goes to you to-day free from any evidence that before he made these disclosures he had been enticed in any way except by his own conscience and will to make those disclosures.

But, gentlemen of the jury, the testimony of Kirkland L. Gunn may be left out of this case, and still the agreement stands confirmed by the testimony of other witnesses, against whom even this suspicion, which is without legal foundation, cannot be raised. We have confirmed what I have argued to you to be its purpose and method, and I come now, gentlemen of the jury, to the testimony of Charles W. Foster, another witness who confesses to you that he was a member of the order, that he was for a long time a member, and, unlike Mr. Gunn, he did go upon raids; unlike Mr. Gunn, he received his interpretation from the acts of the order, and not from their declaration or from their written constitution and by-laws. Charles W. Foster was not only a Ku-Klux, but he was an active Ku-Klux. He went upon raids and executed the purposes of the Klan in overt acts.

Let us look at his testimony:

Question. Do you remember the oath you took?

Answer. I suppose I could.

Question. Tell us as near as you can the character of that oath?

Answer. Well, sir, the first was to protect women and children, I believe; put down radicalism, put down Union Leagues, &c.

Question. What was the penalty, if anything, to the oath?

Answer. The penalty was, if any man divulged any secret of the society he was to suffer death, death, death.

Question. Would you recognize the oath if you should hear it again?

Answer. I suppose I would, sir.

Listen to this. [Counsel here read the oath as read to Gunn.]

Question. What do you say to that obligation?

Answer. That is about the same that we had.

Question. Now, Mr. Foster, state what the general purpose of the order was?

Answer. The general purpose of the order?

Question. Yes, as you understood it, practically carried into effect?

Then that question is objected to, and finally the court says:

Ask the witness what the purposes were to be carried out.

Question. How were the purposes of the order to be carried out?

Answer. Well, sir, generally, whipping those men who belonged to the League; members of the League.

Question. The Union League?

Answer. Of the Union League, both white and black."

And then he describes, as you, gentlemen of the jury, will remember, the various raids upon which he went, and among others he details the circumstances of the raid upon a man by the name of John Thomasson, and the question is:

What was he accused of?

Answer. He was called a radical in the neighborhood; he had taught a nigger school, and voted the radical ticket.

Question. Was that the reason of your visiting him? Tell us what they said.

Answer. They called him out, and told him to let radicalism alone."

Gentlemen of the jury, you remember the testimony of Foster in its details, and I need not occupy your time in going over it again, and now where do we arrive? We have examined the written agreement and constitution, and have found that it provided for a secret organization, and that the penalty of divulging its secrets was death; that it was armed; that it was disguised; that it was aimed against the radical party, and more particularly against the negroes of the radical party. That is the written agreement. Now, what have we seen from the statements of these members of the order as to its purposes, as developed by its acts? Why, that in 1868, in its incipency, it aimed to control the election for the democratic party, and that in 1870 and 1871, by the testimony of Mr. Gunn and of Mr. Foster, and the testimony of other witnesses, which you will remember, its purpose was still to control the elections; to intimidate the negroes and prevent them from a free exercise of their judgment in the matter of suffrage.

Those are the two kinds of proof, gentlemen of the jury, that refer to this general conspiracy; the direct proof of the written agreement, and the indirect but still more

conclusive evidence of the acts and purposes of the order, as stated to you by those who had taken the oath, who had gone upon raids, who had conversed with members of the Klan, and who knew it thoroughly in its purposes and operations. Now, what have we to show? We have, gentlemen of the jury, first, the Ku-Klux Klan—an armed, secret, political organization—sworn by an oath, under the penalty of death, to keep its secrets from the world; carrying out its purpose throughout the county of York, by the killing, whipping, and intimidation of the radical party, and more particularly of the negroes belonging to that party. Gentlemen, now, against this evidence, what have we? If it be, as the impression has been sought to be made—if it be anything less than what I have described it to be, why has it not been explained to-day in behalf of this poor prisoner? That is what the Government says your Ku-Klux Klan means. Why is it not denied? Where is James William Avery, chief of your county? Surely he could come here and tell you that in 1868 he organized a society for the mutual protection of himself and his neighbors; he could show you that its purpose was within the law; and that all the acts for which he is responsible, or which he committed, were strictly within the law, and no conspiracy. Where are the chiefs of the Klan who enticed this poor prisoner? Is this door barred to their entrance? Why are they taking their ease in foreign lands, where they cannot be reached? Here is a distressed brother member, charged with being a member of a conspiracy to deprive divers male citizens, of African descent, of their right to vote, and the evidence against him is, that he belonged to an illegal organization. Can it be explained?

Gentlemen of the jury, not a member of the order stands here to contradict what we have proved to be the purpose of that order. Why, gentlemen, if this prisoner is to be defended, how much easier to have put his defense upon the testimony of his fellow-members. What is the evidence they must submit if he is to be saved? How much easier it would have been than to bring our distinguished friends here from a distance to aid him. In what? not their testimony which would acquit him, but simply their learning and their eloquence, to persuade you that this testimony is not sufficient to convict. They are under no obligations. They have taken no oath to protect and defend fellow Ku-Klux; they are not knights errant; and they do not come here to-day for love, but they come here in the exercise of their profession; while all those who swore with Robert Hayes Mitchell that they would stand by and protect their fellow-members, are nowhere to be found on this day of a brother's trial.

Now, gentlemen of the jury, this conspiracy, for which we are prosecuting this defendant, is the general conspiracy, which we have proved is embraced by the agreement and statement of members of this order.

I now come to the second division of this argument, which is the specific occasion on which this general conspiracy, embracing among its members this defendant, went upon the practical execution of their agreement. We come now to the 6th day of March, 1871; we see whether Robert H. Mitchell, this prisoner, with the others named in this indictment, did, on that specific occasion, undertake to carry out this general purpose which we have described in the argument, and by the statement of members.

You remember, gentlemen of the jury, the story of the Jim Williams's raid; that it was on the night of the 6th of March, 1871. You remember the testimony of Elias Ramsey, of John Caldwell, of Andrew Kirkpatrick, of Samuel Ferguson—all of them members of the Klan, and all of them present on that occasion. You remember the meeting at the Brier Patch, and the conspirators there assembled, going to the cross-roads, near Squire Wallace's, where they met the four Shearer boys, and where this prisoner, Robert Hayes Mitchell, first appears. You remember that the four Shearer boys were sworn into the order at the cross-roads, near Squire Wallace's, and then they took their march. Here, gentlemen of the jury, we have the conspiracy literally and virtually in motion. This general conspiracy of the Ku-Klux Klan now takes up its line of march for the accomplishment of its purposes.

And now comes the evidence which points to this defendant as guilty upon this indictment. Now, mark, near Squire Wallace's their ranks are recruited by this defendant, and they take up their line of march, disguised, marching two by two, under the lead of Dr. James Rufus Bratton, upon an innocent undertaking, upon a charitable errand. No harm intended to any one, but simply protection, against those horrible outrages of the negro militia. And here is James Rufus Bratton, the leader of that moving conspiracy. They come to McConnellsville; they arrive at the plantation of James Moore; they knock at the door of Gadsden Steele, a colored man; and now remember, gentlemen of the jury, that every act and every word of any one member of that marching conspiracy is the act and word of every other member of that marching conspiracy. If the humblest man who rode in that conspiracy did an act, or uttered a word, it is the act and the word of every other man who formed that cavalcade. They came to the door of Gadsden Steele, on the plantation of James Moore; they bring him forth and question him about his gun, and not being satisfied with his answer, they take him to Mr. Moore himself, and calling him out, they ask him about the guns. He says that Gadsden has no guns.

Well, what ticket did he vote? Nothing political! Self protection! Charity! Mr.

Moore says, "I will not tell a lie for him—he voted the radical ticket"—he and Gadsden Steele—and the voice comes forth, "There, God damn you, we'll kill you for that." Not political! Only a search for guns! All because of the panic among the white people. Yet Gadsden Steele's offense, for which he is promised death is that, by the statement of Mr. Moore, he voted the radical ticket. Who uttered those words? No matter who uttered them; some one of those disguised men there in front of Mr. James Moore's house uttered them, and the voice was the voice of the conspiracy; every man uttered those words! *uno fatuo, uno spiritu*—one breath, one attempt. We will kill you because you voted the radical ticket.

What now? Gadsden Steele is told to mount a mule and go with them, and conduct them to Jim Williams's house. He mounts the mule and goes a short distance. He is then put down, and two men who are riding with them—disguised Ku-Klux on this Jim Williams raid—then turn to him and point their guns at him, and then they declare the whole purpose of that night's raid. They say to him, "We are going to kill Jim Williams, and we are going to kill all you damned niggers who vote these radical tickets." Whose voice was that? No matter whose voice it was, it was the voice of conspiracy, and yet we are told this was not a conspiracy to interfere with anybody's voting. But they say, "We are going to kill Jim Williams, and we are going to kill all you niggers that vote the radical ticket." That is the voice of the conspiracy—not of Rufus Bratton only, but of Robert Hayes Mitchell. That is in evidence before you to-day, as the purpose of every man who rode on that marching conspiracy.

Well, gentlemen of the jury, follow them; they pass on, they turn aside from the public highway and cross the field; they halt in a piney thicket and dismount; a detail is ordered to go forward; the detail is made up, and they put on a disguise, according to the testimony. From half an hour to an hour, while they are absent, nobody hears anything from them, except Elias Ramsay, who heard what he thought were the cries of a woman in distress. They return, and the order is given, "Mount, mount, and let us be off."

After they have moved away, some of these conspirators learn for the first time that Jim Williams has been killed. John Caldwell rides to the head of the column and asks Dr. Rufus Bratton what they had done with the nigger, or where the nigger was. His reply is, "He is in hell I expect." He draws out his watch, and looks at it by the light of the moon, and says, with a coolness that I think was never excelled, "Let us make haste, we have got two or three more to visit yet to-night." He has only hung one negro, and he is going to visit two or three more.

You see here, gentlemen of the jury, as you will perhaps never see again, the terrible power of organization. Probably no one, no two, no three of that party could have been induced to commit murder; but under the cloak and sanction of this vast organization the responsibility of it was divided until it was not felt. Murder, violent murder, excited no compunction, because behind Rufus Bratton was a column of seventy men, who were to divide the responsibility with him. This is the tenor, gentlemen, of conspiracy. That is why these terrible combinations are made possible, because no man in that seventy felt that he, himself, had murdered Jim Williams. But the deed is done, the secret is safe, and every man says, we are all sworn to secrecy. Williams is dead, and the world will never know who hung him. Ah, gentlemen of the jury, as a more eloquent voice than mine has said, "That was a dreadful mistake, such a secret can be safe nowhere; the world has no nook or corner where the guilty can stow it away, and say it is safe." And here, to-day, after months of delay, you stand face to face with one of the men who joined in that conspiracy to kill Jim Williams.

Then, gentlemen of the jury, follow them as they leave that piney thicket and march again upon the highway. We know not where else they went; but we do know that on their return they visited the house of another colored man, whose name is Hiram Littlejohn, and who has testified before you. And Gadsden Steele tells you what they were going to do as they marched down to Jim Williams's. Hiram tells you their purpose as they returned. They called him forth and took from him his gun, and then told him: "We have killed Jim Williams, and we intend to rule this country or die. When you vote next time, vote the democratic ticket." Whose voice was that? It was the voice of the conspiracy and every man who rode with it. What does it say? "We have killed Jim Williams, and we intend to rule this country or die. The next time you vote, vote the democratic ticket."

Now, gentlemen of the jury, "order reigns in Warsaw," and York County is safe; all other sections of the county have already been subdued, and only in this one belt of country, where lived this terrible captain of the negro militia, only is radicalism unsubdued. But now the head and front is gone, and safety is restored to the white people of York County. Why, gentlemen of the jury, panic among the white people, fear of the negro militia. Why didn't they tell Gadsden Steele, why did they not tell Hiram Littlejohn, that he was never again to join the negro militia; that he must quit Jim Williams's company. They said nothing of the kind, but passed on with their guilty secrets.

Now, gentlemen of the jury, what evidence can be more complete? Here is the

written agreement; here are declarations of members of the order; and here is the specific occasion on which these Klans assembled; and here are their purposes disclosed on the night of this raid by its own members, while going and while returning.

Now, gentlemen, this defendant was there; he was a member of the Ku-Klux-Klan; he had taken its oath; he joined in this raid; and the acts and declarations of his co-conspirators are his acts and declarations. It has been established that Robert Hayes Mitchell was a member of the party; that he went upon this Jim Williams raid. And there, gentlemen of the jury, is the end of our testimony with reference to the first count of this indictment, which charges that Robert Hayes Mitchell, with others, conspired to hinder and prevent divers male citizens of African descent of their right to vote at future elections. Gadsden Steele and Hiram Littlejohn so testify. We say nothing about others whom they visited; we say nothing yet about their purpose and the actual killing of Jim Williams. But here is a conspiracy which, by its written agreement and the understanding of its members, is aimed against negro radicals; and here it is in motion, going upon Gadsden Steele and upon Hiram Littlejohn for the express and avowed purpose of affecting their votes by preventing them from voting or from exercising their free choice at future elections.

We now, gentlemen of the jury, come to the second count of this indictment, which charges that this defendant, with others, conspired to injure and oppress Jim Williams because he voted in previous elections, and because he voted for A. S. Wallace as a member of Congress. It is, gentlemen of the jury, upon this count of the indictment, and with reference to the intent of these conspirators, as they went to the house of Jim Williams, that the chief controversy depends. Did they go there to injure and oppress Jim Williams because he voted the radical ticket, or did they go there to put him out of the way because they were in terror from his threats and from his position as a captain of a negro militia company? In the first place, it is not doubted that this was a Ku-Klux raid; all the men who went there were members of the Ku-Klux order. They went there upon the same purpose; it required the presence and the action of that order. As we have seen from its constitution and by-laws, but more particularly from the statements of its own members, its purpose was to control the election, and not to prevent the negro militia or disarm negroes, except so far as their being armed may have been supposed, in the minds of these conspirators, to have contributed to their strength and determination as radicals.

So much is not doubtful, that this was a Ku-Klux raid, and that the leading and continual and constant purpose of this order was to intimidate the negro voter; and if we were to admit, gentlemen of the jury, at once, that they did go there to disarm this captain of a militia company, and to take his life, it would still be for these conspirators to show that it was not for the sole purpose of terrorizing that community on account of negro radicalism. That is the main motive of the order and continual purpose as we have shown; and if, on this occasion, it was no more than simply to disarm the negro militia and to kill the captain of a militia company because he was a captain, then you will require conclusive evidence that on this occasion they were not still attracted by that constant and controlling purpose, through this negro militia, and the disarming of this company, to put down radicalism.

The constitution tells you that was its purpose, and members of the order tell you it is the purpose, and what evidence, gentlemen of the jury, have you that on this occasion, while the specific act which they did was the killing of the captain of a militia company, and the taking away of guns from the members of that company, that it was not still in pursuit of that purpose for which Gunthorp and Gunn and Foster told you the organization existed in York County? Let us look, gentlemen of the jury, for a moment at the operations of this Klan. We hear but little of it, except here and there, until after the election of 1870. It is in evidence that the organization existed as early as 1868, and prior to the fall election of that year; but it slumbered, so far as we know, and did not manifest itself in overt acts.

But you know, gentlemen of the jury, that after that election this Klan commenced their operations in that county. They went forth then, having practically failed in that election, even under the persuasion of the candidates of the reform party, to alienate the colored people from their allegiance to the radical party. They then entered upon their active crusade, through this organization, for putting down radicalism. It is in evidence that all over that county, prior to the Jim Williams raid, negroes had been whipped and had been killed; that a state of terror had arisen which drove from their homes at night the greater part of the negro population of that county; even Mr. Lowry, a witness for the defense, tells you that upon his plantation, and right in the charmed circle of the Jim Williams militia company, the panic was so great with his own negroes that he could not restore confidence, and they fled their houses at night for fear of the Ku-Klux. All over the county, therefore, gentlemen, radicalism was subdued, except in this belt of country between Yorkville and Jim Williams's residence. How, gentlemen of the jury, shall radicalism be subdued there? By disarming the negro militia, by taking out of their hands the only protection that the Government has given them. And first by threats and then by persua-

sion they besought this Captain Williams to deliver up his arms and trust himself to the tender mercies of this organization which had murdered Roundtree and terrorized the entire community, except in that narrow belt; but the brave man refused, and I honor him for it. There is not a drop of blood in my veins that does not stir to-day in grateful response to this heroism of an uneducated negro who desired to protect the lives and liberties of his fellow-citizens. Would to God that others would have been then inspired with the determination of this militia captain who refused, gallant man that he was, amid the prevailing cowardice, to surrender either his principles or his arms; and when the names of these conspirators who murdered him shall have rotted from the memory of man some generation will seek for marble white enough to bear the name of this brave negro captain. Radicalism gone; subdued! Only the narrow bridge left of Jim Williams's militia arms, and they won't give them up; and radicalism will prevail and be unsubdued till those arms are seized and that brave negro killed! And who goes there to do it? Is it the citizens generally who seek protection? Did some of my friends who sit here join in this defense? Did they go? No; the Ku-Klux Klan goes! It is not a spontaneous uprising of the people who have heard these threats, but it is the march of the disciplined, disguised, and sworn Ku-Klux Klan. If it was to seize the negro arms, was not that a mission in which every citizen could join? Yet not a man went upon that raid to seize those arms except the sworn members of this political and disguised Ku-Klux Klan. Gentlemen of the jury, you know what they went for; you know why those arms were a terror; you know why Jim Williams was the object of that raid. It was because their mission has not yet been accomplished, and radicalism could flourish and be protected under the gleam of Jim Williams's bayonets.

But, gentlemen of the jury, he had made threats; he was a dangerous man, they say. About the question of Jim Williams's character, gentlemen of the jury, I have little to say. We have had straggling evidence that he was a dangerous man, but up to the time of his death not a single act, not a single scrap of testimony, gentlemen of the jury, of any uncivil or disorderly act has been put before you here, either on the part of Jim Williams or of any member of that militia company. Now, if Jim Williams was a dangerous man, and had excited a panic among the white people of that community, could they not have shown us, by some of his acts, by what he had himself done, or allowed his militia company to do, that he had demonstrated himself to be the dangerous man that community reported him to be? And yet, up to the hour of his death, no disorder, no misconduct on the part of the captain or his company has been brought to your notice. On the contrary, a meeting was held when these raids were going on all over the county. Andy Tims calls a meeting at the suggestion of the white people to know whether these militia arms are the cause of this Ku-Kluxism, and of all this anxiety that pervaded the country, and then they agreed with him that it was not the militia arms, but Jim Williams's threats! Williams's threats "to kill from the cradle up." Well, now, gentlemen of the jury, that is a matter for you. If you believe that Jim Williams made those threats, and the making of those threats was the reason of the motive which induced the Ku-Klux to go upon that raid which resulted in his hanging, then you have given to this defense some color for the position which they will take, that the intent was not to injure him on account of his politics. Gentlemen of the jury, do you believe he ever made those threats? Do you believe that—except possibly in view of the raiding of the Klan all over the country, and the fact that his own company and his neighbors were hunted like wild beasts from their homes—except in connection with that, that he ever uttered any threats against the white people of the county? I can believe, gentlemen of the jury—and I don't blame him for it—that he said and that he meant that if they didn't stop murdering and whipping his people, retaliation would commence. But, gentlemen of the jury, who are these witnesses who tell you of these threats? They are the white people of York County, and three *democratic negroes*! No negro who was not a member of the democratic party—who was not anti-radical—ever heard Jim Williams make these threats, or ever heard of them until after he was killed. There is the evidence, gentlemen of the jury, and I leave it with you. I do not believe, and I think you do not believe, that these threats were made, except possibly, and with the qualification which I have taken, in view of the murders and the raiding done upon the colored people of York County, and if they were so made they were justifiable. But whatever he had done, and whatever his position in that community, these conspirators who went to murder him, told Gadsden Steele on their way that their purpose was to kill those who voted the radical ticket, and on their return they told Hiram Littlejohn the same; and, as I have already shown you the fact that the Ku-Klux Klan was selected to do this work, points with irresistible certainty to the objects which they had in view in taking off Jim Williams. They joined the crusade against radicalism, and everywhere else the arms had been given up, and the negroes had been subdued, but Jim Williams still slept in his house, and his company still had their muskets, and he told them that if these raids did not cease—perhaps he told them—I had almost said I hope he did—that if these raidings did not cease somebody besides negro radicals should suffer. The

Ku-Klux Klan swore to oppose radicalism; armed and disguised was the organization that went there to capture and destroy this last stronghold of radicalism in York County. That, gentlemen of the jury, was the head and front of Jim Williams's offending. Panic among the white people! And what did they do? Were they so panic-stricken that they slept out of their houses? The negroes were scattered in the woods for three months, and there was such a terrible panic among the white people! There had been burnings, yet in not a single instance can this be shown to have taken place till the raids had been frequent and general; if they raided upon Jim Williams because of the burnings and panic, what was the object of the raids in December and January, immediately following the election? You know that those fires, whatever they were, had to do with them, must have been the result of the provocation which they had received in the death of Tom Roundtree, and the whipping of a large number and the maiming of a large number of negroes of that county; whipping the negroes and killing them throughout the country, and then, because fires take place, justify the killing of Jim Williams because of these fires. Gentlemen of the jury, this was only a grand and complete crusade against the negroes—radicals—according to the testimony of witnesses that we have put upon the stand; it has been to accomplish that one purpose of opposing radicalism, and of terrorizing that negro population till they should be afraid to exercise their right. Now, the attempt is made to substitute for this purpose of the Klan, and the killing of colored parties, but on the only charge of this indictment of seeking to deprive Jim Williams of his right to bear arms, and killing him because he insisted upon that right.

Gentlemen of the jury, this is our testimony in support of this indictment: Robert Hayes Mitchell was a member of the party who entered the house of Jim Williams and hung him on the night of the 6th of March, 1871, by evidence which is not contradicted. He was there throughout that whole raid. The object of that conspiracy, of which he was a member, was the terrorism and the whipping and the killing of the negro radicals of York County. He joined it, and on the night of the 6th of March he went in the execution of this purpose to injure, oppress, and did in fact kill Jim Williams in execution of the purpose of the Ku-Klux Klan, of which he was a member, and of which more were members, were then and there present. He stands arraigned to-day, and your verdict is asked for of "guilty of these two offenses." For Robert Hayes Mitchell, the prisoner at the bar, who can have on this occasion any feeling but that of pity? No man is so poor that he has not friends whose happiness is linked with his, and whose hearts would be wrung with anguish for his punishment and his suffering; and yet to-day, unfortunately, he is the representative of an organization which is responsible before you and the country for a succession of crimes, for a purpose broad and general, of putting down a political party by killing and whipping its negro members. I wish we could ask for mercy upon Robert Hayes Mitchell; but if you could have the eyes of fancy behind Robert Hayes Mitchell you would see the anxious eyes of a Klan—an organization which embraces thousands of members, scattered all over a section of this country; it is they who are on trial to-day, and he is the poor and unfortunate representative of a guilty and horrible conspiracy. Beyond you, gentlemen, there is a power which can graduate punishment according to the guilt of the individual; but your duty to-day is simply to say whether Robert Hayes Mitchell did conspire with the Ku-Klux to deprive colored citizens of York County of their right to vote at future elections, and whether he went to "Jim Williams's" and injured and oppressed and finally killed him, in the execution of this same purpose, and because he had voted, at a previous election, the radical ticket. You are shut up, gentlemen of the jury, by the law, to the evidence and to this issue, and you cannot fail to recognize that it is not this defendant, nor those even who are indicted with him, that you desire most to reach and affect by your verdict. It is the responsibility that comes from your duty to strike through him a final blow against a conspiracy, which, in its inception and progress, and in all its operations, has been aimed at the destruction of your dearest rights, and to strike away the protection which now exists under the laws of the country for an entire class of our fellow-citizens. That, gentlemen of the jury, is solemn enough and just enough to awaken all your interest, and to determine you to that verdict which the law and the evidence shall demand at your hands.

ARGUMENT OF HON. HENRY STANBERY.

May it please your honors, and you, gentlemen of the jury: It is gratifying, gentlemen, not only to my learned friend who has just taken his seat, but to all parties, to witness with what close and undivided attention you have listened to the argument which has just been delivered. You know, gentlemen, those of you, at least, who belong to the colored race, that grave doubts have been entertained whether, in consideration of your previous condition, you have arrived at this time at a state of improvement which would justify your receiving the right to sit in judgment upon your fellow-men, where you now sit in that jury-box. So far, gentlemen, you have shown a disposition to give undivided attention to the case. You have at least shown one

qualification for a jurymen ; you have listened but as yet to one side—perhaps to that side to which your sympathies are most drawn. Now, gentlemen, can you hear the other side ? Can you give the same undivided attention to the advocate for the defendant as you have given to the advocate who has stood up for the Government ? If you can do that, gentlemen, you have gone one step further, and a great step further, toward vindicating your right to sit in the jury-box. But individual attention is not all that is required of a jurymen. The jurymen does not hold up his hand before God and swear that he will listen to the argument and the evidence with undivided attention. That is not all. He swears that after he has heard the testimony and listened to the argument, and the case is committed to his hands, he will truly, justly, and impartially decide between the State and the prisoners.

Now, gentlemen, if you reach that future point and show that you are capable of divesting yourselves of the prejudices of race and color, show that you can act with impartiality, whether the man on trial is black or white, radical or democrat ; if you can go that other step forward, then, gentlemen jurors, I am ready to say that you, at least, are entitled to sit in the jury-box. If, therefore, you earn a title to exercise that supreme right over the lives, liberty, and property of your fellow-men, black and white, you have earned the highest title to enjoy all political privileges. Show yourselves fit for that, and you will show yourselves fit for everything.

Endeavor then, gentlemen, to make it evident that you are entitled to this right, to sit in that box, by the exercise of impartiality, by weighing the evidence without bias, without prejudice, and founding your decision upon the weight of that testimony, wherever it leads you, whether to conviction or acquittal. Why, gentlemen of the jury, the ancients, who were wise men—for there were wise men before our day—the ancients, whenever they represented the form of Justice, represented her with a fillet around her eyes. And why did they blindfold her ? That when she came to decide between man and man she might not see the parties, that she might not see a friend on one side or an enemy on the other, but giving her decision on which side soever that might happen to be. That is precisely the position in which a jurymen should stand. He should shut his eyes, having neither favor nor friendship, or any prejudice, either of race or political partisanship. He must do all that, or he is not fit for the jury-box. And if he sits there and does not do that, although he may not be made to answer here, there is another bar where he shall be called to an account for his violated oath.

Gentlemen, when my associate and myself came here from our distant home to take a part in these cases, we did not come with any expectation of arguing any case upon the facts. We expected to argue the legal questions, which day after day, for a period of two weeks, you have heard us discuss at this bar ; that was our business here, leaving it to the local counsel engaged in the case to argue these cases upon matters of fact, when they came to be heard before the jury. But as we sat here, these local counsel, our brothers of the bar, requested us to go further, and at least to give our attention to the case that was coming on, in the development of the facts, and to assist in the argument of any legal question that might come up. With that understanding, my colleague and myself took our seats, and in addition to arguing the questions of fact that arose in the trial of the case, insensibly we have been drawn into the whole case. For, after having listened to all the testimony given for and against the defendant, having weighed, considered, and examined the charges upon which our client was brought here, my learned colleague and myself came deliberately to the opinion that a case was not made out that warranted you in finding that Robert Hayes Mitchell was guilty under either count of this indictment. Now, gentlemen, you must not take my word for it, of course, but I say that we would not have appeared in this case upon the facts, were it not that, in our deliberate judgment, this defendant has been brought here charged with one offense, and an attempt made to convict him of another.

I shall now proceed to show, gentlemen, what Robert Hayes Mitchell is charged with in the indictment, and what is proved against him. This may lead me into matters of law ; I may follow my brother Chamberlain, the attorney general, in stating to you some matters of law, which you will afterward receive under the instruction of the court, but which I must state in order to make my argument understood by you. First, then, what is this man charged with ? You have heard a great deal of violations of order, and outrages, and especially in reference to what is called this raid upon Jim Williams, terminating in his assassination ; but you must first ask yourselves are you here to try the murderers of Williams ; are you sitting in judgment on a murder case ? Is there any one here to be arraigned for that murder ? Not at all ; the question is not before you whether he was murdered and who were his murderers, that you may mete out justice to them. You have nothing to do with that ; there is no such thing charged against this defendant.

There are three counts in this indictment ; three distinct charges ; three distinct offenses. What are they ? The first is that Robert Hayes Mitchell combined with others with intent to violate the first section of this act, by unlawfully hindering and restraining divers male citizens of African descent, &c., from exercising the right and

privilege to vote at the October election in 1872. That is the first charge; that the conspiracy he entered into was in reference to a particular election, designated as an election to come off on the third Tuesday in October, 1872. That is exactly the scope and description they have given in the first count. It was to intimidate divers citizens of African descent from voting at that election to come off in 1872.

Where is there a particle of evidence that he has entered into such a conspiracy as that? Put your hands upon your hearts and answer that question. Has a single witness testified to you that this young man has entered into such a conspiracy as that? If you should find him guilty of that count, you must find that he entered into that particular conspiracy—not the general conspiracy; I will come to that by and by—to prevent their voting at a special election. It is not a conspiracy against general elections; it is a conspiracy against a special election, named and described in the count, that you are called upon to answer to under that first count. What is the second count? It still remains in the indictment.

But I must caution you against supposing that you are to try this defendant for what is alleged in that count, and I am glad that you are not to try him on that second count. What is it? They charge that Robert Hayes Mitchell, with a number of others, did conspire, with intent to injure, oppress, threaten, and intimidate Jim Williams; with what intent? To prevent and hinder his free exercise and enjoyment of a right and privilege granted and secured to him by the Constitution of the United States, to wit, the keeping and bearing of arms. That is the particular conspiracy stated there, gentlemen; that was precisely what my client was after. On that famous night of the 6th of March, as I will show you, he was on his way to Williams's house to get his arms out of his house, and to secure them from any further use by him. Right or wrong, that was his purpose; that was what he was after; and, therefore, as that was an unlawful thing, as the law does not authorize him to break into another man's house to get his arms, if they had adhered to this count, this defendant, notwithstanding all that could have been said by my learned colleague and myself, would have been convicted. You would have had plain proof before you that the purpose of that party, and this young man as a member of it, on that night of the 6th of March, was to go to Jim Williams's house and to get his arms; but, gentlemen, that count is no longer in this indictment. It is dismissed; it is no longer under your consideration. What is in this third count? It alleges that this defendant conspired, with others, to threaten, intimidate, and oppress Jim Rainey, &c., for voting at an election on the third Wednesday of October, 1870.

There is a very specific charge that this young man conspired with others to injure Williams, because he had voted at the election held in the fall of 1870. Gentlemen, where is the proof of that? I would like to know. That he entered into a specific conspiracy of that kind to injure Williams, on account of his having voted. Recollect that is what is charged in this count; that he conspired to injure Rainey, by breaking into his house and taking his arms. But he conspired to injure him simply on account of his vote, given at that election, and that alone. Now tell me, gentlemen of the jury, where you find a single witness who testified that this young man entered into any such conspiracy as that. Now, what have you got on the subject of conspiracy? Now, there were conspiracies enough, according to the witnesses, but what are they? Conspiracies growing out of this written agreement which makes the constitution of the Ku-Klux; that is, the conspiracy of my learned friend, the attorney general. Let us admit that it is, for the sake of argument, a conspiracy to put down the radical party. Are we charged here with a conspiracy to put down the radical party? There is no such thing here. We are charged with a conspiracy aimed at Jim Williams alone. The conspiracy which they prove out of these papers is a general conspiracy against the whole radical party. What next? They say that the acts of the parties engaged in the Ku-Klux organization show that they intended to put down this radical party by murdering all the white radicals and by whipping all the black radicals, by controlling all the elections to be held, and prevent white and black radicals, indiscriminately, from exercising the right of voting. A general conspiracy against the whole party; a general conspiracy to control all elections; this is the nature of the conspiracy they prove. Now you may think because they prove a conspiracy a great deal worse, infinitely more general and pernicious than this that is charged, therefore you can find him guilty of the particular thing; but, gentlemen, such is not the law, and I will now proceed to address the court on that part of the case, to show you what is the law of the case by which you must be guided.

May it please your honors, I was urging that in this indictment the charges are of a particular conspiracy, and that the defendant could only be convicted by proving this particular conspiracy; and I stated that the proof, as claimed by the attorney general, was only as to a general conspiracy; a general conspiracy to control all elections; a general conspiracy to put down the radical party; to kill, as one said, all the radical white voters and to whip all the radical negro voters. Now, give the proof as large a scope as possible, and it is proof only of a general conspiracy. They have charged a particular conspiracy in the first count and a particular conspiracy in the second. The

conspiracy charged in the first count did not aim at all elections, but against certain individuals, of African descent, being above twenty-one years of age, to prevent them from voting at a single election, viz, that of October, 1872. The conspiracy is confined to that election alone.

The second count specifically charges a conspiracy against a single individual, Rainey, on account of his voting at the election held on the third Wednesday of October, 1870. I said to the jury I had heard no testimony as to this specific conspiracy. And now, may it please the court, are these special conspiracies made out by proof of a general conspiracy?

I first refer your honors to Greenleaf on Evidence, page 101. [The counsel here read the authority.] Now, here the particular intent and particular conspiracy is to oppress and injure Rainey. They give no evidence of that particular conspiracy, but of a conspiracy, in a general way, against all radical voters. I also refer your honors to volume 3 of Wharton's Criminal Law, page 349. [Mr. Stanbery here read the passage referred to.] We see from this authority that, where a special conspiracy is charged, it cannot be proved by showing a general conspiracy; and that the converse is also true, that a general conspiracy cannot be made out by proof of a special one. Therefore, proof of a conspiracy to put down radicalism and defraud radical voters out of their votes, and to oppress them, will not sustain a charge limiting the intent to one voter by name. I now refer your honors to a reported case in seventh Metcalf's Massachusetts Reports, page 509. [The counsel here read the authority referred to.]

It was not necessary to enter into particulars. In the first count it was not necessary to say that the conspiracy had for its object a single election of 1872. But they have described that conspiracy as limited to one election, and, this being a descriptive allegation, it must be proved. You call this man to defend against a particular conspiracy to prevent people from voting at a special election, naming the election. At that time the fact was the conspiracy that he entered into, and they expect to make that out, that he had not entered into such a general conspiracy, but had entered into a general conspiracy against voting at all elections. That will not do, as will be seen from what I have read, and I think my friend, the attorney general, would not object to that. I have said that, in the judgment of my learned colleague and myself, the indictment fails for want of proof. Now, gentlemen of the jury, I hope you see the points I make. I do not stand here to defend this prisoner against all conspiracy; I concern myself only about this case. I don't stand here to defend him from implication in the murder of Rainey, for he is not on trial for that murder. I don't stand here to defend him against a general conspiracy, for he is not so charged. But they have chosen to charge him with entering into a special conspiracy against parties intending to vote at a special election—a conspiracy that did not embrace any other election but that special one in 1872—and I ask you, upon your oath, is there a particle of proof that he entered into such a conspiracy as that? Have you heard a witness say one word about his having entered into a conspiracy to interfere with voters at the election in 1872?

As to the third count, where is there a particle of evidence that he conspired to injure and oppress Jim Rainey for having voted at the election of 1870? The gentlemen say we find it in that raid of March, 1871, in which he was engaged. They say the parties went into that raid to punish Rainey for having voted the republican ticket at the election of 1870; that is what they say was the purpose of that raid; that was the purpose in the mind and heart of that young man when he joined the party that night. Now let us carefully examine the evidence as to the motive and cause of that raid, and whether it was a matter relating to voting at all.

Now, gentlemen of the jury, go back to what had happened before that night of the 6th of March. As early as the month of August, in the year 1870, the governor of the State, according to the evidence, had placed in the hands of certain of the colored people of York County arms of the latest improvement, breech-loading rifles, called, I believe, Winchester rifles, the most improved and deadly weapon of that sort yet invented for rapid firing at long range. It was this sort of weapon that the governor had placed in the hands of these people, organized as militia companies. Why is it necessary that a weapon such as this should be given to this organization, and how did it happen that not a single gun is given to the white people? An election was coming on to be held in October; there was great excitement in that part of the country, not about the Ku-Klux, for there were no raids at that time, but about the election. There had been an organization of Ku-Klux in 1868, but it had died out, so far as Ku-Kluxing was concerned, before August, 1870. When these arms were placed in the hands of these people there were no threats from that quarter. Did the governor give any arms to the whites? Did he place any Winchester rifles in their hands? When he armed the black company of one hundred men, did he give arms to a white company of one hundred men? When he armed the blacks to defend themselves, did he arm the white men to defend themselves? No; he armed the blacks and left the whites defenseless. What further, gentlemen? Not merely one company, but at least three companies of black men were armed in that county with the public

arms, but not a single company of white men. A black face was a recommendation to him for a musket; a white face was no recommendation. I think, gentlemen, you will go for equality. I hope you of the colored race will not expect or desire to rule white men. You don't want to be better off than they are, do you? You don't want to stand above them, do you? You don't want to have arms and let them have none? Let me tell you, if you go for anything like that your triumph will be short and your doom inevitable, if you insist upon being armed while he is defenseless. Why, gentlemen, he will put a stop to that. If, instead of living on an equality with your white brethren, you seek to rule them, you will commit a terrible mistake, take my word for it, gentlemen. I am not an alarmist. You can only maintain your position here by fairness and justice to your white fellow-citizens.

Governor Scott put these arms into the hands of these companies; each have not less than one hundred men; for what purpose? It was for organization. Organization is an important thing. Say my friends, organization of the Ku-Klux is a dangerous thing, because in organization men act together, and bring together an amount of force which nothing but an equal organized force can resist. If an organization of Ku-Klux is dangerous, an organization of colored militia may be made even more so, armed, equipped, and drilled, and made ready for war, as Jim Williams's company was. Gentlemen, put yourselves in the position of these white people. You know there are as good white people in York County as anywhere else, and perhaps some bad ones, too; but, gentlemen, there are women there who are not Ku-Klux, innocent children who are not Ku-Klux; there are people there who must be protected. After these guns are put into the hands of Williams's company and the other two companies, what next? They go to work with active drilling before the election, drilling just as if another war was about to commence; not drilling with old muskets, with which men may learn the manual of arms, but drilling with these dangerous weapons. But why are these improved rifles put into their hands? It is expected there will be another use for them than simply going through the manual of arms.

They were intended to be put in a condition to be made deadly instruments; and they got bayonets, and shortly afterward by the agency of Jim Williams the company had fixed ammunition, balls all capped, ready at any moment to do their deadly work. What, gentlemen, did he want with fixed ammunition? Tell me that—why, if he only wanted to go through the manual of arms, and by way of amusement to go out and muster and play soldiers, if that was all, what did he want with fixed ammunition? If he wanted to make a noise with his guns, a little powder would have answered; but it was something more than noise that was required; it was execution. Therefore he got that which the soldier gets when he stands in the front rank of battle. He got a bayonet and two rounds of ammunition for every one of his men. Against whom did he intend to use them and under what circumstance? It looks to me now, before we go any further, as if there was some secret motive about it—as if there was some person or persons against whom those guns were to be used. He didn't get that ammunition to shoot away merely for sport. What, gentlemen, did he get it for, and what was he drilling his men for? Now, if you can't answer that question, I will put a witness on the stand that will answer it; and who is he? Jim Williams himself; he shall answer it. What did those rifles and your drilling and that organization mean? He shall answer himself. Nine witnesses that have been examined—five of them white men and four of them of your own color—nine of these witnesses have given his answer; and now what does Jim Williams say? Let him speak, gentlemen, for himself. Let us begin with that witness, gentlemen, who in point of time was first in order. Let us begin with Mr. Fudge; you recollect the witness, gentlemen; any man that has seen that witness and listened to him would not very soon forget him. He struck me as a man of no ordinary mark. Mr. Fudge tells you that he lives within a mile and a half of Jim Williams; that he had lived there for some time; they might be called near neighbors, and he was of the democratic persuasion, while Williams was a republican. He says, just before the election last October, Williams came up to his house and called him out, wanted to see him. He stood one side of the gate and Williams on the other, and said that "he would like that he would vote the same ticket with him." He was not coercing voters, but was persuading. Fudge replied that he should like to vote the same ticket with him. "I cannot vote your ticket," says Jim. "I cannot vote for certain persons," naming them, "can't vote for them at all," denouncing them as damned scoundrels. "You have got to come to vote for my men." Fudge replies, "you will allow me to exercise my own opinion and to vote my own way?" "Yes; but," says he, "I tell you if in this election that is now coming off, if in this election that is now coming off, my party is not successful," gentlemen, pause upon the word, "my party is not successful, I will kill from the cradle to the grave, and I will lay this county waste." That was the declaration he made at that time.

Mr. JOHNSON. That was before the election of 1870?

Mr. STANBERRY. Certainly; I say before the election he says, "If my party is beaten at this election, I will kill from the cradle to the grave, and I will lay this county waste."

They asked this man on his cross-examination, "Were you frightened at that?" "No, sir; I was not." "Why not?" "Because there was but one man—man to man;" and he says, "I have never been frightened at any man;" and I saw by his face, and the calm, frank manner of the man, that he would want no help when he was attacked by only one individual. But he said he had an anxiety about his family. We asked him, "Was Williams serious or was he joking?" He says, "He was serious." Do you believe, now, that this conversation took place? Do you believe Mr. Fudge is lying? What right have you, gentlemen, to disbelieve that man? His testimony has not been assailed by any one; his character has not been assailed by any one. Did the manner and conduct and appearance of the man induce you to believe he was telling a lie? No, gentlemen; the impression he made was in every respect favorable to the man—cool, collected, and determined; not alarmed, not at all—perfectly tranquil. Can you be justified in saying, "We cannot and will not believe him; the man is perjuring himself and attempting to deceive us with a false narrative?" But he does not stand alone.

Let us see, now, how he is corroborated; whether other men have heard the same declarations from Williams. The next in order, to whose testimony I will call your attention, is Lindsay. Fudge was a man of our color; Lindsay was a man belonging to the other race; he was a colored man. What does he say? Lindsay says that he lives on the road between Williams's house and Yorkville; that he was going to pay his taxes and fell in company with Jim Williams on the way—both on horseback—riding toward Yorkville; and he found from Williams that he was going up to Yorkville to get ammunition for his company. When was this? The Friday before his death. Now what took place? In the course of conversation with Lindsay he repeated this same threat that he had made to Fudge the fall before, almost in the same words. His words then were that he would kill from the cradle up; his words, as testified by Fudge, were that he would kill from the cradle to the grave. But to Lindsay, on that road, going for his ammunition, he said his purpose was to "kill from the cradle up." He next, just before his death, has a conversation with one of his own color, (Mr. McConnell—you recollect him well—a large colored man, with a loud, distinct voice.) In February, on the Sunday before his death, Williams was coming from Philadelphia church, and stopped at McConnell's house, and McConnell fell into conversation with him. He told McConnell he was going out himself, going out Ku-Kluxing; he was going on that business, and that they would hear of a mighty work to be done by him, and that the burnings that they had had were nothing to those he would hear of. "Was he serious?" "Yes, sir; seemed to be in what he said."

Again, Bratton, also one of his own race, says, a short time, in January, at Bratton's place, where he lived, Williams told him that he intended to rule; that he would Ku-Klux women and children. I don't know whether it was this witness, but to several witnesses he said he was going to make war; that he had been with Sherman; that he had learned how to make war, and knew how to do it. Again, with Mr. Atkins—the white man at the mill—he said to him, "Mr. Atkins, this fuss between the black men and white men, there is one way to decide it. Let us go out into the old field and fight it out, and if we gain I will take;" that is the word he used then, "from the cradle up." Then to Thomasson, colored, "I intend to sweep from the cradle up." Then to Long, at the blacksmith-shop. You recollect that conversation, gentlemen. It was after he had been down to Columbia this spring, and had returned. He came back dissatisfied, and said, with an oath, that the legislature was a set of drunken people, doing no good, idling and drinking, and that Governor Scott was no better than they were; indeed, he called him a damned rascal.

Mr. JOHNSON. Governor Scott?

Mr. STANBERRY. And said Scott had not kept his promises. Then what was he going to do? "Kill from the cradle to the grave." It seemed to be a favorite expression with him. What to some other witnesses? Why, if the Ku-Klux came down on him, what would he do? Kill the Ku-Klux. Was that the retaliation he said he would make? Kill the Ku-Klux? No; but if the Ku-Klux came to interfere with the black people he would Ku-Klux women and children. That was the way he intended to retaliate. I think I understood the attorney general to say retaliation was admissible. I was sorry to hear such a statement and such a doctrine as that, in a community where the races are in a state of antagonism. Why, gentlemen, if Williams had said, "If the Ku Klux come down here and injure me, I will go up there and retaliate upon them," even that would not be justifiable. But that is not the thing Jim said he would do, if those Ku-Klux came down in that neighborhood against the black people. What then? He and his company would Ku-Klux white women and children. the unoffending ones. That was the declaration, gentlemen.

Now, gentlemen, here is Mr. Lowry, who didn't hear Williams make these threats, but he heard of them. He met Williams and asked him if he had made them. "He gave me an evasive answer. I asked him if he had threatened to kill from the cradle to the grave." He did not answer or answered evasively, but at last he says, "I did make them."

Mr. CORBIN. I do not understand that he said that.

Mr. STANBERRY. To that gentleman, Mr. Lowry, he admitted the threats to kill.

Mr. CORBIN. No, sir.

At this point the court took a recess of five minutes. When business was resumed, the counsel for the defense continued his argument.

Mr. STANBERRY. Gentlemen, when the court adjourned I was stating what Mr. Lowry had said when he came back to the stand, and I stated that he then said that when he first charged Williams with having made these threats to kill, &c., Williams gave him an evasive answer, but on the second time that he made the charge against him, Williams admitted it was true.

[The reading of the testimony was here called for and the stenographer read it as it has already appeared.]

Mr. CORBIN. The distinguished counsel did not limit the statement the way he limits it there. He entirely misrepresented the testimony as we understand it.

The COURT. I think you had better let the counsel go on without interruption.

Mr. STANBERRY. I am not opposed to interruption, personally.

The COURT. We are, sir.

Mr. STANBERRY. I am never opposed to interruption when it is done in a proper manner.

Gentlemen, to resume, the question was whether this man, Jim Williams, had made threats. Now, mark it, gentlemen, it does not stand simply upon the testimony of the first witness; it is not confined to that talk with that farmer, but seven or eight other witnesses testify to the same threats—five white and four black—and one of them swore that Williams himself admitted to him that the threats which he had been charged with making he had made, and then said to him: "I was in Sherman's army and learned how to carry on war; I am a captain now, and understand how to carry on war, and I have got the authority from Governor Scott to carry on war." Gentlemen, such a man as that living in that neighborhood. Now, assume that he was a white man opposed to you in politics, your enemy, armed, with a company of white men at his back under his influence, threatening you with burning, threatening you that he would take your family from the cradle up, lay waste your property, would you feel quite easy, gentlemen? Would you consider that man a safe neighbor? One of two things you would do: move yourself from his neighborhood or lay plans against him and join a party to carry them out, even at the risk of your life. Why, if it were a single individual that was making these threats and had no power to support him, you might perhaps go to some justice of the peace and sue out some warrant and have him bound over to keep the peace; but when he is backed up by a formidable force, and is the captain of that force, what could you do with so many disciplined soldiers, each one subject to his orders and willing to obey him?

Now, gentlemen, whether he intended to carry them out or not is not the question. Did the people believe he intended to carry them out? Did it alarm the country?

What is the evidence? What is the evidence of those who did not hear threats from Williams? At midnight, the whole horizon lit up at times with incendiary fires. Ah, says the gentleman, but not until after the Ku-Klux had begun their operations. These peaceable citizens in York County, where there has been no Ku-Kluxing, are to be held responsible for the Ku-Kluxing up in the northeast part of the county. Are the people about Yorkville, and down in that part of the county where Williams lives—a broad belt, extending through from Yorkville fourteen miles broad and ten miles long, where there had been no Ku-Kluxing—are those peaceable men, with their wives and children, to be held responsible for these Ku-Klux? Is it any excuse to him, because he is raided on by others, that he should go and kill white men in that part of the county which is quiet; not that he should retaliate upon those Ku-Klux and their wives and children, but upon the wives and children of men who never had done him any injury, but were living in peace?

Now, consider what manner of man he was. Their own witnesses say he was a good boy. He had a very bad way of showing it. Do good boys make threats like these? Is that evidence of being a good boy in that neighborhood? I don't know; this man may have been a very good boy until he got these muskets, but he was a very bad boy afterward. His were the last hands into which such a dangerous arm as this should have been put. He was an infatuated man and a dangerous man. I have not heard lately of one more dangerous. He was not a drinking man or a thieving man. I guess he was all right upon these points, but I tell you the man was wrong; he was dangerous; dangerous, first, because he was not a mere drunkard or idler; he was serious in what he was about. What idea had the man got in his mind? That he had a mission to fulfill; that he was the champion of his race; that he was the man that was to lead the black man, not out of bondage, of actual bondage, but out of the bondage in which he was in the exercise of his rights as a voter and a freeman. He was to vindicate his race; he was to protect them from injury. How? Why? Under what circumstances? How was it to be done? In his mind it was to be done by force. He therefore had himself appointed a captain of the militia company. Then

he had them drilled again and again at night; accustomed them to the use of arms. Then he provided ammunition for them. He was doing all this and at the same time was saying, "I am authorized to make war and I am ready to go into it; come out if you want a fight, here in this old field—race against race. I challenge you to battle; and if I conquer you, take care of your wives and children and your property." This was the sort of man he was. Gentlemen, there were other companies in that county of York; there were two others, equally large and equally well armed. What is done? The fright, the danger into which these people fell had been heard, it seems, somewhere here at the head of the Government. Persons were sent there authorized to receive these arms, and the arms of the company at Yorkville and the other, both near these Ku-Klux operations, were surrendered; not one of them afterward molested. They lived there after their arms were given up, in peace and quietness. Who did not surrender his arms? The man who was at the safest and farthest distance from the Ku-Klux—Jim Williams. You listened to the testimony of that witness, gentlemen, who said that he saw Williams coming up the road with two or three men of his own color. He says they were quarreling, and the men turned up a road that forked near his house, but Williams came on to the house, and he said: "Jim, what is the difficulty?" "Why," he says, "they want to give up these arms, but I won't, and we quarreled."

Now, consider the condition of the people then. Imagine yourselves the white men and of opposite politics, with a wife and children unprotected in your house, without any organization to protect you, and a man, with a character and determination like Williams, had threatened that if any outrage was committed upon him and his people he would lay the whole country waste; that you would see a mighty work done, and that the fires that you had had would be nothing to such as would take place, and that he would lay the country waste and kill from the cradle up. Gentlemen, if I had lived there in the vicinity of Yorkville on a plantation, with my wife and my children, and such a devil as that was in the country—a man that would make such threats, and with a hundred armed men under his influence obeying his word of command; if there had been such a man in my neighborhood, I would have joined the first squad that came along to go and disarm them. I would have taken the consequences; I would rather take imprisonment, if necessary, than for one single night allow such a demon as that to be in my neighborhood; and that is what every one of you would do. Why, gentlemen, if you have the same consideration for your wife and children as I have, putting yourself aside entirely, could you sit quietly at your firesides, hear such threats, see these fires, feel that the whole atmosphere was full of panic and alarm—could you sit there quietly and do nothing? Why, you would not deserve to have wives and children. No; your first impulse would be to put down such a threatened danger as that, to disarm such a wild beast as that, and to disarm all those that were ready to follow him.

Why, gentlemen, I have no doubt that there were good and true colored men in that company that Jim couldn't get to go with him. I rather think those two or three colored men that quarreled with him would not have gone with him at the word of command. But some of them would, there is no doubt. You know what an influence over the race of colored people such a man will have, exciting their passions—accustomed to obedience as they are. Do not you know enough about your own race, gentlemen, to know that it wouldn't do to trust them; that it wouldn't do to allow them to follow such a leader? Are you immaculate? Is there no danger, gentlemen? I put it to you as intelligent men of that race, are there no circumstances under which you would be alarmed? Are there not those in your race that you would fear and dread; that you would not leave in your house without your own protection; that you would not dare to trust the life of your wife or the sanctity of her person with? Are there no such people in your race? Are there not bad men among you, and men who can be influenced by bad leaders. Now have you heard of any one that has quite as bad a record as Jim Williams, out of his own mouth and confession?

Let us see what this young man, the defendant, has done. He is a very young man, scarcely past his majority. Look at him. Does he look like a murderer? Does he look like a dangerous man? What kind of a man have they brought you among all these terrible Ku-Klux? Why, gentlemen, it is about the weakest case that they could produce before you. If they must have a Ku-Klux, let them get a right sort of Ku-Klux—a Ku-Klux that has injured somebody; get a Ku-Klux that was about a bad business when he was engaged upon a raid. Let us try this man by that standard. Why he is a Ku-Klux. He belonged to the society; he was sworn in. What did he know about the Ku-Klux at the time? Did he understand that it was a crime to go in that organization. Do you suppose Gunthorpe thought he was joining anything bad? Had he any motive other than for protection? Nobody could disclose the secrets of the order until he got in; but he was told it was for protection; and going into that society, gentlemen, could not make a man guilty, because he could not know, until after he got in and became advised of the purposes of that organization, that there was any wrong in it. If there was no wrong in Gunthorpe's going in, what

wrong was there in this defendant's going in? He knew nothing about these Klans, except that they were Ku-Klux, and he supposed, as well as Gunthorpe, that they were organized in self-defense.

What did he do? He went to one meeting of these Ku-Klux, and to one alone, and it was for the simple purpose of electing officers. No pretense that any one told him that the purposes of the Ku-Klux were anything other than the protection of the people, he went on this raid of the 6th of March. Now, gentlemen, was there no provocation for going upon that raid? Was there no reason why there should be a raid that night, and why such an organization as the Ku-Klux should go on it? They were going against armed men and an individual could not go alone; it required an organization to go there and take away those arms. Well, what organization in that country could do that except those Ku-Klux? They required more people to go with them; they were making Ku-Klux that night; what for? To go upon that raid. Now, gentlemen, I have said that the provocation for the people to go there was not absolutely legal, but it was such a duty as no man would shrink from who felt the fears felt in that neighborhood from the danger of leaving those arms in the hands of those men.

He appeared on that Pinckney road, and, with him, four other young men, belonging to one family, called the Shearers. These four boys were there, and, I think, one or two others. He said they had on no disguises, and when the party arrived from the Briar Patch they initiated those four Shearer boys. What did they know about Ku-Kluxing? They just took the oath, right there in the road. What was the purpose? Everybody understood it to be the purpose of that meeting—the testimony is abundant from their own witnesses as well as ours, that the object of that particular raid was to do what? What is the answer? To disarm Jim Williams and his colored company; to take away the arms. That was the purpose. Was it to take away his vote, or to punish him for having voted? Did those young men hear any such purpose as that? Did the defendant join or conspire to go with any people there? Not at all. No evidence of it whatever. Did he hear any one say in that crowd, on that night, that they were going to punish Jim Williams for having voted the republican ticket at the last election? Why, says my friend, the attorney general, being in that crowd, although he may have gone there for the purpose of disarming Williams, yet he is responsible for anything that is said by any one in that crowd. Why, that is new law to me, Mr. Attorney General, and, besides, it is not good law. With due respect to the attorney general, the declaration of a party who is a co-conspirator in the furtherance of the conspiracy, is evidence, but not a declaration foreign to the purpose of the conspiracy. I am assuming that the object of this particular conspiracy that night was for the purpose of disarming this man, and not to interfere with his vote. I am taking it for granted that the proof is conclusive; but you say that another purpose was mentioned by some one in that cavalcade, though not heard by the defendant. They stopped in a piney field before they reached Jim Williams's. Who stopped there? This is one of the men who stopped. He didn't see Jim Williams that night; he did not go to his cabin that night; he came there, hitched his horse, and sat quietly down on the hill-side. The detail of ten men went to Jim Williams's. What did this young man suppose they were going there for? He supposed they were going to get Williams's arms. Gentlemen, there may have been men in that body—leading men there—who had a worse intent against Jim Williams than to get those arms. Gentlemen, I very much fear that there were some men there who secretly intended to take that man's life, and perhaps they had secret appliances with them. That may be; but they took care, gentlemen, to keep the secret from this young man and his companions that night. Why, gentlemen, it is true that this young man was willing to go when it was announced that they were going to take Williams's arms; and there was a strong excuse for his going. Suppose these men had said, "Now we are going to take Williams's arms away; we are going to take his life away; here are the appliances; we are going to use these ropes." Would this young man have gone with them? At least, gentlemen, can you find that he would have gone when he has had no opportunity to speak for himself? But this young man supposed he was going for what he considered a proper purpose, and what I would consider a proper purpose if I had lived in that neighborhood. How, in God's name, gentlemen, can you make him responsible for the horrid outrage that followed. Why, gentlemen, did not the men that were detailed to go down there and seize the man suppose they were going for his arms? They were absent about an hour or less than an hour, and when they returned they were silent; the question was, "Have you got the arms?" No response whatever, but some showed guns; in a little while Dr. Bratton, in answer to a question put to him by some man where Williams was, said, "He is now in hell." Gentlemen, I do not stand here to justify Dr. Bratton, but to defend this young man; let Dr. Bratton answer for himself, and do not hold this young man guilty on account of his misdeeds. I do not justify that horrid outrage that was committed there that night. It makes my blood run cold to listen to the relation of it; after they had got his guns to take him out from his family, and

without a moment's time to make his peace with God, to launch him into the other world, and upon their return to speak of it in the impious manner which has been detailed!

Gentlemen, the right man is not here; you have the proof, but not the offender. When he or they, whoever they may be, shall be arraigned, then will be the time to mete out the just measurement of such a crime; but, gentlemen, I beg of you not to confound the just with the guilty. I pray you, gentlemen, do not allow your feelings to run away with your judgment, but deal fairly with this man, now before you; measure out justice to him. If he is not found guilty of these offenses, gentlemen, acquit him, and you will do honor to yourselves and give a guarantee to the community that a black man knows how to acquit as well as white men, and hold in even poise the scales of justice. But, gentlemen, if you must always have a victim; if, when the right men do not appear, you can get any man with a white face and punish him, vicariously, I do not want to see one of your race on a jury again.

SIXTEENTH DAY'S PROCEEDINGS.

DECEMBER 18.

The court met pursuant to adjournment. Hon. Hugh L. Bond, presiding. Hon. George S. Bryan, associate judge.

ARGUMENT OF HON. REVERDY JOHNSON.

Gentlemen of the jury, more than a day having elapsed since you were addressed by the attorney general, and by my colleague, it is possible, notwithstanding the close attention you gave to each, that your minds at this time may not distinctly recollect the points which the case involves. I propose to set them before you, before considering the evidence which has been offered on either side to support the charges in this indictment, or to disprove them. But there are some general considerations with which I hope you will indulge me, which seem to me to be not wholly, if at all, inappropriate to the occasion. Like my colleague, this is the first time that I have been called upon to address a jury composed in part of our colored brethren. But I beg you to be assured, and I know when I give you that assurance that you and the court will believe me to be sincere, that on that account I entertain and apprehend no prejudice which can in any way affect your verdict. I have no prejudice, I know, and I believe that your good sense and your native intelligence and your desire to be right will not permit you to indulge in any prejudice against the race to which I belong. We are all children of the same Father. In the dispensation of His power and for the purpose of effecting some object of His own, He has given to some of us one complexion and to others a different one; but from the first, when I was able to think upon such a matter, down to the present time, I never doubted that He endowed us all with the same faculties, gave us the same feelings, implanted in our bosoms the same instincts, and above all, intended that we should be alike the servants of our Great Creator. Nor do I apprehend any danger to the prisoner at the bar from the fact, if it be a fact, that some of you have not been educated. If it is so, it was owing to no fault of your own; if it is so, it is your misfortune; and, I believe, the misfortune of the country. In my view, and in that I follow out the precepts of our fathers, and, I think, the teachings of our religion, you are entitled by nature and by nature's God to all the rights which the white man claims himself to be entitled to. One of the objects of our common creation was happiness; but this world is more or less, under every circumstance, a world of trouble, and in order that we should all be happy it was necessary that we should have some rights, without which the possession of happiness could not be obtained. Ignorance, gross ignorance, may comfort itself with the assurance that it enjoys something of happiness whilst it may remain in a state of slavery. The mere comforts of the physical man may be his; the love of his family and of his children may fill his bosom as it does the bosom of the more intelligent and enlightened, but in a true and comprehensive sense happiness is not his lot. Nothing is more true than what has been said that "the hour which makes man a slave takes half his worth away." The author might have gone further and have said that it not only takes half, but all, his worth away as a man; and the moment he becomes a slave, happiness in the true and general acceptation of the term, in the sense in which the term was used, is not to be achieved. And our fathers therefore said in that declaration which was born never to die, that man, by nature, is endowed with certain inalienable rights, amongst which are the rights of life and liberty. They placed the latter upon the same ground as the former; they seemed to have believed, and they believed correctly, that without liberty life itself is not worth the having. In the words of Cowper, "it is liberty alone which gives the flower a fleeting life its lost perfume, and we are weeds without it."

Gentlemen of the jury, white and colored, what I have thus said I have spoken from my heart, and have spoken it from my head. Slavery in my view has been the vice of the age. I thank God that it was not inflicted upon us by our own conduct;

it was fastened upon us by that mother country from whom we withdrew on the 4th of July, 1776, but it has continued until of late, continued more or less from necessity. How it was to be extinguished, what would be the consequences of its abolition upon the material wealth and safety of the people, were problems about which honest difference of opinion prevailed. Our fathers so thought when they draughted the Constitution of the United States by which they provided, as you will remember, that the importation of slaves—not in so many words, but in terms which necessarily include them, shall not be prohibited until 1803, a period of twenty years. But, fortunately for the land, the march of civilization, the progress of humanity, the teachings of the gospel, in England as well as here, had led almost the universal world to believe that such an institution is not only wrong and inhuman, but by the dispensation of God in relation to all wrongs and actions of humanity furnishes its own remedy and cure.

The war, as you know, occurred in 1861. South Carolina fired the first gun in that conflict, which resulted in the deaths of hundreds and thousands of men on either side, in our entire country. When I say that she fired the first gun, you must not understand me as imputing that she did what she thought she had no right to do. She believed, the large mass at least of her statesmen and people believed, that by the Constitution of the United States there was not only no prohibition upon any State to remove from the Union, but almost, from the very nature of the Government, a direct confession of the right.

Many of the best men throughout the land, without reference to a political party, entertained the same opinion. She did then in the commencement of that conflict what she believed she had a right to do. I think she was wrong, as it turned out for interest, fatally wrong, at least for a time. But from the first to the present hour, I have never doubted that however true it might have been, that though there were some few who were animated by ambitious aspirations, the large mass of the intelligence of the South came to the same conclusion and armed for the conflict honestly. But the war ended, as you know, and ended so as forever to put an end to what I think was an erroneous construction of the Constitution. The war ended, and these gallant men, who had almost surpassed the valor of their forefathers, as exhibited during the Revolution, are satisfied with the judgment of the God of battles. They submitted to the result. They are now citizens, with yourselves, of the common country, bound up with its destinies, and as willing and as anxious to maintain its honor unharmed, and to promote its prosperity as any class of men to be found in any part of our extensive domain.

You, gentlemen of the jury, who were once slaves, as I suppose some of you were, need not apprehend any return to that condition. There has not only been no manifestation of a desire to reduce you or your race again to slavery, but, my word for it, from my knowledge of the white men at the South, the attempt would be resisted at all hazards; and not only would you find resistance of such power and magnitude as to defy all such efforts, but the opinion of *mankind* would reprove such an effort in terms from which those who should be mad enough to make the effort would shrink back with shame and horror. Slavery, then, is gone, and I thank God for it. I speak it now in South Carolina, and in the presence of those who, perhaps, at one time thought it a divine institution. Slavery is now at an end, and, while I thank God for it, I trust in the mercy of heaven that it will never be permitted to settle anywhere in any part of the civilized world. But, gentlemen of the jury, there is one other topic in relation to which I beg leave to make a few remarks. Mr. Attorney General, in his speech in opening this case for the prosecution, asked, over and over again, "Where are the gentlemen who are parties to this conspiracy?" He said that *echo* answered, where? "Why is it that counsel from a distance have been brought to defend this conspiracy? Why," says the attorney general, "they are here in their professional capacity; they are not knights-errant." Well, as far as I am concerned, I am too old to be a knight-errant; but my friend, the attorney general, will permit me to ask, in relation to such—although it was not intended to be an insinuation—to such an insinuation, what brings him here? As the attorney general of the State it is not part of his duty to conduct this prosecution; the *sphere* of his obligation is South Carolina—South Carolina laws and South Carolina jurisdiction. If outrages more or less abominable have been perpetrated, it was the business of Mr. Attorney General to see that they were properly prosecuted by the State courts. As attorney general of the State, he has no official right to be here. He is here, then, under the operation of some retainer. He is no knight-errant more than we are; and, from my knowledge derived from a short acquaintance with him, I do not think he has any particular desire to play knight-errant. My colleague and myself, then, are in the same condition in which he is placed. He is discharging a professional duty, and so are we; and as we shall respectively discharge it we shall be entitled to credit or not. That he is entitled to credit nobody more willingly acknowledges than I do. I have listened to his efforts during the progress of this trial, and to his argument before you on Saturday, with unmixed delight, and I saw in it, throughout, the evidence of coming eminence, because of existing

ability. I believe, if he pursues the profession as he has commenced it, it will place him (if he is not already placed) at the very head of the profession which even now he adorns.

But Mr. Attorney General has remarked, and would have you suppose, that my friend and myself are here to defend, to justify, or to palliate the outrages that may have been perpetrated in your State by this association of Ku-Klux. He makes a great mistake as to both of us. I have listened with unmixed horror to some of the testimony which has been brought before you. The outrages proved are shocking to humanity; they admit of neither excuse or justification; they violate every obligation which law and nature impose upon men; they show that the parties engaged were brutes, insensible to the obligations of humanity and religion. The day will come, however, if it has not already arrived, when they will deeply lament it. Even if justice shall not overtake them, there is one tribunal from which there is no escape. It is their own judgment; that tribunal which sits in the breast of every living man; that small, still voice that thrills through the heart, the soul of the mind, and as it speaks gives happiness or torture—the voice of conscience—the voice of God. If it has not already spoken to them in tones which have startled them to the enormity of their conduct, I trust, in the mercy of heaven, that that voice will speak before they shall be called above to account for the transactions of this world; that it will so speak as to make them penitent; and that, trusting in the dispensations of heaven, whose justice is dispensed with mercy, when they shall be brought before the bar of their great tribunal, so to speak—that incomprehensible tribunal—there will be found in the fact of their penitence, or in their previous lives, some grounds upon which God may say, pardon.

Gentlemen, you are not, therefore, to be prejudiced against my friend and myself because we are here, and because we have engaged in the defense of the man on trial. Be assured that if I believed he was the murderer of Williams he would find no defender in me; but we are both heard for a different purpose. We believed, and, from the course of the studies in which we have been brought up, we might be excused for believing, that we understand the political institutions of our country; and with that understanding we both came to the conclusion that the two laws of 1870 and 1871, under which these proceedings in your State had been going on for some time, were unconstitutional and violative, not only of the rights of your State, but of every State in the Union, as well as the rights of the individual citizen. We came, therefore, to see if that question, or some one question arising under those laws, could not be transmitted to the Supreme Court of the United States, whose judgment would fix, in these respects, the true construction of the Constitution. We have succeeded in part. You have heard, I suppose, gentlemen, and understood, during the progress of this trial, that the only way in which a criminal case can be brought before the Supreme Court of the United States is because the tribunal before which such a case originally comes divide in opinion upon some such question. They have divided; they have announced that division already.

There are here now two questions before you upon which their ultimate decision has not been pronounced. They may divide upon them, and they also can be carried to the Supreme Court of the United States; but, whether they go or not, there is *one* to go there, and I hope when the time comes for the discussion of that question in that tribunal I shall have the happiness to meet the learned district attorney and my friend, the attorney general, if so long an absence from his official duties will permit him to be there. Then we will see who was right and who was wrong.

Now, gentlemen, with these remarks, which, as I told you, I thought were not inappropriate to the condition in which I stand, let me proceed first to state what are the points involved in this indictment. It originally had three counts, as the lawyers term it; that is, three separate and independent charges of crime or misdemeanors, neither dependent upon the other, each separate and distinct. What were they? The first was conspiracy, by intimidation and other illegal means, to prevent colored men from exercising the right of suffrage, in October, 1872. The second was for conspiracy to deny to James Williams the right to bear arms. The court, (that question having been before them in an antecedent case,) the moment that count was stated by the district attorney, said, "We cannot try that under this law, as yet." "But," said the district attorney, in a moment almost of professional enthusiasm—he abandoned what he had said, more than once, was the very thing he wanted to try; he seemed even to treat (although I am sure he did not so design) the suggestion of the court with disrespect, by proclaiming, in the face of the court, "I will tear the indictment to pieces." We had done that for him, in a great measure. And his mode of tearing the indictment in pieces was to say that they did not propose to risk the part which formed the offense, contained in the second count. I do not know, from what appears to my colleague and myself, that he has not some lingering hope that he may induce you to convict, not on any charge contained in this count, but because you may be induced to believe that the charges contained in the other two counts are more or less proved by the charge contained in the second count. If he shall state that in his speech, gentlemen, there is the corrector, [pointing to the court,] and the correction will be sure to be ad-

ministered. I think, then, the third count is not for conspiring to prevent poor Williams from exercising the right of suffrage in October, 1872, but to punish him for having exercised the right in 1870, or some antecedent period. There was no antecedent period at which he could have voted, except October, 1870, and the charge, therefore, is that these men went to his house for the purpose of punishing him, frightening him, not with a view to prevent his voting in 1872, but to punish him for having voted in 1870. And when do they say that they went there for that purpose? On the 6th of March, 1871—several months afterward.

Now, as you will see, gentlemen, each of the two counts that remain—the only two counts which can be submitted to you; the only two counts upon which you have a right to consider the evidence as applying here—are, the first, which denounces him for entering into a conspiracy to prevent voting by his race in October, 1871, and the other for conspiring to punish Williams as a voter, for voting at the antecedent election of 1870.

I will proceed to consider those two counts in their order, gentlemen, and if I shall weary you I beg you not to hesitate to let me know it. I will endeavor, however, not to do so. The conspiracy, then, in this count, is a conspiracy against the elective franchise. The particular exercise of the elective franchise against which the conspiracy is alleged to have been made was the franchise to be exercised in October, 1872. Is there any evidence of that, gentlemen? Mr. Attorney General said that there were two modes of establishing a conspiracy, one the written evidence exhibiting the object and scope of the conspiracy; the other, acts in furtherance of the conspiracy. Let me take the last first. What is the written proof—the written proof upon which the prosecution relies? Some of the witnesses say that as far back as 1868 a conspiracy was formed, with the view of defeating or hindering the exercise of the franchise by the colored race and that portion of the white race who, in the judgment of the prosecution, seemed to be entitled to a special honor because they belonged to the radical party in 1868. Who proves it? One or two witnesses say that they understood the association to be a political one. One, only one, man swears that he understood that the political object of the association was to be accomplished by killing white radicals and whipping the black. Who is he? A Mr. Gunn. Nobody else. Not another witness who has been examined on either side states that. Some of them say that they believed it to be political; they believed the object was to put down the radical party, and, as a consequence, to elect the democratic party. But Gunn stands alone in swearing that it was to be achieved by the assassination of the white radicals, and the merciless whipping of the blacks generally. If reasonable conclusions can be drawn from evidence, there is not one word of truth in his statement. Why did he become a member of the order? What did he do? He went upon one or two raids. There is the man who, from a mere sense of duty, divulged the secrets of a conspiracy of which he was a member, and in the execution of which he joined in raids—tells you that he knew when he joined it that the object was to assassinate the whites and to lacerate the blacks, and yet he continued to be an honored member, went upon raids with the full knowledge that the design of the conspiracy was what he states; participated in the efforts to carry out that design, and, when upon the stand, didn't blush to tell you that it was not until some months afterward that he woke up to the obligation, which, as a citizen of the United States, he was under to inform the authorities.

Mr. CORBIN. I notice the distinguished counsel is misrepresenting the testimony. Mr. Gunn did not go on any raids.

Mr. JOHNSON. Well, my recollection was otherwise; but I will assume now that the counsel is more correct than I am, because he had not only the evidence given on the stand, but he had it in advance, all written out.

Mr. CORBIN. That is a mistake again.

Mr. JOHNSON. Well, I don't know. If somebody didn't write it out, then you had a paper before you that there was nothing written upon, that is all. But if nobody wrote it, and if there was no paper before you in writing, there was at your elbow one who could tell you everything. I don't mean the attorney general; I mean the gentleman who has figured so much in carrying out the purposes of his command—who has ordered seizures to be made in the night. I am not blaming him if he was acting under orders. He has had the witnesses more or less in his own camp, probing them to the bottom, and has been acting, throughout this trial, *quasi*, as legal adviser, which I suppose he is; if he is not, perhaps he thinks himself admirably qualified to be. Don't understand me, gentlemen of the jury, as accusing intentionally the gallant major with any wrong; but I think—it will not be considered improper in me to say what the General-in-Chief of the Army of the United States has said more than once—that I think an officer of the United States might be better employed. So said Sherman; so say I; and so, I think, when the history of the times is written, will say posterity. What does this innocent and fair man, who has become wakened up to the enormity of the conspiracy of which, until then, he had been a willing member, whether he raided or not? He goes to Georgia, attends meetings of this association, pretends to be one of them, conceals the fact that he had then, or on any day thereafter, intended to disclose the

secrets which he imagined were in his own bosom, deceives his confederates, plays false to his co-conspirators. He had taken the oath not to divulge. Well, what does he do? He learns that Mr. Akerman, lately Attorney General of the United States, (not now,) is some sixty miles off, in Georgia. It would be a pretty good thing in him if he took the railroad and made himself known to Mr. Akerman. So he did. He found the Attorney General; he told the Attorney General, as he says, substantially what he has testified here. But it was pure patriotism; he did not look to profit; his animating principle was justice; he was inspired with the love of breaking up an association dangerous to the community, of which he all along had been a member. And, having unbosomed himself to Mr. Akerman, he wended his way back without a dollar; paid his own expenses to and from the village where he found Mr. Akerman; and after he returned—about two or three weeks antecedent to this trial—his curiosity became aroused; he likes to see handsome things, and it induced him to go to Washington, a city that he had never seen; curiosity and his love of the arts carried him there; he wanted to see the city of Washington, the capital of our country, its great buildings, its beautiful squares; to partake, I suppose, of its refined society; and he visited Washington. What did he do when he got there? Why, he couldn't see well without stepping into the Attorney General's office; almost the first thing that he did was to go into the Attorney General's office. For what? He had told the Attorney General, he says, all that he knew at the interview he had with him in Georgia. What did he go there again for just before these trials commenced? Merely for the pleasure of looking at Mr. Akerman? Why, there may be a pleasure in that. I don't know. He is quite a good-looking man; but didn't he go for some other purpose? What was that purpose? It was to get the reward either directly promised before, or which he knew would then be promised, if he came here and put himself upon the stand as a witness. Is not the proof conclusive? What did Akerman listen to him for? The duties of this office under all circumstances are overwhelming. Why did he give this man, whom he had only seen once, an interview in relation to these trials? Can anybody answer? Didn't he promise to Akerman, in Georgia, that he might be relied upon by his evidence to support these prosecutions? He says no, O no, I had no such design; I visited Washington for no other purpose. Then what followed? Akerman goes to him, or he goes to Akerman, it is immaterial which, and, making his way through the adjoining room, in order to leave the office of the Attorney General, the clerk of the Attorney General says to him, "Here are two hundred dollars for you." What was the clerk going to do with two hundred dollars there? That is not a very safe place, from all accounts, to leave two hundred dollars on the desk, unless it is to be at once used. What occasion had the Attorney General or his clerk for \$200 that morning at that time? Why did the clerk arrest him as he was coming through the room, and tell him "Here are \$200 for you?" Why did he count it out? Why did he make him give a receipt for the money? It was because the money was paid in the execution of a promise that he should be paid. My friend, the Attorney General, told you that if we could only prove that such a promise was made antecedent to his disclosure, it would go very far, if not entirely, to destroy his evidence. Why, isn't it proved, gentlemen, by the circumstances? You do not expect that man to prove it, and they have not examined Mr. Akerman to disprove it; but just about this time he would be at leisure. Not a word from Akerman or anybody else, but this man suddenly and unexpectedly receives from one of the officers of the Attorney General two hundred dollars, and then he has the assurance from the stand to tell you, in answer to the questions propounded to him by my colleague, what it was given to him for. Do you believe that he conjectured when he was pushed by the examination that it may have been paid to him to pay the expenses which he had incurred in visiting Mr. Akerman in Georgia, a distance of sixty miles, the fare for which, I suppose, would have been five or six dollars, perhaps; the same to return—ten or twelve dollars in all. What a generous man Mr. Akerman is with the public money! If he had given his own money to a friend who was poor and unable to have borne the expense, it would have been a different thing; but he pays him out of the public purse. What right had he to do that? He paid him out of the public purse for his services, which, as he imagines, were rendered the public; for if not, he himself would be a defaulter to the amount of \$200. Why did he take a receipt? It was to show, after the money was paid, that he might not be called upon to explain. There was apparently nothing in the Department, in the office, to show that there was any debt due from the Government to Gunn; yet there was evidence in the breast of Akerman, and from the very nature of the prosecution, that it was paid for services rendered and services to be rendered, and he comes here with the two hundred dollars in his pockets, if he has not spent it, and he is the only witness who swears that the purpose of the conspiracy was to murder the whites and lacerate the backs of the colored people. Gentlemen, there is not a word of truth in it. He must be very little acquainted with the ways of men who can put any confidence in such a story. Well, now, what have they proved? They call up a witness, named Hope, one named Caldwell, one named Kirkpatrick, and one named Ferguson, members of the Klan, each one of them initiated on or about the

same time, and they each tell you that he considered the purpose of the association—was so informed when he entered into it—was for self-protection. Was there no reason, gentlemen, to suppose that self-protection might prove to be necessary? Why, the air had been heated by conflagration after conflagration; arms had been placed—whether wisely or unwisely I don't stop to inquire—in the hands of the colored race, and they were divided into companies; arms of the best kind; arms against which no squirrel-gun would be any protection whatever, no pistol; arms which, in the hands of skillful men—and they could soon become skillful—would kill almost at a thousand yards. Threats filled the air; an association had been formed not peculiar to South Carolina, but to the whole country more or less, called the Union League—a secret association. It is not for me to say that it was not an honest and patriotic association, I consider; but still a secret association. And all these things combined filled the minds of men and women with the thought that it would be as well that they should guard themselves against what might result from that state of things. No black man's house to be burned; no attempt to burn any; the conflagration extending far and wide, night after night, so that each poor lady as she laid down in her bed at night had reason to fear that she might wake and find her house in flames. What is the husband to do; what is the brother to do; what is the son to do? Bind themselves together as a defense against any such threats as were apprehended; and these four men tell you that, as far as they knew anything about it, that was the whole extent of the conspiracy. Don't they tell the truth; do not the district attorney and the attorney general believe that they tell the truth? If they do not, why did they bring them here as witnesses? Something they have proved upon which they rely, but when they ask you to put confidence in their statement—part of the statement—they at the same time deny that they possessed any title to confidence in relation to the whole statement. You have it, therefore, from four of the prosecuting witnesses, that the sole purpose of the association was self-defense; and you, gentlemen, would have been parties to such a conspiracy. Suppose the whites had been burning the houses of the blacks; suppose the whites had been threatening the women and the children of the black race, would anybody blame the blacks for combining to guard against such a catastrophe? Why, certainly not. Self-defense is a law of nature, written as a duty on the heart of every man as he comes from the hand of his Creator. For self-defense, therefore—for preparation for self-defense upon the part of the blacks who apprehended a conspiracy upon the part of the whites to do what the whites supposed was the conspiracy upon the part of the blacks, and was then acting on the defense in the name of justice and equality—was the combining together of the whites a crime?

Well, now, gentlemen, this young man joined in 1871—the young man now upon trial—joined the association in January, 1871. Is there any proof that anybody told him what the object of the conspiracy was in relation to the blacks? Not a word; not a word. He never was at but one meeting of their association, and upon this raid. And what did he suppose was the object of that raid? Why, look at the witnesses upon the part of the Government. Gentlemen, I cannot state all their names—they told you that the object of the raid of the 6th of March was to obtain guns, said to be in the hands of black men. Was that the object? If it was, it was not the object stated in either of those counts; if that was the design, as far as this indictment is concerned, it was an innocent design. Wasn't that the object? I think there are nine men who have been examined; their names I have forgotten—

Mr. STANBERY. [Reading.] Lindsay, Long, Lowry, Fudge, Hinson, O'Connell, Bratton, and—

Mr. JOHNSON. [Continuing.] There are nine—four colored and five white—they tell you that as far as they knew, and they went upon the raid, the purpose was to get these arms. Now suppose it was.

Mr. CORBIN. [Interrupting.] None of these parties were upon the raid.

Mr. JOHNSON. Some did go on the raid; however, I don't know that they all went. They speak—

Mr. STANBERY. [Interrupting.] Their witnesses went on the raid.

Mr. JOHNSON. Their witnesses went on the raid. Now, gentlemen, what was done? As far as this young man is concerned he went. He was ordered to dismount, stand with the horses, said several of the witnesses examined on the part of the Government against him. There is no charge from them, as far as they have stated anything about it, except to procure arms; he remained with the horses. On their way there they tried to get guns; on their way back they tried to get guns; they got guns, and at Williams's house; and there is not a particle of evidence even calculated to make you suspect that this young man entertained any other impression than that the object of the raid on that night was to get the guns from the hands of the blacks. Now that may or may not be our offense, but that is not the offense charged; that may or may not have been justifiable; but that is not your inquiry. They have abandoned that charge.

But the fact of making the charge, I beg you to bear in mind—the fact of making the

charge that this man, on that night, entered into the conspiracy to obtain arms, is evidence to show you that, in the judgment of the prosecutor, that was the object. They wanted a double chance of convicting the young man; if they failed in convicting him on the first count, and failed in convicting him on the third count, they supposed, upon producing evidence that the purpose of the raid was to procure arms, they would be able to convict on the second count; but the accusation to be found in the second count is at war with the accusation to be found in either of the other counts. This second count charges no purpose to interfere with the votes of the black race, charges no purpose to punish anybody with having voted, but is content with accusing the defendant with having, contrary to act of Congress, or some other law, which they tell us is to be found in the statute-book, denied to Williams the right which he had to bear arms. Now, gentlemen of the jury, suppose these four men, or however many there were—I forget the number whom the Government has examined, who are members of the association—went upon the raid, were now indicted before you for having conspired to defeat the blacks from voting, denying the right secured by the 1st section of the act of the act of 1870, or had been charged with punishing Williams in 1870, would you convict them, supposing their statement to be true? They can tell their story; the prosecutor has placed the defendant in a position in which he cannot be heard in his own defense. What right have you to suppose that he intended anything else than what was intended by the witnesses examined on the part of the Government? If you would not convict them, I do not see, gentlemen, how it is possible for you to convict the accused. He stands in a like condition exactly. They bring up the conspirators; they do not propose to proceed against them; they put them upon the stand and upon their own statement they would have no right, legally, to proceed against him. But they select this poor young man, just arrived at maturity, and ask you to convict him without the least particle of evidence that he knew anything of the object of that raid, except what was known to each one of the four men the Government is relying upon to convict him, first upon the ground stated by the attorney general that when a conspiracy is proved to accomplish a particular purpose and brought home to the knowledge of all in the conspiracy, the act of any one in the prosecution in the conspiracy is evidence against the rest. Now, I don't know, gentlemen, for I never saw this young man until this trial, and, for reasons which you understand, I have not been able to see him here, you are asked to convict him because Dr. Bratton, or some others associated with Dr. Bratton, on the night of the 6th of March, perpetrated a foul and disgraceful murder upon poor Williams. You are asked to convict him, because upon some other occasion, upon some other raid in which the defendant was not concerned, they perpetrated a gross outrage upon another man named Rainey, and upon his wife and his daughter, just as innocent of it as either of you; not to be convicted therefor, except upon the ground that the act of one is the act of all. Why, in the name of justice, is it that these prosecutors have not brought before you those criminals before—men upon whose testimony they are relying for the purpose of securing the conviction of this alleged criminal.

Gentlemen, I'm wearing out my own strength. I have not time nor strength to go through with this proof, and there is but one other consideration which, before closing, I will trouble you with. O, says the Mr. Attorney General, it was a horrid association; I do not use the language—he uses much better than mine—it was a horrible association; its object was to put down the radical party, not any political principle; that was not the purpose, but to prevent the radical party from coming into power or remaining in power. Why, that is something new to me, that that should be considered as an offense. I wonder what was the object of the Union League, if that was not to put down the democratic party—if that was not to guard against their coming into power. I suppose you all know what was the purpose of the League. It was to effect a combination to accomplish a political end—an end which those concerned in the League had a right to accomplish if they did it by any means that were not criminal or wrong in themselves. But now I suppose the gentlemen, looking at that object which the attorney general seems to look upon with the species of horror, that by their oath they had bound themselves to do what they could to put down the radical party.

Now, suppose then, gentlemen—I am imagining cases, or I am about to imagine a case—suppose you apprehended what might be the result of placing in the hands of the radical party the government of South Carolina; suppose you apprehend that one result, and a speedy result, would be to treble or quadruple the expenses of the government, would be to enhance the tax, if not in nominal amount, by enhancing the assessment of the value of the property; suppose you believed—I am not stating that the fact is not so—that the result would be to inaugurate an era of corruption, and that that would be found to pervade every branch of the State Government, executive and legislative; suppose that you believed that a debt of five or six millions would, under radical management, swell into a debt of fifteen or twenty millions of dollars; suppose you believed that the effect would be to tarnish the fair character of South Carolina, to blight her otherwise pure financial faith, to strike down her credit in the

market, do you think it was any offense, if such things are conceived as possible—such results were considered as reasonable—if they should bind themselves together to put down the radical party.

And, gentlemen, when I say the radical party, don't understand me as meaning to impute that there is not in the masses of that party as much honesty as there is in the masses of the other party. Bad men are to be found in all parties, and in these days corruption fills the air; every branch of the public service, more or less, is marked by it. Every day brings to the public view some startling defalcation; every hour they sink deeper into the faith and honor of South Carolina. Who is South Carolina? Gentlemen, from her politicians in modern times I greatly dissented; but who was South Carolina in former times? Who were the Marions, and the Sumters, and the Moultries, and the Johnsons? Who, with dauntless bravery and matchless skill, carried our fathers through the perils of the Revolution? South Carolinians! Who were the men who figured most conspicuously in the convention that gave to the world as well as to us the purest form of Government ever devised by man under Providence for men's government? The Pinkneys and the Rutleges! Who were those who contributed in the councils of the States to make the name of South Carolina honored throughout the land? The Lowndes and Calhouns! Then under their management South Carolina was one of the most peerless of the States. Now look at her! Her sons—and you, gentlemen of the jury, are equally her sons with those of the white race—her sons, all of them, if they do not now, will ere long wish the government of South Carolina had not fallen into radical hands.

A word further, and I shall have done. Well, now, the colored race and the white are embarked in the same great experiment. You have the same interest in that experiment that the white race have ever had or can have. You must wish—I am sure you do—that the prosperity and honor of South Carolina may be revived; and, whether you be radicals or not radicals, whether you be democrats or republicans, I am sure you will see to it that, as far as you can accomplish such an end, you will use your best efforts to redeem South Carolina from the sad plight in which she is now placed.

A word more, and I am through. Look at that young man. Mr. Attorney General could not help using the words that were in his heart, and, saying he was enticed into that conspiracy, he could not help saying to you, "I pity him." He could not help saying to you, gentlemen, he pitied him; he could not help saying that he wished that the men who perpetrated these outrages could be brought to justice. He cannot wish it more than I do—properly brought to justice. But this young man, who, as I understand, went through the perils of the unhappy civil war with manliness and courage, is now the husband of a young wife and the father of a little child. It is not proved that he made any attempt to do anything wrong, but upon him the wrongs done by others are to be visited, in the view of the prosecuting counsel, upon some notion of the law—is to be condemned—and, whatever may be the judgment the court may award, is to suffer that judgment. Can you, gentlemen of the jury, say guilty as to him upon the testimony of men who, by their own confession, are as guilty as he is?

Gentlemen, I am done.

ARGUMENT OF THE HON. D. T. CORBIN.

May it please the court and gentlemen of the jury, it is with pleasure that I announce to you the approach of the termination of the trial of this cause. I have no doubt it is a gratification to you and to the court. You, gentlemen, have sat with patience, listening, day after day, to the argument of the counsel upon legal questions, about which you are supposed to know nothing. The distinguished counsel on the other side have indulged in the widest latitude in the cross-examination of witnesses and in the introduction of testimony. In fact all the widest range possible of the cause has been permitted, and sufficient time has been consumed to tire the patience of us professional gentlemen, who are accustomed to such labor; hence, how far more the patience of laboring men, to which class you belong. But, gentlemen, throughout this trial, what I have said, what I have done, and what I am about to say, I have said and done and am about to say, in the discharge of a high public trust and duty, as the prosecuting officer of the Government of the United States. I take no pleasure in the prosecution of this single individual. I take no pleasure in the prosecution of any criminal, or his sentence, or his punishment. The Government, which it is my duty and pleasure to serve, is a Government of law. It is a Government that guards with jealous care the rights of its citizens—the highest cannot escape its power, the lowest feel its protecting care.

Gentlemen, we have lived over a century in the last ten years. The ballot, which is the symbol of power in this Government, has passed into the hands of those who were lately slaves, to be wielded by them in common with the white citizens of the country. The ballot, which has heretofore been, in the eyes of the colored race, the symbol of oppression, has now become to them the symbol of protection and the symbol of power. Not only the symbol but the power, in fact. The colored race, and I rejoice

in it, has been emancipated. Two hundred years of unbroken bondage have been terminated, and the slave who once traveled his lowly round, driven by the lash of a master, now stands forth a freeman, clothed with all the rights of an American citizen. In this case, gentlemen, we have charged, and we have attempted to prove, that these newly acquired rights, this franchise conferred upon the emancipated African, has been conspired against; that a terrible conspiracy has been inaugurated not only in this State, but in adjoining States, to rob our colored citizens of African descent of their newly acquired rights—the rights of American citizens.

Gentlemen, I do not wish to indulge, it is not my habit to indulge, in general discussions foreign to the issue before the jury. The gentlemen who have preceded me, the distinguished counsel upon the other side, seemed to be addressing themselves during a large portion of this time to somebody else than you—doing something else rather than trying to aid your minds in the solution of the question before you, namely, the guilt or innocence of this prisoner. Gentlemen, I shall reply to what they have said, that I deem important to reply to, in the progress of the argument.

In the first place what is the defendant charged with? The first count of the indictment charges that the prisoner, with others, unlawfully did conspire together with intent to violate the first section of the act entitled "An act to enforce the rights of the citizens of the United States to vote in the several States of this Union," &c., by unlawfully hindering, preventing, and restraining divers male citizens of the United States, of African descent, above the age of twenty-one years, qualified to vote at an election of the people in said district, &c. And by other unlawful means not allowing them to vote at an election to be held in October, 1872. The questions, then, are under this first count: first, did such a conspiracy exist; second, did this prisoner at the bar enter into or become a party to that conspiracy? Both of these are questions of fact, both are to be determined by you from the testimony given you here in court. First, did such a conspiracy exist? Upon that question we shall first present to you the constitution and by-laws of the organizations. Second, the testimony of its members, those who wore its gowns, used its signs, carried its pistols, blew its signal-whistles, and participated in its crimes. Finally, the testimony of the poor creatures who felt its blows, writhed under its scourges, and were made widows and orphans by its murders. First, gentlemen of the jury, the constitution—and you will mark that there is no question, no dispute about its authenticity.

The distinguished counsel on the other side in the conduct of this case have never hinted that this was not the constitution of the Ku-Klux Klan; they have never, by testimony or argument, attempted to persuade you that this was not a genuine instrument, a plan of organization under which the operations of this infamous order were carried on. What is this, gentlemen? What does it propose? The very first principle, the foundation-stone, upon which it rests, is, "We are on the side of justice, humanity, and constitutional liberty as bequeathed to us in its purity by our forefathers." Gentlemen, what does that mean, "constitutional liberty as bequeathed to us by our forefathers?" Let us dwell for a moment upon it. Our forefathers framed a Constitution which the Supreme Court of the United States has declared, over and over again, recognized slavery, protected slavery, and that the slave escaping from the State where he was held to labor, into any other State, should not in consequence escape from bondage, but should be delivered up to the person claiming his service. The Supreme Court of the United States have said that this meant that the master might pursue his slave into any State in this Union and return him to bondage. This was the Constitution, this the constitutional liberty in reference to the colored man that was handed down to us by our forefathers. That Constitution, the Supreme Court of the United States said, meant this, that the black man had no rights that the white man was bound to respect.

Mr. JOHNSON. They never said any such thing, I beg your pardon.

Mr. CORBIN. My distinguished friend may look in the eighteenth Howard, in the Dred Scott case.

Mr. JOHNSON. The judge that pronounced that decision is dead. If you will look into that decision you will find that so far from stating what the counsel says was stated, it was said that there was a time when a black man was supposed to have no rights which a white man need respect.

Mr. CORBIN. But that was the ancient Constitution; the court said that that view obtained.

Mr. JOHNSON. He didn't say any such thing. If there is any doubt of it, gentlemen, we can produce the books; the highest court in this country used no such language. The authority they relied upon was the legislation of the State, not the legislation of Congress. He cited for the purpose of showing the slavery in the colonies, and separate States, Connecticut, Massachusetts, and two or three Northern States, for the purpose of showing that slaves, or blacks, were treated as if they had no rights that ought to be respected, though he regretted it. He is dead now; and it is due to him that he should be vindicated from what seemed to be outrageous misrepresentations of his judgments and declarations.

Mr. CORBIN. Gentlemen, the book is there and the decision is there; it is to be read of all men; and I am not the only one in this country, but one of millions, who look upon that decision as a stain upon the records of the Supreme Court of the United States; but it was a decision of the Supreme Court of the United States, and as such gave interpretation to the country. But, gentlemen, there is no doubt about this, that this article of the Constitution protecting African slavery was in the Constitution as handed down to us by our forefathers, and that is what is meant in this first section of the Ku-Klux constitution. It meant more; it meant that we stand by the Constitution in that respect *as it was*, not *as it is now*—not with the thirteenth, fourteenth, and fifteenth amendments in it. It means, we reject the results of the late war. We trample upon these amendments of the Constitution, and we intend to destroy and defeat them. That is what this Ku-Klux oath meant, and the distinguished counsel on the other side cannot remove it by argument. Now what do they mean when they say constitutional liberty in its original purity? The thirteenth amendment of the Constitution abolishes slavery, and the fourteenth amendment protects the newly enfranchised citizen in his rights of property, and the fifteenth amendment protects him in the elective franchise. They said we trampled upon all that. We stand by constitutional liberty as it was given to us in its purity by our forefathers.

Let us examine the next principle of this Ku-Klux instrument. "We oppose and reject the principles of the radical party." Not the radical *party*, but its *principles*.

Gentlemen, this is but a corollary to the first plank cited. What are the principles of the radical party? What are intended? What have we to infer from the first article of this infamous instrument? We oppose and reject what principles? Why, gentlemen, if any principle of the radical party has been prominent—if that party has discussed anything during the past five years and has accomplished anything—if it has made a record which shall be carried down through the distant ages, it has made prominent, discussed, accomplished and recorded, for all time, the thirteenth, fourteenth, and fifteenth amendments to the Constitution. These are the principles of the radical party, and they have been the chief objects and results of its labors for the last ten years. Other things have been talked about, but these have been the foundation-stones upon which the radical party was built; and I say to you, gentlemen, that when it accomplished the thirteenth, fourteenth, and fifteenth amendments, it had done, I had almost said, more than was done in the early Revolution in this country, and which severed the connection of this country from the mother country. These amendments will live when the names of parties are forgotten, but if names are remembered at all, they will be remembered as principles settled by the radical, or republican, party of 1866, 1867, 1868, 1869, and 1870.

But this organization proposes to defeat, put down, and destroy these principles of the radical party. Gentlemen, this organization which has this instrument for an exposition of its principles, is for the purpose of destroying the principles of the radical party, and the Constitution as it now is. Is there anything to lead you to believe their argument to be untrue? Read that paper for yourselves. Why have not the distinguished counsel on the other side told what it means; why have they not explained that instrument? They could not do it; they had the opportunity day after day, and hour after hour, to tell what it meant. They have heard it read, and it is in proof in the cause; you have heard the witnesses, and heard, as one after another has come upon the stand, that he took that Ku-Klux obligation first in 1868, and then from time to time up to last January,

Mr. JOHNSON. We did not know the construction put upon it by you.

Mr. CORBIN. As the counsel says, we have not called their attention to it. What did we put it in the case for? It is the foundation-stone, and the bottom of this organization. Now, gentlemen, how does the Ku-Klux Klan, the clients of my distinguished friends on the other side, propose to accomplish the object set out in the first article of their constitution? This constitution and by-laws shall answer: "Each member shall provide himself with a Ku-Klux gown; each member shall provide himself with a pistol, and each member shall provide himself with a signal instrument." A pistol, a Ku-Klux gown, and a signal instrument. These are the means. This is the way it proposes to carry out its principles. They propose to assault the rights of the colored voters in this country. They propose to do it in disguise, with pistols, and silence the human voice and direct all operations by the sound of a signal instrument; this is the way this organization works. It is speaking for itself; carrying out its fell purposes.

But they may say, "How do you know the organization is aimed at the colored men?" The by-laws say "no person of color shall be a member of this order." Why? They propose to assail the colored people, and could not do it if persons of color were permitted within the organization. Is there any doubt about this? The first and second principles announced in the oath, the means by which the purposes were to be carried into effect, and this fact, namely, that no person of color shall be a member of the organization, establish the character beyond controversy. This fell device, this foul design, points to the dark deeds of the Ku-Klux Klan. Gentlemen, in my judgment, we might stop here and ask for the verdict of guilty against this defendant.

Look at the paper itself; read and interpret it. It alone fixes the seal of guilt upon every member of this order, because, gentlemen, remember that a conspiracy does not consist in carrying out the objects of the conspiracy; it does not consist in killing Jim Williams; it does not consist in breaking down the houses, and in flogging thousands of men and women in York County—that is not the conspiracy—but the conspiracy is in the agreement, concerted purpose, the united purpose. But, gentlemen, we propose to go further, and not only to read you the agreement—not only to present to you the constitution of the conspirators, which the court will interpret to you, but to show you how this Ku-Klux Klan carried on its fell purposes. We will show you this, that the organization, the constitution, and the by-laws, the acts of the members, the voice of these midnight raiders, all agree and harmonize together; and, gentlemen, having shown you this, we shall ask you to pass your judgment upon the conspiracy.

Gentlemen of the jury, my assistant, the attorney general, has done me the kindness to get the book to which I alluded in the early part of this argument. It is 19 Howard, page 407, and contains the decision of the Supreme Court of the United States, and inasmuch as the distinguished counsel on the other side chose to contradict me most emphatically, I now propose to read in your hearing what the Supreme Court said in that case.

Mr. Corbin here read from 19 Howard the passage from Chief Justice Taney's decision, that the black man had no rights which the white man was bound to respect.

This, gentlemen, was constitutional liberty of the olden time; this was constitutional liberty of his party as bequeathed to us by our forefathers, the same as I said, gentlemen, a moment since. I propose to introduce to you two classes of witnesses as interpreting this memorable instrument, the constitution of the Ku-Klux Klan. First, I propose to introduce those who have been inside of the Klan, who have learned its dread purpose, worn its gown, carried its pistol, and blown its signal-whistle. Then, gentlemen, I propose to introduce to you those who have felt its blows and writhed under its scourging; and then I will introduce to you the widows and orphans, the victims of its cruelty.

First comes Mr. Gunthorpe. Gentlemen, you heard him upon the stand. He said: "I joined this organization in 1868; I took there some oath, as near as I can remember, as that in this K. K. constitution. I understood when I joined it that it was a society for mutual protection. When I got inside of it I learned that it was an organization in the interests of the democratic party, and I rejected it at once and withdrew from it. I didn't know that there was any danger from colored people, but did not know what might occur, and I joined the society for mutual protection. When I got into it I then found that it was a cheat and a lie, and I withdrew from it."

"But, Mr. Gunthorpe, how did you understand the purposes of the order would be carried out in 1868?"

The answer: "I was told that a meeting of the Klan had agreed that we should go to Rock Hill, and, by crowding the polls, prevent the radicals from voting."

This, gentlemen, was what this Klan proposed in 1868, as it interpreted itself; this was what they meant by being on the side of constitutional liberty as bequeathed to us by our forefathers; this was what they meant by opposing the principles of the radical party—depriving radical voters at the polls of the right to vote.

Does anybody dispute Mr. Gunthorpe? Is there a person here who questions his veracity? You have seen him, gentlemen, on the stand; no fairer, franker, or bolder witness ever stood there. He cannot be impeached. Who is the next witness? Mr. Gunn. We have had, this morning, an attack upon that gentleman. The distinguished counsel on the other side has followed him to Georgia; followed him to Washington; followed him back to South Carolina, and followed him to this court. And what do they say? They say he is not entitled to be believed, because he received from the Government at Washington two hundred dollars for the time spent by him, at its request, and the loss to his business thereby, all that he had lost in seeing the Attorney General of the United States, and giving him the information that he possessed; and, mind you, he received that compensation two months after the services were rendered.

Now, my associate, the attorney general of the State, said, and he said what was true, that no motive of a pecuniary character can be attributed to Mr. Gunn. He was not told in Georgia that he would be paid if he went and confessed to Attorney General Akerman, but he went to Cartersville, Georgia, to see him freely, and was not promised, if he went, one single cent, or a word said about compensation. He was without pay until he found himself in Washington four months after, when he went to the office of the Attorney General, and there the Attorney General gave him this compensation for his time and trouble. If the compensation had preceded the information, then they might have talked about it, and cast some slur upon him. But would it be, gentlemen, just and fair to discard and disbelieve the distinguished counsel in his argument here before you because you know he is to be compensated for his services? That will not do. I am here; my assistant, the attorney general, is here; the distinguished counsel on the other side are here, because it is our profession, and we live by our profession. You, gentlemen, live by your labors or professions; you must

be rewarded; you must be paid for what you do. Mr. Gunn, through his brother-in-law, to whom he revealed that a horrible crime was about to be committed up in York County, South Carolina, against Mr. Wallace, was reported to Attorney General Akerman. He did not seek the Attorney General first, but, having revealed the fact to his brother-in-law that he was inside of the Ku-Klux Klan, and that the Klan intended to murder Mr. Wallace, a member of Congress from York County, South Carolina, his brother-in-law communicated the fact to the Attorney General, and the Attorney General sent for him. Does he appear here as a swift witness? Is he here offering to sell his information to the Government? Not at all. But his heart (and I imagine it would have melted a much harder heart than his) relented when he learned that the Klan to which he belonged contemplated a most horrible murder, and, out of the goodness of his heart, he revealed the fact that should become known to the Government. Why did the distinguished counsel on the other side assail him? It was because his testimony is important; because he speaks the truth, now that he has been led to speak at all. He speaks boldly and speaks the truth. Could he not have concealed the fact that he received compensation? Is there any evidence except what he gives upon the stand? He could have concealed it. Had he lied in other respects, with the oath of God upon him, would he not have concealed this? Would he not have done so had he been such as the distinguished counsel would have you believe him to be? But no, gentlemen, he tells you the truth, frankly and fully. Further, every word that he has said of importance is corroborated, not only by the constitution and by-laws of the Klan itself, but by every witness who has testified in the case; so that, gentlemen, if you believe him to be a liar in general, particularly disagreeable to these gentlemen, (I don't allude to this to prejudice your minds against them, but I can well understand how it grated upon their ears; it was the fact that the Klan were raising money to pay them for their services here—gentlemen, I have not the eloquence or the strength of language to depict to you,) you must believe that, in this instance, at least, he has told you the truth. There is no ground for saying that Mr. Gunn is not to be believed; there is not a shadow of foundation for such an assertion. I do not like to allude to it, gentlemen, but it may be that there is a little information that came out in the testimony of Mr. Gunn. My hatred, my disgust, my profound horror of the Ku-Klux Klan and its deeds. I adopt the language of Mr. Johnson as he denounced it to you. No wonder that he felt annoyed at Mr. Gunn that the Ku-Klux were collecting money from their Klan in Georgia to pay him for his services for defending the Ku-Klux and brothers. What does Mr. Gunn say about this order? You saw him upon the stand; you saw how frankly and fully he testified. He says that the objects of this order are just what the constitution indicates them to be, and that its purposes are to be carried out by killing the white radicals and whipping the black ones. Gentlemen, is not that a startling fact for Mr. Gunn to make, in view of the other testimony in the case? Have they not, gentlemen, killed the white radicals, whipped, scourged, and broken black radicals? Has Mr. Gunn told you something that does not appear in this very case and throughout the testimony?

There is no question about it, gentlemen. I say if Mr. Gunn never told the truth before he has certainly told it now. He is inside the order. Why, the distinguished counsel assails him, and says he is just as bad as the prisoner, and asks, why does not the district attorney prosecute him? Why does he not stand with Robert Hayes Mitchell at the bar? Why, gentlemen, you know, and no person knows better than Messrs. Johnson and Stanbery, that the testimony of accomplices is constantly received in court, and not only received, but it is absolutely necessary to disclose the secrets of such an organization as this. Why, what is it? It is an organization bound together and bound by a most terrible oath, every man raising his right hand to Heaven and invoking the vengeance of Almighty God upon him if he reveals any secret of the order, and not only that, but invoking the doom of the traitor, which is death! death!! death!!! How, gentlemen, are you ever to come at such an order as that? Simply in this way: men who have become acquainted with its crimes and who know its purposes, who have since waked up to the terrible truth that they are felons, murderers, and have stepped forth and said, we will be so no longer; we will do what we can to break up and destroy this foul conspiracy, and make what reparation we can to the world for the part we have taken in it; we will tell the truth, and the world shall know of this Ku-Klux Klan. You have heard, gentlemen, all this testimony, and you are to judge of it; and these witnesses, in the light of repentant criminals—who are willing to offer themselves as witnesses for the benefit of society—we have used them, gentlemen, and we ask you to scan their testimony and give it its true value.

Next comes Mr. Foster. He has been inside this order; he has ridden on its raids; he has scourged the back of the dark republican, but he has repented it, and now he hopes to tell the truth. What, gentlemen, does he say? He says the purposes of this order were political, and that they were to be accomplished by intimidation—by whipping and scourging the members of the radical party; that in pursuance of this purpose he went on two raids. On the first raid, he says, we whipped five colored men. On the second we whipped four. Is there any doubt about this fact? Amzi

Rainey, one of the sufferers, has been on the stand. Also, one other has been upon the stand, Dick Wilson. Foster says: "Twenty of us went on that night and whipped them, and almost whipped them to death." What does Dick Wilson say? He says, "They did whip me. They bared my back and they scourged me till I was almost dead."

But does Mr. Foster not agree with and sustain Mr. Gunn? Yes, certainly, in every respect. On the other side, does the counsel assail Mr. Foster? Not in a single word. Foster speaks like a man who has passed through a horrible experience, who has suffered in his own conscience, and determined to repair the injury he has done.

John Caldwell appears next upon the stand. "They beat me with ramrods of iron and oak." Is there any doubt about this, gentlemen? Do the gentlemen on the other side question this testimony? Here is the slayer, and there is the slain. Here is the man who did the deed, and here is the man who suffered. Is the testimony of accomplices to be received? Is what they say not true, not supported by most indubitable proofs? What does he say? "I took that K. K. oath; I remember that I was to be on the side of constitutional liberty, as bequeathed to us by our forefathers, and that I was to oppose and reject the principles of the radical party. I was a member of the Ku-Klux Klan." Well, what did Mr. Caldwell do? He says, "I rode on the raid that killed Jim Williams. I was there. We met at the Briar Patch; traversed the road; met Robert Hays Mitchell at the Cross-Roads, near Esquire Wallace's; he joined us in disguise, and rode with us on the raid. We hung Jim Williams on a pine-tree. It is true I did not go up and see the hanging, but after it was over I asked Dr. Bratton what they had done with the 'nigger' and where he was, and he said, 'He is in hell, I expect.'" Here you have the conspiracy in motion; here you have the victim "hung on a pine-tree." There is no doubt, no mistake; there is no doubt about this raid. Is Mr. Caldwell to be believed? Let us slip over to the other side of the bushes, to the house of Jim Williams. Hear Rose Williams, the widow. She says that "They came to my house that night; they took my husband, Jim Williams, out, and the last I heard of him was a struggle, as though he was choking. I followed them to the door and tried to go; and begged them not to hurt him, but they drove me back and told me to go to bed with the children, but I did not; I looked through the crack and saw them retreating to the woods. I never saw him alive again. I saw him next morning dead, with a rope around his neck, hanging on a pine-tree." Is Mr. Caldwell to be believed? Ask the dead body of Jim Williams. Ask the broken-hearted widow, who has told, in simple language, of the loss of all she held dear. Ask the fatherless children.

Who is our next witness? Elias Ramsey—halting in speech, but honest in manner and matter. He says, "I was at the meeting of the Klan at Sharon church, York County. I saw this defendant there in the meeting of the Ku-Klux Klan. I rode on the raid and went with him. We met that dark cavalcade near Wallace's, and together went to hang Jim Williams. We joined the party and went in together. "Q. What does he say they did? A. I staid with the horses until the party returned and the order was given to mount, and I heard somebody say, 'We hung Jim Williams, no doubt of that.'" Next, gentlemen, we put upon the stand little Sammy Ferguson, the only support of a widowed mother, a lad of sixteen years, taken and initiated that very night. He takes the oath, goes to the Briar Patch, and rides on the raid to murder Jim Williams. These, gentlemen, are the acts of the Ku-Klux Klan. Do they not sustain the declaration of Mr. Gunn? Was it not true that they intended to kill and whip the radicals, or those who voted the radical ticket? Neither you nor I or the world will ever doubt it to the end of time. Gentlemen, you have listened to the testimony of those who were in the order. Now listen to the testimony of those that suffered. First, Amzi Rainey. And what does he say? He says, "I was quietly sleeping with my wife at home; my house was surrounded and the doors broken in, and they shouted, 'Where is the damned nigger?' I fled to the loft, and when my wife said, 'He is gone,' they commenced beating her over the head, telling her that she lied, and that they would kill her for lying. Shortly afterwards they discovered where I was, and I was brought down; and then the party who first assaulted my wife, returned and beat her again." They then knocked him to the floor, shouting as they did, to kill him. His little daughter rushed from another room, crying, "Don't kill my papa," when these villains fired upon her, hitting her in the head. After riddling the house with bullets, they took Amzi Rainey hence into the open air, swearing that they would kill him; and when two or three hundred yards from the house, one of them says, "No, let us stop; let us talk to him before we kill him;" and he turned to Rainey and says, "Are you a radical?" and he says, "Yes." "Will you raise your right hand and swear that you will never vote the radical ticket any more? If so, I will save your life." Rainey replies, "I will do anything to save my life." And he says, "I then and there raised my right hand to Heaven and swore, against my principle, that I would never vote the radical ticket any more. Then the commander of this Klan says to me, 'Come this way,' and he took me out of the crowd and said, 'run,' and he ran; and as he ran several rocks were thrown at him. This is the way gentlemen, and this is the method in which this Ku-Klux Klan proposes to stand by the Constitution in its origi-

nal purity, and this is the manner in which they propose to oppose and reject the principle of the radical party. The constitution of the conspirators and conspiracy in motion are all one, and are harmonious from beginning to end. Next is Dick Wilson. I have alluded to him before. He says, "They came to my house, and they commanded me to make up a light; they compelled me to go into the open air, and said, *'We will make a democrat of you to-night; pull off your clothing, stretch out!'* And he stretched out, and they beat him till they were tired, and they asked him, *'Will you hereafter vote the democratic ticket.'* And he said, *'I will.'* That is the way constitutional liberty is maintained by this organization. That is the way they oppose the principles of the radical party. Is there any doubt about this, gentlemen? The man who sits there helped to do it, and those who did it, and those who suffered, all concur, and neither you nor I nor the world, will ever doubt. Next comes Gadston Steel; he is of the colored race; he says, "They came to my house; they knocked at my door; a dozen of them seized me; their hands were all over me; a musket was before me, and a gun was behind me, and a pistol punched my head, broke the skin and caused the blood to flow. They first ask, *'Have you a gun?'* I told them no. They then, turning to the old man, say, *'What sort of a boy is this?'* The reply is, he is a good sort of a boy. They then ask, *'what ticket did he vote?'* He says, *'I must tell the truth; he voted the radical ticket.'* *'God damn him; we will kill him for that.'*" Here is the purpose of the Ku-Klux Klan, and this is the way they propose to defend constitutional liberty in its purity. They then take him up to No. 6 of the Klan. No. 6 makes him a very low bow, and with his horns hooks him and gouges him in the breast, and asked, where is Jim Williams? He does not know exactly where Jim Williams lives. Has he got any guns? "I don't know; but I think he might have." The poor man is near frightened to death with No. 6. "Get on behind here and go with us to where he lives." He mounts the mule and they start off; but the mule is not able to carry both, when this brother Ku-Klux, in language more forcible than polished, says, "This God-damned negro is too heavy." No. 6 answers, "Put him down," and he is put down. Then the Ku-Klux say to him, "Don't you vote the radical ticket any more. We are going to kill Jim Williams, and all you damned niggers who vote that ticket." Is there any doubt about this, gentlemen? Does anybody dispute this testimony? Do you doubt Gadston Steele? Not a word to contradict him—not a suggestion from the distinguished counsel on the other side. What do their expressions indicate—these night-rider cavalades of men? What is the object of their marching in darkness? It has been said to you that what was said by any of the conspirators was the language of the defendant here. The language of his associates was his language. Can there be any doubt as to why they proposed to kill Jim Williams? Can there be any doubt about the purposes of that band of armed men? No doubt whatever.

Who is the next witness? Hiram Littlejohn. He is a citizen of color, and has been upon the stand. What does he say? "They came to my house just before day. They were on their way from Jim Williams's, going towards Yorkville. They asked me for my gun. I told them that I had none but a double-barrel shot-gun, and they took that. Then they asked me what ticket did I vote? I told them I voted the radical ticket. *'Don't you vote it any more; do you hear? We killed Jim Williams to-night, and intend to rule this country, or die.'*" Here, gentlemen, you have the declaration of the Klan, while executing its mission on their way to kill Jim Williams, and on their way from the scene of his execution! Is there, I ask, any doubt about the purpose of this order? Out of their own mouths, gentlemen, by their own deeds, they are convicted. But, gentlemen, there is one piece of testimony which, to my mind, is equally significant with the direct testimony of these two men. You will remember that this band of Ku-Klux brethren, after they hang Jim Williams on the pine-tree, called at the house of John Bratton, and as they called him out and he came to the door they said to him. "What do you mean by having these guns upon your place?" He says, "I cannot help it. I ought not to be held responsible for what Governor Scott has done." They reply we will hold you responsible hereafter. He then says, "I am not a radical. I did not give them the guns." What made him say that? He knew the purposes of that order, and that their purposes were not only to take the guns, but to punish radicals. Hence, he said I have not given them the guns, and I have not voted the radical ticket. Here, gentlemen, we have unquestionably an unwilling witness declaring what he knew perfectly well were the objects and purposes of the Ku-Klux Klan, and of this body of raiders and murderers of Jim Williams. Behold, gentlemen, the dark deeds of the Ku-Klux Klan! Does not the civilization of the age start back in horror and stand aghast at the sight! Will not the world shudder as it reads the testimony of this trial, and will it not be said wherever it is read, the dark ages and the doings of savages upon our western frontier present no parallel to this? I join, gentlemen, with the distinguished counsel on the other side, who, in the goodness of his heart, could not stand here and defend the deeds of the Ku-Klux Klan.

Now, I have presented to you as briefly as I could, the evidence upon which we ask a verdict if guilty at your hands; and I propose now to argue what is the defense set up by the learned counsel for the prisoner? Why, gentlemen of the jury, the most

distinguished counsel of the land—both of them ex-Attorney Generals of the United States—who have been at the bar for nearly half a century, have justly adorned it—the fame of one of them, at least, has become the pride of the American bar—what is the defense which these distinguished men make to this charge against the prisoner? Do they deny, by testimony, the constitution and by-laws of the Ku-Klux Klan? Do they attempt to deny that paper as the basis of the organization of the Ku-Klux Klan, to which their client belongs? Not at all; they don't assail that constitution, they don't deny the interpretation put upon it, they do not deny its language, don't attempt to excuse its operations. They don't deny the evidence of Mr. Gunthorpe, or Foster, or Rainey, or Kirkpatrick, or Furguson, members of the Klan. Do they attempt to dispute them? Do they attempt to produce anybody here to say that those men have not told the truth? Do they attempt to impeach the testimony of Dick Wilson, Gadston, Steele, Hiram Littlejohn? Do they attempt to deny the crimes committed by this terrible Klan, committed by the associates of their client? Not at all, not one word of testimony or argument, nor one word of excuse. What then is the defense? What can they say, what do they say? They say there was a state of terror and fear in York County, on account of the three militia companies, on account of the burnings, on account of the Union League, and on account of the threats of "Jim Williams." But, gentlemen, does this explanation excuse the Ku-Klux Klan? Admitting, for the sake of argument, which we deny, that all is true, do they show, or attempt to show, one tittle of evidence that this organization was the result of that *fear*? Is there anybody here that says that but the distinguished counsel, and they only by way of argument? Do they connect their client with that fear in any way? Do they show that it was an organization for *protection*—for protection against threatened danger—do they pretend that? Why, gentlemen, read the constitution and by-laws of that Klan, and see if it was an organization got up to defend their wives and families against danger. There is no such thing in it. The leading features I have discussed and shown to you. They are for political ends—they are for the purpose of defending constitutional liberty, as bequeathed to us by our forefathers, and to reject the principles of the radical party. Is that *protection*? Do they use such language and mean *protection*? Does it appear from the evidence that there was fear of Jim Williams, or fear of the Union League, or fires which occurred at midnight in York County, before or after the organization of the Ku-Klux Klan? But admitting all they claim in that regard, and the organization of the Ku-Klux Klan is still unexplained. It is still the terrible dark and devilish conspiracy the testimony shows it to be. But what they claim, gentlemen, we will show by the testimony is not true. First, as to the militia companies, when were they organized? In 1870. When was the Ku-Klux Klan organized? In 1868, two years before. Can anybody say, is there any gentleman so learned or so eloquent as to endeavor to persuade you to believe, that the militia companies organized in 1870 created the Ku-Klux Klan of 1868? Why, gentlemen, it is too absurd to talk about. They could not have been the cause, since they were organized after the Ku-Klux Klan was organized. Now, as to the Union League, the gentlemen on the other side have not attempted to assail the character of the Union League in argument or in testimony. That it was a proper organization is not denied. That its objects were carried on in a lawful manner there is no denial. That it was a bad organization in itself, that its principles were bad, nobody claims. No one claims that it did a single act during its whole history of which anybody could justly complain. Are we to be told, are we to be asked to believe, that the Union League, a perfectly harmless society, was the cause of the organization of the Ku-Klux Klan? Why, if it was, tell us what the Union League has done. Tell us *how* it has organized the Ku-Klux Klan. Not a word, not one jot or tittle of evidence is there, attempting to impeach the character of the Union League. Gentlemen, if they could have impeached the character of that society, would they not have done it? Are the distinguished counsel on the other side ignorant of what they could do, or ought to do, if the Klan had its birth in such a cause? Certainly they are not ignorant; and the counsel who last spoke said, "I have not a word to say against the Union League," and that is the end of that argument. And now as to fires in York County, said to be incendiary, that took place two years after the organization of the Ku-Klux Klan, and months after there had been murdering and whipping the colored citizens of York County. Will they attempt to say that the Ku-Klux Klan had its birth in these fires and outrages in York County? Why, gentlemen, the same answer can be given to that as was given to the other, to the organization of the militia companies. The organization of the Klan took place two years prior to any burning, and the raiding of the Klan was two or three months before the burnings of which they complain in 1870.

So, gentlemen, this defense, this attempt at palliation, this attempt at explanation, this attempted excuse for the deeds of the Ku-Klux Klan, is blown to atoms. It has nothing more in it than the breath of the distinguished counsel who suggested it. But what is the testimony on that point? We put two witnesses on the stand. What does Mr. Lowery tell us? He says the fires took place long after the raiding of the Ku-Klux. The fires took place in January and February. Poor Tom Roundtree, colored, was

killed by the Ku-Klux Klan on the second night in December previous to that; all that part of the country was being raided, night after night, by the Ku-Klux Klan. The fires took place a month or two after. Is this, then, any defense of the Ku-Klux Klan in York County? Can the distinguished counsel say to the world they organized for self-protection (?) against the fires that lighted up the horizon in York County, in January and February, when the fact that these murders and raids had already driven the colored people to their graves or to the thickets for concealment, at night, long before that occurred. Gentlemen, I feel that I would be wasting your time if I detained you to show you that the excuse given here by the counsel on the other side, and given up in York County itself, had no foundation in truth or in fact. Gentlemen, there is not a witness either for the prosecution or the defense that locates the body of these fires till months after these outrages had been perpetrated. The only burning to which a suspicion has attached has been proven to have been the work of white men and not of the colored men. The man whose building was burned, Dr. Addison, says he was satisfied, from the tracks left there by the incendiaries, that it was a white man that did it, and not a colored one; so that not a suspicion, much less a fact, of burnings is fastened upon any colored man in York County, or upon anybody, ten months after these raidings and murders were committed.

But, gentlemen, we come now to their last defense. They say that the raid upon, and the murder of, Jim Williams is to be attributed to his own threats to "kill from the cradle to the grave." Gentlemen, let us examine this last strong hand, this pretended evidence. It is said Jim Williams made threats. Jim Williams is dead. His voice is hushed forever, and though evil men assail and revile his memory, he will not reply again. We must depend for his vindication on his conduct in life, and in the testimony of those few faithful friends who stood by and appreciated him in his hour of peril and of death. I say to you, gentlemen, and I appeal to you on the testimony only, there is little to censure in the language of Jim Williams when you remember when and where he said it, and when you understand it as he meant it. I have been once hurt upon this trial. It was when Mr. Stanbery said, in your hearing, "Had I lived in York County I would have joined the first squad, and gone to arrest Jim Williams." Gentlemen, in the light of the testimony which has not been contradicted, how could he say that? I pity the head, if not the heart, of this gentleman. Gentlemen of the jury, that was as gratuitous a remark as one other remark made by that distinguished counsel, which was, "I am not mixed up with your local quarrels in South Carolina. I am not mixed with your politics, I came from a distance, but I tell you colored men of South Carolina, if you attempt to make a step in advance of the white race, your doom is sealed?" Why did this distinguished counsel make such a remark? Is there a pretense in this case, is there a pretense in South Carolina, that the colored men have attempted to do this? I tell you no, gentlemen; the colored men of South Carolina are struggling to become men; they are struggling to exercise the right of American citizens; they are struggling to protect themselves and become what the Constitution says they shall be—clothed in all the rights of American citizens. Gentlemen, I do not come here to encourage, and I have never encouraged colored men to aspire to or to claim anything more than is conceded to white men, but to all political rights and rights of property they are fully entitled. The laws of this State are equal and just. No political party in South Carolina attempts to impeach the constitution which the colored people of this State have made. But, gentlemen, that distinguished advocate comes from a State which has not advanced as far as South Carolina. He comes from a State that does not allow a colored man to sit upon a jury or testify upon the stand, hence we may well excuse him for some little aberration of mind. His is the State of Kentucky; but all such remarks have a purpose. What that purpose is, I leave to you and the country to judge. What I do say to you is that, whether wise or unwise, whether just or unjust, the colored man in South Carolina is raised by the fundamental law of this State, and that law is supported by the Constitution of the United States, and by the great American people, that the colored man shall be a citizen, and he shall be protected in all the rights of an American freeman. Now as to the threats of Jim Williams. Who says he made threats? Mr. White says he is a member of the legislature from York County. "I have known Jim Williams for eighteen years, and I have known him to be a peaceable, quiet, and unoffending citizen, and I never heard him make a threat. I never heard of his making a threat until after they had hung him. He was incapable of 'killing from the cradle up,' unless he had a terrible provocation." What does Mr. O'Connell, of the house of representatives, say? He says that he was driven from York County by the Ku-Klux Klan, and did not dare go back there until our distinguished friend here, an efficient officer of the United States Army, Major Merrill, made it possible to live there. He further says: "I know the reputation of Jim Williams, and I know none who stand higher. I never heard of his making threats, and I knew him well, until after he was dead." Andy Simms says: "I was the clerk of his company, and was his bosom friend. I helped organize the company. I was with him day and night, and I never heard him make a threat; I never heard of his having

made a threat until after they had hung him upon a pine tree." Now, gentlemen, let us examine the testimony of their own witnesses. Mr. Bratton, a witness called for the defense, says, "I heard him make threats," and you will remember, gentlemen, that I asked him in what connection he made threats, and he replied, that "it was in reference to the raids of the Ku-Klux Klan; that if the Ku-Klux Klan came to this neighborhood, and raided upon the people here, as they have done in other portions of the country, 'I will take my company, and I will fight them, and, if worst comes to worst, I will kill from the cradle up!'" Gentlemen, there is the light in which he made those threats. He says, substantially: "If I am to be murdered as Tom Roundtree was—if the colored people—my fellow-citizens—are to be killed and whipped by the Ku-Klux Klan, I propose to fight myself, and carry on war." Another of the defendant's witnesses, in the same connection, testified that when he uttered those threats, he said this: "I think the best way to do in this fuss is that the white and colored people, if they must fight, shall go to the old field and fight it out like men." This, then, gentlemen, was what Jim Williams meant. Does anybody blame him for it? Does the honest man live who can stand up and say that Jim Williams, in the light of the murders about him of his race, was not justified in making threats? or, at least, if not justified, excused or excusable? I do not, gentlemen, defend threats of violence; we have had too much of it in this country, and it is too common in our midst. The people ought to learn that in a tribunal of justice are they to seek redress for all their woes. But, gentlemen, the courts, the tribunals of York County, were deaf, they were paralyzed, in the presence of this all-pervading organization of the Ku-Klux Klan, and Jim Williams felt, as he had a right to feel, that his own life, and the life of his fellow-citizens of African descent depended upon their own strong right arms. It was that right arm that he invoked on these occasions when he made these threats, if threats they can be called. Is it possible for you to believe, from all the testimony in the case, that he referred to anything else than the salvation of his own life? The Ku-Klux Klan was raiding, murdering, and destroying his race, and the only wonder to me is, and I say it to the people of York County—the only wonder is, that your houses are not all burned! The only wonder is, that many of you were not assassinated at midnight. The only wonder is, that many of you now still live! I desire to make use of the language of the distinguished counsel on the other side, where he says: "Self-defense, self-protection, is written upon the heart of the infant when born into the world." I can only say, gentlemen, that, in my judgment, it was not written very legibly upon the hearts of the colored people of York County. If it had been, the worst forms of civil war would long ago have been inaugurated there, and they would have reason to say the colored people intend to kill from the cradle to the grave! But, gentlemen, the member from that county in the house of representatives of this State tells us, that that fear was all a pretense, that it had no real foundation. And now, gentlemen, let us see if he is sustained by the facts. Gentlemen, the history of the war, and the conduct of the slaves during the war are not forgotten. Did the white people of South Carolina fear the colored race during that long and terrible war? That war, at least during half of its continuance, was waged with the express understanding on one side, that if successful the slaves were to be set free. But notwithstanding this temptation, did the confederate soldier fear to leave his wife and family in the hands of his slaves at home? Did he fear that they would rise and kill from the cradle to the grave? Did he not go with the armies of the confederacy far to the front to fight the Army of the Union, and leave his wife and children, helpless ones, in the hands of his slaves? Since the close of the war have they had occasion to fear the rising of the colored people? When the bonds of slavery were broken, and when the slave was told that he was free, did he seek to revenge himself upon the white race that had bound him for two hundred years in bondage? Is there any instance in the whole South where we have seen anything like revenge in the conduct of the colored race? I tell you, gentlemen, no! The testimony of all the white people of the South can be invoked with safety upon that point. No public speakers, even in the democratic ranks, representing, if you please, the Ku-Klux Klan, dare, in public, charge that the colored people of South Carolina—once slaves, now free—have attempted to retaliate upon their old masters. No, gentlemen; they have been a patient, long-suffering, quiet, and peaceable race. They have only sought to take and enjoy the blessings of freedom secured to them under the Constitution. Did they commit any outrages before 1868, before the organization of this Ku-Klux Klan. Mr. Gunthorpe says: "I didn't see any occasion to fear. I didn't know why the Klan was organized in 1868, but I thought if there was any danger I would join it, and have the benefit of it; but, when I came inside the Klan I found it was not for self protection at all." There was no such purpose in it. What was it? It was to go and elbow voters from the polls. Still later, has there been anything in the conduct of the colored people of York County to cause this state of terror and alarm? There is not one word of proof to show it, except that they had reason to expect retaliation for wrongs perpetrated upon the colored race. Gentlemen of the jury, we can only say that the testimony of some of the witnesses cannot be true. The white people of York County would not so testify if upon the stand. We

can only say of the testimony of three or four witnesses that have been put upon the stand for the defense, that the history of the colored race during and since the war contradicts them. The conduct of the three militia companies in York County is not enough to justify the fears and the alarms of which they testify. What does Mr. Alburthus Hope say? "I was in the Klan which we organized for protection—to protect my house and family, and the colored people upon my place, against the white people's raiding round"—not the colored people that were raiding round. Mr. Hope is the best specimen of the Ku-Klux that we have met in the history of this trial. He felt it necessary to organize a Klan to protect himself and his laborers against the white people that were raiding around. Gentlemen, here in the presence of all this testimony, in the light of history, we say to you, that this terror is all a pretense; the fear of the colored people was not justified, and it did not, in fact, exist. But, gentlemen, I hasten to close this argument; I do not care to say a word upon the technical point raised against this indictment, and the proof—the court will tell you that this conspiracy to deprive the colored citizens of York County of the right and privilege of voting, the admonition that they gave to every colored man as they whipped him—never vote the radical ticket again—includes the election of 1872. I will not waste any words upon that point, because, gentlemen, common sense, which I know you possess, and the law that I know you will receive from the court, furnish a complete answer. The precedent, if the court please, which the distinguished counsel cited, does not apply to this case at all. Proof of a general conspiracy to cheat, as is said, does not prove a conspiracy to cheat a particular person. But that is not this case, that is not this indictment. This is a general conspiracy to deprive divers colored people of the right to vote in the election to take place in 1872, and the proof is that a conspiracy existed to prevent voting at all in the future. Does not that cover the election of 1872? We fully comprehend in the proof the election of 1872. But as to the second count in the indictment, I need scarcely say a word. You have heard of that dark cavalcade of disguised men on their way to kill Jim Williams. They said, we are going for his arms, and we are going to kill him and "every damned nigger who voted the radical ticket!" I do not deny, gentlemen, that they had two purposes, but that was one of them, and the court, I think, will so tell you. Gentlemen of the jury, this is no common cause. Your verdict will mark an era in the history of the administration of justice in South Carolina. The smoke of battle and the sound of arms of the great rebellion have just passed away. With the close of that great tragical humanity has swept onward. The arm of the nation has been stretched out to protect the as yet ignorant but enfranchised freedmen. The bonds of the slave have been broken, and the voice of the American people is, and the people of South Carolina, and the people of the South must hear it, listen to it, and be governed by it, that the rights of the newly enfranchised citizen shall be protected. We have discovered, gentlemen, a fearful conspiracy against these rights in an armed, equipped organization, composed, alas, gentlemen, of many soldiers in the late war who promised to lay down their arms, retire to their homes, and behave like good citizens. This organization, composed of many of the soldiers in the late rebellion, is found bearing arms, marching in squadrons at night, and for what? To defeat the very principles achieved in that contest by the Government of the United States. I say to them—I say to every individual in this armed organization—in the name of God, disband! Go to your homes; meet no more; because the uplifted arm of this nation, otherwise, will crush you, will grind you to powder! If the late war left you poor, in poverty and distress; if the arm of the American people has again to be raised to put down this organization, I fear it will make your homes a desert and your fields a wilderness. One thing, gentlemen, is certain; I hear it in the voice of the President, in the language of the new Attorney General, and I heard it in the language of the one about retiring, and it throbs in the heart of the American people, that this organization to defeat the rights of our colored fellow-citizens *must and shall be put down*. Gentlemen, I am here as the representative of the Government for that purpose. I tell you, and I tell the people of South Carolina, that if this thing is not put down, woe, woe, woe, unto them. Gentlemen, you have heard the case, you have listened patiently to the evidence, and I now look with confidence for a verdict at your hands.

At the conclusion of Mr. Corbin's argument, Judge Bond charged the jury as follows:

JUDGE BOND'S CHARGE TO THE JURY IN UNITED STATES VS. MITCHELL.

Gentlemen of the jury: You have listened with patience to the recital of the evidence in this cause, and without commenting upon *that*, the court proposes to state to you the law, applicable to the evidence which must guide you in making up your verdict. The indictment, gentlemen, is for a conspiracy, which is an agreement by two or more persons to do an unlawful thing, or to do a lawful thing by unlawful means. The thing to be punished is the unlawful conspiracy, and not the particular acts done in pursuance of it. The conspiracy is a crime if nothing be done in pursuance of it.

The indictment, gentlemen, contains two counts. The first charges that the defendant

and others, jointly indicted with him, with having conspired to violate the first section of the act of May 31, 1870, by unlawfully hindering, preventing, and restraining a certain class of persons therein named from the future exercise of the right to vote at an election to take place in October, 1872, on account of their race, color, or previous condition of servitude.

And the second count charges that he, with others, did conspire to injure, because of his color, James Williams, because he had exercised the right to vote previously. It is to these counts that you are to refer the evidence and to apply the law which the counts give you. If you find from the evidence that there was no such conspiracy as that described in the first count, or, if there was a conspiracy, the object of it, and its purpose were different from that set forth in the count, and that the object and purpose set forth in the count was not one of its purposes and objects, then the party charged is not guilty under the first count, though he may have been engaged in the conspiracy. But it is not necessary, if the jury find there was a conspiracy, and that the party was engaged in it, that they should find its purpose to have been single. If they find that one of its purposes was that set forth in the first count, to prevent citizens from the exercise of the right to vote because of their color, it is sufficient. An association having such a purpose is an unlawful conspiracy, and a party engaged in it may be punished under the first count.

Each member of such an association is a conspirator, and is responsible personally for every act of the conspiracy and for the acts of each member thereof, done by common consent, in furtherance of its illegal purposes, and also for such acts done in furtherance of the conspiracy not consented to beforehand, if assented to subsequently to their perpetration, and that whether the party charged was himself actually present or not when such act was done. And if the jury believe from the evidence that the various Klans spoken of by the witnesses were but parts of one general conspiracy, this rule applies not only to the members of the same Klan but to the acts and conduct of the members of the different Klans done in furtherance of the conspiracy. And it makes no difference in guilt if you find from the evidence that the motive of a party who joined the conspiracy was not illegal when he did join it, if you also find that after he became a member he was aware of the fact or had reason to know that the true object of the conspiracy was to prevent or hinder the free exercise of the elective franchise by intimidation or violence as aforesaid, on account of color, and that he still remained a member and participated in its meetings, and that though you may also find he never himself actually used the force, intimidation or violence and was not present when it was used.

And now, if the jury find from the evidence that the party charged did so conspire to prevent the citizens described from exercising their right to vote on account of their color at a future election specified to be the election to take place on the third Wednesday of October, 1872, then the party charged is guilty under the first count of the indictment.

And if the jury find from the evidence that they did so conspire and for the same reason, to injure and oppress, on account of his color, one Jim Rainey *alias* Jim Williams, because he had antecedently on the third Wednesday of October, 1870, exercised his right to vote, then he is guilty on the second count.

But if the jury find from the evidence that no such conspiracy existed, or that, if it existed, the intimidation or injury of voters because of their exercise of the suffrage, or to prevent its exercise, formed no part of its purpose, or that if that were its purpose, the defendant was not engaged in it, then the defendant is not guilty.

But the jury is not bound to believe the sole purpose of the conspiracy to be that set out in the first count; if they find it to be one of the purposes it is sufficient. Nor, if they find that the beatings and intimidation spoken of by the witnesses took place or existed, are the jury bound to believe that the reasons given at the time by the conspirators, if they find reasons were given, were the true reasons for such conduct; but the jury may determine, from all the evidence in the case, what the true reasons were for such violence.

If the jury find from the evidence, as we said before, that the conspiracy set forth in the first and second counts in the indictment existed, and the defendant engaged in it there, he is guilty on both counts. If there existed no such conspiracy at the time set out in the indictment, or, if existing, it had another object which did not include that set out in the indictment; or, if existing, and having the illegal purpose, the defendant took no part in it, then he is not guilty.

The jury are at liberty to find one of three verdicts. They may find the party guilty generally, or not guilty generally, or they may find him guilty on one count, and not guilty on the other.

Take the case.

The jury retired, and, after an absence of thirty-eight minutes, returned a verdict of "Guilty of the general conspiracy."

Mr. Stanbery wished the verdict to be recorded as rendered, but the court said

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"No," very emphatically, and explained to the jury that they must find the prisoner guilty or not guilty on one or both of the counts.

The jury again retired, and on their return the court stated that the first charge had probably misled them. He then explained more fully the purport of the charge.

Again the jury retired, and on their return rendered the verdict: "Guilty on the second count, not guilty on the first."

Mr. Stanbery at once entered a motion for a new trial, and the court adjourned.

SEVENTEENTH DAY'S PROCEEDINGS.

DECEMBER 19.

The court met pursuant to adjournment, Hon. Hugh L. Bond, presiding; Hon. George S. Bryan, associate judge.

Thomas P. Whitesides and John W. Mitchell were arraigned and they pleaded "Not guilty."

A jury having been impaneled, Mr. Corbin opened the case for the Government. He said:

It seems almost unnecessary that I should make any remarks to you upon this occasion, but in order that you may clearly understand to which point the testimony is to be directed, perhaps it may be as well that I should say a word or two in explanation. We propose, in the first place, to establish the fact of the existence of a conspiracy in York County, against the rights of the colored people of that county, and the colored people, generally, to exercise the right of voting, and that the object of that conspiracy was to prevent by unlawful means, threats, force and violence, the colored people who are entitled to that privilege from voting. We shall show to you that this conspiracy was thoroughly organized and armed and equipped, and that they were armed with pistols and guns, and that their uniform was a mask and gown called a Ku-Klux gown; that they carried out their purposes in the night-time; that they intended to intimidate, control, and prevent from voting the colored voters of that county by whipping them at night, and by concealing themselves, and escaping under cover of the darkness of the night. This is the general conspiracy. We shall show you that these defendants were members of that conspiracy.

We shall show you that in pursuance of the general design of that conspiracy both of the defendants, in with others, went upon several raids, and particularly upon Charles Leach, a colored man of York County, a resident, and entitled to vote in that county. That they whipped him severely, and whipped him because he was a radical and voted the radical ticket heretofore, and to prevent his voting it hereafter. We shall show you, gentlemen, in this case, that a great number of outrages were committed in York County, in pursuance of this general conspiracy, and by the conspirators; that they whipped, shot at, and maltreated numerous colored persons of that county, who were entitled to vote, and that in pursuance of their general object they not only whipped and beat colored men entitled to vote, but they whipped and ravished women in pursuance of their general conspiracy.

To this end, gentlemen of the jury, the testimony of the prosecution will be directed.

TESTIMONY OF OSMOND GUNTHORPE.

* OSMOND GUNTHORPE, a witness for the prosecution, was first introduced, and, being duly sworn, testified as follows:

Direct examination by Mr. CORBIN:

Question. Are you a resident of York County?

Answer. Yes, sir.

Question. How long have you resided there?

Answer. About eighteen months.

Question. At what place?

Answer. Near Ebenezer.

Question. State whether you were initiated into the Ku-Klux organization, and, if so, when?

Answer. Yes, sir; it was in 1868.

Question. By whom?

Answer. By Dr. Avery.

Question. State what was the general character of the oath you took on that occasion?

Answer. It was to protect widows, female friends, and their houses, and to reject the principles of the radical party, and the penalty of divulging the secrets of the order was death.

Question. Will you listen to this oath, and state whether you recognize it as the oath taken by you when you were initiated into the order?

(The district attorney here read the constitution of the Ku-Klux Klan, already published.)

Answer. There are portions of it that I recollect, and some that I do not.

Question. Which portions do you recollect?

Answer. One was to reject the principles of the radical party. There is also that about protecting widows, our households, and female friends; fellow-members especially shall be under our protection, and the penalty is the same.

Question. What can you say as to the rest?

Answer. I don't recollect. It was repeated to me, but I never saw it.

Question. What did you understand was the object of the order?

Answer. When I was requested to go into it I understood it to be an organization for self-protection.

Question. Who represented that to you?

Answer. Dr. Avery.

Question. Go on with your statement.

Answer. But after I had been in some time, I found it to be a political organization in the interest of the democratic party.

Question. How did you learn that the objects of the organization were to be carried out?

Answer. It was to be put down by using no force; they intended to crowd the ballot-boxes at elections, and to prevent all the members of the radical party from voting that they could.

Question. Did you aid in that business?

Answer. No, sir; I did not.

Question. What did you do when you found that this was the character of the organization?

Answer. I asked for dismissal from the organization.

Question. From whom?

Answer. Dr. Avery.

Question. Did you obtain such dismissal?

Answer. Yes, sir.

Question. And severed your connection with the organization?

Answer. Yes, sir.

Question. How soon after you joined?

Answer. I joined in August and severed my connection in November.

Cross-examination by Mr. W. B. WILSON:

Question. You resided, at that time, near Rock Hill, in that county? Is that where the election was held?

Answer. Yes, sir.

Question. Were the radical voters crowded from the ballot-box in October, 1870?

Answer. I was not at Rock Hill at the time of the election.

Question. Do you know of voters being interfered with at Rock Hill?

Answer. Not that I know.

Question. Were they interfered with at the Boynton box?

Answer. Not that I know.

Question. Which population is in the majority at the Boynton box?

Answer. The white.

Question. In a large majority?

Answer. Pretty large majority.

Question. Can you say that it was ever resolved at any meeting you attended to crowd voters from the ballot-box?

Answer. It was not done at any meeting that I attended.

Question. And no interference with the colored people at that box, as far as you know?

Answer. Not that I know.

Question. How did you understand that this organization that you joined at Ebenezer was to crowd voters from the ballot-box?

Answer. I was told so by a fellow-member.

Question. By whom?

Answer. By Mr. Cathcart.

Question. Where does he live?

Answer. At a mill near the Catawba River.

Question. Was he chief of the Klan?

Answer. No, sir.

Question. How did he know?

Answer. He understood it at a meeting. I was not there.

Question. The only reason, then, for your so stating it was that Cathcart told you so?

Answer. Yes, sir.

Question. Was not that a mere opinion?

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Answer. He said they had an agreement of that kind; he did not say it was an opinion; he said they had a meeting, and there was an agreement to that effect.

(Objected to by counsel for the defense.)

Question. You heard it from Mr. Cathcart—not from a meeting of the Klan?

Answer. Yes, sir, from Mr. Cathcart.

Question. That is the only way in which you derived your information?

Answer. Yes, sir.

Question. Why did you ask for dismissal from the organization?

Answer. Because I was dissatisfied; it was not what I understood it to be.

Question. Did you propose joining any other organization?

Answer. No, sir, I did not.

Question. Do you know that the order which you say you joined at Ebenezer was broken up and disbanded soon after that?

Answer. No, sir, I did not.

Question. Did you return to that neighborhood?

Answer. I was there one time after that, but I never had it named; I staid all night with a neighbor, but I saw no person that belonged to the organization.

Question. You have no knowledge of the fact that the organization was entirely disbanded in that vicinity?

Answer. No, sir, I have not.

Question. It was understood by the order that there was to be no force used?

Answer. Yes, sir; that is what I understood.

Question. You understood that one object was self-protection?

Answer. Yes, sir, that is what I understood before I joined.

Question. Protection from what?

Answer. There were talkings, and they were fearful that there would be difficulty with the negroes.

Question. That was one of the threats or rumors in the country?

Answer. I do not know whether there were any threats, but there was talking, and they were fearful.

Question. Did you exercise any precaution in the way of arming yourself?

Answer. No, sir; I bought no arms, but I had some arms.

Question. Do you know of property being carried off at night?

Answer. No, sir.

Question. Do you know of property at Rock Hill being carried off at night?

Answer. No, sir.

Question. You were initiated in 1868. How long had you lived there before you were initiated?

Answer. I moved there in January.

Question. And you left there the following November?

Answer. Yes, sir.

Question. And that was the only time you lived in that neighborhood?

Answer. Yes, sir.

Question. [By Mr. Corbin.] You say there was some talk of trouble with the negroes? Do you know of any trouble of that kind?

Answer. No, sir, I do not.

Question. Did you participate in that fear?

Answer. I did not feel in any way particularly uneasy; there was talk, but I do not know whether there was any danger or not.

Question. You had no evidence of any such danger?

Answer. No, sir; only just talk. I never heard any of them make threats.

Question. Was there any trouble with the negroes during the war?

Answer. No, sir.

Question. Did you reside in York County during the war?

Answer. Yes, sir.

Question. State whether the people of York County went generally into the war?

Answer. Yes, sir.

Question. And left their wives at home with the colored people?

Answer. Yes, sir.

Question. And was it understood at the close of the war that the object of the Union Army was to free the slaves?

(Question objected to.)

Question. Has there been any trouble with the colored people during the war?

Answer. Not where I live now.

Question. Have they risen to butcher or destroy anybody?

Answer. No, sir.

Question. [By Mr. Wilson.] The fear of rumors was not the cause of your joining the order, was it?

Answer. I thought, sir, if there was such rumors, and they formed an organization

for self-protection, and other people thought there was danger, I would go into the organization with my friends and neighbors.

Question. At the election of 1870, was there not a large, full vote?

Answer. There was a full vote, I believe, sir.

TESTIMONY OF SAMSON B. DAVIS.

SAMSON B. DAVIS, a witness for the prosecution, being duly sworn, testified as follows:

Direct examination by Mr. CORBIN:

Question. Where do you reside?

Answer. Sixty miles west of York; three miles south of Hounly road, in York County.

Question. How long have you resided there?

Answer. A little over two years.

Question. State whether you joined an organization in York County known as the Ku-Klux Klan?

Answer. I joined an organization in January, 1871; but it was then known as the Invisible Empire of the South.

Question. At what place were you initiated?

Answer. At my own house.

Question. By whom?

Answer. Wesley Smith, a brother of mine, J. F. Fox, and Marshall Davis.

Question. State the mode of initiation.

Answer. The men were not in disguise, and I was not blindfolded. The oath was administered to me, but it was after night in the yard of my own house.

Question. Was the oath read or repeated to you?

Answer. It was repeated. There was no written document.

Question. State what the oath was.

Answer. I cannot state it accurately. I cannot recollect anything, excepting the concluding clause, which was death.

Question. State the substance of the oath.

Answer. It was intended for self-protection, but I cannot state fully the substance of the oath. I have not seen it since, but I should know it if I should hear it.

(Mr. CORBIN here read the constitution.)

Question. Is that the oath you took?

Answer. That is about the oath. I think it embodies the principles to which I swore.

Question. Do you remember anything that was not in that oath?

Answer. If my memory serves me, there was nothing in opposition to the radical party. I think it was in opposition to the thirteenth, fourteenth amendments to the Constitution.

Question. What signs and passwords were given you?

Answer. I do not know all. One of the signs was taking the lapel of the coat with the right hand, which was answered by the other party taking the lapel with his left hand. Another sign was putting the hand carelessly into the pocket, leaving the thumb to be seen. I don't remember the answer to that. Another, passing the hand carelessly over the right ear towards the front. The answer to that was passing the left hand over the left ear.

Question. Do you remember any other signs?

Answer. I remember the bywords and passwords used in meeting parties. You would use the word s-a-y—that is, spelling the word, but not pronouncing it, followed by, "Who are you?" The answer to that challenge was n-o-t-h-i-n-g, spelling the word, using the letters, but not pronouncing it, using those signs.

Question. Have you frequently recognized members of the Klan?

Answer. Not frequently.

Question. Have you ever done it?

Answer. I recognized once a party in disguise by giving the words; that was in February, after I was initiated in January, near Limestone Springs.

Question. What were the circumstances?

Answer. I challenged the party, and said, "I s-a-y, who are you?" and was answered, "N-o-t-h-i-n-g." They then passed me by. They were in disguise.

Question. What time of night was it?

Answer. I suppose 10 o'clock.

Question. Did you know any of the party?

Answer. No, sir; none of them.

Question. Was it a large party?

Answer. I judged it to be twenty-two or twenty-four.

Question. State if you ever attended a meeting of the Ku-Klux Klan.

Answer. I attended one.

Question. Where was it ?

Answer. Near where I live.

Question. When was it ?

Answer. A few nights after I was sworn into the organization ; it was out of doors, ten o'clock at night.

Question. Who was present at that meeting ?

Answer. I cannot name all the parties ; there was Tom Parks, Jefferson Gardner, William Gardner, Charles Kidd, Charles Byers, and Joseph Smith.

Question. Who was the chief ?

Answer. Charles Byers was the chief.

Question. What was done ?

Answer. The Klan was organized by electing Charles Byers chief of the Klan, and appointing myself secretary ; a younger brother of mine was appointed Monarch.

Question. Any other officers elected ?

Answer. William Goodé was appointed Grand Turk ; he, also, was present at the meeting, but it had escaped my memory.

Question. Have you heard the constitution and by-laws of the organization read ?

Answer. I read them on that night.

(A paper was here handed the witness.)

Question. Do you recognize that as the organization and by-laws of the Klan ?

Answer. I see it embodies the same, except that the Ku-Klux Klan was then known as the Invisible Empire of the South. The constitution and by-laws embodies the same as those to which I swore.

Question. Was that the first time you ever heard or read the constitution ?

Answer. Yes, sir.

Question. How were the purposes of that organization to be carried into effect ?

Answer. Those present at the meeting I attended told me the parties against whom charges had been preferred must be visited and asked to change their opinion and to vote the democratic ticket. In case they did not do it, they were to be visited again and corrected by members of the Klan, and if they refused, to be whipped ; and if they again refused, they were required to leave the county ; in case they did not comply, they were to be killed. Those were the statements of members of the order.

Question. The operations of the Klan were to be directed against radicals—that is, republicans ?

Answer. Yes, sir, against republicans.

Question. State what you know of the practical carrying out of that programme.

Answer. I never saw any of it carried into operation, but I have seen parties who say they executed the orders of the organization.
(Testimony objected to.)

By the COURT :

Question. Were they members of the Klan themselves ?

Answer. Yes, sir.

Question. Have you learned from members of the Klan how they executed the purposes of it ?

Answer. I have.

Question. State what members of the Klan told you of them ; what they did, and what they said they had done in pursuance of the purposes of the organization.

Answer. Mr. Wesley Smith told me that he, in company with three other men, had killed Charles Good.

Question. Who were the others that he told you assisted him ?

Answer. William Smith and William White. Smith was present and acknowledged that he had participated in killing Charley Good.

Question. Who is Charley Good ?

Answer. A colored man, who lives three or four miles from me.

Question. What were his politics ?

Answer. Republican.

Question. Was he well known to you and the community ?

Answer. Yes, sir ; he was known as a radical or republican.

Question. Had you at any time any conversation with Charles Good ?

Answer. Yes, sir. Charles Good was a blacksmith ; he did my blacksmithing at his house. He told me that he had been visited and whipped by the Klan because he was a republican and would not change his opinions ; but would vote the ticket again. I told him he had better not repeat that. About four weeks after, they returned and killed him.

Question. Was he a prominent man among the colored people in that neighborhood ?

Answer. I had known him about sixteen months before he was killed ; he was rather a prominent negro in the community.

Question. Was he a preacher ?

Answer. He was not.

Question. Tell the court and jury what you know about the manner of his death.

Answer. I know nothing, except those persons who came to me and told me I had been summoned to go with them and others to put the body of Charles Good into the river. That was the summons I received. It was in furtherance of the order which they gave me from the six composing the Klan. Charles Byers directed me. I knew no others of my positive knowledge. I knew him to be chief of the Klan. He said that I must go with the party and put his body into the river. I went out about the hour of 9 and went to Mr. Howell's residence, and there, in conversation with me, he expressed a desire not to go with the party. I told him it exactly corresponded with my feelings. I had not seen the body and did not wish to, and we did not go until we thought the hour had passed, and remained there until the party came back.

Question. Were they men of your Klan ?

Answer. I do not remember any present attached to my own Klan.

Question. Were there any persons that you knew ?

Answer. There were several persons I knew ; none of the parties were in disguise that I seen. I recognized Wesley Smith, Samuel Smith, T. L. Barr, and Pinckney Caldwell.

Question. Was Wesley Smith the man who told you to go ?

Answer. Yes, sir.

Question. What had they done with the body ?

Answer. They remarked, "The body is in the Broad River. He knew it was at the bottom, well jammed down and secured." He stated the negro was very heavy to carry.

Question. Did they tell you how they fastened him down in the river ?

Answer. Wesley Smith stated that there was cotton bagging wrapped around the body, and log-chains were fastened around him, and to that they attached some heavy plow-shears, and Pinckney Caldwell said he had pinned the body to the bottom, for he had jumped in upon it, with stakes furnished him from the bank, and with these he had fastened it to the bottom.

Question. How long was this after Charley Good was killed that his body was disposed of in this way ?

Answer. If I mistake not, it was Friday night this was done, and the act, I believe, was done on Wednesday night.

Question. State how the Smiths, or the party engaged, killed him.

Answer. Wesley Smith said he had attempted to shoot him, but the gun not going off in his hand, he turned to his companion and asked him if he could get it to go off. The negro asked him if he intended to kill him, and Wesley Smith said not kill him, but whip him well ; but the gun was discharged ; he was not killed with the shot, but fell, and William Smith told me afterward that he had finished him with his gun. Wesley Smith said, "When I left he was finished."

Question. Where did that occur ?

Answer. It was near Wesley Smith's residence, some quarter of a mile southeast from his residence.

Question. Where was it you were ordered to meet that night to go and dispose of the body of Charles Good ?

Answer. Some four or five hundred yards from Wesley Smith's house, where they said the body was laid.

Question. What was the object of assembling the Klan ?

Answer. I only knew from the statement given me by Wesley Smith, that it was to render it impossible for anybody in the neighborhood from giving evidence of the fact.

Question. Do you know whether the body has since been found ?

Answer. I never heard that it has been found.

Question. Do you know of any other transactions of the Klan from anybody ?

Answer. Not from my own knowledge, but Charley Byers told me he was on one raid.

Question. State what he told you of the operations of the Klan.

Answer. He told me particularly in reference to whipping a colored man near where I lived named Jerry Adams. He discharged his gun over the door of Jerry Adams as he ran, but when they surrounded his house and he attempted to run, Charley Byers shot at the door over his head to scare him ; that is what he stated to me.

Question. Do you know of any other transactions of the Klan ?

Answer. That is all I think of at present.

Question. Did you meet any that you recognized as members of the Klan in North Carolina ?

Answer. I met a party initiating a Methodist preacher once.

Question. State the particulars.

Answer. When I came up with the party they were initiating him, and they completed the business.

Question. Did he take the oath ?

Answer. Yes, sir.

Question. Do you know his name ?

Answer. It was James Carpenter; this was in Polk County.

Question. Was the oath the same as you had taken in your Klan?

Answer. Yes, sir.

Question. Were the signs the same?

Answer. Yes, sir; I recognized the men by a sign. They had halted me, and they gave me the sign, and I answered.

Question. Did you know the parties?

Answer. I knew the Prices; they were peddlers; one was called Dick and the other was called Skip.

Question. Did you have their constitution and by-laws?

Answer. They had no constitution, only the by-laws.

Question. When was that?

Answer. On the 1st of February, 1871, to the best of my recollection.

Question. Did you say that when you joined this organization that you understood it to be one for self-protection?

Answer. Yes, sir.

Question. After you got inside what did you find it to be?

Answer. That it was an organization in the interest of the democratic party.

Question. Do you know any other of these defendants?

Answer. I know Mr. Whiteside; I don't know Mr. Mitchell; I never had any acquaintance with him.

Question. What Klans were stationed near you?

Answer. Two; one was known as the small Klan, the other as the Mitchell Klan.

Question. Is this defendant the Mitchell you refer to?

Answer. I do not know; I never had any acquaintance with him at all.

Cross-examination by Mr. W. B. WILSON:

Question. You stated that the order was to protect yourselves from what?

Answer. There were reports in the county at that time that there was some danger from the armed militia—armed by Governor Scott—and the order stated to me that it was to protect ourselves in case of any demonstration by this armed militia.

Question. Were they colored militia?

Answer. Yes, sir.

Question. How many companies of colored militia were armed in York County at that time?

Answer. I heard of one, but don't know if it was armed.

Question. Were there any white companies armed by Governor Scott?

Answer. None that I know of in the county.

Question. With what kind of weapons were these companies armed?

Answer. I understood they were armed with United States guns.

Question. Did you ever see one of those guns?

Answer. No, sir.

Question. Were there any fires in that vicinity?

Answer. The nearest was Mr. Crosby's gin-house.

Question. Was that burned?

Answer. Yes, sir.

Question. Were there any fires from incendiaries in that county?

Answer. Reports were current in the county; more in the northern portion than in ours; I have no knowledge of any of them.

Question. Was the object of this order to protect yourselves from the armed militia, or incendiarism, or other acts of violence?

Answer. To protect ourselves from any acts of violence that might happen by the armed militia, as I understood it.

Question. Was there any interference with the voters at the last election, 1870?

Answer. I have not attended an election since I came into the State.

Question. You have never met with Dr. Whitesides in any meeting of the Klan?

Answer. I have met him frequently, but never met him in the Ku-Klux organization.

By Mr. CORBIN:

Question. You say you were told that the object of the organization was as you stated?

Answer. Yes, sir.

Question. But when you got inside of the organization did you find it to be different?

Answer. I found the object to be very different, in my opinion, from what they told me, and from the results I knew it to be different.

Question. Did you know of any acts of violence committed by the militia company?

Answer. None of my own knowledge.

Question. Had you ever any reason to fear the militia company?

Answer. I never had any fears of any.

Question. Did you fear the colored people about you?

Answer. No, sir; I never feared any of them.

Question. Was there raiding about the county before you joined the Ku-Klux Klan?

Answer. The reports were that there were many raids through the county before I joined.

Question. Were the fires before or after the raiding commenced?

Answer. I cannot be definite about that.

Question. Was there any knowledge as to who set fire to the Crosby gin-house?

Answer. None at all.

Question. Do you know that it was attributed to a militia company?

Answer. I never heard it charged to them.

TESTIMONY OF KIRKLAND L. GUNN.

KIRKLAND L. GUNN, a witness for the prosecution, being duly sworn, testified as follows:

By Mr. CORBIN :

Question. Where do you reside?

Answer. York County.

Question. How long have you resided there?

Answer. I was born and raised there.

Question. In what portion of the county?

Answer. My father lives in the southern portion of the county.

Question. What is your age?

Answer. Twenty-one years.

Question. What is your profession and business?

Answer. I am a photographer.

Question. Have you carried on that business in York County?

Answer. I have, sir.

Question. State whether you have been initiated a member of the Ku-Klux Klan.

Answer. I was initiated in January, 1871, and became a member of the Ku-Klux Klan.

Question. Where?

Answer. At Wesley Smith's, near his house.

Question. Did you take the oath?

Answer. I did.

Question. Was the oath read to you?

Answer. The constitution and by-laws were read to me.

Question. Do you remember the oath?

Answer. Yes, sir.

Question. What was that oath in substance?

Answer. It was not to reveal the secrets of the Klan; that the purpose of the Klan was to put down radicalism and rule the negro suffrage. [A paper was here handed the witness.]

Question. State if that is substantially what was read to you on that occasion.

Answer. Yes, sir; the obligation is the same. [The witness was here requested to read the paper through.] It is the same that was read to me. [The constitution and by-laws of the Ku-Klux Klan were here read by the attorney general in open court.]

Question. State the general purpose and object of the order as you understand them.

Answer. I heard them stated to me. It was to put down the radical party and rule negro suffrage.

Question. How were those purposes to be carried out?

Answer. It was told to me by members of the Klan that it was to be by whipping negroes and intimidating them, and keeping them from voting, and to kill all such white men as took radical offices and who then occupied offices.

Question. How was the organization armed?

Answer. Some were armed with pistols, and some with shot-guns, and some with muskets; just whatever was convenient.

Question. What was the Ku-Klux gown?

Answer. A long gown made of some dark-colored stuff; I never saw one in daylight.

Question. Was that worn on all occasions while on duty?

Answer. This was my understanding; that it was to be worn on all occasions.

Question. Were these operations to be carried on in the daylight or dark?

Answer. All this was in the night. Whenever the Klan was on duty, they were known and designated by numbers.

Question. How were they numbered?

Answer. Each man was to be numbered. Sometimes they would begin with No. 1 and sometimes they would begin with five hundred; they would begin with any number they chose, and then run on.

Question. What was the object of that?

Answer. To keep from calling names.

Question. Was it to assist in their concealment ?

Answer. Yes, sir.

Question. Who was the highest officer who commanded whenever a meeting was called or when they went on a raid ?

Answer. I didn't know the highest officer ; the chief was the highest I knew.

Question. What did they call this business of going after colored men and whipping them ?

Answer. Raiding.

Question. Did you ever go on any raiding ?

Answer. I never was on one ; was called to go on two raids.

Question. By whom ?

Answer. By order of the chief. I was told so by the person who brought the message. John Wallace was the person who brought me the first message.

Question. Who was the chief ?

Answer. John Mitchell.

Question. Is this the man here ? [Pointing to the defendant, J. W. Mitchell.]

Answer. Yes, sir.

Question. Was he the chief of the Klan ?

Answer. Yes, sir.

Question. What was the name of the Klan ?

Answer. It was called Mitchell's Klan.

Question. Have you frequently seen this person ?

Answer. I have met him several times, and met him once in the capacity of chief.

Question. State the circumstances of the meeting.

Answer. I was told by Wallace there was to be a meeting at Barclay's mill for the purpose of raiding Bill Kell, and to kill him for being president of the Union League. Those were the words Wallace stated to me.

Question. What was Wallace's position in the Klan ?

Answer. He was known as a Night-Hawk.

Question. How long did you receive this order before the time of meeting ?

Answer. I think it was two days before the meeting.

Question. Pursuant to that notice did you meet the Klan ?

Answer. I did.

Question. State who you met there.

Answer. I met there that person, J. W. Mitchell, Whiley, Ed. Leech, Arney Neil, Charles W. Foster, Wesley Smith, Jo Smith, Thomas McAllen, and a good many others I know, but I cannot remember their names now.

Question. How many persons were present at that meeting ?

Answer. I should say from thirty to thirty-five persons.

Question. Were they mounted or on foot ?

Answer. They were all mounted.

Question. Were they disguised or not ?

Answer. Some were disguised and some were not.

Question. Did you go on that raid ?

Answer. No, sir.

Question. Why ?

Answer. Because Mr. Hugh Kell was there. It was thought he was sent there for the purpose of letting it be known if Kell was killed, that he might be a witness.

Question. Was Hugh Kell a member of the Klan ?

Answer. I don't know whether he was or not.

Question. Who brought the disguises there and who took them away ?

Answer. Mr. Mitchell did.

Question. What did he bring the disguise in ?

Answer. He brought it in a sack.

Question. What did he carry them away in ?

Answer. In a sack.

Question. Did you see him put them in ?

Answer. I saw him put one disguise in a sack.

Question. Was there any talk of killing Hugh Kell ?

Answer. I heard some one say he was to be killed, but I heard no one say they wanted to kill him.

Question. What did they do finally ?

Answer. There were some rough words between Mitchell and Kell. I don't know what they were, but they were rough, from what I heard others say of them. Mr. Mitchell ordered the Klan to go home and wait till he ordered them out again.

Question. Did you know Bill Kell, the man they proposed to kill ?

Answer. No, sir.

Question. What other raid do you know of ?

Answer. I was ordered to go on one raid on Jenny Good.

Question. Did you go upon that raid ?

Answer. No, sir.

Question. Why not ?

Answer. I had no saddle to ride.

Question. From whom did you receive the order to go there ?

Answer. I don't remember now who told me they were going to have a raid.

Question. Who did he say he gave the orders to for that raid ?

Answer. Charles Byers.

Question. Was that Klan located near you ?

Answer. About two miles from where I was.

Question. Who were the two chiefs of the Klan residing there ?

Answer. Byers and Mitchell.

Question. Did they order out the members of the other Klan ?

Answer. They would invite the members of the other Klan to go with them ; not order them.

Question. Were you invited to go on that raid ?

Answer. Yes, sir.

Question. How many members were there in Mitchell's Klan ?

Answer. I don't know.

Question. Have you any means of knowing from those you saw ?

Answer. I don't know ; there might have been members of other Klans.

Question. How many men were there in Charley Byers's Klan ?

Answer. I think sixteen or seventeen ; I don't remember the number.

Question. Do you know of any other Klan in that vicinity ?

Answer. I do not, but have heard of others.

Question. Did you ever recognize a person by the name of Squire Sam Brown as a Ku-Klux ?

Answer. I have, sir.

Question. Where ?

Answer. At Wiley's store.

Question. How did you recognize him ?

Answer. By a sign.

Question. What sign did you give him ?

Answer. Passing the hand over the right ear ; he answered by passing his hand over his left ear.

Question. What conversation, if any, did you hear there from Samuel Brown ?

Answer. He and Wesley Smith were standing, and they had been engaged in conversation. Smith stood up, and Brown gave him that sign ; then he turned to Smith and asked respecting me, " Is this man all right ? " Then he said, " You know I would not have such business, without having men that were all right." Then, after some further conversation, I heard him say, " I can go and take my Klan, and whip more damn niggers than any other Klan in York County.

Question. Where does Squire Sam Brown live ?

Answer. I don't know ; I think it is west of Yorkville.

Question. Do you see that gentleman in court here ?

Answer. Yes, sir ; there he sits. [Pointing.]

Question. State what were the signs and passwords of the order and how they use them on occasions.

Answer. One was passing the right hand over the right ear ; this was answered by passing the left hand over the left ear ; the next sign was putting the right hand in the pocket of the pants, leaving the thumb to be seen ; if you wished to find out if a person belonged to the organization he returned it with his left hand in the same way ; the next sign was putting the heel of the right foot in the hollow of the left ; this was answered by putting the left heel in the hollow of the right foot.

Question. What were the passwords ?

Answer. If you met a man, or a party, you would say, " S-a-y, who are you ? " This was answered by, " N-o-t-h-i-n-g," without pronouncing the word.

Question. Have you frequently met and recognized members of the order by these words ?

Answer. I have met them by signs, but not by words.

Question. Had they a grip ? If so, explain it.

Answer. In grasping the hand the little finger would go between the fourth and little finger of the hand you grasped, and the forefinger would stretch up and touch the wrist.

Question. Have you frequently exchanged that grip ?

Answer. Very often, sir.

Cross-examination by Mr. WILSON :

Question. Have you any knowledge of Dr. Thomas Whitesides being a member of this order ?

Answer. I do not know that he is a member.

Question. Have you not reason for knowing that he is not ?

Answer. I have given him signs, and he did not return them.

Question. You tried, then, by giving him the signs, and he did not answer ?

Answer. Yes, sir ; I gave him signs, and he did not respond.

Question. What sign did you give him ?

Answer. Passing the right hand over the right ear.

Question. Have you any other reason for knowing he is not a member.

Answer. I heard him say it was the most damnable thing in the country.

By Mr. C. D. MELTON :

Question. What are the relations between you and Mr. Mitchell ; are they those of friendship or otherwise ?

Answer. As to my feelings they have always been those of friendship.

Question. There was some cause of misunderstanding, was there not ?

Answer. Not on my part. I had my photographic instrument in the church that he had something to do with, and he told me to take it out, but it caused no hard feeling on my part.

Question. Had you any conversation on the subject with Mr. McKeow ?

Answer. I have no recollections of it.

Question. You say you never used any harsh language ?

Answer. No, sir ; none.

Question. And never had any unkind feelings toward Mr. Mitchell ?

Answer. No, sir ; I had none.

By Mr. CORBIN :

Question. When do you say it was that you recognized Mr. Whitesides was not a member of the order ?

Answer. I think it was last March.

Question. Had you any special conversation about the Ku-Klux order ?

Answer. Yes, sir ; he said something about the Ku-Klux ; he had some negroes that they visited, and he and his brother went to try to pacify them ; he said it was the most damnable curse, or the most damnable affair in the country. I then gave him the sign, but he did not respond.

TESTIMONY OF CHARLES W. FOSTER.

Direct examination by Mr. CORBIN :

Question. Where do you reside ?

Answer. York County.

Question. How long have you resided there ?

Answer. Ever since the war.

Question. Where did you live prior to the war ?

Answer. I was in Georgia during the war.

Question. Were you a soldier in the confederate service ?

Answer. I was, sir.

Question. Do you know these defendants ?

Answer. Yes, sir ; Mr. Whiteside and Mr. Mitchell ; I do.

Question. Where do they reside ?

Answer. In York County.

Question. How long have you known them ?

Answer. I have known them a good while.

Question. How many years ?

Answer. I have known them ever since I was big enough to know anything. Dr. Whiteside and myself were partly raised together ; his father had a plantation near to my father's.

Question. How long have you known Mr. Mitchell ?

Answer. For the last twenty years.

Question. Where did you know him ?

Answer. In York County.

Question. In what regiment were you a soldier ?

Answer. In the First Georgia Regulars.

Question. Did you know Captain Mitchell in the army ?

Answer. Only from what I heard.

Question. Have you been a member of the Ku-Klux Klan ?

Answer. Yes, sir.

Question. When did you join it ?

Answer. About the 15th day of last September.

Question. Where did you join it ?

Answer. Near Mount Vernon church.

Question. What portion of the county is that ?

Answer. It is in the upper part of York County.

Question. Who initiated you ?

Answer. Herod Neale and James Howard.

Question. Did you take the oath when you were initiated ?

Answer. It was something ; I don't know whether it was an oath.

Question. Can you state the substance of it ?

Answer. The first was that we should protect the women and children, and put down radicalism ; whip and kill out those leading characters—white and black—that belonged to the radical party, if there was any resistance. I remember that part of it very well.

Question. Which part of it ?

Answer. I think it is about the same as well as I can remember it.

Question. Did you ever hear the constitution and by-laws read ?

Answer. Yes, sir ; I have heard them read several times, but I didn't pay a great deal of attention to it.

Question. Do you recollect whether each member was required to arm himself with a pistol, Ku-Klux gown, and signal instrument ?

Answer. Yes, sir.

Question. Do you remember whether it was an article, also, that no colored man should be admitted in the organization ?

Answer. There was none allowed, sir, in the organization.

Question. Will you state what this Ku-Klux gown was ?

Answer. It was a gown that I had—was a solid red—and a sack came over your head, and a string to draw around your neck.

Question. What was the object of it ?

Answer. It was to disguise yourself.

Question. When was it to be worn ?

Answer. Whenever you went on raids.

Question. What was the signal-whistle ?

Answer. It was composed of some kind of metal, made a very loud, shrill noise, and was used to give signals with.

Question. Used when ?

Answer. Used when you were going on meetings and raids generally.

Question. Were the names of the Klan called when orders were given on raids ?

Answer. There were no names to be called above a whisper.

Question. Were voices to be disguised or not ?

Answer. Yes, sir ; their voices were to be changed ; that was particular.

Question. What was the object ?

Answer. To keep from being found out, I suppose.

Question. What style of talk or language did they adopt usually for concealing their voices ?

Answer. Some talked Irish and Dutch. They had all kinds of talk to change their voices.

Question. Whether you in pursuance of the objects of the Klan went upon raids yourself ?

Answer. I was, twice, sir.

Question. Which raid first ?

Answer. I was on the raid first, on the night of the 9th of last January.

Question. Who was present on that raid ?

Answer. There was Captain John Mitchell, Joseph Mitchell, Milton Watson, William Good, Robert McCreight, Charles Byers, John Davis, T. B. Whitesides, and said to be Pinckney Webber, leading Parker's Klan, from the other side of the river, in Union.

Question. Those men named first were members of what Klan ?

Answer. Said to be members of Eleazor Parker's Klan.

Question. But those on this side ?

Answer. Members of John Mitchell's Klan part of them.

Question. Was it this John Mitchell ? [Pointing to the prisoner.]

Answer. That is the man, sir.

Question. You mentioned Dr. T. B. Whitesides ?

Answer. Yes, sir.

Question. Is this the man ? [Pointing to the prisoner.]

Answer. He was present that night ; I left Milton Watson's house with him and Milton Watson, and went on before them and got my saddle, and met them on top of the hill, between my house and Mr. Smith's place.

Question. And then went with them to the place of rendezvous ?

Answer. Went to the ferry and waited for the Klan.

Question. You saw Dr. Whitesides without his mask on ?

Answer. I did, sir, before he put it on.

Question. Did you see Captain Mitchell without his mask on ?

Answer. No, sir; he had his mask on the night when he came to the ferry, but I recognized him; there was a general talk all through to each other.

Question. How did you recognize him?

Answer. By him coming up, and others asking who he was; some said it was Captain Mitchell and some said Joe Mitchell was along in the same party.

Question. Who commanded?

Answer. Webber took command, sir.

Question. How many were in the party before you started?

Answer. After we met at the ferry?

Question. Yes.

Answer. I think they numbered twenty.

Question. Where did you go first?

Answer. They went first to Rowland Thompson's place, on the same road, and Webber he ran into Pressly Holmes there, and kicked down the door, jerked him out of bed, took him up to the old store, made him strip off his shirt, and whipped him pretty bad. I heard Mr. Smith say, a few days after, that he was sorry enough for the nigger to cry, if it would have done any good; that is, John Smith, at Rowland Thompson's plantation.

Question. What was the next place you went to?

The COURT. Let the witness detail all the circumstances.

Question. Tell me the particulars of that whipping.

Answer. They whipped him.

The COURT. How did they get him out of bed?

Answer. I did not see them; I saw Webber when he got out of the door; he had him by the arms.

The COURT. Anybody else there?

Answer. Yes, sir; the wife and daughter.

Question. Tell us all about it.

Answer. Taken him up to the store.

Question. Well, what was said and done?

Answer. I don't recollect what was said, only they were going to whip him about some remarks he had made, about being buried in a white person's grave-yard.

Question. Anything else talked about?

Answer. I think they whipped him, and made him give the Union League signs; they said he was a member of the Union League, and he had been attending some meeting of the League.

Question. Anything said about his having voted the radical ticket?

Answer. They told him not to vote the radical ticket any more, to let politics alone; the white men always have ruled this country, and they intend to do it.

Question. Anybody present except the Klan?

Answer. No one as I know of.

Question. Do you know who did the whipping?

Answer. I do not.

Question. Where did you go next?

Answer. Went then to Widow Thompson's place, to the Beauty Spot.

Question. What was done there?

Answer. They had taken out a boy there by the name of Jerry Thompson.

The COURT. What do you mean by that?

Answer. They knocked down his door, and took him out doors, and whipped him; they also broke his gun. They whipped him severe; I think they made him strip off his clothes.

The COURT. What with?

Answer. Cowhides and hickories.

Question. How many whipped him?

Answer. I do not know how many.

The COURT. More than one?

Answer. Yes, sir; three or four—maybe more.

Question. Take turns?

Answer. They whipped him pretty much all at one time, some of them, and at last they censed off.

Question. What did they talk to him about?

Answer. About some threats he had made against an old soldier.

Question. What else?

Answer. Something about his politics, I think.

Question. Do you recollect what was said?

Answer. I cannot recollect, sir.

Question. Do you recollect what his politics were?

Answer. I do not. It was generally supposed, though, that he was a radical.

Question. You understood that you were doing this in pursuance of the purposes of the Klan?

Answer. Yes, sir; that was my understanding.

Question. Where next did you go?

Answer. We went then to Mr. Moore's plantation, and taken out Charley Good. They whipped him and beat him. I saw one man with a stick nearly as large as my wrist, and some was kicking and some whipping, and they came very near killing him.

Question. What did they say to him?

Answer. They told him to let politics alone; that they understood he was an officer in the Union League.

Question. Was this the man who was subsequently killed?

Answer. Yes, sir; I heard afterward he was killed.

The Court. What time of night did you go there?

Answer. I suppose it was about 1 o'clock, maybe later.

The Court. Was the man up?

Answer. No, sir, he was in bed.

The Court. His family?

Answer. Yes, sir, so far as I know. I did not go in his house myself.

Question. Anything else occur there more than what you have stated?

Answer. Well, there was a boy by the name of John Adams run out, and they taken after him and shot at him; he was a colored boy.

Question. Who fired after him?

Answer. I don't know who; it was done by the party though.

Question. Did they hit him?

Answer. I think not, sir.

Question. He escaped?

Answer. No, sir; they overtaken him, but didn't do anything to him; at least, I didn't see them hurt him; they went up then to Madison Smart's and taken Charles Leach out, a colored man, and gave him a dressing.

Question. What did they whip him for?

Answer. About his politics.

Question. What did they say to him?

Answer. Told him he was a member of the League, and must let it alone. I heard one man ask him, says he, "Had you rather take a hundred lashes or be killed?" and he said he would rather take five hundred lashes.

Question. Did they go to work and lash him?

Answer. They gave him about fifty lashes, I think, with hickories and cowhides, probably a whip attached to it.

Question. Say anything about his politics?

Answer. Told him to let radicalism alone.

Question. Then what next?

Answer. Went then and whipped a boy by the name of Amos Howell.

Question. Where did they find him?

Answer. In his house, sir.

Question. How did they get to him?

Answer. I didn't go into the yard; they were coming out with him when I came up; I was in the rear; I came up to the lot and stopped; they didn't whip him very much; they gave him, I think I heard somebody say afterward, about fifty lashes.

Question. What did you hear them say to him?

Answer. I didn't hear the conversation: they taken him off from me some seventy-five yards.

Question. You heard the beating?

Answer. Yes, sir; I could hear the blows.

Question. Where did they go next?

Answer. They dispersed then, and went toward the ferry, some of them.

Question. Whom did you go home with?

Answer. I think Dr. Whitesides, Milton Watson, and myself went together, as far as my house.

Question. Where did you take off your disguises?

Answer. Well, I don't recollect where.

Question. Were the parties all disguised during this series of whippings?

Answer. Yes, sir; well, there was two or three that took off their disguises and went down to Henry Thompson's quarter; I think Charley Byers, John Davis, and Joe Smith, when they were going home.

Question. Did you take off your disguises?

Answer. I don't recollect whether we had taken them off before we got home or not.

Question. You saw Whitesides after he had taken his off?

Answer. No, sir, I don't think I did; I think probably we went home with our disguises on, or near home.

Question. Have conversation all the way home?

Answer. No, sir, I don't think we had much.

Question. Did you talk with him at all on the way?

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- Answer.* He and Milton Watson, I think, were riding before, and I was rather behind.
- Question.* You knew him perfectly well?
- Answer.* Yes, sir, I knew him.
- Question.* Perfectly certain of it?
- Answer.* I was certain that he was the man that left the house with me.
- Question.* Where did he stop?
- Answer.* He stopped at Milton Watson's; his family was down the same night.
- Question.* How long were you out that night?
- Answer.* I was out nearly all night.
- Question.* Left home at what time?
- Answer.* About 9 o'clock.
- Question.* Returned when?
- Answer.* Returned about 4 in the morning, I think.
- Question.* Did John Mitchell go with the crowd all the way through?
- Answer.* So far as I know he did, sir; I didn't see him with his disguise off; don't know any more than what they told me at the ferry.
- Question.* Did you hear his voice that night?
- Answer.* I think I did, sir; I cannot say positively that I did; but it was told me. I don't recollect whether we had any conversation or not.
- Question.* He was the chief of the Klan?
- Answer.* Said to be, sir; yes, sir; I saw him when he was elected chief of the Klan.
- Question.* Where was that?
- Answer.* In the old field, near Mrs. Wright's brick house.
- Question.* When?
- Answer.* I don't recollect the date; it was before Christmas.
- Question.* How long before Christmas?
- Answer.* It was not very long before Christmas.
- Question.* How many members was there?
- Answer.* I cannot tell you; there was seven or eight, or maybe more.
- Question.* Was there an election held?
- Answer.* Yes, sir.
- Question.* And he was elected chief?
- Answer.* He was elected; there was two men running for chief, and Captain Mitchell was elected.
- Question.* How long did he continue chief of that Klan?
- Answer.* I don't know, sir; through the winter, I suppose. I never saw him on any other raid than that. I saw him at the meeting at Barkley Hill, as Mr. Gunn stated.
- Question.* When was that?
- Answer.* I don't recollect the date.
- Question.* What was that meeting for?
- Answer.* Well, sir, it was told to me that it was to whip or kill Bill Kell. The evening before, sir, I had a conversation with William Kell's brother, and I was talking to him, and I had told him I had warning to go on a raid on his brother, and I wanted him to go with me to sympathize for him. I found out afterward that Mr. Kell had not belonged to the Ku-Klux; that he had got into some of the secrets; but he gave me the signs and I returned them. I heard it rumored in the meeting that it was broke up by me and Mr. Kell being there.
- Question.* What did you understand they were going to kill Bill Kell for?
- Answer.* About politics.
- Question.* What politics?
- Answer.* Radical.
- Question.* What was his position in reference to the radical party?
- Answer.* He was a great leader in the Union League—said to be.
- Question.* And he was to be killed for that?
- Answer.* I suppose so; killed or whipped. I heard threats made about Hugh Kell's being there. Edward Leech told me, and Madison Smart told me, that I had better tell Hugh Kell to get into the order; if I didn't, both of us were in danger.
- Question.* Were those gentlemen members of the order and present that night?
- Answer.* Yes, sir; so far as I know, they were.
- Question.* Did Hugh Kell go into the order?
- Answer.* After that he went to Squire Sam Brown's son—I don't recollect whether it was Chambers or Pete Brown—and got him into the organization, and he came down with Mr. Brown to Watson's, to let the members know that he belonged to the order.
- Question.* You saw him there?
- Answer.* I didn't see him there, but Mr. Watson told me afterward that Kell was all right.
- Question.* That wasn't the question. That was Milton Watson?
- Answer.* Yes, sir.
- Question.* Is he the man you have spoken of as being on that raid?
- Answer.* Yes, sir.

Question. Now, your second raid ?

Answer. The second raid we met in the old field below Dr. Whiteside's house.

Question. Who were present ?

Answer. There was a good many; I think there was to the rise of twenty; maybe not so many.

Question. Name as many as you can.

Answer. Julius Howe, George Lecch, Jeff Smith, Joseph Mitchell, Joseph Smith, Harris Wiley, Charles McKinney, Gaffney, Murphy, Porter, and several others that met there; some had on disguises when I got there and some none, and waited for Howe and Joseph Mitchell to bring the disguises after they had all dressed. There was no disguise for Harris Wiley, and he went home. We went to Dr. Whiteside's house and saw Whiteside and his family, and saw Whiteside and his family standing on the piazza.

Question. Did you speak to him ?

Answer. No, sir.

Question. Did he join the Klan that night ?

Answer. He did not.

Question. Go on.

Answer. Went there and stopped at Mrs. Watson's for some purpose, I don't know what; they did not do anything. They went to Mr. Moore's quarter; there they got a double-barrel shot-gun, and taken it out and broke it.

Question. From whom did they take it ?

Answer. From a colored man; I don't know his name.

Question. Old or young colored man ?

Answer. I didn't see the man.

Question. Why did they take it ?

Answer. I don't know, sir. I heard no reasons. Went then to Mr. The Byers's; they did not do anything; they were hunting for a boy by the name of Alf Cassidy.

Question. Why did they hunt for him ?

Answer. They went and some broke down the doors, and some opened the doors for them, and went in and got lights and looked over the house.

Question. Did they do anything to the women ?

Answer. No, sir; but they searched the house and didn't find any one.

Question. What did they propose to do with him ?

Answer. I heard no proposals at all.

Question. What were they going to visit him for ?

Answer. I don't know, sir.

Question. Go on.

Answer. They went down then to Chancellor Chambers's, where they called on an old man and got an Enfield rifle. I think it had been cut in two.

Question. Who was the colored man ?

Answer. I don't know him.

Question. Did they intend nothing with him ?

Answer. They made him give up his gun; also, made him break it himself.

Question. What did they say to him ?

Answer. I don't recollect; I did not hear the conversation.

Question. They had a conversation with him ?

Answer. I suppose so.

Question. How long did they stay with him ?

Answer. Not more than ten or fifteen minutes.

Question. What next ?

Answer. They went then on down to—I don't know whether it was The or Edward Byers's place; where Adolphus Moore lived and another colored man there—and they taken both of them out and whipped them.

Question. Do you know their names ?

Answer. One was named Adolphus Moore, and I don't know the others.

The COURT. Tell me exactly how they did it—the first and then the second.

Answer. They first went to Adolphus Moore's house; he told them that he was sick, and he did not feel much like going out, or something to that amount; and they took him out, anyhow, into the yard; I heard some remarks made on him about swearing against I've Leach and George, something that occurred in 1868; some Ku-Kluxing that was done then.

Question. Now, what did they say to him ?

Answer. They told him never to swear against a white man again.

Question. What else ?

Answer. Don't recollect what they said.

Question. Did they talk to him about his politics ?

Answer. I think they did.

Question. Can you remember anything about it ?

Answer. I cannot.

Question. You remember that something was said ?

Answer. Yes, sir; it was generally done.

Question. What did they do to him?

Answer. They whipped him about one hundred and fifty lashes with a hickory.

Question. What did they do to him then?

Answer. I don't recollect.

Question. Let him go?

Answer. Let him go.

The COURT. What condition does this leave these people in; could they walk?

Answer. Yes, sir; this boy could.

The COURT. Did you see his back?

Answer. I did not see it.

Question. Did they whip him on his bare back?

Answer. Yes, sir; they made him strip off his shirt.

Question. Make him lie down on the ground?

Answer. No, sir; he stood up.

Question. Did anybody hold him?

Answer. He stood, as still as he could stand.

Question. The crowd circulated around?

Answer. Yes, sir; they were generally crowded around.

Question. When you whipped a man, the crowd stood around?

Answer. Yes, sir; so thick that he could not escape.

Question. Now tell us the circumstance about the other; how they found him and whipped him?

Answer. They found him in bed, and they taken him out—I think some of his folks opened the door—and they gave him about the same number of lashes, with hickories.

Question. Where was he?

Answer. Right in front of his door, in his yard.

Question. Did the crowd circle around him?

Answer. Yes, sir.

Question. How many whipped him at a time?

Answer. I don't recollect; two or three; three or four, maybe.

Question. What did they say to him?

Answer. I don't recollect what they did say to him.

Question. Do you recollect whether they talked to him about his politics?

Answer. I don't know, sir; I don't recollect.

Question. What was his condition when you got through whipping him?

Answer. About like the other; gave them both about the same.

Question. What did they do with him?

Answer. Told him to get up and behave himself, I think.

The COURT. Where was his family?

Answer. In his home.

Question. Within hearing?

Answer. Yes, sir; it was not more than ten paces from his house.

Question. Did he cry?

Answer. Yes, sir; he begged.

Question. Where else did you go to?

Answer. Went then down past Edward Byers's; there they joined a part of another Klan, said to be Will Johnson's, the Rattlesnake.

Question. How many in that Klan?

Answer. Seven or eight.

Question. Who was in command?

Answer. Said to be William Johnson.

Question. Mounted or not?

Answer. Yes, sir; mounted and disguised, and some had pistols and some had guns.

Question. Where did you go then?

Answer. Went, then, down to Mrs. Stinson's; and they whipped this boy, Sam Moss, because they had heard he had made some threats.

Question. What kind of threats?

Answer. That he allowed to lie with his ax at his door, and the first Ku-Klux that came in, he allowed to kill him. They went and knocked down his door, and called him out and whipped him a little; didn't hurt him, though.

Question. What conversation did they have?

Answer. Told him never to make no more threats.

Question. Did he promise?

Answer. He promised he would not.

Question. Did they repeat to him the threats?

Answer. I think they did.

Question. Did he admit them or deny them?

Answer. He denied them.

Question. Talked to him about anything else?

Answer. I don't think they did.

Question. Where did you go next?

Answer. Went then to the Nangle Place. They whipped a couple there; one named Alex. Lynch and one named Henry Moss.

Question. State all the particulars.

Answer. They went to Alex.'s house first. He was crippled in one foot; and they made him walk up to Henry Moss's house, and got them both and took them up to the old field and whipped them pretty severe with hickories and cowhides.

Question. How many lashes did they give Alex.?

Answer. I suppose one hundred lashes.

Question. How many whipped him at a time?

Answer. One and two at a time, I think.

Question. Did they circle around him?

Answer. Yes, sir; all around him.

Question. His clothes off?

Answer. His shirt off, sir, and the whipping was upon his bare back.

Question. Has Alex. Leach since been killed?

Answer. Yes, sir; I heard he had.

Question. By the Klan?

Answer. I don't know who killed him.

Question. How long after that was he killed?

Answer. I don't recollect. This was on the 29th of June, as well as I can recollect.

Question. Do you know what he was killed for?

Answer. No, sir; I do not.

Question. Were you on this occasion in pursuit of your usual business of the Klan?

Answer. Yes, sir; that was generally supposed to be the usual business; that was my understanding.

Question. Did they talk to him about his politics?

Answer. I think they did; told him he must not be a radical any more.

Question. Did they use the word "voting?"

Answer. I think they did, sir.

Question. What did they say about voting?

Answer. Told him not to vote the radical ticket any more.

Question. Now, about the other man?

Answer. Well, I don't recollect, sir, what he said.

Question. Did they whip him the same way?

Answer. Yes, sir; but not so severe.

Question. Did you say what his name was?

Answer. Henry Moss.

Question. Whip one right after the other?

Answer. Whipped them both about the same time.

Question. Two whipping parties?

Answer. Yes, sir.

Question. You didn't hear what they said to him?

Answer. No, sir; I didn't pay any attention.

Question. What did you do next?

Answer. Went on then to Wilson's, a colored man.

Question. What did you do with him?

Answer. They went into his house.

Question. How did you get in?

Answer. I think some of them broke the door down or kicked it open and found him in there.

Question. Who brought him out or how was he brought out?

Answer. I don't recollect; but I think there was two or three men ahold of him and brought him out; maybe, more.

Question. What did they do with him?

Answer. They carried him out in the yard and whipped him a little, and made him give the League signs.

Question. Talked to him about his politics?

Answer. Told him he must leave the League meetings alone and not vote the radical ticket any more. I don't know whether they succeeded in getting the League signs or not; but I don't think they did, when the party dispersed. It was said that the other Klan whipped him severe. I heard Mr. Kuce say that Will Johnson came very near killing this boy. He said it was all they could do to keep him from killing him.

Question. What time did you start out that night and what time did you return home?

Answer. We started away from the old field about 9 o'clock, I suppose, and I returned home about 4 o'clock in the morning, or a little after.

Question. That was considered a good night's work?

Answer. Yes, sir; they went on then below Wilson's, on the same road, after a boy

by the name of John Thompson, usually called; (you may have his name different;) and they did not find him; that Mr. Wilson was in the house. His wife had been confined that evening at 5 o'clock, and Mr. Wilson was there—that was William Wilson, a white man. I heard shooting down at his house, and run down there; and they had surrounded his house when I got there, and I suppose that they had killed his dog, (I heard afterward that the dog was killed,) and they were in the act of going into the room where Mrs. Wilson was, and me and Will Leach kept them from going in. Harvey Hamwright, a stepson of Mr. Wilson's, begged them not to go in on his mother, and they told him to bring him out. They brought him out, and I think he stood on the second or third step, and they took him—I think Will Johnson did—and told him he was a damned big, fine radical; he was mighty nigh fat enough to make soap-grease.

Question. Did they talk to him about his politics?

Answer. Yes, sir; they told him to let the Union League alone, and also told him if there was any more burning done in ten miles of his house, they allowed to take his life.

Question. What did he say to that?

Answer. I don't know what he said; he didn't have much to say, no way.

Question. You were acquainted with him?

Answer. I am personally acquainted with him.

Question. How long have you known him?

Answer. Ever since the war. They dispersed then, and the "Rattlesnakes" went one way and the "Tigers" went the other. They gave them the name of "Tigers" that night. On the other side of Bullock's Creek they took off their disguises. I think Joseph Mitchell took the disguises and put them in a sack.

Question. Who is he?

Answer. Son of Captain John W. Mitchell.

Question. Son of the prisoner?

Answer. Yes, sir.

Question. Who commanded your Klan that night?

Answer. Julius Howe. When they joined the two Klans together he commanded.

Question. How do they determine who is to command when two Klans come together?

Answer. I don't know how they determine that thing.

Question. Is there any ranking of the chiefs?

Answer. I don't think there is.

Question. What next?

Answer. We went home then.

Question. These were the only two raids you have been on?

Answer. The only two. I was in two or three meetings; in the meeting on Barkly Hill, to go on Bill Kell.

Question. Was Dr. Whitesides at that meeting?

Answer. No, sir; he was not.

Question. On what occasions have you seen Dr. Whitesides with the Klan?

Answer. I never saw him any time only the one time; I and him had a conversation after that, and he said it was one of the most outrageous things in the country.

Question. What was?

Answer. This Ku-Klux Klan; it was running all his hands off, and he would be obliged to suffer if they didn't stop it. He said he was opposed to it.

Question. Did you talk to him about being on that raid?

Answer. Yes, sir.

Question. What did he say?

Answer. He didn't have much to say about it. I suppose it was his first raid, and he was, like a good many others, disgusted with it.

Question. Have you had any conversation with him since he has been arrested?

Answer. Yes, sir; I had a conversation with him in prison—in Yorkville; he sent to me to come on the third floor, where he was, by Sergeant Corbin, that he wanted to see me; and he said I could let him out of that thing very easy if I would do it; and it passed off that way.

Question. What did you tell him?

Answer. I don't recollect what I told him; anyhow, in a few days after that Dr. Whitesides sent my cousin Macarchin down on my floor and said that he would give me \$25 if I would go and let him out of it.

Question. Who said that to you?

Answer. My cousin.

(Objection; objection sustained.)

Question. Did you go to see him?

Answer. No, sir; not after that—only as I came out of prison.

Question. When was that?

Answer. On the 27th of last month.

Question. What conversation did you have then?

Answer. He hollered to me, and told me to go and fix that thing.

Question. What thing?

Answer. The thing that he offered me \$25.

(Objected to.)

Question. Where was he when he halloed?

Answer. He was in prison, and I had been released.

Question. How were you released?

Answer. On bail, sir. I returned home that night, and came back to Yorkville on Saturday, and Squire Clawson sent word for me to come up to his office, and asked me if there were not a misunderstanding between me and Dr. Whitesides. I told him there was none, and he said that was all the business he had with me; and, also, Major Hart sent for me to come to his office, and I went, but I don't recollect the question he asked me.

Question. Anything about Dr. Whitesides?

Answer. No, sir; I think not.

Cross-examination by Mr. WILSON:

Question. Did you ever state while in the presence of several of the prisoners, whom I will name, that you were satisfied that you were mistaken in including Dr. Whitesides name among those that went on the raid that night, and that you intended to go to Colonel Merrill and correct the mistake?

Answer. I did not, sir.

Question. Did you, while you were in jail, before you were released, mention it in the presence of John Miller, of W. C. Whitesides, of Robert Riggings, of Hayes Mitchell, and John Mitchell?

Answer. I did not, sir.

Question. Did you, when Dr. Whitesides called to you, as you have just stated, to go and fix that thing—did you say in the presence of John Miller and of W. C. Whitesides, or in their hearing, "I will go at once and correct it?"

Answer. Yes, sir; but you understand my meaning about this.

Question. Did you say, "I will go to Major Merrill at once and correct it?"

Answer. I stated I was ordered to report to Major Merrill, and I would go at once.

Question. That was your reply to the question; do you remember using the words "and correct the mistake?"

Answer. I remember using the words that I was going to Major Merrill's headquarters.

Question. Did you use the words "correct the mistake?"

Answer. I don't know whether I did or not.

Cross-examined by Mr. MELLON:

Question. On what night did this raid upon Charles Leach occur?

Answer. It was on the 9th of January.

Question. Of the present year?

Answer. I think so.

Question. Do you recollect what day of the week it was?

Answer. I cannot say.

Question. Do you recollect what day of the week the 1st of January came on?

Answer. I cannot; I was only told since I came here that it was on the 9th of January.

Question. Do you recollect what day Christmas was last year?

Answer. On the 25th day of December.

Question. On Sunday or Monday?

Answer. On Sunday.

Question. Then the 9th was on Monday. Where did you see Mitchell on that night?

Answer. At Howell's Ferry.

Question. You say that when you were at Howell's Ferry you saw John Mitchell?

Answer. Said to be him; he was in disguise, as I said before.

Question. I have understood you to say, however, that as far as you, at present, recollect, you had no conversation with him?

Answer. I don't recollect having any, sir.

Question. You are certain, now, of the night when this raid was on Charles Leach?

Answer. I am not certain; I have only a boy's word of it that was whipped.

Question. Do you certainly know that on that same night Press Holmes, and Jerry Thompson, and Charles Good, and Amos Howell were whipped?

Answer. Yes, sir, I do; on the same night.

Question. When did you join this Klan?

Answer. I joined before Christmas.

Question. Mitchell's Klan, you mean? You have not spoken of any other.

Answer. I joined a different Klan, sir; and then there was a meeting when Captain Mitchell was elected chief.

Question. That was before Christmas?

Answer. It was before Christmas, sir, as well as I recollect.

1858 CONDITION OF AFFAIRS IN THE SOUTHERN STATES.

TESTIMONY OF HENRY LATHAM.

HENRY LATHAM (colored) was the next witness called for the prosecution. He was duly sworn, and testified as follows:

Direct examination by Mr. CORBIN:

Question. Where do you live?

Answer. Mr. William Shearer's plantation I was living.

Question. In York County?

Answer. Yes, sir.

Question. Did the Ku-Klux Klan ever visit you?

Answer. Yes, sir.

Question. When was it?

Answer. It was before cold weather got done; before we planted corn.

Question. Some time last winter?

Answer. Some time in the winter.

Question. Tell the jury all about it.

Answer. I heard them before they found me, down at Mr. Ramsay's, and I tried to see if I could escape them. They was shooting down there, and I thought I would try to dodge them. I couldn't get up well on account of the rheumatism. But they seed me; they was too smart for me. I went out and watched by hickory tree; and when I got tired of watching I mashed up some old wood and took it in, and they coming on me.

Question. Who came on you?

Answer. Mr. Shearer.

Question. Who else?

Answer. There was all the Shearers came in; Mr. Riggings, I don't think that he came in, but his horse was there when they sot down with me.

Question. How many were there?

Answer. Seven in the crowd.

Question. All come in?

Answer. No, sir, didn't, but—

Question. Tell us what they did to you.

Answer. They came in; they cussed me.

Question. Tell us what they said.

Answer. They said, "God damn you, who are you?" I says, "Henry Latham, sir." "Who is he?" I says, "Henry Latham, sir;" then I looked at one at the window and saw his red eye, and he jobbed his pistol in my face, and says, "Who are you?" and I told him "Henry Latham, sir," and acted as well as I could, to keep them from killing me. Robert Riggings told me he was going to make me a good old democrat; that was the first of it. Mr. Riggings said he was going to make me a good old democrat. I says, "You can't do it." He says, "Well, you'll see." I says, "How will you do it?" He says, "I am going to fetch a crowd and shoot in your house and make you a good old democrat." I says, "No, don't do that, Mr Riggings." He says, "I will do it some other way." I says, "How?" "Never mind, you'll see." That was along in the middle of the week, before they whipped me.

Question. When was it that they came to see you?

Answer. Saturday night; and when I heard them I knowed I would catch it. I wasn't able to run, and I went and got behind a tree. Well, it was too cold. I couldn't lay out at night, and I thought I would dodge back into the house and be easy, and sit down and mash up the old wood and put it on; and just as I put the last stick on, he jobbed me with his pistol, and says, "Who are you? God damn you, who are you?" I says, "Henry Latham, sir." "God damn you, come out of there." "Yes, sir;" and I followed him up and got to the fence, and before I got to the fence he says he would cut my God damn throat. I thought now if I prayed a little bit I wouldn't been uneasy. When I throwed my leg up to get over the fence, the pain hurt me so I hollered. "What ails you, God damn you?" I told him that it was the rheumatism. "Well," he says, "God damn you, come over here; I will take that out of you;" and kicked me, and turned my bone wrong in here, (indicating the spine.)

Question. How many times did they kick you?

Answer. I cannot tell. They kicked me and told me to run. Well, I tried to run all I could, but a man full of pain can't run much. I wouldn't speak of them, no way, out of the way. I just grunted when they kicked me.

Question. What did they do with you up the road?

Answer. They beat me with poles about that thick, (pointing to his wrist.) They had long ones, and hit me in the same place where they kicked me.

Question. How many times did they strike you?

Answer. I don't reckon more than six or seven times apiece. Five of them hit me, but there was seven in the crowd. They didn't give me but, I don't think, more than six or seven apiece. They asked me if I would ever vote another radical ticket, and I told them no, sir; if that was the way they did, I wouldn't ever no more. They asked

me if I was a League man. "Well, show me a League sign, God damn you." I caught myself right here, (the left lapel of the coat.) Mr. Kell, he was a radical man; he put us all into the League; and they said, "God damn you, what did you join it for?" I said, "I didn't know there was any harm in it." "Well, God damn him, give him hell;" and then they begun.

Question. After they got done whipping you, how did you feel?

Answer. I felt very bad.

Question. What injury did they do to your spine?

Answer. They turned the bones wrong side out. Well, I never got over it; I don't know as I ever will. They kicked the bones wrong and injured the bone. They told me to run when I started back; and I went to get my coat, and they kicked me in the same place again, and I caught my coat in my fingers and hung on to it and run with it, and while I was running they run the horses up to keep me from knowing the horses—Dock Shearer's horse, Bob Rigging's horse. I knowed the horses; I had plowed Bob Rigging's horse.

Question. Did you go home?

Answer. Yes, sir. They told me, "God damn you, go to the house," when I started to pick up my coat. They said run, and while I was running they run the horses.

The defense waived cross-examination.

TESTIMONY OF JERRY CLOWNEY.

JERRY CLOWNEY (colored) was the next witness called for the prosecution. He was duly sworn, and testified as follows:

Direct examination by Mr. CORBIN:

Question. Where do you live?

Answer. I live in Yorkville.

Question. How long have you lived there?

Answer. Ever since the 1st of March.

Question. Where did you live prior to the 1st of March?

Answer. Lived on Judge Beaty's plantation.

Question. How far from Yorkville?

Answer. Four miles.

Question. Now tell the court and jury whether the Ku-Klux Klan visited you; and, if so, what they did to you; tell us all about it.

Answer. They came to my house on the 25th of January, at night.

Question. What time of night?

Answer. About 1 o'clock; between 12 and 1; I think it was about 1.

Question. Did they have disguises on or not?

Answer. Yes, sir,

The COURT. Let him tell his story.

Question. Tell your own story, in your own way.

Answer. I don't know what for or how they came to the house, for I was asleep, sound. After a while, in my sleep, I heard a monstrous noise all around the house. I rose up in bed. "What is this," says I; "old woman, what is this?" She bounced up. "O, I don't know." Says I, "I don't know what it is, neither." They went on knocking; and they had a song that they sung; it had but mighty few words: "Ho, man, home to-night? Ho, man, home to-night? Ho, man, home to-night?" [Laughter.] You laugh so much I can't tell you.

The COURT. Go on; never mind acting it out.

The WITNESS. I lit out of bed on the floor. They was still a knocking and holler-ing. I had one little loose plank in the middle of the floor—a little cellar that I had. Says I, "Old woman, these are keeping," and I raised up the plank a little piece, and it struck me immediately that my sills was close to the ground and I couldn't crawl out under. That was my aim. I dropped the plank back again and raised it up; but then as soon as I raised it up, there was one of the men outside had a board—I had a board nailed across the crack—and he had it punched off. The board dropped inside, and he peeped in and saw me—the moon was shining—and he run the muzzle of his gun through the boards, and says, "God damn his soul, I see him." Says another, "If you see him, shoot him down." "O, no," I says; "don't shoot me." "Well, then, open the door, God damn quick." I opened the door. Here comes in the old devil, shaking his horns, and walked up to me. "God damn your soul; you have got a gun here, you damned rascal you." Says I, "Yes, sir." "Where is your gun?" Says I, "There it is on the wall." Two jumped and grabbed the gun at once, and carried it out of the door. As soon as ever they got out into the yard with it, the captain was standing by me with his horns. (I call him captain because he had his horns on his head.) "Now, God damn your soul, I want you to tell me, you God damn rascal, what is you doing with a gun here." "I wasn't doing much with it." "What little was you doing with it, you damned rascal?" Says I, "I belong to the militia, and I have been mustering a

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little and drilling." "Where have you been drilling?" "Down at Yorkville." "I know nothing at all about your God d—d Yorkville." Says I, "It ain't but four miles from here." "I know nothing about four miles, nor Yorkville, God d—n your soul; and you have been drilling?" Says I, "Yes, sir." "Well, God d—n your soul, I intend to drill you to-night," and he hit me—[as the witness spoke he fell full length on the floor.] Here is a great big scar here on my head yet; he opened my skull there pretty wide; the blood run in stream like you stick a hog. He went out after he struck me that first lick. I was standing holding my head, the blood running on the floor, and a man came to the door: "Why, God d—n him, we'll have to hang him." Says I, "No, please don't hang me." They didn't give me time to walk; just chucked me out of the door. The captain says, "God d—n you, I will show you about drilling, you d—d son of a bitch." Then they circled around, with me in the middle to look at, like I was a monkey, or a baboon, or something. Then he commenced down here (indicating the legs), and I was a jumping and prancing and begging. When I thought they was done with me, I says, "Please to let me go." The captain says, "Jerk down; God d—n the nigger; here, jump down, and I will fix the nigger." [Here the witness lay down.] They jerked me on my face to the ground. [The audience laughed at the ludicrous gestures of the witness.] Keep still; I will get done telling it directly. They jerked me to the ground; one man jumped on top of my head, and another across my shoulders, and just had me fastened to the ground. Says I, "O, pray! O, master! do, if you please!"—"O, God damn you, I will fix you now." Then right across here, [illustrating the whipping]—"God damn you! God damn you! God damn you! I will make you true to your party! Let him up! let him up!" The captain stretches off then in front, and all the rest followed, [illustrating their gait,] all making a noise like Oo-oo-oo-oo. There was one go-doug nigger. I wish his head was cut off to-day.

Mr. CORBIN. That is no testimony.

WITNESS. I hope it will be done! The nigger came back to me and caught me by the arm. "Now, my friend, you go to work and make your living honest, and the Ku-Klux will never trouble you no more—Oo-oo-oo," [imitating the gait.]

Question. Well, they left you?

Answer. They left me, now, in the yard. I wasn't able to move. I staid in the yard until they went to Uncle Isam Moss's house. It wasn't over a hundred and fifty yards; it was so we could stand in our doors and talk to one another. Directly I heard them at Isam's house like they had been to mine; the same knocking and hollering, and, "Ho, man, you home to-night!" I heard when the door flew open; and they didn't make much noise after the door flew open. Directly I heard shooting right in Isam's yard.

Question. What did you do, finally, yourself? Did you get up?

Answer. Yes, sir; I didn't get up; I couldn't get up.

Question. How did you get up?

Answer. My wife came to me and caught me by the hand and dragged me into the house.

Question. How far were you from the house when they pounded you?

Answer. Right at the door.

Question. Your wife right there?

Answer. She was standing in the door all the time, begging and crying and screaming the whole time.

Question. Did they do anything to her?

Answer. No, sir; nothing.

Question. After they let you go, you went into the house?

Answer. She helped me in the house and went in.

Question. How long were you confined to your bed?

Answer. Three weeks, and couldn't leave the house; but it looked like my back-bone here was unjointed, and my head was cut very deep, and Dr. Johnson came on Sunday morning and dressed my head.

Question. Was that on Saturday night?

Answer. Yes, sir, on Saturday night.

Question. About what time last winter was this?

Answer. It was the 25th of January.

Question. Were you a voter in York county?

Answer. Yes, sir; I voted there often; voted every time there has been an election yet.

Question. What ticket did you vote?

Answer. I voted the republican ticket.

Question. At the last election?

Answer. Yes, sir.

Question. Did you vote for Mr. Wallace?

Answer. Yes, sir, and all the rest.

Question. What did the other side call your ticket?

Answer. They called our tickets republican tickets.

Question. Didn't they call it the radical ticket, too?

Answer. Yes, sir; they called it first one way and then another.

Question. Did you know any of the party that night?

Answer. No, sir; I didn't know any of them; they was too smart for me; they cut my head too quick.

The defense waived cross-examination.

TESTIMONY OF HARRIET SIMRIL.

HARRIET SIMRIL (colored) was called as a witness for the prosecution, and, being duly sworn, testified as follows:

Question. Who is your husband?

Answer. Sam Simmons.

Question. Where do you live?

Answer. At Clay Hill, in York county.

Question. How long have you lived there?

Answer. A good many years.

Question. Has your husband lived there a good many years?

Answer. Yes, sir.

Question. Did he vote at the last election?

Answer. Yes, sir.

Question. Do you know what politics he is?

Answer. He is a radical.

Question. Did the Ku-Klux ever visit your house?

Answer. Yes, sir; I think along in the spring.

Question. About what time in the spring?

Answer. I cannot tell you exactly.

Question. Have they been there more than once?

Answer. Yes, sir; they came on him three times.

Question. Now tell the jury what they did each time?

Answer. The first time they came my old man was at home. They hollered out "open the door," and he got up and opened the door. They asked him what he had in his hand; he told them the door-pin. They told him to come out, and he came out. These two men that came in, they came in and wanted me to make up a light; the light wasn't made up very good, and they struck matches to a pine stick and looked about to see if they could see anything. They never said anything, and these young men walked up and they took my old man out after so long; and they wanted him to join this democratic ticket; and after that they went a piece above the house and hit him about five cuts with the cowhide.

Question. Do you know whether he promised to be a democrat or not?

Answer. He told them he would rather quit all politics, if that was the way they was going to do to him.

Question. What did they do to you?

Answer. That is the second time they came. They came back after the first time on Sunday night after my old man again, and this second time the crowd was bigger.

Question. Did they call for your old man?

Answer. Yes, sir; they called for him, and I told them he wasn't here; then they argued me down, and told me he was here. I told them no, sir, he wasn't here. They asked me where was my old man? I told them I couldn't tell; when he went away he didn't tell me where he was going. They searched about in the house a long time, and staid with me an hour that time; searched about a long time, and made me make up a light; and after I got the light made up, then they began to search again, and question me again about the old man, and I told them I didn't know where my old man had gone.

Question. What did they do to you?

Answer. Well, they were spitting in my face and throwing dirt in my eyes; and when they made me blind they bursted open my cupboard. I had five pies in my cupboard, and they eat all my pies up, and then took two peeces of meat; then they made me blow up the light again, cursing me; and after awhile they took me out of doors and told me all they wanted was my old man to join the democratic ticket; if he joined the democratic ticket they would have no more to do with him; and after they had got me out of doors, they dragged me into the big road, and they ravished me out there.

Question. How many of them?

Answer. There was three.

Question. One right after the other?

Answer. Yes, sir.

Question. Threw you down on the ground?

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Answer. Yes, sir, they threw me down.

Question. Do you know who the men were who ravished you?

Answer. Yes, sir, can tell who the men were; there were Ches McCollum, Tom McCollum, and this big Jim Harper.

Question. Who ravished you first?

Answer. Tom McCollum grabbed me first by the arm.

Question. What next?

Answer. All nasty talk they put out of their mouths. (Witness here detailed the conversation on the part of her tormentors, but it was of too obscene a nature to permit of publication.)

Question. What was your condition when they left you? How did you feel?

Answer. After they got done with me I had no sense for a long time. I laid there, I don't know how long.

Question. Did you get up that night?

Answer. Yes, sir, and walked back to the house again.

Question. Have the Ku-Klux ever come to you again?

Answer. No, sir; they never came back no more after that; they came back, too, but I was never inside the house.

Question. Did your husband lay out at night?

Answer. Yes, sir; and I did too—took my children, and when it rained thunder and lightning.

Question. When they came back what did they do?

Answer. When they came I wasn't there; I went there the next morning, and there was a burnt chunk down in the corner.

Question. Did it burn the house any?

Answer. No, sir; it didn't burn it—they done that to scare my old man, and after that my old man and me drowned our fire out every night, and went away.

Question. Did they come there any more?

Answer. They didn't come any more, at all; the house was burned the next morning when I went to it.

Question. Did they burn your house down?

Answer. Yes, sir; I don't know who burnt it down, but the next morning I went to my house and it was in ashes.

Question. Why did you lay out?

Answer. We laid out in the woods.

The COURT. Why did you lay out?

Answer. We went a way up towards the river.

Question. To get out of the way of the Ku-Klux?

Answer. Yes, sir; I got out of the way of them.

Question. That is what you went for?

Answer. Yes, sir.

Question. How long did you and your old man lay out?

Answer. I think we laid out for four nights. Yes, we lay out four nights; I cannot exactly tell how many nights, but he lay out a long time before I lay out.

Question. Did these Ku-Klux have on masks and gowns?

Answer. Yes, sir; they had on gowns, and they had on false caps on their faces.

(The defense waived cross-examination.)

TESTIMONY OF SHAFER BOWENS.

Question. Where do you live?

Answer. I live in Cleveland, North Carolina.

Question. Have you ever lived in York County?

Answer. Yes, sir; two years ago I lived in York county, in the upper edge of the county.

Question. Did you ever join the Ku-Klux Klan?

Answer. Yes, sir.

Question. Where?

Answer. In North Carolina.

Question. What time in 1867?

Answer. I think it's about this time of the year—some time in December.

Question. Who initiated you, and what was the mode of initiation?

Answer. Frank Ellis initiated me; made me kneel down on my knees, blindfolded me, and repeated the oath to me, and I said it over after him.

Question. Can you tell us the substance of the oath?

Answer. I cannot, sir.

Question. Was it at a meeting of the Klan?

Answer. Yes, sir.

Question. How many were present?

Answer. I cannot tell, sir; there was ten or fifteen.

Question. Now, can you tell us what the purposes of the Order were ?

Answer. My understanding was, to advance the conservative party and put down the radical party.

Question. How were they to do it ?

Answer. By killing, and whipping, and crowding out men from the ballot-boxes.

Question. Have you been a member of the Klan ever since ?

Answer. Yes, sir.

Question. Have you operated with the Klan ?

Answer. I have been on raids with them.

Question. Tell us something about the raids you were on.

Answer. The first raid I was on was on the 2d of December.

Question. Tell us all about it.

Answer. A year ago now, a week or ten days before the night was set for him to be killed, Ned Turner came over to the shop where I was at work, and told me that they was going to make a raid on Roundtree.

Question. He lived in York county ?

Answer. Yes, sir, he did ; and it was then rumored through the country that they was to meet the next Friday night, or next Friday night week, at Moore's bridge, on Buffalo creek. Well, when the night came on I went down there ; some four or five fellows there.

Question. Who were they ?

Answer. Robert Moore was one ; Wallace Wiley, Reuben Goforth, Asbury Mullinax, and others that I don't recollect ; we staid down there round a small fire awhile, and they kept coming in from different directions ; at last they got sort of afraid for fear somebody would find them out there, and they moved further up the creek into a thicket and built up a large fire ; then staid there, I suppose, till about 10 o'clock ; I asked them what they was going to do with the nigger ; they said they was going to kill him ; I told them that I didn't think it would be well to kill him ; I thought it would be best to go and talk to him or whip him, if they was determined to do something ; they swore they was going to kill him ; that was about 10 o'clock, I suppose ; I asked them what they were staying there for ; they said they were waiting for some people to come from the other side of the river, and about that time Bob Moore got on his mule and said he was going to meet those fellows ; he went, and was gone, I suppose, two and a half or three hours and came back, and when he came back Gabriel Humphries and George Turner, and one or two others that I didn't know, came with him, and some of them told Moss to take charge of the crowd, and Moss said he didn't want to do it ; he then told Turner for him to take charge of the crowd, and he then hollered for them all to form in a line in the road and start ; Turner was in front ; all them that was riding got on their horses and started in front, and those that were walking went behind them ; then went to about a quarter of a mile of Roundtree's house and got down and hitched the horses, and detailed four or five men to stay with the horses. Turner then took the lead again and hollered to the men to follow him ; went on till they came up to the fence, jumped over the fence, and then they commenced to jump over the fence, and threw three or four rails over to give the nigger a signal, but he didn't take it ; he ran into the loft. They then went and surrounded the house, and somebody fired—a gun was discharged—I don't know which side fired the first gun. When the first gun was fired, about fifty or seventy-five guns were fired into the cracks and windows of the house. Turner then ordered them to quit shooting. At last they got stopped. He then ordered somebody to burst the door down, and Jasper Spencer and some other men, I don't know who, gathered a large rock between them and rushed in and busted the door down. The house was a double house with an entry through the middle, and they busted the door down. I walked to the edge of the entry ; they rushed into the house and couldn't find any one in there, and some one outside hollered. They all then rushed out of the house that was in there and run around the house and commenced firing in the loft. I then walked into the entry, and was standing in front of the house. Mat Humphries and Elijah Ross Sepaugh was standing beside me ; they commenced shooting into the loft. Roundtree ran to the edge of the loft and shot down at us in the entry. He hit Sepaugh, cut him across the breast a little and in the wrist ; he then went back and jerked up a plank—it was a loose roof—and dropped down through on the floor and jumped out of the window, and then they commenced firing at that end of the house where he jumped out of the window. When they done that, I run out and run around, and just got around, when I saw him fall ; I walked to him and helped him up. When I done that, some other one of the party—I don't recollect who he was—walked up and took hold of him and told him, "now, damn him, to go back and show him where them guns was ;" it was reported that he had several guns and pistols, and some other one walked up and kicked him behind and told him God damn him, go right on and show where the guns was. He said he would do it. When they kicked him I let him loose ; when I let him loose the other let him loose also, and he dropped down on his face—I think we walked some ten or twelve steps, to where Elijah Ross Sepaugh was standing. I walked up to him and seen that he was hurt in the wrist ; he said he was shot ; I walked to him and picked

out one or two of the shot. Just as I walked up to him, Henry Sepaugh, Elijah Ross Sepaugh's brother, came up, and seeing that he was shot, and drew a long bowie-knife, and walked to where I left the nigger lying struggling. Some other of them had turned him over on his back, and in a few minutes after Sepaugh went back, some of them came up and said that Henry Sepaugh had cut his throat. I went back to him and seen that his throat was cut; some of the crowd then went into the house and hunted about for guns; they found a repeater outside, that I suppose he had in his hand when he jumped out of the window. They couldn't find any more guns and they started and was standing down in the lane and somebody down in the field began hollering to rally boys, for here was them damned Ku-Klux. I suppose it was a nigger, they said so, I don't know. When he commenced doing that, George Turner hollered back, "yes, God damn you, the Ku-Klux was there;" and about that time some one of the party from where the house was, hollered to leave there, it wouldn't do to stay a minute longer. I then started to run, and the rest followed and run back to the horses, and we all went together about a mile into Mr. Duncan's lane, most of the crowd went there but me, and some of them went up the road as far as Moore's mill on Buffalo; and there some of the rest turned off; I went on a piece further, and when they all left, I went on home.

Question. Was Roundtree a colored man?

Answer. Yes, sir.

Question. Do you know what his politics were?

Answer. It was reported that he was a radical.

Question. Did you understand this raid made on him was in pursuance of the general purpose of the order?

Answer. Yes, sir.

Question. Was he dead when you left him?

Answer. Yes, sir; he was dead.

Question. What other raids have you been on?

Answer. One, sir; when John Wright was whipped.

Question. When was that?

Answer. Some time in January, I think, last.

Question. Describe it.

Answer. I was then at Lewis McSwain's, in York County, South Carolina. I was at work there on a mill and it was reported to me that they was going to make a raid when night came on in the cooling grounds. McSwain's boys asked me if I would go. I told them I didn't care, I felt tired and didn't care much about going; they said they was all going to ride, and they would furnish me with a horse if I would go. I got on the horse and went about a mile from there into an old field and waited there until the rest of the crowd came; some ten or twelve men came, when they all got on their horses and went till we got within a half a mile of John Moss's, and then we divided into three crowds; each crowd was to go through a cabin apiece; one was to go down to Moss's house, and the other to go to some other nigger houses; the two that was to go to the nigger houses, they went, and they couldn't find anybody; they all rushed in and met up with the crowd that was at Moss's house; they met and went to the house together; just as we got in sight of the houses, we seen three persons running across the hill; some of them ordered them to shoot; nobody shot; went into the house, ordered the door to be opened, opened the door, went in, and searched the house; inquired for the Wright boys; some of the Wright boys wasn't there; then went back to where a woman by the name of Skates lived in a little cabin; they knocked the door of the cabin down.

The Court. Any one in?

Answer. No, sir.

Question. Was it a white woman or a colored woman?

Answer. A white woman.

Question. What did they break her door open for?

Answer. I don't know, sir; they said they were going from there to Jane Bohelier's, about two miles; they ran their horses from there to her house, or near her house, and hid the horses; they then went down to the house, surrounded it, and ordered the door to be opened; some of them got up and opened the door; they went in and searched about, and couldn't find anybody in the house; they then jerked up a plank of the floor and looked down, and there were two fellows; they took up a plank and gone under the floor when they heard us; they were John Wright and Jake Wright; they took them out and Joe Harden came in and he said that there was another; jerked up another plank, and John Moss was in there, called Red John Moss.

Question. White or colored?

Answer. He was colored. Took him out and took him up the road about two or three hundred yards from the house; made them pull their clothes off, their coats and shirts. Joe Harden then ordered some one of the crowd to cut twenty-five good hickories. Some of the party done it, and commenced whipping them. They struck Jake Wright and John Moss two or three licks, and they both broke and run, and they got away, and Harden ordered them to shoot. Somebody busted a cap, but his gun never went

off. They then took John Wright and locked his arms around a sapling and tied his hands. Joe Harden then took a hickory and whipped him severely. We all tried to get him to quit whipping him, but couldn't do it. He then took the butt of his stick and knocked him down with it two or three times. When he was satisfied he turned him loose, made him run, and shot at him as he ran.

Question. Did he hit him?

Answer. I don't think he did.

Question. Were these grown men, all of them?

Answer. Yes, sir; I suppose they was all grown, sir. Never saw them before that night, but they looked to be grown then.

Question. Where did you go next?

Answer. They then turned and went back to the houses. I asked them what for? They said they hadn't got through. They was going to take that woman out; and they had a pot of tar and lime, and they was going to pour her full of it. I told them I didn't think they ought to do that. If they was going to do anything to go back and talk to her.

Question. Was she white or colored?

Answer. She was white; Joe Harding said he was going to have it done; went back and ordered her out; made her lie down, and held up her clothes.

Mr. WILSON. Has that anything to do with the indictment?

Mr. CORBIN. It has directly.

The COURT. They propose to connect it, and we might as well let the people hear and let the jury know what things exist about us.

Answer. Made her lie down and held up her clothes; then ordered Elijah Ross Sepaugh to fetch the pot of tar and told him to pour it in.

Question. Did he obey them?

Answer. He then poured it into her, as much as he could; and took a paddle and rubbed it on her.

Question. Poured it in her where?

Answer. I don't like to tell.

The COURT. In her privates?

The WITNESS. He poured it in her privates. They then told me to give her orders to leave there in three days; I told them that I hadn't anything to do with it, and didn't want to give any orders about it at all, but Mr. Harden, he was the one told me to order that—told me he was in charge of the crowd, and if he gave, he gave all the orders—he said he was afraid to talk any more, they would recognize his voice. I then told her the orders were for her to leave in three days, and get out of the place. They then turned and left, and scattered and went home.

Question. What were you after those negroes for?

Answer. I don't know what they were after them for; I was about ten miles from home, at work on a mill.

Question. Do you know that they had any other purpose than the general objects of the order?

Answer. No, sir.

Question. That was the understanding?

Answer. I didn't ask them what they were going to do it for.

Question. They hadn't any special reasons?

Answer. No, sir; just the general object, sir.

Question. They were out as a Ku-Klux-Klan?

Answer. Yes, sir.

Question. All disguised?

Answer. No, sir; part of them not disguised; several of them had disguises, but some pulled them off.

Question. Did they have gowns on?

Answer. Some of them had. I didn't have any.

Question. Had they arms?

Answer. Almost every one had a pistol or a gun.

Question. Some of them rode and some of them walked?

Answer. No, sir, they was all riding.

Question. How many in the crowd?

Answer. I don't know, sir; there was fifteen or twenty.

Question. Where next did you go?

Answer. Then went home from there.

The COURT. Where is this man Harden?

Answer. He was at home the last time I heard of him.

The COURT. Has he been arrested?

Mr. CORBIN. No, sir; he has not been caught yet. There is some difficulty in finding him.

The defense waived cross-examination.

The court adjourned at 4 o'clock till 11 Wednesday.

EIGHTEENTH DAY'S PROCEEDINGS.

DECEMBER 20.

The court met pursuant to adjournment, Hon. H. L. Bond, presiding; Hon. G. S. Bryan, associate judge.

TESTIMONY OF MARY ROBERTSON.

MARY ROBERTSON, *alias* Thompson, a witness for the prosecution, being duly sworn, testified as follows:

Direct examination by Mr. CORBIN.

Question. Where do you live?

Answer. Three miles below Chester.

Question. Where did you live formerly?

Answer. At Bullock's Creek, on Billy Wilson's plantation; he is sometimes called Billy Wilson; a big white man.

Question. When did you leave that plantation?

Answer. On the 5th of March, I think.

Question. What did you leave there for?

Answer. The Ku-Klux ordered me away.

Question. Did the Ku-Klux visit you there?

Answer. Yes, sir.

Question. Now, tell us all about it.

Answer. The first night they came there, it was on Sunday night, I heard them come up to the house. I went out and stood a little piece on the road, and then one of my little boys came along. They had asked him to show them where John Robertson's house was, and my little boy showed them the house, and they came up and bursted in the door; then they asked if my husband was in; then they gave my little baby boy two cuts and told me to get a light; then they searched about the house; they asked if we had a gun. They then took the gun out of my house—who took the gun I don't know; then they went to Jim Crosby's and got his gun and broke that; I saw them break it myself.

Question. Do you know who went to Jim Crosby's?

Answer. I was standing out in the lot.

Question. How far is Jim Crosby's house from yours?

Answer. About the length of this house.

Question. Did they find your husband that night?

Answer. No, sir; they never found him; they didn't see him that night. That was the first night they came.

Question. Did you know any of the party?

Answer. I knew one, Captain John Mitchell.

Question. Is that the man here?

Answer. Yes, sir; that is the man, [pointing to defendant.]

Question. Did they visit you again?

Answer. Yes, sir.

Question. How long was it after the first visit?

Answer. It was about two weeks after the first visit.

Question. Tell us all about that.

Answer. They did not find me in the house that night; I was in the back house that night; they came round to the door and hollowed, "Open the door;" I was in the house when they came again; they hollowed, "Open the door," and I opened it; when they saw me they said, "Stand back," and the man held a pistol at my breast. Said he, "Damn you, make us a light; where is your husband?" Said I, "He is away." "Stand back," said he, "until I search the house. Come away," said he, "to the back of the house." I put on my shoes and was going to put on my clothes; "No, damn you," said he, "come out here;" I started to go over back of the house; "No," said he, "come this way." I followed him about one hundred yards, maybe two hundred yards from the house, and then said he, "Where is your husband?" I said I did not know; then he said, "I will make you tell a better tale than that."

Question. Did you know him?

Answer. No, sir; but he snapped a pistol in my face three times; said he, "You had better not know me; lie down;" "No," said I, "I cannot do that." "There is no help for you," said he, "damn you, lie down;" I said, "I don't like;" he said if I didn't he would shoot my damned brains out; he stood there talking to me, and said, "Are you going to lie down?" he said "If you don't I will hook you with this knife;" then he left me, and said, "Damn you, stay here till I come back." When he left me, I went to Jim Crosby's house, and they all went to Wilson's big house; when he came back he said, "Damn you, I told you to stay here," and he cut me with a switch, and I thought I was cut in two; then, said he, "walk out," and I walked out to the door, and when I was just outside the door they made me pull off my sack; then they whipped me with hickory switches; there were four of them, and they gave me five cuts apiece.

Question. Did you know any of the parties?

Answer. I knew the four that whipped me, John Mitchell and his son Joseph; one was little Joe and little Ed. Leach. It is he that murdered Joe Leach's daughter.

Question. You say you made up a light?

Answer. I did.

Question. Did you see Captain Mitchell's face there?

Answer. I saw all their faces.

Question. Did they have any disguises on?

Answer. Tom Whitesides and Watson had white dresses and long horns, but they had nothing over their faces.

Question. Do you know Dr. Whitesides well?

Answer. I do, very well; I know he married Joe Leach's daughter, and my mother lived on the same plantation, and I went there occasionally to see her, and I have been up at the house many times.

Question. How many years have you known him?

Answer. I have known him ever since he married Joe Leach's daughter.

Question. Was that before or since the war?

Answer. Since the war.

Question. Do you know John Mitchell well?

Answer. Yes, sir; I have known him five years before I was free.

Question. Is this the man, J. W. Mitchell?

Answer. Yes, sir; that is the man there, [pointing to the defendant,] and his son, Joseph Mitchell.

Question. Do you know the man that took you into the field?

Answer. Yes, sir; it was Joe Leach.

Question. Did you know any others of the party?

Answer. Yes, sir; Dr. Tom Whitesides, and Mr. Watson was another.

Question. Is this the person you see?

Answer. Yes, that's the one, [pointing to the defendant.]

Question. Where did you see Mr. Whitesides?

Answer. He and Mr. Watson was in the house together.

Question. Do you think you can be mistaken about him?

Answer. No, sir; I cannot be mistaken, for I know him.

Cross-examination:

Question. Do you state two of them had disguises, masks, and gowns?

Answer. Yes, sir.

Question. What house do you say this was you were in?

Answer. They came into Jim Crosby's house while I was there, and they asked if Jim was there, and his wife said he was not; then they looked up at the loft and said he was not there.

Question. Where were you sitting?

Answer. I was sitting just in the fire-place.

Question. What time was this?

Answer. It was in March.

Question. About what time in March?

Answer. I don't know the day.

Question. Do you say none of the rest had disguises on?

Answer. No, sir; they had every-day's dress on, and they had pistols buckled around them. Dr. Whitesides and Mr. Wilson had a white gown and a red cap, and they had horns on their head.

Question. How far did their head-dress come over their faces?

Answer. I don't know, exactly; a little longer than my finger.

Question. Do you mean over the face?

Answer. Yes, it came over the forehead; it looked like that, but I do not know exactly how long.

Question. What hour of the night was this?

Answer. I reckon it was between 10 and 11 o'clock.

Question. And you say it was about the 1st of March?

Answer. It was on Thursday night, and I think it was about the 1st of March.

Question. Was this the night they whipped you?

Answer. That was the night I am talking about.

Question. Was Dr. Whitesides' chin covered?

Answer. His face was not covered a bit.

Question. What sort of a light was there in the house?

Answer. It was a good shining light from a pine fire.

Question. Had you any candle-light?

Answer. Nothing but a big red light from the fire.

By Mr. MELTON:

Question. The first night, you say, was the night on which you recognized Captain Mitchell?

Answer. Yes, sir.

Question. What hour of the night was it?

Answer. I reckon about 10 or 11 o'clock. I always went to bed before that, but we heard a noise at the house above, and we all ran out and listened, and we heard the Ku-Klux.

Question. Had Dr. Whitesides any whiskers on then?

Answer. I never saw him with whiskers at all.

By Mr. CORBIN :

Question. Have you had any conversation with Dr. Whitesides since that night?

Answer. No, sir; I did not speak to him since that night.

TESTIMONY OF JAMES CROSBY.

Examination-in-chief by Mr. CORBIN :

Question. Where do you live?

Answer. In York County, on Bullock's Creek, on Dennis Crosby's plantation.

Question. How long have you lived there?

Answer. All my life. I belonged to him all my life.

Question. Where did you live last winter during January, February, and March?

Answer. With Mr. William Wilson; he is sometimes called Big Billy Wilson.

Question. Did the Ku-Klux Klan visit you last winter?

Answer. Yes, sir.

Question. Tell the jury all about it.

Answer. Well, they came to me first on Sunday night. I had a long talk about them before they came. I had been in John Thompson's house between 10 and 11 o'clock that night. I broke round and came out and heard the dogs barking mightily toward Squire Hood's, and I went down into my house and pulled off my Sunday clothes, and put on my every-day clothes. About this time I heard a voice shouting up in the old field, and saying, "Jim! Jim!" and I came to the door and said, "What do you want?" It was my mother-in-law. She said, "They are killing my poor children up here." I didn't want to be scrimmaged, because I thought women were very talkers, anyhow, and I was not going to be frustrated by any bother of hers; and she staid there. But I heard the Ku-Klux when they were up at her house, and after awhile I seen them coming down, and they came right by my door, and right up to John Thompson's house; and they came against the door and broke it open, and the sound of that door was not over till the other crowd came up to the other door and burst it open. I still sat there, and I heard some of them say, "God damn him, shoot him;" and I then heard the lash of a whip, whipping a little boy; and I still sat there, for I was not going to leave my house that night, because I had done nothing, and I still staid there. After awhile the others came along and said, "Hell, here is another house;" and they came to the door and burst it open. By this time there was a crowd at the front door, and they steps up to the door and hollers out, "God damn you;" and then he cocked his gun, and "What in the hell are you doing here?" Says I, "I came here to work." "And what do you come on this God damn plantation for?" Said I, "I didn't think there was any differ-then I walked out. Said he, "Who are you?" And I said, "My name is Jim Crosby." "O, yes," said he, "you are that God damn preacher." Says I, "Yes, I am." Then he said, ence in working for any one." "God damn you," said he "light a candle." Then they began talking as fast as they could, and asking me about Mr. Wilson, and what he came here for; and said he, "God damn you, get some pine and make a light." Then they swore at me, and asked me for my gun. I told them it was in the house. "God damn you," said he, "go and get it." I went into the house and got the gun, and then he swore at me again. They then made me come out of the house, and six of them fell on me there and whipped me at once.

Question. What did they whip you with?

Answer. Cowhides and hickory; the reason I know that they were hickory was that I saw they brought them with them, and I know perfectly that the others had cowhides; then one of them told me to take hold of my gun, and he said, "God damn you, knock it against that wood stump." Then they swore at me dreadfully again, and made me knock the gun against the stump again; it was broken into four or five pieces; then they swore at me again and said, "We will come back and see you again." After the gun was broke, one of them says to me, "What are you going to tel' the negroes to-morrow what the Ku-Klux have done to you to-night?" said I, "I am not going to tell nothing at all." "See here," said he, "you tell these negroes that they must not let us catch any God-damned nigger in this plantation by this time Saturday;" if they did, they would kill every God damn one of them. Says he, "Are you going away from here to-morrow?" Says I, "I will try;" said he, "God damn you, you had better go; are you going to do this?" said they; I said, "Yes." "Now, God damn you, dance round for us;" I said I could not dance; then they swore dreadful at me, and I jumped up

and done what I could, but still I did not dance any. [Here followed an obscene expression which we omit.] Then they told me to go to bed. That was the first raid they made on me.

Question. Now, go on with your story.

Answer. The next time they came to me I was lying up in the gin-house, and what awaked me that night was the sound of the guns round big Billy Wilson's house. They had shot a dog. I went to the door and I heard them say, "God Almighty d—n me, he is in there, and he has got to come out." They said if he didn't come out they would shoot the d—d house all to pieces. That was Billy Wilson's house; I saw him there, with a light in the house, and I saw him when he came out; and I heard them say, "God d—n me, if he isn't fat." I came from the platform and went out into the thicket, and I didn't know any more that night; and as they went on I heard about twenty pistols fired. There were two crowds of them, and that was the end of that raid.

Question. When did they next come back?

Answer. It was about two weeks between the times. The next time they came back I was sitting in my house. I have been lying out from the time they first came—from the first or second weeks in January till it was nigh March.

Question. Had you been lying out all that time?

Answer. Yes, sir; for fear of being caught in the house.

Question. Tell us about the next raid.

Answer. The next time I was sitting in my house, and what wakened me was my wife, who had just left me and had gone to bed; she had been sick. She heard something and she said, "What is that?" I made no answer, but slipped out at the back door, and stepped round the way that I heard them coming up, and I kept the house between me and them. They went on to John Thompson's house and they went in there. I heard them up at John Thompson's cursing; for Mary Thompson she talked mighty loud, and I heard them cursing her. I slipped on my pants and was about fifty yards from the house, for I got away as fast as I could, and crooked down in the corner of the fence; and when I was there, and as I looked towards John Thompson's house, I heard a woman and a man coming, and they came within ten steps of where I was, and I heard the words, "God d—n you, lay down," and she said, "I won't lay down." "God d—n you," said he, "do it at once," and I could hear the pistol crack, but she never lay down.

Question. Who was that?

Answer. That was Mary Thompson.

Question. Who was the white man with her?

Answer. I do not know.

Question. What else happened?

Answer. That was the last raid. On the first raid the men that whipped me was "Joe Leach," Dr. Tom Whitesides, and John Mitchell.

Question. Those two men here? (pointing to the defendants.)

Answer. Those two men sitting there, (pointing to the defendants.)

Question. How long have you known John Mitchell?

Answer. Ever since I was a boy.

Question. Have you lived near him?

Answer. He lives on Broad River and I live on Bullock's Creek. I have been seeing him occasionally all my life. I cannot be mistaken about him.

Question. How long a time have you known Dr. Whitesides?

Answer. About four or five years.

Question. Do you see him often?

Answer. Yes, sir.

Question. How did you recognize him that night?

Answer. I recognized Joe Leach and George Leach by their size. One of them is a mighty big, thick, stout man. I heard George Leach talking to my wife. I knew by the sound of the voice.

Question. How did you know Dr. Whitesides?

Answer. By his size.

Question. Nothing else?

Answer. No, sir. This was on the second raid. And I knew his track when he went to the gin-house for me. They said when they came there they understood that Jim Crosby slept in the gin-house.

Question. Who said so?

Answer. The Ku-Klux said so themselves. They said to my wife that they understood that Jim Crosby slept in the gin-house, and that John Thompson slept in the kitchen, and the next morning I saw the tracks come down from the gin-house, and they were all large but one, and one was a small, neat track, and everybody that saw that track said it was Dr. Whitesides.

Question. What kind of a foot has he?

Answer. It was a small, neat track, about as small a track as in that section.

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Question. Have you seen him often during the last four years?

Answer. Yes, sir; occasionally.

Question. How do you know Captain Mitchell?

Answer. By his size.

Question. Nothing else?

Answer. Yes, sir; he had a red scarf over his face.

Question. And he had red horns on?

Answer. Yes, sir; but I could not swear point blank about his voice; all the proof I had was his size.

Cross-examination :

By Mr. WILSON :

Question. You say you knew Dr. Whitesides by his size and by his tracks?

Answer. Yes, sir.

Question. When was the track examined by you?

Answer. I examined it next morning.

Question. Were there any other tracks about there?

Answer. Yes, sir; them three that went up to the gin-house after me.

Question. And you say you knew the track to be Dr. Whitesides's?

Answer. Yes, sir; on account of the size.

By Mr. CORBIN :

Question. How many times did Dr. Whitesides come there?

Answer. He was there the first raid that was done. I have no proof that Sam Moss was there.

By Mr. MELTON :

Question. On what raid did you say you saw Captain Mitchell?

Answer. On the first raid.

Question. First raid?

Answer. Yes, sir.

Question. Were you on the place the time the other raids were made?

Answer. Yes, sir.

Question. Did you recognize any other person on the raid except Dr. Whitesides?

Answer. After the first night that they came there they were not all the same crowd; there was always one or two that was in the first crowd in every raid that was made after.

Question. You say it was the first night that you thought you recognized Captain Mitchell?

Answer. Yes, sir.

Question. What night was it you heard this conversation between this man and some woman?

Answer. That was on the third raid.

By Mr. CORBIN :

Question. Have you voted in York County?

Answer. Yes, sir.

Question. Are you a radical or democrat?

Answer. I am a radical.

Question. Did Billy Wilson vote at the last election?

Answer. Yes, sir; he voted the radical ticket.

Question. Was Wallace on that ticket for member of Congress?

Answer. Yes, sir.

Question. Is "Wilson" well known to be a radical?

Answer. Yes, sir.

TESTIMONY OF CHARLES LEACH.

CHARLES LEACH, a witness for the prosecution, being duly sworn, testified as follows :

Examination-in-chief by Mr. CORBIN :

Question. Where do you live?

Answer. On Bullock's Creek, on Madison Smart's plantation.

Question. How long have you lived there?

Answer. About five years.

Question. Have you voted in York County?

Answer. Yes, sir.

Question. What ticket did you vote?

Answer. The republican ticket.

Question. Did you vote there last fall a year ago? Did you vote for Wallace for member of Congress?

Answer. Yes, sir.

Question. Tell us if the Ku-Klux visited you last winter?

Answer. They did.

Question. When?

Answer. A short time after Christmas, on Monday night.

Question. Tell us all about it?

Answer. I remember being out, and I heard a gun fire a little after bed-time, toward Mr. Berry's; I came out then, and I heard a terrible shooting; said I, "The Ku-Klux are out to-night," and I watched and lay about for about half an hour, and gave up that they would not come, and then I went in and shut the door, and laid down and dropped off to sleep, when a crowd came down on me and I had no chance of getting away; they surrounded my house and burst the door open, and three of the men came in. "God damn you," said they, "make up a light." They were in the middle of the floor; they asked me for my gun, and said, they, "If we find any I will kill you;" said they, "You are a God-damned radical." "Yes," said I, "I voted the radical ticket;" said they, "You belong to that God-damned league?" "Yes," said I, "I went to the league meeting twice," and said I, "I didn't see much sense in it; I didn't go back any more. Gentlemen," said I, "I can show you what kind of a man I am;" on that I gave him a paper. "Did Scott write that," said they, "let us see the God-damn paper," said he, and with that they squatted down and said, "It looks like all right." This man who read the paper had a pistol in his hand, and the man on the right side had a pistol, and the one behind me had a double-barrel shot-gun; then they dropped the paper and went to the door, and I thought that I was all safe; just as they got to the door, they gave me sixty or seventy lashes, and then they told me to go back to bed, "and if we hear any more of you, I will come back again."

Question. Did you know any of the party?

Answer. I didn't know nary a man.

Question. Why didn't you know them?

Answer. Because they were so disguised; all of them had their faces covered up, and only little holes for their eyes and mouths.

Question. How many were there in the party?

Answer. I know there was not less than thirty or forty.

Question. When they whipped you, how did they stand?

Answer. One of them stood on the right, and another on the other side and all around me, and they licked about me, right and left.

Question. What clothing had you on?

Answer. Shirt and drawers.

Question. Where did they whip you?

Answer. They whaled me right up from here [putting his hand on his hips] to my neck; they cut me all to pieces, from here up to my neck.

Question. How much did they injure you; were you able to work?

Answer. No, sir; I could not work at all that day. I walked down to Mr. Small's and staid there a week.

Cross-examination by Mr. WILSON:

Question. Do you know Dr. Whitesides?

Answer. Yes, sir.

Question. Has he not, ever since the war, been very kind to the colored people?

Answer. I never heard anything against him.

Question. Do you not know of his kindness; do you not know of his attending colored people free of charge, and aiding them out of his private means?

Answer. I know he has been practicing there.

Question. Don't you know of his attending them without charge?

Answer. I don't know.

Question. Do you not know of his giving them corn?

Answer. I know he gave some corn, and I got a bushel.

Question. Was he not regarded as a friend to the colored people?

Answer. I never heard anything against Dr. Whitesides no way.

By Mr. MELTON:

Question. You say this was on Monday night?

Answer. Yes, sir; it was after Christmas.

Question. You say it was the first Monday night after Christmas?

Answer. I couldn't say.

Question. Are you satisfied it was after Christmas?

Answer. Yes, sir; and I think it was after New Year.

Question. Was it the same night there was some whipping in the neighborhood?

Answer. I heard about some whipping.

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Question. Who did you hear was whipped that night?

Answer. Charlie Good, Amos Howell, Jenny Thompson, and Press Holmes, I was told.

Question. You understood they were injured the same night that you were?

Answer. Yes, sir.

Question. Did the others live in your neighborhood?

Answer. One was about four miles off, and one was about one mile, and the other was about three or four hundred yards.

Question. Was there any one else whipped on your plantation that night?

Answer. No one but me, sir.

Question. Where was Press Holmes?

Answer. He was on Howell's plantation.

Question. Where was Howell whipped?

Answer. In the sun-house.

Question. Where was Jerry Thompson whipped?

Answer. I don't know.

Question. Was Jerry Thompson at Henry Thompson's place?

Answer. Yes, sir.

Question. Is his place called the "Beauty Spot"?

Answer. Yes, sir.

Question. You say you did not recognize any of the parties?

Answer. No, sir.

Question. How long have you known Captain Mitchell?

Answer. I reckon twenty-one years.

Question. What is his temper about the colored people?

Answer. He always treated me very well; I knew nothing wrong about him.

Question. What was his character among the colored people?

Answer. He was thought very well of as far as I know.

By Mr. CORBIN:

Question. Is Jerry Thompson a voter?

Answer. Yes, sir.

Question. Did you vote at the last election?

Answer. Yes, sir.

Question. Did he vote republican or democrat?

Answer. Republican.

Question. How did Amos Howell vote?

Answer. He never voted; he is not old enough to vote.

Question. How did Charley Good vote?

Answer. I did not see him vote.

Question. Was he a republican or democrat?

Answer. He was a republican.

Question. Has he since been killed?

Answer. He was missed that night; he left that night. I saw him that day, but he has not been seen since.

Question. Was he whipped the same night as you were?

Answer. Yes, sir.

TESTIMONY OF ELIZA LEACH.

ELIZA LEACH being duly sworn, testified as follows:

Direct examination by Mr. CORBIN:

Question. Are you the wife of Charles Leach?

Answer. Yes, sir.

Question. Where do you live?

Answer. On Samuel ——'s plantation, in York County.

Question. Do you remember any Ku-Klux coming to your husband last winter?

Answer. Yes, sir; I don't know what night it was, but it was Monday night after Christmas.

Question. How long after Christmas?

Answer. A few weeks, I think.

Question. Tell the jury what happened.

Answer. They rode up, and they broke down our door and ran in. "O, hell, make a light." One of them then went down on his knees and blew the light; one of them ran up and fired in my husband's ear; they asked him what sort of a man he was, and he showed them his paper and they read it, and they asked if Governor Scott wrote it, and he said "No;" he said, "I never saw the man in this life." Then they said, "Have you got a gun and ammunition?" He said he hadn't got none. They said, "Go and search," and said that "if we find any we will kill you." Said he, "If you can find any by searching, I am willing to die." Said they, "Come out and fetch a

light." When he got out on the lot, they said, "God damn you, throw that light down." Then they went and whipped him; when they had done whipping him they stopped and talked to him, and they said, "If we hear any more from you, we will come back for you."

Question. Did you hear them ask anything about his politics?

Answer. They asked him if he was a radical—if he had joined the League. He said he went there two or three times, but he didn't see any sense in it, and he didn't go back any more.

Question. How many men did you see there?

Answer. The lane was full of them. I saw two at the fire. I had been two weeks sick. I lay in my bed just peeping out, and the rest were all in the dark.

Question. Did you know any of them?

Answer. No, sir.

No cross-examination. The prosecution here rested their case.

Mr. Melton desired the court to permit John W. Mitchell to be called to the stand as a witness for the defense.

The application was overruled.

TESTIMONY OF W. C. WHITESIDES.

W. C. WHITESIDES, a witness for the defense, being duly sworn, testified as follows:

By Mr. WILSON:

Question. Do you know Charles W. Foster?

Answer. I do.

Question. Did you see him while he was in jail at Yorkville?

Answer. I did.

Question. Did you hear him speak on any occasion, and if so, when, in reference to Dr. Whitesides?

Answer. Yes, sir; I did.

Question. What did he say?

Answer. He said he had thought he was the man on the raid, but he was mistaken; that he was not on the raid at all.

Question. What raid?

Answer. On the raid that whipped Charley Leach and Charley Good. He said he was not the man that was on the raid, and that he would see Major Merrill and rectify it.

Question. Was any other person present when he said that?

Answer. Yes, sir; McArchev, John Miller, and Robert Riggins were there.

Question. Who was with you when you heard that?

Answer. I think Mr. John Miller and Robert Reigan were in the same room.

Question. Repeat what was said.

Answer. Dr. Whitesides asked Charlie if he was going to rectify that mistake, and Foster said he was going up to Colonel Merrill's office to rectify it.

Question. How long was Foster in jail?

Answer. I don't remember; about a week, or probably more.

Question. When Foster said he was going up to Major Merrill's to rectify the mistake, was he not in jail?

Answer. He was outside, and then he started off; I think he was on his bond.

By Mr. MELTON:

Question. Do you remember the night Charles Leach was whipped?

Answer. I remember hearing of it next day.

Question. Did you hear of any other persons being whipped at the same time?

Answer. Yes, sir; Charles Goode, I heard, was whipped the same night.

Question. Where were you living at the time?

Answer. At my father's.

Question. Whereabouts is that?

Answer. About twelve miles from Yorkville, about three miles above Wiley's store.

Question. How far above Wiley's store was it to the place where Leach was whipped?

Answer. I don't know exactly; probably four miles.

Question. From where you were living then to where you understood Leach was whipped was about seven miles?

Answer. Yes, sir.

Question. Did you see Captain Mitchell that night?

Answer. Yes, sir.

Question. What night do you mean?

Answer. The night it was reported these men were whipped.

Question. Where did you see Captain Mitchell?

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Answer. At my father's.

Question. You say you saw Captain Mitchell on the night when Charles Leach was said to have been whipped?

Answer. Yes, sir.

Question. Where did you see him?

Answer. At my father's house.

Question. What hour of the night did you see him?

Answer. It was about dark; it was between dark and bed-time.

Question. What was his mission there?

Answer. He came to see my brother, Dr. Whitesides.

Question. Was the doctor out?

Answer. He was at Dr. Darwin's.

Question. In which direction did Captain Mitchell go from your house.

Answer. He went direct from our house up a mile farther, to Dr. Darwin's.

Question. How far above your house does Dr. Darwin live?

Answer. About a mile.

Question. Do you know if he got him?

Answer. Yes, sir; they came back by our house—Dr. Darwin, Dr. Whitesides, and Captain Mitchell.

Question. How far would they need to travel from the house where you were to Dr. Mitchell's house?

Answer. About nine miles.

Question. I understood you to say it was the next day you heard of the raid on Charles Leach?

Answer. Yes, sir; it was.

By Mr. CORBIN:

Question. Are you a brother of Dr. Whitesides, the defendant?

Answer. Yes, sir.

Question. Are you a member of the Ku-Klux Klan?

Answer. No, sir.

Question. Have you ever been?

Answer. No, sir; I never was.

Question. You say you heard that Charles Leach had been whipped the night before?

Answer. Yes, sir.

Question. Do you know anything about it?

Answer. No, sir.

Question. You say that you heard Charley Good was whipped?

Answer. Yes, sir; the same night.

Question. Do you know anything about it?

Answer. I don't.

Question. I understand you to say that John Mitchell, the defendant, was in search of Dr. Whitesides that night?

Answer. Yes, sir.

Question. What for?

Answer. His mother was sick.

Question. Is Dr. Whitesides his family physician?

Answer. No, sir; not all the time.

Question. Is he the regular family physician?

Answer. I don't know whether he is or not.

Question. Do you know whether his mother was sick or not?

Answer. Yes, sir.

Question. How do you know?

Answer. Only from what he said.

Question. What time in the night was it that Mr. Mitchell and Dr. Whitesides came back to your house?

Answer. It was about 8 or 9 o'clock.

Question. Were they riding on horses?

Answer. Yes, sir.

Question. In what direction were they going?

Answer. South.

Question. In what direction did Leach, Bresley, Thompson, and Charley Good live?

Answer. They lived south—in the same direction.

Question. What direction is Howell's ferry from your house?

Answer. It is southwest.

Question. In the same direction they were going?

Answer. Yes, sir.

Question. Did the road they went go to Howell's Ferry?

Answer. Yes, sir.

Question. Did you see Mitchell or Whitesides or Darwin again that night?

Answer. No, sir.

Question. You were arrested and were a prisoner at Yorkville, were you not?

Answer. Yes, sir.

Question. How did the conversation commence of which you have spoken?

Answer. I was talking to Mr. McArchy. It was on the second floor of the jail at Yorkville.

Question. When was it?

Answer. It was a considerable time after I was arrested, and a short time after Foster came into the jail. I don't know how long; I don't think it was more than a week or two after I had been in jail. I do not know whether it was more than a week or two, or less than three.

Question. Do you know when Foster was put in there?

Answer. He was put in there with me; I remember the day he came in. The conversation occurred about four or five days after he came in there.

Question. Do you know if he had made a confession to Colonel Merrill?

Answer. Yes, sir; he said so.

Question. Did he say what he said to Colonel Merrill?

Answer. He told me he had made a confession, but he never told me what it was.

Question. But you believe he told you that he made a mistake in saying that Dr. Whitesides was the person.

Answer. I had heard that he had implicated Dr. Whitesides, and he said he was mistaken in the man.

Question. And yet you don't know whether he had made a confession or not?

Answer. He told me he had made it, and he told me he was mistaken in the man.

Question. Did he tell you that he told Colonel Merrill that he implicated Dr. Whitesides as the man, and that he was mistaken?

Answer. He did not say that he had told Major Merrill, but that he was mistaken in the man. He said that Dr. Whitesides was not on the raid to whip Leach and Good and others.

Question. Did he name those persons?

Answer. No, not those particular negroes.

Question. Now, are you unable to swear that he had said that he had made a mistake about implicating Dr. Whitesides as the person who was present at the whipping of Leach and Good, when he did not say anything about what raid it was?

Answer. He didn't tell me anything about that, but it was the raid he was reported to have been on, and he told me that he was mistaken in the man, and that he intended to rectify it.

Question. To whom?

Answer. To Major Merrill.

Question. Did he mention Major Merrill?

Answer. No, sir; but he said he would rectify it; he didn't mention Major Merrill's name that I remember.

Question. Did he mention where the raid occurred in which he had implicated Dr. Whitesides?

Answer. No, sir.

TESTIMONY OF JOHN MILLAR.

JOHN MILLAR, a witness for the defense, being duly sworn, testified as follows:

Direct examination by Mr. WILSON:

Question. Do you know Charles W. Foster; did you see him in the jail at Yorkville?

Answer. Yes, sir.

Question. Did you hear any conversation in reference to Dr. Whitesides?

Answer. I heard him say that Dr. Whitesides was the man he reported; that is all that I heard him say. After he got out, I heard him hollow back, and say that he was going to Major Merrill, and say that he would correct that mistake about Dr. Whitesides, and Dr. Whitesides replied, "We will go home, then, in the morning."

Question. Who heard this conversation besides yourself?

Answer. I don't know who heard it. I was not paying any particular attention to it.

Question. What raid was this man Foster speaking of?

Answer. I don't know what raid or anything about that.

Question. But you heard him say he was mistaken in the man, in reporting Dr. Whitesides, and he was going to correct it?

Answer. Yes, sir.

Question. Did he say he reported him?

Answer. No, sir, I don't know that he did; but I so understood from what he said, and he said he was going to Major Merrill's that evening to correct it.

By Mr. CORBIN:

Question. Are you a member of the Ku-Klux Klan?

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Answer. No, sir.

Question. Have you ever been ?

Answer. No, sir.

Question. Did you never make a confession to me and Major Merrill in Yorkville ?

Answer. No, sir.

Question. Did you not tell me that ybu were present at a meeting of the Klan ?

Answer. I attended a meeting.

Question. How did you happen to be there ?

Answer. They were reporting round the country about the Ku-Klux, and they said they might come to my house.

Question. Tell us how you happened to be present at that meeting of the Ku-Klux ?

Answer. My cousin told me he thought it would be best, and asked me if I didn't want to go into something of that sort. He asked me if I would not go along with him, and I said I would, and I told him I would. He said if I didn't like I needn't join ; and I told him if I liked I might. So I went there, but I did not join, and never have.

Question. How many persons were present at that meeting ?

Answer. Fifteen or sixteen, I guess.

Question. Where was it and when was it ?

Answer. At Sharon Church.

Question. What time was it ?

Answer. I don't know, but think it was some time in the spring. It may have been along in May, I think.

Question. Was that the only meeting you ever attended ?

Answer. I was present at one more.

Question. How long after that ?

Answer. I don't know.

Question. Were you ever on a raid ?

Answer. I never was.

Question. Did you not go with the crowd that made Charles Russel dance ?

Answer. No, sir.

Question. Did you go and ride with a party that left Sharon Church, after the meeting, and go down and visit 'Squire Sam Brown ?

Answer. No, sir. Coleman and Dan Carrol were with me at the meeting, and we went on to Carrol's and staid there all night. They told me if I didn't mind, the Ku-Klux would be after me and do something with me. I thought I would like to know when they would be riding around, so I might watch for them. They told me if I would go with them, I might see.

Question. So you went to the meeting ?

Answer. Yes, sir.

Question. How did you know when the meeting was to take place ?

Answer. A cousin of mine told me.

Question. What was his name ?

Answer. Napoleon Miller.

Question. Did you think it was very surprising that your cousin, who was a member of the Ku-Klux, should invite you to be present, when you were not a member of the Klan ?

Answer. He knew I would just keep it safe.

Question. Just as well as if you were a member of the Ku-Klux Klan ?

Answer. Yes, sir ; I reckon so.

Question. Did you take the oath ?

Answer. No, sir ; I never did.

Question. Do you remember making a confession to Major Merrill ?

Answer. Yes, sir, I do ; but did not make a confession ; I just told him what I knew about it.

Question. When did this conversation in Yorkville jail occur ?

Answer. I do not know the day.

Question. How near were you to Foster ?

Answer. They were all standing around talking, and I was near enough to hear all they said.

Question. Did you hear him say he had made a confession ?

Answer. No, sir ; I just thought he had, and I heard he had.

Question. He didn't tell you what raid he had reference to ?

Answer. No, sir.

Question. Or what colored persons he whipped ?

Answer. No, sir.

Question. What did he say he said ?

Answer. He said he was mistaken in Dr. Tom Whitesides being the man that he had reported, and when he went out he holloed back that he was going up and would correct that thing this evening.

Question. How long a time was it between the first and second conversations ?

Answer. Only a day or two, perhaps three or four days. It was Dr. Whitesides that halloed to him as Foster was leaving the yard. I think he asked him if he was going to correct that. He said, "Yes; I am going up there right now."

Question. Did he say what mistake he meant?

Answer. No, sir; but I just thought—

Question. Was that all he said?

Answer. Yes, sir; but I knew in my own mind what it was. I know from what he said to me on the lower floor that he meant Dr. Whitesides.

Question. Were you and Dr. Whitesides confined together?

Answer. Yes, sir; in the same room.

Question. Were you near him when he halloed out to Foster?

Answer. Right in the window, and looking out; neither of them said what they referred to. If they did, I don't mind; but he said he would correct the mistake.

Question. Do you know anything of Dr. Whitesides saying that he would give Foster \$25 if he would go to Major Merrill and say that?

Answer. I never heard it till yesterday. I heard him say that he would be willing to give \$25 if Dr. Whitesides was at home, attending McArchy's family.

TESTIMONY OF ROBERT RIGGINS.

ROBERT RIGGINS, a witness for the defense, being duly sworn, testified as follows:

Examination-in-chief by Mr. WILSON:

Question. Do you know Charles Foster?

Answer. Yes, sir.

Question. Did you see him in jail at Yorkville?

Answer. Yes.

Question. When was that?

Answer. I could not say the date. It was when I was confined a few weeks ago.

Question. Did you hear any conversation in reference to Dr. Tom Whitesides; if so, what was it?

Answer. I heard him talking about Dr. Thomas Whitesides, my brother.

Question. Who was present?

Answer. Several other persons.

Question. What did he say?

Answer. He said he was mistaken in the man; that was on the Charles Good raid. He was mistaken about his being on the raid. He had told Major Merrill that he was on the raid, but he was mistaken in the man.

Question. Did you hear Dr. Whitesides call out to Charles Foster when he was outside the jail?

Answer. Yes, sir; I did. That was after the conversation down stairs.

Question. What reply did Charles Foster make?

Answer. He said he would fix it with Major Merrill. He was going right then, and he would tell the major he was not the man.

By Mr. CORBIN:

Question. Have you lived at Yorkville all your life; were you a soldier in the confederate army?

Answer. I was in the reserves; not in the regular service.

Question. Are you a member of the Ku-Klux Klan?

(Question objected to.)

Mr. Wilson informed the witness that he was at liberty to decline to answer.)

By Mr. CORBIN:

Question. Do you decline to answer?

Answer. I do.

Question. Were you chief of a Klan? Do you decline to answer?

Answer. I do.

Question. Were you present on the Jim Williams raid, when Jim Williams was killed?

Answer. I decline to answer.

Question. Did you ever admit to me and Major Merrill that you were a member of the Klan?

Answer. I decline to answer that, also.

TESTIMONY OF ROBERT R. DARWIN.

ROBERT R. DARWIN, being duly sworn, testified as follows

Examination-in-chief by Mr. WILSON:

Question. Where do you live?

Answer. In York County.

Question. What is your profession ?

Answer. I am a practicing physician.

Question. Do you know Dr. Thomas Whitesides ?

Answer. Yes, sir ; very well.

Question. Is he a practicing physician in your county ?

Answer. Yes, sir.

Question. Do you remember the night when Charles Good and C. Leach were said to be whipped ?

Answer. I do.

Question. Did you see Dr. Thomas Whitesides that night ?

Answer. I did.

Question. What time of the night did you see him ?

Answer. He was at my house that evening. I was not at the house when he came. It was just after dark that I came in, and he was there.

Question. How long did he remain there ?

Answer. I suppose it was about 8 o'clock when we left there.

Question. Where did you go to when you left ?

Answer. To Captain John Mitchell's.

Question. What did you go there for ?

Answer. To see Captain Mitchell's mother.

Question. What time did you arrive there ?

Answer. I suppose it was about 10 o'clock at night.

Question. What was the matter with Mrs. Mitchell ?

Answer. She had epilepsy and a fit.

Question. Who was the family physician of Mrs. Mitchell ?

Answer. Dr. Small was, and so was Dr. Whitesides, when Dr. Small could not attend. Dr. Whitesides was nearest, and I was next.

Question. How long did Dr. Whitesides remain at Mr. Mitchell's ?

Answer. He remained there till next morning after breakfast.

Question. Did you remain there also ?

Answer. Yes, sir ; we both remained there.

Question. Describe the room in which Mrs. Mitchell was lying.

Answer. It was a large room.

Question. Were there many persons present ?

Answer. I don't recollect who was there ; Mrs. Howe was there and her daughter Sally, and Mrs. Whisonent ; there were others, but I don't recollect who they were.

Question. Were they in the room where Mrs. Mitchell was ? And you say Dr. Whitesides remained there all night till next morning ?

Answer. Yes, sir.

Question. About what time did you leave the house to go to Mrs. Mitchell's ?

Answer. About 8 o'clock.

Question. How far was your house from Mr. Mitchell's ?

Answer. About eight miles, I think.

Question. About what time did you arrive at Mrs. Mitchell's ?

Answer. About 10 o'clock, I think.

Question. What houses had you to pass going there ?

Answer. We passed several houses, John Gilfillan's, John Thomas's, Mrs. Wilkins's, and McAllen's.

Question. What relation is W. C. Whitesides to Dr. Thomas Whitesides ?

Answer. He is his father.

Question. Did you sit up all night with Mrs. Mitchell ?

Answer. Till about daylight ; I suppose I slept about two hours.

Question. Was Mrs. Mitchell very ill or not ?

Answer. She had several attacks of epilepsy from chronic inflammation of the stomach.

Question. Was any one with you when you went from your house ?

Answer. Dr. Whitesides and Captain Mitchell.

Question. Was any one with Dr. Whitesides when he came ?

Answer. I don't remember but that his lady was with him.

Question. What did John Mitchell come there for ?

Answer. He came after Dr. Whitesides.

Question. For what purpose ?

Answer. To see his mother.

By Mr. MELTON :

Question. How did you happen to go along ?

Answer. Captain Mitchell asked me to go with Dr. Whitesides, with him to see his mother.

Question. What age is old Mrs. Mitchell ?

Answer. Over sixty, I think.

Question. How far is it from his house to Captain Mitchell's ?

Answer. About eight miles.

Question. How far is it from Captain Mitchell's to where Charley Leach was said to have been whipped?

Answer. I think it is near four miles.

Question. In what direction from Captain Mitchell's is it where Charles Leach is said to have been whipped?

Answer. In a southeast direction; more south.

Question. From Captain Mitchell's house to your house, what distance is it?

Answer. I live nearly north from him.

Question. Do you know whether John Mitchell sat up?

Answer. I think he did; I don't think he lay down at all.

Question. Did you see him there during the night?

Answer. Yes, sir, I did.

Question. Did you take breakfast there next morning?

Answer. Yes, sir.

Question. Did you have any intelligence of this Ku-Klux raid before you left Captain Mitchell's next morning?

Answer. I first heard of it after leaving Captain Mitchell's.

Question. How near to the river does Captain Mitchell live?

Answer. About one-half to three-quarters of a mile.

Question. How far above Howell's Ferry?

Answer. Between two and three miles. I recollect, now. I heard it before I left Captain Mitchell's that morning. I also heard it on the road.

Question. Who did you hear it from at Captain Mitchell's?

Answer. I think I first heard it from Captain Mitchell's son, Samuel.

Question. Are you able to fix the day or the week you went to Captain Mitchell's? What month?

Answer. I think it was in the early part of January of 1871.

By Mr. CORBIN:

Question. Are you a member of the Ku-Klux Klan?

(Question objected to.)

Mr. Wilson informed the witness that he was at liberty to decline answering.)

Answer. I never was.

Question. Did you never make a confession to me and Major Merrill that you were a member?

Answer. No, sir; I never did.

Question. Were you never present at a Ku-Klux meeting?

Answer. I never was.

Question. Did you never make a statement to Major Merrill that you were a member?

Answer. No, sir; I never did.

Question. Were you ever present at a Ku-Klux meeting?

Answer. I never was.

Question. You deny, then, all connection with the Ku-Klux?

Answer. I do.

Question. Have you never been inside of the organization?

Answer. No, I never have.

Question. Have you never been upon a raid?

Answer. I never have.

Question. Do you know anything about a meeting at which Alberton Hope was elected chief of the Klan?

Answer. Yes, sir.

Question. Were you present?

Answer. I stopped there when on a visit to a sick child.

Question. Was Alberton Hope chief of a Klan?

Answer. I do not know.

Question. Did you vote for him?

Answer. I did not.

Question. Were you present at the meeting?

Answer. Yes, sir; for a few minutes. I was not present during the whole of the meeting.

Question. Did the Ku-Klux allow strangers to be present at their meetings?

Answer. I don't know.

Question. How did you happen to go there?

Answer. They had a meeting in the neighborhood about the burnings in the country. It was simply a neighborhood meeting for self-defense.

Question. You say it was on Monday night in January?

Answer. I think it was.

Question. Are you certain about that?

Answer. To the best of my knowledge, I think it was.

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Question. What enables you to recollect that it was Monday night in January ?

Answer. Well, I can tell you what. The next day I came up to McDill's; that was on Tuesday morning; and from some other circumstances—other cases that I had—I know it was on Monday night.

Question. Have you any record ?

Answer. I have, but not with me.

Question. Have you consulted that record ?

Answer. Yes, sir; I have.

Question. When did you consult it ?

Answer. Well, I have done it lately.

Question. How lately ?

Answer. Three or four days ago.

Question. Where ?

Answer. At home, sir.

Question. Yorkville ?

Answer. Yes, sir.

Question. And that record said it was Monday night ?

Answer. Yes, sir.

Question. So you cannot be mistaken about it ?

Answer. I know I cannot.

Question. Now what was the date ?

Answer. I think it was the 9th of January.

Question. Monday night, the 9th of January ?

Answer. Yes, sir.

Question. Did your record state whether it was Monday night ?

Answer. It did not state Monday night.

Question. How do you know it was Monday night ?

Answer. I just suppose it was Monday night. I think it was.

Question. Have you looked in the almanac to find out ?

Answer. No, sir; I have not. I say it was the 9th of January. I recollect that very well.

Question. You have no means of knowing it was Monday night except from general recollection ?

Answer. Only my date that I have.

Question. Yet you have not consulted the almanac ?

Answer. I am pretty certain it was on Monday night, sir.

Question. Do you know what day the 9th came on ?

Answer. Day of the month ?

Question. Yes, or day of the week.

Answer. I don't recollect.

Question. Do you know what day of the month Charley Leach was whipped ?

Answer. The night that I was at Captain Mitchell's.

Question. Do you know what day of the month that was ?

Answer. I think that was the 9th of January.

Question. Who said it was that night that they were whipped ?

Answer. The way—the first I heard of it was from Captain Mitchell's son that went to the post-office the next morning for some letters. I think he started after breakfast. He said Pres. Thompson was whipped.

Question. You did not know of your own knowledge ?

Answer. I did not. He said he was whipped that night. The report was going around all over the country the next day. I did not know that he was whipped only from what I heard everybody say in the country.

Question. Do you know anybody that was present at that whipping ?

Answer. I do not.

Question. Anybody ever tell you they were present on that raid ?

Answer. No, sir.

Question. Do you know whether Joe Mitchell was present that night ?

Answer. I do not.

Question. Do you know whether he was at home that night ?

Answer. I think Joe was at home.

Question. Did you sit up that night; did you go to bed ?

Answer. I think I sat up about two hours.

Question. When did you go to bed ?

Answer. I cannot tell exactly when I went to bed.

Question. What time do you think ?

Answer. It might have been about 4 o'clock in the morning.

Question. You sat up all night until 4 o'clock ?

Answer. It was light when I got through.

Question. What were you sitting up for ?

Answer. Attending Mrs. Mitchell.

Question. And at 4 o'clock in the morning you went to bed ?

Answer. Yes, sir.

Question. What were you doing all that time ? Did Mrs. Mitchell require your personal attention all night ?

Answer. Well, yes, all the time, pretty much, when I was there. I was pretty much in her room during the time I staid there.

Question. How far is Mitchell's beyond the Beauty Spot ?

Answer. I don't know.

Question. Do you know where the Beauty Spot is ?

Answer. Yes, sir, I reckon I do. I was there once when a boy. I don't recollect much about the place.

Question. Was it the place where Pres. Thompson lived ?

Answer. I don't know.

Question. Do you know Pres. Thompson ?

Answer. I never knew him.

Question. Don't you recollect hearing that name particularly that morning ?

Answer. I heard it the next morning after breakfast.

Question. Is not it a familiar name to you ?

Answer. No, sir, not at all ; I don't know that I have ever seen him—never seen the boy in my life as I recollect of.

Question. You don't know how far Mitchell's place is from the Beauty Spot ?

Answer. No, sir.

Question. Is it ten miles ?

Answer. No, sir ; not that far.

Question. Five miles ?

Answer. I don't know, sir. It is below Howell's Ferry, and I think Captain Mitchell lives two or three miles from the ferry ; how far below the ferry it is I don't know.

Question. Did you hear riding around that night ?

Answer. I did not, sir.

Question. Didn't hear any shooting or anything of the kind ?

Answer. I did not.

Question. How far does Charley Leach live from John Mitchell's ?

Answer. I think he lives about four miles—between four and five miles.

Question. What plantation does he live on ?

Answer. I think on Mr. Smart's.

Question. Did you hear he was whipped the next morning ?

Answer. I don't recollect hearing anything about him next morning.

Question. Now I understand you to say that John Mitchell was at home all night until 4 o'clock in the morning ?

Answer. He was.

Question. In your presence ?

Answer. Yes, sir ; until I laid down.

Question. And Tom Whitesides was there also ?

Answer. Yes, sir ; he was there.

Question. And that was on the 9th of January—Monday night ?

Answer. I think it was.

TESTIMONY OF MRS. MARY HOWE.

Mrs. MARY HOWE, called by the defense, being duly sworn, testifies as follows :

Direct examination by Mr. WILSON :

Question. Where do you reside—in what county ?

Answer. York.

Question. Do you remember hearing of the raiding upon Charles Leach and other negroes in Yorkville ?

Answer. Yes, sir.

Question. Where were you on the night that that was said to have occurred ?

Answer. I was at Captain Mitchell's.

Question. Did you live there ?

Answer. No, sir.

Question. How did you come to be there ?

Answer. Well, I was sent for that evening ; old Mrs. Mitchell was taken very sick.

Question. What time did you go there ?

Answer. It was before sundown a little.

Question. Did any physician attend her that night ?

Answer. Yes, sir.

Question. What physician ?

Answer. Dr. Whitesides and Dr. Robert Darwin.

Question. Dr. Thomas Whitesides ?

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Answer. Yes, sir.

Question. What was the matter with her? Was she very ill?

Answer. She was very bad; something like fits or spasms.

Question. Who was up there that night?

Answer. The family; the whole family. Mr. Mitchell—Captain John Mitchell—his wife, his sister—Mrs. Whisonant.

Question. Who else?

Answer. Myself, my son Julius, and Sally Howe.

Question. What about the physicians?

Answer. Dr. Thomas Whitesides and Dr. Darwin was there also, all night; we all staid up there all night.

Question. You sat up yourselves?

Answer. Yes, sir— all night.

Question. Was Dr. Whitesides in the same room where Mrs. Mitchell was?

Answer. Yes, sir.

Question. Were you in that room?

Answer. Yes, sir; all night.

Question. You set up with Dr. Whitesides?

Answer. I did.

Question. Are you certain he was there all night?

Answer. Yes, sir.

Question. What time did he and Dr. Darwin get there?

Answer. About 10 o'clock.

Question. What time did Dr. Whitesides leave there?

Answer. Well, it was after breakfast.

Question. When did you first hear of these colored men having been whipped—Charles Leach and Good and the others?

Answer. It was after breakfast the next morning.

Question. Do you know what day of the week this occurred; what night?

Answer. It was the 9th of January.

Direct examination by Mr. MELTON:

Question. Who went for the physician that night?

Answer. Captain Mitchell.

Question. Do you know, of your own knowledge, at about what time he left to go for the physician?

Answer. Yes, sir; he started about dark.

Question. Did he return, do you know, with the physician?

Answer. Yes, sir.

Question. Can you say whether or not he was at home that night after he returned?

Answer. Yes, sir; he was.

Question. Through what source did you hear, next morning, of this whipping having taken place?

Answer. Mr. Mitchell sent his son Samuel over to the post-office for some letters, and he brought the news when he came back.

Question. Do you know whether it was brought over that night by any one else?

Answer. I don't know that it was.

Question. What direction from the post-office was Mr. Mitchell's?

Answer. Rather east.

Question. Was it about in the direction of the plantation where Charles Leach was living, or do you know where he was living?

Answer. Yes, sir; he was living—no, sir; Charles Leach, I don't know where he was living.

Question. Do you know where the post-office is?

Answer. Yes, sir; it is on Mr. Thomasson's plantation.

Question. Do you know where Pres. Thomasson lived?

Answer. He lived on the plantation—Mr. Thomasson's—where the post-office is.

Cross-examination by Mr. CORBIN:

Question. How do you know that it was the 9th of January?

Answer. I recollect it very well.

Question. How do you recollect the date?

Answer. Well, I recollect it from circumstances.

Question. What circumstances?

Answer. I know that it was on Monday night.

Question. How do you know that; what enables you to recollect it?

Answer. I cannot tell you exactly now, but I recollect very well it was on Monday night.

Question. When was your attention first called to the fact that it was on Monday night?

Answer. I knew by the old lady being sick.

Question. What has that to do with Monday night?

Answer. I recollect that it was Monday she was very sick.

Question. Can you tell any circumstance which enables you to fix this as Monday night, the 9th of January?

Answer. I don't recollect any now, just at this time.

Question. When did you first think that it was Monday night, the 9th of January?

Answer. Well, I knew from the old lady's being sick.

Question. But when did you first fix that fact in your mind, that it was Monday night, the 9th of January?

Answer. Well, I recollect it well.

Question. Any special reason for recollecting it?

Answer. I recollect that my son went down with his wife to visit her uncle's on Saturday, and it was the next Monday week that she was taken very bad; the family were all at home then.

Question. Do you remember what day New Year's came on?

Answer. It came on Sunday, I think.

Question. Sure about that?

Answer. I think so.

Question. And that the next Monday night was the 9th of January?

Answer. The next Monday night week.

Question. Do you know what day of the week last Christmas came on?

Answer. I think it came on Sunday.

Question. Do you remember the date of the raid on the county treasury in York?

Answer. No, sir; I don't remember that.

Question. Are you positive that the first time you heard of the raid on Charley Leach was that morning?

Answer. Yes, sir.

Question. You didn't see Charley Leach yourself that morning?

Answer. No, sir.

Question. Didn't see Pressley Thompson?

Answer. No, sir.

Question. Didn't see Amos Howell?

Answer. No, sir.

Question. Nor Charley Good?

Answer. No, sir.

Question. Didn't learn from any of those persons that they had been whipped that night?

Answer. No, sir; didn't see any of them.

Question. Did Mr. Mitchell's son say that he had seen any of those folks that had been whipped?

Answer. No, sir; he didn't say so.

Question. Nobody knew, out of the house that morning, whether they had been whipped or not, except by report?

Answer. No, sir; only by report; they didn't say.

Question. Have you been talking with anybody about these dates?

Answer. No, sir; not particularly.

Question. Haven't you talked with Dr. Darwin and Dr. Whitesides?

Answer. No, sir.

Question. Nor Captain Mitchell?

Answer. No, sir.

Question. Your attention has never been called to it until to-day on the stand?

Answer. No, sir, never.

Question. You can usually remember the days of weeks and months, can you, right along through the year?

Answer. Yes, sir.

Question. And tell what happened on these days?

Answer. Sometimes I can.

Question. When did you first hear of the raid on the county treasury at Yorkville?

Answer. Well, I don't recollect now.

Question. You have got a son, Julius Howe?

Answer. Yes, sir.

Question. Do you know whether you heard of it last March or last February?

Answer. Well, I don't recollect; I can't tell you.

Question. You cannot tell when you heard it last?

Answer. No, sir; I can't tell you how long it was after it happened.

Question. Can you tell when you heard of it first?

Answer. I don't recollect now.

Question. It was a notable thing in York County, wasn't it?

Answer. Yes, sir.

Question. But you cannot tell when you first heard of it ?

Answer. I don't recollect now.

Question. Who told you when you heard of it ?

Answer. I don't recollect that neither.

Question. Didn't your son tell you of it ?

Answer. Well, I don't think he did.

Question. Don't know whether he is a member of the Ku-Klux or not, do you ?

Answer. No, sir.

Question. Now, why can't you remember that fact as you can remember this one ?

Answer. Because I had circumstances ; I was at home, I suppose, when that happened. I had no circumstances that I could bring to mind now to remember that.

Question. Well, didn't you hear of a good many raids around there on colored people ?

Answer. I have heard of some.

Question. Can you fix the date of any of them—when you first heard of them ; for instance, can you fix the date when Charley Good was killed ?

Answer. No, sir.

Question. When he first disappeared ?

Answer. I don't know ; I didn't know him, nor know anything about him.

Question. But didn't you hear of it ?

Answer. Yes, sir ; I heard of it.

Question. Do you remember when the whipping occurred down on Big Billy Wilson's place ?

Answer. I don't recollect that neither ; I have heard of it.

Question. Do you recollect when you first heard of it ?

Answer. Yes, sir ; I heard of it.

Question. When first ?

Answer. The next day after.

Question. What date was that ; day of the month and day of the week ?

Answer. I don't recollect.

Question. How far do you live from Billy Wilson's ?

Answer. Five or six miles, I suppose.

Question. Know him well ?

Answer. No, sir ; never saw the man.

Question. But you cannot tell when that whipping occurred, nor when you heard of it first ?

Answer. No, sir.

Question. Don't know whether it was in March or April ?

Answer. I suppose it was in March ; cannot say exactly, though.

Question. Is that as near as you can come to it ?

Answer. I can't recollect when it was.

Question. But this date you will fix as the true date, according to your best information and belief ?

Answer. I suppose it was in March—maybe February ; I am not certain.

Question. What other raids do you recollect ?

Answer. Well, I don't know any more in the neighborhood ; I cannot recollect any more now at this time.

Redirect examination :

Question. You say you are enabled to fix the date from the circumstances of a visit of your own to his mother in-law ?

Answer. Yes, sir ; her uncle's.

Question. What time did that visit take place ?

Answer. That was on the last day of the year—Saturday.

Question. And you recollect, you say, that it was Monday week after your visit ?

Answer. Yes, sir.

TESTIMONY OF MRS. HANNAH N. WHISONANT.

Mrs. HANNAH N. WHISONANT was next called for the defense, and being duly sworn, she testified as follows :

Direct examination by Mr. MELTON :

Question. Where do you live ?

Answer. York County.

Question. Where were you living in January of this year ?

Answer. I was living at the residence of my husband.

Question. Where were you, though, during the greater part of the month of January ?

Answer. I was at the house of Captain Mitchell.

Question. How are you related to him ?

Answer. I am a sister of his.

- Question.* Do you recollect the occasion of your mother's being ill during that month ?
- Answer.* Yes, sir.
- Question.* How was she afflicted ?
- Answer.* With nervousness, and sometimes spasms ; in fact, she had spasms.
- Question.* Do you recollect who were the physicians in attendance on her that night ?
- Answer.* Yes, sir ; Dr. Whitesides and Dr. Darwin.
- Question.* Do you recollect at what hour of the night they came ?
- Answer.* Ten o'clock.
- Question.* Do you know who went for them ?
- Answer.* My brother, Captain John Mitchell.
- Question.* Do you know at what hour of the night he left for the doctor ?
- Answer.* Between sundown and dark.
- Question.* When was your mother taken ill ?
- Answer.* She was taken worse that evening ; she had been in bed, though, for some time.
- Question.* Who sat up with her that night, or did any one ?
- Answer.* There was several ; myself, my sister-in-law, Mr. John Mitchell, Mrs. Howe, Miss Sallie Howe, and the doctors were there ; they sat up all night ; my brother John sat up all night. There were others that sat up all night.
- Question.* Were his sons there that night ?
- Answer.* Yes, sir.
- Question.* To how late an hour were you waiting upon your mother ?
- Answer.* I was up all night, sir.
- Question.* Are you able to say whether Dr. Whitesides was there all night ?
- Answer.* Yes, sir ; he was there all night.
- Question.* Are you able to say whether John Mitchell was there all night ?
- Answer.* Yes, sir ; I know he was there all night.
- Question.* Now, can you fix what night of the week—what day of the week—this was ?
- Answer.* It was the 9th of the month.
- Question.* What day of the week ?
- Answer.* It was Monday night.
- Question.* How are you able to fix the date in your mind ?
- Answer.* I recollect what day Christmas was, and mother was so bad ; therefore I recollect what day it was.
- Question.* Do you know where Charles Leach lived at that time ?
- Answer.* Yes, sir ; he lived at Madison Smart's.
- Question.* Did you know him ?
- Answer.* Yes, sir.
- Question.* Did you hear of his having been Ku-Kluxed ?
- Answer.* Yes, sir.
- Question.* When did you hear it ?
- Answer.* I heard it the morning of the 10th.
- Question.* At what hour of the day ?
- Answer.* Tolerably early in the morning.
- Question.* Did you hear of any others having been Ku-Kluxed ?
- Answer.* Yes, sir ; I heard that they had been to Mr. Roland Thomasson's, and had whipped Pres. Thomasson.
- Question.* Did you hear of any others having been whipped that night ?
- Answer.* No, sir ; I don't recollect of any others.
- Question.* How did you hear it ?
- Answer.* Samuel was sent down to the post-office, and came over and told us Mrs. John Smith had informed him so.
- Question.* Do you know whether you heard it the next morning through any other source ?
- Answer.* There was a boy came and said they had whipped him.
- Question.* A colored man ?
- Answer.* Yes ; one Jerry Darwin.
- Question.* Where was he living ?
- Answer.* At Mr. Wallace's, on Squire Darwin's plantation.
- Question.* You heard it from those two sources ; did you hear it from any other source the next day ?
- Answer.* No, sir ; I don't recollect of any.
- Question.* How long did your mother's illness continue ?
- Answer.* Some time.
- Question.* How long did she continue severely ill ?
- Answer.* She wasn't so bad but a few days.
- Question.* Have you any knowledge of a raid made upon Captain John Mitchell at any time by the Ku-Klux ?
- Answer.* Yes, sir ; during Christmas week.

Question. What occurred ?

Answer. They came there and said they were looking for some man.

Question. Were they disguised ?

Answer. I didn't see them.

Question. Did you hear anything that passed ?

Answer. I heard them talking, but didn't see them.

Question. What happened ; what was the nature of their visit ?

Answer. I have told you, I believe, about all I know.

Question. Did you hear of their making any threats with reference to John W. Mitchell ?

Answer. I didn't see them. I heard that they did make threats to him—he must join.

Mr. CORBIN. That is too remote.

Mr. MELTON. Not so very remote. He was himself raided upon Christmas week and threatened.

Question. I have asked you if you heard the threats made ?

Answer. No, sir ; I didn't hear them.

Mr. MELTON. I now propose to ask whether, immediately after the occurrence, John Mitchell said what had been the occasion of the visit, and what had passed between him and these parties.

Mr. CORBIN. I don't think that is evidence.

The COURT. It is not evidence. Anything that may tell against him would be evidence, but not something he had said in his favor.

Mr. MELTON. We propose to show it was a hostile visit of the Ku-Klux upon him.

The COURT. You may show it, but you may not prove it through him.

Question. That was Christmas week ?

Answer. Yes, sir.

Cross-examination by Mr. CORBIN :

Question. As I understand you, the only mode by which you are enabled to recollect that this was on the 9th of January—on Monday night—is that you reckon back to Christmas day ?

Answer. I had been staying there for some time, therefore I know what day it was ; I had been staying at my brother's with my mother.

Question. How long previous to that had you been staying ?

Answer. Three or four days.

Question. How are you enabled to reckon back, then, to Christmas, and fix the date in that way ; can you account for every day from Christmas up to that time ?

Answer. I know the day I left home and I know the day mother was taken sick.

Question. How do you know that ; what enables you to recollect ?

Answer. By her being so bad.

Question. Her being so bad had nothing to do with Monday night, had it ?

Answer. Of course ; I knew that mother was sick.

Question. I have no doubt you knew she was sick ; but what enables you to remember that it was Monday night ?

Answer. I have told you, sir.

Question. What do you say now about it ; what enables you to remember ?

Answer. I have told you that I can count back from the time Christmas came on.

Question. What day was Christmas of the week ?

Answer. It was Sunday.

Question. What day of the week was New Year ?

Answer. Sunday.

Question. Now, where were you from Christmas day to New Year ?

Answer. I was home part of the time, and part of the time at brother John's.

Question. What day were you at your brother John's between Christmas and New Year ?

Answer. I was there Thursday, I believe it was.

Question. Are you sure ?

Answer. I believe that was the day.

Question. Are you certain about it ?

Answer. As well as I recollect, that was the day.

Question. Are you willing to swear positively that was the day ?

Answer. To the best of my recollection.

Question. You won't say absolutely whether it was Tuesday, or Wednesday, or Thursday ?

Answer. I will tell you I was there several days between Christmas and New Year's.

Question. How long did you stay there ?

Answer. Staid for some length of time.

Question. How many days ?

Answer. From the time I first went I was there some ten or twelve days.

Question. You went after Christmas and staid there ?

Answer. Until mother got better.

Question. Now, how many days was it after you went to John Mitchell's before your mother was taken sick so badly ?

Answer. It was on Thursday, and she was worse Monday following.

Question. Positive about that, are you, that you went there after Christmas, and she was taken sick the Monday following—certain about that ?

Answer. To the best of my knowledge, that was the time.

Question. And that is the way you are enabled to remember it was on the 9th of January ?

Answer. Yes, sir.

Question. And you heard next morning—that is, on Tuesday morning—after your mother was taken sick for the first time, that Charley Leach had been raided upon ?

Answer. Yes.

Question. Do you know Charley Leach ?

Answer. Yes, sir ; I know him.

Question. Colored man ?

Answer. Yes, sir.

Question. You didn't see him ?

Answer. No, sir.

Question. Do you know Pressley Thomasson ?

Answer. No, sir ; I don't know him. I have seen the boy.

Question. Do you know Charley Good ?

Answer. No, sir ; I never saw him, to my recollection.

Question. Did you hear next morning that all these persons had been raided on ?

Answer. I heard those two—Pres. Thomasson and Charley Leach.

Question. You don't know whether it was so or not, do you ?

Answer. No, sir ; of course I don't.

Question. It might have been any other night, for all that you know. Might it not have been Monday night, as far as you know ?

Answer. They said they were whipped on Monday night.

Question. You have never seen any of them since, have you—Thomasson, Good, or Leach—and learned from them what night they were whipped ?

Answer. No, sir ; I have not asked them anything about it.

Redirect examination :

Question. Were you at your mother's during what we call Christmas week ?

Answer. Yes, sir.

Question. Did you remain there from that time until your mother took sick ?

Answer. Yes, sir ; and some time afterwards.

Question. You didn't leave from the time you went there, Christmas week, until after your mother was taken sick ?

Answer. No, sir.

Question. How long after ?

Answer. She was taken sick before she was taken so ill, on this night. She was poorly for a day or two previous, and on Monday she took worse.

Mr. MELTON. When people speak of Christmas, ordinarily, they mean the week ; they do not mean the day ; and when they say Thursday after Christmas, they don't mean Thursday after Christmas day, but Thursday after the holidays. My friend has charged his offense as having been committed on the 20th of December, and, until his own witnesses came upon the stand, I didn't know that they would prove the fact that it was on the day our witnesses would prove it. That was my fear in the whole case.

Mr. CORBIN. The witness has stated that she went there on Thursday after Christmas, and the next Monday was when her mother took sick.

Mr. MELTON. She didn't say after Christmas day, though.

TESTIMONY OF MISS SALLIE HOWE.

Examination-in-chief by Mr. MELTON :

Question. How are you related to Mrs. Howe ?

Answer. I am her daughter.

Question. How near do you live to Mr. John Mitchell's ?

Answer. It is about a quarter of a mile.

Question. Are you related to Captain Mitchell in any way ?

Answer. No, sir ; I am not.

Question. Have you any recollection of being at his house on the occasion when his mother, Mrs. Mitchell, was ill ?

Answer. Yes, sir ; I was there.

Question. Are you able to fix the date ?

Answer. I cannot tell the date.

Question. Can you say what day of the week it was ?

Answer. I do not recollect.

Question. What caused you to be there ?

Answer. Mrs. Mitchell was very sick and sent for mother and myself, and we went.

Question. Who went ?

Answer. My mother, myself, and my brother.

Question. What time of the day did you go there ?

Answer. It was in the evening.

Question. Do you know whether the doctor was sent for that night or not ?

Answer. Yes, sir.

Question. Do you know who went for him ?

Answer. Yes, sir ; Captain Mitchell.

Question. Do you know at what time he went for the doctor ?

Answer. It was about dark.

Question. Do you know what time the doctor came ?

Answer. About 10 o'clock, I think, sir.

Question. What persons came ?

Answer. Dr. Darwin, Dr. Whitesides, and Captain Mitchell.

Question. Who sat up all night with Mrs. Mitchell ?

Answer. We all sat up ; mother and myself and Mrs. Whisonant sat up all night.

Question. Do you recollect whether Captain Mitchell was there that night ?

Answer. Yes, sir ; he was there all night ; he came back about 10 o'clock ; he never was away all night.

Question. Do you say you are not able to fix the day of the week. Can you tell us what month it was ?

Answer. It was in January.

Question. Have you any certain impression upon your mind how long after Christmas it was ?

Answer. No, sir.

Question. Can you say how long it was after New Year's Day ?

Answer. No, sir ; it was not long.

Question. How long did you remain at Captain Mitchell's ?

Answer. I staid there all night and left there next morning—at 9 o'clock, I suppose.

Question. Had you heard anything of this Ku-Kluxing before you left there ; I mean on Pres. Thomasson and Charles Leach and Charles Good ?

Answer. Yes, sir ; I heard that soon after breakfast.

Question. Do you remember how you heard it ?

Answer. Yes, sir ; Samuel Mitchell went over to the post-office, and told us when he came back that Pres. Thomasson and Charles Leach had been whipped.

Question. Did you hear they had been whipped that night ?

Answer. Yes, sir ; Charley Leach and Pres. Thomasson.

Question. Did you hear it from any other source next day ?

Answer. No, sir.

Question. Can you say whether Dr. Whitesides remained there all night or not ?

Answer. Yes, sir.

Question. Did Dr. Darwin remain all night ?

Answer. Yes, sir.

Cross-examination by Mr. CORBIN :

Question. Have you a brother named Julius Howe ?

Answer. Yes, sir.

Question. Does he live at home with you ?

Answer. Yes, sir.

Question. Where was he that night ?

Answer. He was at Captain Mitchell's.

Question. Do you know whether he is a member of the Ku-Klux Klan ?

Answer. Well, I do not.

Question. Did you ever hear him say ?

Answer. No, sir ; I was never at a meeting of the Ku-Klux Klan.

Question. You don't know whether he was or not ?

Answer. No, sir.

Question. You say you don't know what night it was in January ?

Answer. No, sir.

Question. Did you see anybody who had been whipped, yourself ?

Answer. No, sir ; they said Charley Leach and Pres. Thomasson ; I know they were whipped that night ; I saw Samuel Mitchell, and he said so.

Question. But he did not see those two colored men, and they did not tell him they had been whipped ?

Answer. Well, he said he had heard it.

Question. Then you heard him say that he heard that those two men had been whipped that night, and that is all you know about it?

Answer. Yes, sir.

Question. Did you know those boys yourself?

Answer. Yes, sir; I knew Pres. Thomasson.

Question. Did you know Charles Leach?

Answer. I did not know him.

Question. Did you ever talk to Thomasson about being whipped that night?

Answer. No, sir.

TESTIMONY OF SAMUEL MITCHELL.

SAMUEL MITCHELL was next called for the defense, and, being duly sworn, he testified as follows:

Direct examination by Mr. MELTON:

Question. What relation are you to Captain John Mitchell?

Answer. His son.

Question. What is your age?

Answer. Fourteen.

Question. Do you recollect the night your grandmother was sick?

Answer. Yes, sir.

Question. Who was there that night?

Answer. Mrs. Howe, and Miss Sallie Howe, and Mr. Howe, and pa, and Joe, and Dr. Tom Whitesides, and Dr. Darwin.

Question. Were you up that night?

Answer. I was up till about 12 o'clock.

Question. Do you know whether your father was at home when you went to bed?

Answer. Yes, sir; he was sitting in the room when I went to bed.

Question. What time did you get up next morning?

Answer. I got up just after daylight awhile—about daylight.

Question. When did you hear of Charles Leach being whipped?

Answer. I heard it next morning down at Mr. Smith's.

Question. How came you to be there?

Answer. I went down there to take some letters to the post-office.

Question. Is it kept at John Smith's?

Answer. Yes, sir.

Question. Whose place does he live on?

Answer. Mr. Thompson's.

Question. Do you know where Pres. Thompson lived?

Answer. Yes, sir.

Question. Where?

Answer. He lives on that place.

Question. Do you know where Charles Leach lives?

Answer. Yes, sir. He lives at uncle Mat. Smart's.

Question. What did you hear at Mr. Smith's that morning?

Answer. That the Ku-Klux had been there and whipped them.

Question. When did you understand that they had been there?

Answer. That night.

Question. Did you understand who they whipped?

Answer. Yes, sir; I understood that they whipped Charles Leach, and Butler Smart, and Pres. Thomasson, and three or four more.

Question. Was that the first you heard of it?

Answer. Yes, sir.

Question. Where did you go after you left the post-office?

Answer. Came back home.

Question. Did you there tell what you had heard?

Answer. Yes, sir.

Question. Do you know of any other person coming next morning and telling about this whipping having taken place?

Answer. No, sir; I don't recollect any other.

Question. Any colored man, to your knowledge?

Answer. No, sir; I don't recollect.

Question. Do you recollect anything of your father having been visited by the Ku-Klux at any time?

Answer. No, sir.

Question. Any recollection of any Ku-Klux having come to his house?

Answer. O, yes, sir; some came to his house one night.

Question. When was it?

Answer. I don't know when it was; I don't know the date.

Question. Was it before or after Christmas?

Answer. It was in Christmas.

Question. What do you mean by Christmas?

Answer. Well, about the middle of Christmas.

Question. You mean the Christmas holidays?

Answer. Yes, sir.

Question. How many men came there?

Answer. I seen seven.

Question. What did they do?

Answer. They run all about over the house.

Question. Were they disguised?

Answer. Yes, sir.

Question. How long did they remain?

Answer. About half an hour, I reckon.

Question. Tell us what they did besides running over the house.

Answer. I heard them ask pa was he a Ku-Klux, and he told them no, and they said, "Well, damn you, you have got to be." Pa says, "I won't," and they said, "It is all right," and they went into another room.

Question. Did you know any of the men?

Answer. No, sir.

Question. Did you see any of them unmasked?

Answer. No, sir; none that I know of.

Question. Did the men say what they came there for?

Answer. They said there was a man stole a horse, and they was coming down looking for him.

Cross-examination by Mr. CORBIN :

Question. Are you a member of the Ku-Klux Klan?

Answer. No, sir.

Question. Did your father ever swear you in?

Answer. No, sir; he did not.

Question. Who did swear you in?

Answer. Nobody swore me in.

Question. You have seen men riding at night with their masks on?

Answer. No, sir; I never did.

Question. You saw those six or seven men that night?

Answer. Yes, sir; I saw them.

Question. You saw them running about all over the house?

Answer. Yes, sir.

Question. Did they go up-stairs?

Answer. Yes, sir.

Question. What for?

Answer. Looking after that man.

Question. What man?

Answer. I don't know who he was. The man they supposed stole the horse.

Question. Did your father go with them?

Answer. Yes, sir.

Question. Did they go down into the cellar?

Answer. We got none.

Question. Did they look into all the rooms?

Answer. Yes, sir.

Question. Was your father afraid of them?

Answer. I don't know whether he was or not.

Question. He did not appear to be?

Answer. No, sir; he didn't appear to be so much.

Question. Was he afraid at all?

Answer. I don't know; you must ask him that.

Question. Were you afraid?

Answer. Yes, sir; I was pretty afraid when they first came.

Question. Could you tell who they were?

Answer. No, sir; I could not tell.

Question. And they told your father that he had got to be a Ku-Klux?

Answer. Yes, sir; that is what they told him.

Question. And he told them he could not?

Answer. Yes, sir.

Question. Did they whip any colored people on your place that night?

Answer. No, sir.

Question. Did they visit other colored people in the yard?

Answer. We got none.

Question. No one that lived on your place?

Answer. No one but a negro girl.

Question. Were there no other colored people working for your father?

Answer. No, sir; I believe not at that time.

Question. Your father used to be away nights, did he not?

Answer. No, sir; not that I know of.

Question. You never knew it?

Answer. No, sir.

Question. Do you know whether he had any masks or Ku-Klux gowns?

Answer. No, sir; I do not know.

Question. Did you never see him have a bag full of them?

Answer. No, sir.

Question. Never saw a bag of that kind around the house?

Answer. No, sir.

Question. Never saw him coming home any time with a bag full of clothes or something?

Answer. No, sir; I never saw him come in at no time with anything like that.

Question. Do you know whether the horses used to be ridden nights?

Answer. No, sir; if they were, they did not show it next morning.

Question. Did you take care of the horses?

Answer. Yes, sir; I fed them.

Question. Did your brother Joe used to be out nights?

Answer. No, sir; he never was out.

Question. Was he never out at night last winter at all?

Answer. No, sir; not that I know of.

Question. Do you and he sleep together?

Answer. Yes, sir.

Question. Was he always at home?

Answer. Yes, sir; he was always at home.

Question. Where is your brother Joe?

Answer. I don't know, sir, where he is.

Question. How long has he been gone?

Answer. I reckon he's been gone about a month or six weeks.

Question. Do you know what made him go away?

Answer. No, sir; he did not tell me.

Question. He went away very suddenly, did he not?

Answer. Yes, sir; I saw him that one day, and that is the last I saw of him.

Question. You did not see Charles Leach that morning as you went to the post-office, did you?

Answer. No, sir.

Question. Mr. Pres. Thomasson?

Answer. No, sir; I didn't see neither one.

Question. You did not know, then, from what they said, that they had been whipped that night?

Answer. No, sir.

Question. Who was it told you?

Answer. Mrs. Smith.

Question. She told you that they had been whipped?

Answer. Yes, sir; I reckon that she just told me that they were whipped.

Question. Did she tell you how she heard that they had been whipped?

Answer. No, sir; she did not tell how she had heard it; she said the negroes were there that night, and whipped the negroes round the house—Pres. Thomasson and all the rest of them.

Question. Where was this post-office?

Answer. At John Smith's.

Question. Were any negroes whipped on the place that night?

Answer. Yes, sir; Pres. Thomasson.

Question. Did you see him?

Answer. No, sir.

Question. What negroes did you see that were whipped that night?

Answer. Pres. Thomasson, Charley Leach, Butler Smarts, and three or four more that were whipped.

Question. You heard that down at the post-office?

Answer. Yes, sir; I heard it.

Question. How early in the morning was that?

Answer. After sun-up awhile; about half an hour or so.

Question. How far off was the farthest of those you have mentioned from the post-office?

Answer. They live about a mile, I reckon.

Question. Then, the farthest one of those that were whipped lived a mile from the post-office?

Answer. Yes, sir.

Question. How far was it from your house to the post-office?

Answer. Two miles and a half.

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Question. So that all those colored people who were whipped that night live within three and a half miles of your home?

Answer. Yes, sir.

Question. Are you sure of that?

Answer. Yes, sir.

Question. And yet you did not see any of them, nor hear any of them say that they were whipped that night?

Answer. No, sir; I didn't see any of them that day, nor hear any say that they had been whipped.

Question. Did you hear any noise or hallooing that night?

Answer. No, sir.

Question. Were you up till 12 o'clock?

Answer. Yes, sir.

Question. You live on the Howell's Ferry road?

Answer. No, sir.

Question. How far from it?

Answer. About two miles above it.

Question. How far is the Howell's Ferry from your house?

Answer. About two miles and a half.

Question. How far is Madison Smart's place from yours?

Answer. About a mile.

Question. Do you know where Dave Ferrester, a colored man, lived?

Answer. No, sir.

Question. Did you say he was whipped that night?

Answer. No, sir; I did not hear it.

Question. Do you know what the Ku-Klux signs are?

Answer. No, sir.

Question. Have you never been told by anybody?

Answer. No, sir; never was told by anybody.

Question. Do you know what the grip is?

Answer. No, sir; I don't know anything about that, either.

Question. Did your brother Joe never tell you?

Answer. No, sir.

Question. Did you ever see your father bring home a double-barreled shot-gun in the morning?

Answer. No, sir.

Question. How many double-barreled shot-guns had you in the house?

Answer. Ain't got any.

Question. Never had any?

Answer. Yes, sir; we had Mr. Howell's a while; I borrowed it to go hunting with.

Question. But you have never seen any gun brought home in the morning or any appearing suddenly in the morning?

Answer. No, sir; none.

Question. Has there been none around the house lately?

Answer. No, sir; there ain't been none round there lately, that I know of.

Question. Don't you know that your father had a double-barreled shot-gun and that it was given up to Colonel Merrill a few days ago?

Answer. Yes, sir; I know that.

Question. Where did that gun come from?

Answer. From McCowan's.

Question. When?

Answer. I don't know what time it was. I seen him fetch a gun up to pa. He owed pa something, and fetch the gun and gave it to him for the debt.

Question. When?

Answer. I don't know what time or the month it was.

Question. Was it last spring or this fall?

Answer. This fall; I believe it was.

Question. How long ago?

Answer. It has been about three weeks ago.

Question. Did you never hear whose gun it was?

Answer. No, sir; I never heard till lately it was Mr. Plexico's.

TESTIMONY OF THOMAS BOLEN.

THOMAS BOLEN was next called for the defense, and, being duly sworn, he testified as follows:

Direct examination by Mr. WILSON:

Question. Do you remember the night of the raid in search of John Thomasson, at Bill Wilson's gin-house?

Answer. Yes, sir.

Question. Is John Thomasson the husband of Mary Robinson, as she is called?

Answer. Yes, sir.

Question. Was Dr. Whitesides with the party that night?

The COURT. That won't do; that is a leading question. Ask who were with the party that night.

Question. Who were in the party?

Answer. Allen Crosby, Sherod Childers, Hezekiah Porter, myself, and Van Hemphill.

Question. Was that the night that Mary Robinson was whipped?

Answer. Yes, sir.

Question. Do you know Dr. Thomas Whitesides?

Answer. Yes, sir.

Question. Do you know where he was that night?

Answer. No, sir.

Question. Did you see him that night?

Answer. No, sir.

Question. Did you see him in the party that night?

Answer. No, sir.

Question. Do you know who was at this gin-house?

Answer. Yes, sir.

Question. Was Dr. Whitesides one of those men or not?

Answer. No, sir.

Question. You were along with the party that night?

Answer. Yes, sir.

Question. You know, then, that Dr. Whitesides was not one of the men that went to the gin-house?

Answer. He was not.

Question. Do you know of Dr. Whitesides being on any raid?

Answer. No, sir.

Direct examination by Mr. MELTON :

Question. How many were of the party that night?

Answer. Six, sir.

Question. Name them again.

Answer. Allen Crosby, myself, Sherod Childers, Hezekiah Porter, and Van Hemphill.

Question. That is only five; name them again.

Answer. Myself, Sherod Childers, Hezekiah Porter, Evans Murphy, and Van Hemphill and Allen Crosby. That was the crowd, sir; Allen was in command.

Question. Do you recollect what time it was?

Answer. It was along when I was raising up cotton ground—about the 1st of March, or some time along there; I don't remember the date. Allen Crosby came and told me they was to make a raid that night. He came after me.

Question. And you say that was the night Mary Robinson was whipped?

Answer. Yes, sir.

Question. It was on Wilson's place?

Answer. Yes, sir.

Question. Did you see anything of Mr. Mitchell that night?

Answer. No, sir.

Question. Do you know him—Captain John Mitchell?

Answer. Yes, sir.

Cross-examination by Mr. CORBIN :

Question. Do you know John W. Mitchell?

Answer. Yes, sir.

Question. Is he a chief of a Ku-Klux Klan?

Answer. He is said to be.

Question. In Yorkville?

Answer. Yes, sir.

Question. Are you a member of the Klan?

Answer. Yes, sir; I joined the party.

Question. What Klan did you join?

Answer. I was taken in with — Hood and Alf. Hood. A short time after I was in I was told it was John Mitchell's Klan.

Question. Did you ever attend a meeting at which he was present?

Answer. Yes, sir; I think I did.

Question. What meeting was that?

Answer. The William Kell raid.

Question. Was John Mitchell there?

Answer. Yes, sir.

Question. Took command of the Klan?

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Answer. I suppose he was going to command the Klan; he was there.

Question. Are you sure of that?

Answer. Yes, sir.

Question. Do you know him well?

Answer. Yes, sir.

Question. What was the Bill Kell raid for?

Answer. I do not know what the intention was. That was the first time I ever met after I joined the Ku-Klux Klan.

Question. You met there for the first time?

Answer. Yes, sir.

Question. Was that the Mitchell Klan?

Answer. I suppose it was the Mitchell Klan; it was called the Mitchell Klan, and Captain Mitchell was there himself.

Question. Did the party have disguises?

Answer. Some was in disguise when I went and some was not.

Question. The raid fell through, did it not?

Answer. Yes, sir.

Question. What was done with the disguises when you got through?

Answer. They were taken up and taken home, I suppose.

Question. Who took them home?

Answer. I do not know.

Question. Did you see Captain Mitchell put them in a bag?

Answer. No, sir.

Question. You don't know whether he did or not?

Answer. No, sir.

Question. This was the first raid you ever went on—this Bill Kell raid?

Answer. Yes, sir; it was.

Question. What was the date of that?

Answer. It was in January some time; shortly after I became a member.

Question. When did you become a member?

Answer. Along in January.

Question. About what time in January?

Answer. I cannot tell what time it was, but it was along in January—maybe about the 5th or 10th; somewhere along there, but I cannot tell the day of the month.

Question. How long after you were initiated was it that this Bill Kell raid was ordered?

Answer. It was not long.

Question. How long?

Answer. I am not able to state, but it was a short time—ten or fifteen days, or a week; somewhere along there; might have been longer than a week.

Question. Was it not less than a week?

Answer. I do not think it was.

Question. That was your first raid—a week after you were initiated?

Answer. A week, or more maybe; somewhere along there.

Question. How long after that raid was it that you went upon the raid upon Bill Wilson's place at the gin-house?

Answer. Along about the 1st of March, I think; I was raising up cotton grounds, and Allen Crosby came and told me.

Question. It was not on the 9th of January, was it?

Answer. I do not know; I think somewhere along through the last or 1st of March; I cannot tell the date.

Question. Do you know whether or not Dr. Whitesides or Captain Mitchell were on the raid on the 9th of January?

Answer. What raid?

Question. The raid on Charley Leach and Charley Good.

Answer. No, sir; I do not know.

Question. Were you not upon that raid?

Answer. No, sir.

Question. Did you ever hear them talk about it?

Answer. No, sir.

Question. Do you live in that neighborhood?

Answer. Yes, sir; I live about a short mile from Mr. Wilson.

Question. Did you ever have any conversation with Charles Foster, at the time he and you came out of jail, about Dr. Whitesides?

Answer. About Dr. Whitesides?

Question. Yes.

Answer. No, sir; I do not remember.

Question. Did you ride home from Yorkville with Foster?

Answer. No, sir; I drove the wagon and he rode in the wagon; he rode in the wagon and I was on the mule, driving.

Question. Did you have any conversation with him on that occasion about Captain Mitchell or Dr. Whitesides?

Answer. I don't think I did; don't remember.

Question. Do you remember whether you did or not?

Answer. No, sir; I heard Mr. Foster state before we left—

Mr. WILSON. We object to declarations of Mr. Foster.

The COURT. He has given them already.

Mr. CORBIN. You have been swearing about the declarations of Foster here for a long time.

Question. What Mr. Foster said; go on.

Answer. He said that he was a member of Mr. Mitchell's Klan.

Mr. CORBIN. Well, I don't want that.

Question. In that connection, while you were driving home, was Big Billy Wilson in the wagon riding too?

Answer. Yes, sir.

Question. Did you hear any conversation there about Dr. Tom Whitesides?

Answer. No, sir; I don't think I did; they was talking a little, but I was driving, sometimes in a trot, and sometimes hurrying to get home, and I didn't hear it.

Question. You didn't have a conversation and didn't hear any?

Answer. I heard them talking back in the wagon body about him being in jail, and so on.

Question. Didn't hear talk about Dr. Tom Whitesides?

Answer. No, sir, not as I know of.

Mr. MELTON. We were very anxious to close the testimony this evening, but a very important witness, whose testimony is not cumulative, has failed to appear, and we must ask your honors to indulge us, because his testimony is too important to omit.

The COURT. Is the witness in town?

Mr. MELTON. Yes, sir.

The COURT. Then let us issue an attachment.

Mr. MELTON. He is a colored man, and I feel constrained to call your honor's attention to the fact that we have great difficulty in keeping these witnesses. We have had one who has gone home because threats were made against him.

The COURT. Issue an attachment, and let him report such facts as that to the court.

Mr. MELTON. This is not the witness.

The COURT. Any witness.

Mr. CORBIN. If the counsel interested will give me the facts, every person who interferes in any way to intimidate and obstruct witnesses shall be prosecuted and indicted before this court.

Mr. MELTON. I am perfectly willing to give the counsel the names of the witness and the parties who have interfered to prevent him from testifying.

The names of Kirkland L. Gunn and Charles W. Foster were given to the district attorney as having told Moses Edwards, a colored man, that if he testified for Captain Mitchell they would "make him smoke for it," and the court ordered the name, with the evidence, to be sent before the grand jury. At 3¼ o'clock the court adjourned.

NINETEENTH DAY'S PROCEEDINGS.

DECEMBER 21.

The court met pursuant to adjournment, Hon. H. L. Bond, presiding; Hon. George S. Bryan, associate judge.

TESTIMONY OF MAJOR GUITON.

MAJOR GUITON, a witness for the defense, being duly sworn, testifies as follows:

Examination-in-chief by Mr. WILSON:

Question. Where do you live?

Answer. In York County, Bullock's Creek Township, where I have lived for the last twelve months.

Question. Where did you live last December?

Answer. At George Hood's, on Broad River.

Question. Did it at any time come to your knowledge of any plan that was on foot for the burning of houses in that neighborhood?

Answer. Yes, sir.

Question. From whom did you obtain that information?

Answer. Reuben Kennedy; he is a colored man.

Question. Where did he live?

Answer. At Bullock's Creek, on John Whitesides's place.

Question. What did he tell you?

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Answer. That there were two men in Union, Jim Peeler and Alfred Owens; he said that there ought to be several houses burned, because of stopping that killing.

Question. Whose house did he mention?

Answer. Dr. Tom Whitesides's was one house; John Smith, Captain Mitchell, and John M. Whitesides was others.

Question. On which side of the river are these houses?

Answer. On the York side.

Question. Was anything said about other houses that were to be burned?

Answer. Sam Jeffery's, in Union; John McCulloch and Colonel Jeffery's.

Question. Where do they live?

Answer. In Union.

Question. How many houses, in all, was it proposed to burn?

Answer. Four, in York County.

Question. What time did you get this information?

Answer. About the 1st of December; I cannot exactly say when.

Question. Did he tell you what was the plan, and what hour of the night those houses were to be fired?

Answer. He said it ought to be done at such a time of the night.

Question. Do you know how many houses he mentioned were to be burned?

Answer. Four in York County and three in Union, I think.

Question. Did he state his object in telling you this?

Answer. Yes, sir; he said it was very frightening to every man in the country—this killing and raiding—and he said this was the plan to stop that killing.

Question. Did you join in the scheme?

Answer. Not at all; he did not ask me.

Question. Did you communicate this information to any one?

Answer. I did, to Esquire Hood—he was the first man—and to Madison Small and Captain Mitchell.

Question. How soon, after it was told you, did you tell them?

Answer. Nigh as I can come at it, it was about three days.

Question. At that time, had there been any killing on this side of the river?

Answer. There had not been any raid on this side at all.

Question. Do you know any parties who were engaged in that scheme, except the one that spoke to you about it?

Answer. I don't.

Question. Were you at any time told by Captain Mitchell to give warning to some colored people that violence was threatened them?

Answer. Yes, sir; I was.

Question. When was that?

Answer. I cannot exactly tell the time; but it was some time after the raid was made in Yorkville.

Question. Who were the persons that you were to notify?

Answer. Jack Dowden, Edward Guiton, and Butler Askew.

Question. What did he tell you to tell them?

Answer. He said he was going to Wiley's store one day and found a paper lying in the road; he picks it up and found three names written on the paper that were threatened; he told me to tell them; I was very late that evening; that was Jack Dowden; I could not see the others.

Question. What did you learn next morning?

Answer. The next morning I understood that Jack Dowden and my brother, Edward Guiton, and Butler Askew had been whipped.

Question. Do you know Captain Mitchell?

Answer. I have known him all my life—since I knew anything at all.

Question. What is his character in the neighborhood?

Answer. He has a mighty fine character.

Question. What is his character among the colored people?

Answer. A mighty fine character; a mighty good character.

Question. How was he disposed to act toward the colored people?

Answer. Like as if he wanted them to live and do well; if they were responsible people and wanted help, he would let them have anything to support them, and they were to go to him for it.

Question. You mean that he was kindly disposed toward the colored people?

Answer. He was.

Question. What party did you belong to?

Answer. The radical party.

Question. Did you vote the radical ticket the last electica?

Answer. Yes, sir; I did.

Question. What box did you vote at?

Answer. Hickory Grove.

Question. Which is the strongest party at Hickory Grove?

Answer. The radical party.

Question. Were any threats used to hinder you and others from voting?

Answer. Never sir; he never hindered me.

Question. Have you ever seen others hindered?

Answer. No, sir; and I voted there all the time.

Cross-examination by Mr. CORBIN:

Question. Do you know Charles Foster?

Answer. Yes, sir.

Question. Did you tell last February or March, right near your house, that you wanted him to circulate the information about that you were a democrat?

Answer. I did not, sir; I can prove how I voted at the election.

Question. Did you circulate around so that people might know what your politics were?

Answer. No, sir; I didn't.

Question. Are you sure?

Answer. Yes, sir; I am.

Question. Do you work for Captain Mitchell?

Answer. No, sir.

Question. He told you he found this paper on the road about whipping these men?

Answer. Yes, sir.

Question. And he told you to go and notify them, did he?

Answer. Yes, sir; he told me to go and advise them, but I had not time; it was only about an hour and a half before sundown.

Question. What day of the month was that?

Answer. I think it was in December, after Christmas.

Question. Was it after New Year's Day?

Answer. Of course.

Question. How long after New Year's Day?

Answer. I don't know exactly; it might be about two weeks.

Question. Could it have been more than four weeks?

Answer. It might have been that long.

Question. Where did he tell you that?

Answer. I passed his house and he was feeding his stock when I passed, and we had the conversation.

Question. He seemed to be anxious, did he, that you should go and tell those men to get out the way?

Answer. He didn't seem anxious, of course, but he did not want them to be hurt.

Question. How far did Jack Dowden live from you?

Answer. About two miles.

Question. And it was about an hour and a half before sundown when he told you.

Answer. Yes, sir.

Question. And you did not tell the others because you had not time?

Answer. Yes, sir; I wanted to get home; I had my own business to attend, and I had been away ever since Saturday, and I only had time to tell Jack Dowden.

Question. Captain Mitchell seemed rather anxious that you should go and see them?

Answer. He was not anxious, but, as he found out that they were threatened, he would like very well for them to know it, and he said he thought it was my duty to tell them.

Question. Did he show you the paper he said he had found?

Answer. He said he had just picked it up, and when he had read it he threw it down.

Question. And these men, you say, were whipped that night?

Answer. Yes, sir; they were.

Question. What time?

Answer. I don't know.

Question. Did you tell Jack Dowden who gave you the information?

Answer. I don't recollect now.

Question. And did he then ask you who told you?

Answer. I told him there was a paper found on the road, and his name was on it, and Edward Guiton, and Butler Askew; and I advised them to be particular, but I did not tell them that Captain Mitchell told me.

Question. Have you told us all that Captain Mitchell told you?

Answer. Yes, sir.

Question. Why did you not go to tell them that the Ku-Klux were coming? Did you not care anything about the Ku-Klux?

Answer. I didn't know when they were coming; I only knew we were all frightened.

Question. Didn't you, then, think it worth while to tell them that they were all threatened?

Answer. I did not know but it might be twelve months from that day.

Question. You say you told Captain Mitchell and Squire Hood and Dr. Whitsides that

this colored man Kennedy was going to burn them up; did you tell them who was going to do it?

Answer. I didn't know.

Question. Did you tell them that Reuben Kennedy told you?

Answer. I did; and I told all the conversation between us.

Question. And you had a good deal more anxiety about fires than about men being whipped and killed?

Answer. No, sir; I did not, for I was as much scared as any of them by the Ku-Klux.

Question. And yet you did not tell your brother he was going to be whipped?

Answer. If I thought I should not be belated and that I might likely be killed myself, I likely should have told him.

Question. Were you afraid of Captain Mitchell?

Answer. I was not afraid of him; but I was afraid of the whole country.

Question. Were you ever whipped?

Answer. No, sir.

Question. You felt safe, didn't you?

Answer. No, sir; I didn't.

Question. You say Kennedy got up this plan to stop the killing?

Answer. Yes, sir.

Question. What were the politics of those two men that were killed in Union?

Answer. I don't know exactly; I never saw either of them; they were radical I had heard.

Question. And this plan, Kennedy said, was to get up these fires to stop the killing?

Answer. Yes, sir.

Question. Did he carry it out?

Answer. I don't know, sir.

Question. Where is this man?

Answer. I don't know; he moved away to Mississippi. I don't know what time, but it was after Christmas.

Question. Did he stay in the country long?

Answer. No, sir.

Question. Did the Ku-Klux ever raid on him?

Answer. As I recollect, they were at his house one time.

Question. Was that before or after this?

Answer. He told me before they ever went to his house.

Question. How long before?

Answer. I don't know; I think he told me before Christmas, and they raided on him after Christmas.

Question. What did they do to him?

Answer. I don't know; but I understood they were there.

Question. Had not Tom Roundtree been killed about that time?

Answer. I don't know.

Question. How long before Christmas was it that Kennedy told you this?

Answer. I don't know exactly how long. I think it was some time in September.

Question. What year was it?

Answer. It was last year.

Question. Are you sure of that?

Answer. Of course.

Question. Are you sure it was in September?

Answer. I think it was some time in September.

Question. How do you know it was in September?

Answer. I cannot recollect the date, because there has been so much done in the country; I am not like a white man, but I know it was in September; all the citizens, white and black, know it was in September when this thing began.

Question. What began?

Answer. When these men were killed.

Question. Are you sure of that?

Answer. That is my recollection.

Question. It was after that killing that Kennedy told you this?

Answer. Yes, sir.

Question. And Kennedy lived on his place from September until these two men were killed in January?

Answer. Yes, sir.

Question. Where did he live?

Answer. At John Whitesides'.

Question. Did he live there in September?

Answer. Yes, sir.

Question. In October?

Answer. Yes, sir.

Question. In December.

Answer. Yes, sir; he was there part of January.

Question. Did he live there in February?

Answer. I don't recollect whether he did or not.

Question. Did he live there in March?

Answer. I don't know; but he was there Christmas.

Question. Don't you know when he told you this plan about the burning?

Answer. It was some time in September.

Question. Are you quite sure about that?

Answer. Yes, sir.

Question. When did he say they were going to commence?

Answer. He did not say.

Question. Did he tell you who was in it?

Answer. No, sir.

Question. Did he say he was in it?

Answer. He said what ought to be done.

Question. Did he tell you there was any fixed plan about it?

Answer. He didn't.

Question. But he thought it ought to be done, to stop the killing?

Answer. Yes, sir.

Question. Did he tell you that it was a plan to stop the killing?

Answer. Yes, sir.

Question. Did you agree with him?

Answer. No, sir; I told him, "You will make bad worse."

Question. You say you thought burning would make bad worse?

Answer. Yes, sir.

Question. And you thought burning was worse than killing?

Answer. No, sir.

Question. What did you advise him to do?

Answer. I had very little to say any way.

Question. Was this conversation before or after he told you?

Answer. It was after.

Question. When was the election?

Answer. Some time in October.

Question. And it was after this election that he told you this burning was to stop the killing?

Answer. It was after the election, in September or October.

Question. Which month comes first?

Answer. September comes before October.

Question. You say he told you in September; now you think it was in October?

Answer. There was no election last October.

Question. You know that as well as you know anything else, do you?

Answer. You ain't got me right.

Question. How long after you heard that these two men, Owens and Keeler, were killed, was it that he told you?

Answer. I don't think it was longer than three days.

Question. Are you sure it was before Christmas?

Answer. Yes, sir.

Question. You say you told John P. Hood?

Answer. Yes, sir.

Question. Is he at home now?

Answer. He was not when I left. He has been away six weeks or two months.

Question. Where is Madison Smart that you also told?

Answer. I don't know; he is away. He went away about the same time Squire Hood did.

Question. Then Captain Mitchell is the only one left in that county you told it to?

Answer. Captain Mitchell is the only one left.

Question. What did they tell you they were going to do about it?

Answer. They just told me that white and black ought to come together, and have meetings and make peace as they could; that the two parties ought to come together and have peace.

Question. Who told you that?

Answer. Captain Mitchell said there ought to be a meeting, and come together and try to have peace; Squire Hood and Madison Smart told me the same thing.

Question. Had the colored people been united with the white people up there?

Answer. Not as I know of.

Question. Do you know whether this man Kennedy ever set any places on fire?

Answer. I don't know at all.

Question. Did you ever hear him charged with starting fires?

Answer. No, sir; I never heard of it.

Question. Then he simply expressed his opinion to you?

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Answer. Yes, sir; of course; that is the way I take it.

Question. Were Jack Down, Edward Guiton, and Butler Askew republicans?

Answer. Yes, sir; but Butler Askew didn't vote; he was too young.

Question. You say that Captain Mitchell sustains a good character with the colored people?

Answer. He does.

Question. Did you ever hear that he raided on the colored people and whipped them?

Answer. If he did, I never heard it.

Question. Did you never hear it till he came here?

Answer. I heard he was reported and went to prison, but I never heard anything after he was in prison; I never heard he was accused of it.

Question. Did Keller and Owens live right on the Broad River?

Answer. Yes, sir; Owens lived about six miles from me, and Keller lived about ten miles up Broad River.

Question. The killing of these men made a great excitement in the county, did it not?

Answer. Yes, sir.

Question. Did you understand that they were killed because they were republicans?

Answer. I didn't understand that it was because they were republicans.

Question. When Tom Roundtree was killed, did that make much excitement?

Answer. There was so much excitement that I don't know that that made any more excitement. The excitement was all over the State.

Question. Did you hear what Tom Roundtree was killed for?

Answer. I understood he made threats, and he belonged to some kind of League.

Question. What were the threats?

Answer. I did not hear very much of the threats, but they said he belonged to some kind of League, and that he said they ought to kill from the cradle up.

Question. You don't yourself know anything about it, do you?

Answer. No, sir; I know I was very much scared, and the only way was to get away and hide.

Question. When did you begin to hide out?

Answer. I was hiding out and watching all along that time.

Question. Did you begin to hide out after the election?

Answer. Night after these men were killed.

Question. Did the rest of the colored people hide out?

Answer. I do not know, but from what they told me some of the women and children went to the house of Mr. Small, but most of the men lay out.

Question. Did most of the colored people take their blankets out in the field to hide?

Answer. Yes, sir; that is what they told me they did.

By Mr. MELTON:

Question. Did Captain Mitchell know what your politics were?

Answer. Yes, sir; he saw me vote.

Question. Did Dr. Tom Whitesides know your politics?

Answer. Yes, sir; he saw me vote.

The defense here rested their case.

TESTIMONY OF BUTLER ASKEW.

BUTLER ASKEW, a witness for the prosecution, called in rebuttal, was duly sworn, and testified as follows:

By Mr. CORBIN:

Question. Where do you live?

Answer. In York County.

Question. Do you know Major Guiton?

Answer. Yes, sir.

Question. Did he tell you last fall that the Ku-Klux were going to raid on you?

Answer. He did not.

Question. Did he ever give you any notice?

Answer. No, sir.

Question. Did the Ku-Klux raid on you?

Answer. Yes, sir; they did.

Question. State the particulars.

Answer. Five of them raided on me; they made me pull my shirt off, and whipped me.

Question. When was that?

Answer. It was the 3d of February, Sunday night.

Question. Is that the only time?

Answer. Yes, sir.

Question. Do you know what Major Guiton's politics are?

Answer. He was a democrat till the last time, when he voted the republican ticket, and he said he was sorry he ever did it.

Question. When did he tell you ?

Answer. Since this Ku-Kluxing started ; since Christmas.

Question. How long after Christmas ?

Answer. It was about a month after Christmas.

Question. Did you vote ?

Answer. No, sir ; I am not old enough.

By Mr. MELTON :

Question. I understand you to say that it was after the raiding commenced that he said he was sorry that he voted the republican ticket ?

Answer. Yes, sir.

By Mr. CORBIN :

Question. Was there any raiding done in that county before you were whipped ?

Answer. Yes, sir.

Question. Do you know who was raided on ?

Answer. Charles Leach, Pres Holmes, Howell, and Charley Good.

Question. How long were they whipped before you ?

Answer. About three weeks.

Question. Are you certain about the time ?

Answer. No, sir.

TESTIMONY OF JACK DOWTON.

JACK DOWTON, a witness for the prosecution, called in rebuttal, being duly sworn, testified as follows :

Question. Where do you live ?

Answer. With Madison Smart, in York County.

Question. How long have you lived there ?

Answer. I been there four years.

Question. Did he tell you any time last winter that you had better look out ; that the Ku-Klux were coming after you ?

Answer. If he told me that, I did not hear it ; he never told me.

Question. Did the Ku-Klux come on you ?

Answer. Yes, sir.

Question. When ?

Answer. About a month after Christmas.

Question. Tell us about what time it was, and what they did to you.

Answer. They came there to my house, shot my dog and wounded him, and came and asked me if I belonged to the League. I told them I did. They asked me if I belonged to Bill Kell's League. I told them I did. They asked me what I joined for. I told them because I thought it was all right.

Question. What did they do to you ?

Answer. They took me out and whipped me.

Question. Did they whip you severely ?

Answer. They gave me about one hundred licks ; they didn't pull off my shirt.

Question. Did you know any of them ?

Answer. I did not know any of them ; they had their uniforms on.

Question. What was the uniform ?

Answer. Red horns—horns about two feet long ; some stood straight up and some hung down.

Question. What did they tell you when they had done whipping you ?

Answer. They asked me if I was going back to the League any more. I told them I was not. They asked me if I was a radical, and I told them I was. They told me if there was a chicken-coop or anything burned they would kill all you damned rascals.

Question. Did you vote at the last election ?

Answer. Yes, sir ; I voted the radical ticket.

Question. Were there any more raids on that place ?

Answer. Butler Askew was whipped the same night I was. Charley Leach was whipped a good while before I was.

No cross-examination.

TESTIMONY OF CHARLES FOSTER.

CHARLES FOSTER, a witness for the prosecution, called in rebuttal, being duly sworn, testified as follows :

By Mr. CORBIN :

Question. Will you state all the particular circumstances that occurred on the night

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that you and Dr. Whitesides, as you have testified, went on that raid, previously to your going to the place of meeting?

Answer. On the evening before I was sent for by Milton Watson to come up to his house and bring my disguise—they wanted to make their disguises by the same pattern; and Miss Rose Leach and Miss Jerusha Moss and Miss Mary Watson assisted in making the disguises. As there was no saddle for Dr. Whitesides to ride, he asked me to go and borrow a saddle. I said certainly I would, and I went and got one. He followed and met me on the top of the hill between where we lived and Samuel Small's. I met them there. They were not disguised at that time. We put the saddle on Dr. Whitesides's mare and went on then to the ferry. Dr. Whitesides said to me, "Why didn't you bring some whisky?" Said I, "That is your business." Said I, "I have a little." We went over the ferry and on to the road.

Question. Can you fix the time with any certainty when that was?

Answer. I am not positive about the date, but it certainly can be identified by looking over some dates that were done in the country. As well as I can recollect, I think the moon rose about 8 or 9 o'clock.

Question. Have you had any conversation with Dr. Whitesides here in Columbia since you came down?

Answer. Yes, sir.

Question. State what it was.

Answer. He met me at the corner grocery, rode by, and asked me to take a drink of whisky. I did so, and went back into the room, into a private box, and afterward we retired into the back yard. He asked me if I was going to come right square out. I said, "Wait till I go on the stand and hear what I say."

Question. When did that occur?

Answer. Some time the week before last.

Question. Has he approached you since that time?

Answer. Nothing more than speaking to me; he has sent a friend of mine to me. (Testimony objected to.)

Question. Who came to you?

Answer. Mr. Lawson B. Davis.

Question. Was anything said to you about \$25?

Answer. Nothing more than what I have stated; Mr. Billy Wilson can tell you the result of that.

Question. Do you know Julius Howe?

Answer. Yes, sir.

Question. Is he a Ku-Klux or not?

Answer. Whether he has been sworn in I do not know; I saw him on a raid leading a Klan.

Question. He would not be leading a Klan of Ku-Klux if he had not been sworn in, would he?

Answer. I don't suppose he would.

Question. About what time was that?

Answer. About the 29th of January or the 1st of February; it was the second raid that I was on.

Question. Did you have any private talk with Captain Mitchell?

Answer. Wilkinson and Dr. Whitesides sent for me the day I was put in prison, to come to the third floor; they were in the doctor's room—some twelve or fourteen of them—when I went up. Sergeant Corbin said to me that several of the boys wanted to see me, and some one asked what I had said to Major Merrill; and I said I had told all I knew about it.

Question. Who was that?

Answer. I don't know, but I think it was Captain Mitchell.

Question. What did he say?

Answer. He said, "If you had staid here I had stood some chance; but, as it is, you have stuck me in for five or six years."

Question. Do you know anything about the raid made on Captain Mitchell by the Ku-Klux?

Answer. I know but little. Some of the members of Parker's Klan were said to have done it. There was said to be a man by the name of Williams; they were thought to be spies and detectives of the Ku-Klux, and, during this time, John Roberts, a member of Parker's Klan, was ordered to meet Milton Watson and myself; and we went to Mount Vernon church. The members of the Klan were partly disguised, and went in pursuit of these men, but they failed. I staid all night at Smith's place with Milton Watson, and the balance of them staid at the grocery; their disguises were left with me. The parties had their disguises on when they came up.

Question. What do you know in reference to their searching for Williams at the house of Captain Mitchell?

Answer. I heard afterward from Edward Leach; he is a member of the Klan. He

said they had found the man Williams at Mitchell's house. They had found his papers, and they had searched him thoroughly and found him all right.

Question. Did they go in disguise for him?

Answer. I think they did.

Question. When was this?

Answer. It was last winter. I want to state about those disguises left with me at grocery. They were left there until the night after this, and I had taken the disguises and rode to Milton Watson's, and then I took them to Captain Mitchell's house, and then to him in person.

Question. At the time you were released from jail at Yorkville, who did you go home with?

Answer. William Wilson and Thomas Bolen. I rode in the wagon and William Bolen drove the wagon.

Question. Tell us whether you told anything in the jail there at Yorkville, while you were there, that you were mistaken about Dr. Whitesides being on the raid?

Answer. There might have been some talk; I drank a good deal of whisky while in Yorkville, and I might have said some such thing. When I made up my mind to confess, I made up my mind to tell the truth, and nothing but the truth.

Question. Did you tell Dr. Whitesides, when you left the jail, that you would go up to Major Merrill's and make some statement to him?

Answer. I told Dr. Whitesides that I was going to Major Merrill's headquarters, but I did not remember saying anything else. My brother was with me, and he can tell, I reckon, what was said.

No cross-examination.

TESTIMONY OF WILLIAM WILSON.

I reside in York County; I lived there all my life; I know Charles William Foster; I rode home with him from Yorkville when he was released from jail; he rode in my wagon; Tom Bolen was along and drove the wagon.

(Conversation between the parties was objected to, and the objection was sustained.)

TESTIMONY OF T. L. GUNN, IN REBUTTAL.

I was present at rendezvous when they went on the Bill Kell raid, and saw Captain J. W. Mitchell there and Charley Howe. I remember a remark of Captain Mitchell, "I have a bag of cotton." I thought they were disguises. He said he was going to the grocery for whisky, or something of that kind. The sack would have held about twenty-five pounds of cotton. After the raid I saw him put disguises in that bag. After the raid had been given up, and we turned to go home, it was then that I saw him put the disguise in the bag. The Bill Kell raid was, I think, some time in January.

TESTIMONY OF AMOS HOWELL, IN REBUTTAL.

I live at Mr. Sam Howell's, in York County, and have lived there all my life. I shall be twenty years old to-morrow, and have never voted. The Ku-Klux made a raid on me last winter and whipped me. It was either the 25th, 26th, or 27th of January. It was the same night that Charles Leach, Pres. Holmes, Charles Good, and Jerry Thompson were whipped. They also whipped Wiley Edwards. I saw all these men the next day. They whipped me very bad. They came to my house and tried to knock the door down. I jumped up and opened it as soon as I could. One stepped up and held a double-barrel shot-gun at me, and then another put up his gun at me and said, "God damn you, I believe I'll shoot you." Then they took me and whipped me, and gave me about fifty lashes.

TESTIMONY OF ELIAS RAMSAY, IN REBUTTAL.

I know Robert Riggins; he was elected chief of a Ku-Klux Klan; he was on one raid when I was with him; he was elected chief at Sharon Church, on the first or second week in May last; they made a raid at McConnellsville, when Jim Williams was hung; Robert Riggins was on that raid and was disguised; I first met him about two miles from where I lived, on the side of the road; I am well acquainted with him and live only about a quarter of a mile from him; I know John Miller; saw him at Sharon Church, at the meeting of the Klan, when they met to organize the Ku-Klux Klan.

TESTIMONY OF JOHN ROBERTSON, IN REBUTTAL.

I live in Chester County now; last winter I lived in York, on Mr. Billy Wilson's place. I left Mr. Wilson's on the 5th of March and went to Chester. I saw Dr. Whitesides at Chester about three weeks ago; he told me he was mighty glad to see me; he

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talked to me and Giles Good, another colored man, and he said to me, "If we damned niggers didn't get him out he was gone up." He was then on his way here, and was under a guard of soldiers.

TESTIMONY OF MRS. WILLIAM WILSON, IN REBUTTAL.

I am the wife of William Wilson, and reside in York County. The first raid that was made on our place was on Jim Crosby, on the 20th of January, as well as I recollect. Jim Crosby was whipped, and some guns were broken belonging to him and John Robertson. The next raid was on the 3d of February. Our dog was killed, the house was surrounded, and they took my husband out, and they shot under the house. I am able to fix that day, because my baby was born in the evening, at 4 o'clock, and they raided on me that night. There was another raid, just three weeks from that time, and the same night Mary Thompson was whipped, for they told me next morning that she had been whipped. Next they came to our gin-house, when they said they were hunting for John Robertson, Mary's husband; and they raided on us again about a week after that time. They took Jim Crosby out of his house, a piece off, and made some threats. Jim Crosby himself told me next morning.

The prosecution here announced that they rested the case.

Mr. CORBIN said that with the permission of the court he would not occupy their time with any opening argument; the counsel representing the defendants might open the argument and Mr. Chamberlain would close.

ARGUMENT OF MR. W. B. WILSON.

Mr. W. B. WILSON, counsel for the accused, Thomas B. Whitesides, said:

May it please the court and gentlemen of the jury, the client which I represent in this case, Dr. Thomas B. Whitesides, asserts his innocence, and respectfully, but with confidence, submits to an intelligent court, to the frankness of an able counsel, who represent the Government, and to your sense of justice and right as jurors, that he should have a verdict of acquittal.

We are not here to defend or excuse crimes that shock and disgrace humanity. I have listened with amazement and with disgust to the tale of horror that has been narrated to the court. My client, Dr. Whitesides, utterly denies that he was a member of that Ku-Klux organization. He denies that he ever participated in any of its outrages or its acts of violence. I am sure, gentlemen of the jury, that you will remember that the evidence comes from prominent witnesses on the part of the Government, but that he denounced it as the most damnable thing that ever existed in any country. This denunciation was made when? Not in the day of its panic and disaster, when the angry power of the Federal Government burst upon it like a thunderbolt from a clear sky, but on the 1st of March, 1871, when it was in the first blush of its strength and terror; when it required a man of nerve to face it; and it was then that Dr. Whitesides denounced it. To whom? To its sworn and active members. The Government witnesses tell you that, and upon that we stand.

In the defense of Dr. Whitesides, it is not necessary for me to discuss the legal questions in the case. I submit and trust his case upon the issue of fact.

I deny his guilt, and I ask you, gentlemen of the jury, in patience to listen to a synopsis of the testimony offered on the part of the Government and on the part of the defense, and then decide as to the guilt or innocence of this prisoner.

Mr. Wilson then presented to the jury a synopsis of the testimony of Wilson Davis, who showed a perfect familiarity with the names of those belonging to the Ku-Klux organization in the vicinity where Dr. Whitesides resides, and he states he never saw Dr. Whitesides in a Ku-Klux Klan.

The most important witness of the Government, perhaps, Mr. Gunn, as late as March, 1871, gave Dr. Whitesides the Ku-Klux signs, but he was unable to respond to them. Mr. Gunn then commenced talking with my client, and he denounced it as the most damnable thing that ever existed in any country.

The next witness rushes to the witness-stand to rescue himself from prosecution, Charles W. Foster. He admits that he has been in the very depths of this abyss of crime and outrage upon those unfortunate and often innocent persons who were lashed and tortured. He comes here a swift witness against a man he is disposed, for some unknown reason, to hunt down; but, gentlemen of the jury, that God who has perfect cognizance of the true facts of the case has completely crushed the testimony that he gave against Dr. Whitesides.

Mr. Wilson here detailed the evidence of the various witnesses who testified that on the night of January 9, 1871, when Foster swore he was with the raiding party that whipped Charles Leach, Dr. Whitesides was attending the sick-bed of old Mrs. Mitchell, in company with Dr. Darwin and Captain Mitchell, where he spent the entire night with Mrs. Mitchell and breakfasted at the house in the morning before he left.

These facts, the counsel contended, were all corroborated by the testimony of Dr. Darwin, Mrs. Howe, Miss Howe, Mrs. Mitchell, Samuel Mitchell, and Mrs. Whisonant.

Foster testified that Dr. Whitesides was on the raid on Charles Leach, and that he was on no other. Foster saw, on that raid, a man he took for Dr. Whitesides; that all the party, excepting three, (not including Dr. Whitesides,) were disguised with masks and gowns. Foster did not ride near Dr. Whitesides, who rode, he says, in front, while he, Foster, rode in the rear. Foster did not recollect that the moon was shining, and he admits he did not speak with Dr. Whitesides.

On Foster's recall this morning he says that he spoke with Dr. Whitesides while on the raid, and asked him why he did not bring some whisky—none of which did he testify to on his direct examination. The only possible presumption is that Foster is mistaken in the disguised Ku-Klux with whom he says he spoke, for it could not possibly have been Dr. Whitesides, unless every one of the various witnesses who saw him at Mrs. Mitchell's on the night of the 9th January, 1871, had perjured their souls by false testimony.

Again, Foster is shown by other witnesses to have said in jail that he was mistaken in saying that Dr. Whitesides was on that raid, and witness swore that he said he would go to Major Merrill and rectify the mistake; that they heard him also—after he got out of jail, and was going to Colonel Merrill's, in reply to Whitesides's request not to neglect to fix that matter—say, "I will go right straight now to Colonel Merrill's and correct the mistake," when Foster in his testimony stated that he said to Whitesides, "I am going to Major Merrill's." I asked him the question, "Did you not say that you were going to correct the mistake?" His reply was, "I don't recollect." Gentlemen, we have put up witnesses who do recollect. Now, it is claimed that one of those witnesses was a Ku-Klux. What was Mr. Foster but a Ku-Klux? If that is to discredit Riggins, the same objection will apply to Foster. But we put up other witnesses, who tell you that they were not Ku-Klux.

Well, now, here is the admission of Mr. Foster himself that he was mistaken; that he is satisfied that Dr. Whitesides was not on that raid.

You have, gentlemen of the jury, the strong probability that Foster was mistaken in supposing that Dr. Whitesides was on that raid that night. You have Mr. Foster's positive admission that he was mistaken, and that he would go and correct the mistake; and then to crown all, to dissipate all doubt upon your minds, you have the positive testimony of Dr. Darwin, Mrs. Howe, Mrs. Whisonant, Miss Howe, and Charles Mitchell, proving that he could not have been there, because he was somewhere else. I think that disposes of Foster.

The next witness was Mary Thompson. She does not speak of this raid of the 9th of January, 1871, and she does not specify any particular date. She says she saw two men with masks and gowns on, and one of the men was Dr. Thomas Whitesides. She was undoubtedly in a state of alarm and terror, and doubtless she thought it was Dr. Whitesides, although his face was covered and it was in the night. How easy for her to be mistaken.

Jim Crosby also testified that it was Dr. Whitesides. Well, how does he know? "Why do you think it was Dr. Whitesides? Did you see him to recognize him?" "No; but I saw a track, and I thought it was Dr. Whitesides's track."

Now, gentlemen, did we offer nothing to rebut this testimony, I am sure you would receive it with hesitation; but there was a witness, Mr. Thomas Bolen, whose testimony was given in full at Yorkville to Colonel Merrill. He tells you the whole story; he goes upon that stand; he takes a solemn oath that he was a Ku-Kluxing, and that he was with that party; he names them all and he says that Dr. Whitesides was not there. Here you have positive proof by a Ku-Klux—a Government witness—whose confession the Government has taken, who tells you that Dr. Whitesides is innocent. Tom Bolen was a Ku-Klux; he was familiar with the Klans of the country; he knew the names of their men, of their chiefs. "Was Dr. Whitesides a chief? Did he belong to any Klan?" "No, sir; I never saw him; he was never on any raid." Why, even Charles Foster admits that; he says he was never on any raid except on the 9th of March.

There was a witness who fixed the date, the 25th of January—a young man by the name of Amos Howell. He may have been whipped on that night, but that testimony, if it was offered to change the date to the 9th, certainly can amount to nothing. The testimony of every witness of the Government proved conclusively that it was the 9th, and whether Amos Howell was whipped on the 25th or not is wholly immaterial. The 9th was the date first fixed by the Government witnesses. Charles Foster—and his testimony was taken down—swears that it was on the 9th of January, 1871, and it cannot now be altered to the 25th of January.

Gentlemen, I ask you that, in the presence of your oath—your solemn oath—that oath which invokes the Almighty to witness that you shall honestly decide this case; in the presence of that solemn oath, what other motive can a juror have in the discharge of his high functions but to be controlled by simple obedience to truth and duty? The United States Government cannot, do not, ask that the innocent be convicted, or to inflict its penalties upon any but the guilty; and if in this time of high party excitement

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you can soar above the passious of the hour, and the prejudices of race, you will vindicate before the world, and in the noblest manner, your claim, your fitness, for all the privileges of the American citizen.

ARGUMENT OF C. D. MELTON, ESQ.

May it please the court and gentlemen of the jury, there are two leading points in this indictment. The one is a charge of general conspiracy with intent to violate the first section of a designated act of Congress, by unlawfully hindering, preventing, and restraining divers male citizens of the United States, of African descent, from exercising the right and privilege of voting, and by other unlawful means in not allowing them to vote. That feature of the indictment charges no specific act against any person. The court has ruled, and will so instruct you, that the mere fact proved that any man is a member of an organization, having such objects, is sufficient to warrant your conviction of him on the first count. The other feature, which covers the three additional counts in the indictment, is the feature which charges a special conspiracy against an individual member of the community named Charles Leach. So that your duty in the investigation of this case is first to determine as to these defendants, and particularly as to Captain John W. Mitchell, whom I represent, whether he was a member of any combination the purpose of which was to interfere with the right of African citizens to vote.

In the face of the testimony offered here I cannot stand before you and say that John W. Mitchell has not been a member of the Ku-Klux organization. It is stated by Foster that he was present when he was admitted into the order; and that testimony stands uncontroverted. It is stated by Foster that he recognized him on a certain raid. The raid here charged is that upon Charles Leach, and it is stated by the witness Gunn that he was with that Klan, or some Klan, at Barclay's Hill, and by another witness that he saw him at that meeting.

In the face of these facts, which we have not been able to controvert, I cannot ask that you should listen to me in submitting any argument or denial that he was a member of this organization.

But, gentlemen, he makes, by his plea of not guilty, a denial that that organization was ever designed or intended to interfere with African citizens as a class, and to prevent them from exercising the right of citizens to vote, to bear arms, and to discharge all other duties pertaining to citizens. That is what the Government has to prove; and whilst I am compelled to admit that my client belonged to that order, I have a right to ask you, gentlemen, that you shall require of the Government proof that that order had the objects charged in this indictment. How do they propose to prove it? Do they prove it by the constitution of the order? It does not appear there; on the contrary, that constitution sets forth the purpose of the order to be of a different character altogether. It abjures the application of force, and it does not seek to resort to any unlawful means, or designs, or purposes, in carrying out the objects of the order. Was it political? Perhaps it was. But was not the League political? It does not follow because an association is secret in its purposes, secret in its meetings, that it is, therefore, necessarily obnoxious to law. You must look at the organization, at the constitution of the order, to find what its purpose is; and I say, gentlemen, you do not find there that it had any such purpose.

But what does the Government do in the next step? They undertake to show you by the admissions of members of the order that they understood that such were its purposes. Very well, if those members understood it they were guilty of a violation of the law in having become associated with it; but does that agreement bind him who did not understand it?

Now, gentlemen, if it appeared in the constitution of the order that such was its purpose, every man who joined the order knew its purposes; but if it rests alone in my conscience to know what I understood to be its object, then that alone affects me, and does not affect you who did not so understand it.

Has the Government proved to you that John W. Mitchell regarded this combination as one which had for its purpose the interfering with the right of African citizens to vote? How, then, can it charge J. W. Mitchell, even under the first count in this indictment, of having been a member of this organization which had that for its object? Why, gentlemen, where is the thing to stop? They will not confine it alone to interfering with the right to vote, but with interfering with all other rights; not only interfering with citizens of African descent, but of every other citizen; and not only citizens entitled to vote, but those not entitled to vote.

I say it is an unfair mode of ascertaining the purpose of this organization.

What, then, is the next mode? By acts which members of the organization committed; and the great body of testimony which the prosecution has here offered has been directed to developing the manner and enormity of the outrages which individual members of the organization committed. But does that charge those outrages as being committed for the purpose of the organization?

I suppose many of you are members of the Union League, which is a somewhat similar organization, and a political organization, but I am not prepared to say an improper organization. But I ask you if it should be charged upon ten, fifteen, or twenty members of the League, that they had gone out in the community and committed violence, bloodshed, and incendiarism, would you feel that it was fair to charge that it was the purpose of your League that blood should be shed, that houses should be set on fire? You would know that that was not the purpose of the League, and that the League had no such design, even although you may have known of such instances. Perhaps members of your League have gone to those of your color, and have said you shall not vote the democratic ticket. I have heard of instances of that kind, and I doubt not that you have heard of them. But who is responsible for things of that kind? An individual member may have committed such an act, but was it a feature of your League? Was it any purpose of your League? Why, then, charge upon the whole organization those acts which a few misguided, vile miscreants undertook to perpetrate? Was ravishing helpless women a part of this conspiracy? And yet you have been made to believe so, if you are to be guided by testimony of that kind. We have had here from women details of the most disgusting character put forward for the purpose of showing from this act that ravishing women was one of the purposes of this organization.

Now, I ask you, do you believe it, and that there did exist upon the face of God's earth an organization which would have among its purposes that of committing these gross outrages upon helpless women?

What, then, is the meaning of these outrages? They mean no more than that this unfortunate organization—I say unfortunate, because it was unfortunate in its conception; it was unfortunate in its mode of undertaking to carry forward what were its legitimate purposes in undertaking to carry them forward by disguises and pass-words, which would afford reckless men opportunities for mischief—it means, gentlemen, nothing more than that in that order there were found men who were vile and low, and who, under the protection of the gown and the mask, undertook to carry out their own purpose of lust and their own private vengeance.

Now, gentlemen, if John Mitchell was connected with any outrages of this character, or if the prosecution has carried home to him under the first count, a knowledge of such acts as within the purposes of his conspiracy, you may convict him if you choose so to do; but I say to you, gentlemen, that unless you are satisfied that these outrages upon the rights of the colored people—or of the radical party, if you choose so to consider it—was a part of the constitution of the order, you have no right to say that John Mitchell is proved to have entertained any such purpose as that, unless you show that he himself was at some of the outrages. Men may organize for any purpose. The order of Masons, and Odd-Fellows, to say nothing of the League of which I have already spoken, are organizations existing all over the country. From those organizations every day come forth men who depart from the order. Why, gentlemen, the world is now almost convulsed by the mischievous results of such an organization—an organization designed, no doubt, for beneficial purposes—an organization of the working men of the country, which exists in France, in Germany, and all the nations of Europe, and which to-day is existing in this country—an organization which finds as a champion one whom you of the colored race have reason to regard as the man who, above all others, has devoted his life to your interests—I speak of Wendell Phillips; and yet that society whose purposes he is endeavoring to impress upon the people of the country—that very organization is one upon whose members has been charged the outrages which signalized the recent burning of Chicago, and which, in the city of Paris, consummated outrages which made the civilized world blush for shame. That same secret organization is now advocated by one, of whom, let people say what they will, they cannot deny to him honesty of heart and purity of purpose.

Now, gentlemen, if you understand my argument before you convict my client under the first count, even admitting that he was a member of the order, you must be satisfied that the order of which he was a member had for its purpose the hindering, preventing, and restraining of male citizens of the United States of African descent, who are qualified to vote, from exercising the right and privilege of voting. And I say to you, gentlemen, that that purpose appears not in the constitution; and if it appears by the testimony of other members of the order, I say that there is no testimony that it was so understood by Mitchell; and if it is proved that members of the order have committed outrages of this foul character, unless you shall be satisfied, under the subsequent counts in the indictment, that Mitchell was so engaged, we have a right to claim at your hands that he shall be acquitted even under this first count.

I wish, gentlemen, that it could have been so that I could place Mitchell upon the stand himself. I feel, gentlemen, that in this investigation now going on in reference to these outrages, it would be to the interest of truth and justice if we could hear from the mouth of this defendant himself, what was his connection with this order. But such is not the law. The defendants who come into this court come with their mouths sealed. Not a word are they allowed to utter to explain their conduct, their motives, or their purposes.

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Gentlemen, I have no hesitation in saying that in that order are found some men of as pure and noble character as are found in the land. Why are they there? Because the foul miscreants who traversed the country, interfering with the laboring population, forced the employers of the colored people to go into the ranks to secure their own laborers from these outrages. They have gone into the order for the purpose of using their influence to prevent the consummation of these outrages, and to endeavor to control those who were running rough-shod over the best interests of the country. I would have been glad, gentlemen, if I could have placed the defendant on the stand. Perhaps he could have told you why he was at Barclay's Hill; perhaps he could have told you why it was that that raid which was attempted on that night was prevented; who it was that prevented it; and perhaps he could have told you of other raids where he was when mischief was prevented; where the whole party was induced to desist from their purpose and to go home. Cannot such a thing be? Yet, I do not complain of the law. I am always content with the law as it is. But, gentlemen, my client is without the opportunity of saying anything in his own behalf. What was his understanding of the purposes of the organization? What was its purposes and what the extent of his connection with its operations you cannot know, for he is not permitted to tell you. When his mouth is thus closed you should ask at least of the Government that they should fasten upon him, beyond reasonable doubt, the acts of criminality which would authorize you to find him guilty. This is not the only case in which he is indicted. It is in testimony here that he has been spoken of as the chief of his Klan, and you have heard indictment after indictment read in which his name appears. If, then, gentlemen, he has been guilty of any of these outrages with which he is charged, you may be well assured that he will be in some one or other of them reached.

I now ask your attention, gentlemen, to the fact that he is charged with having been a participant in this raid upon Charles Leach. Do we find anything in the testimony of Charles Foster which connects John Mitchell with whipping Charles Leach. He did not recognize Mitchell at Howell's Ferry. He only says that others in the crowd spoke of Mitchell. Is that sufficient testimony to warrant you in finding a verdict of guilty against him? I think I am not mistaken when I state to you that that testimony of Foster, unsatisfactory as it is, is the only particle of testimony in the whole case to show that John W. Mitchell was on that raid.

On the other hand, what do we show you? What was the date which the witnesses for the prosecution fixed at the outset? The very day which we knew to be the day when Charles Leach was whipped. You recollect well that Foster fixed it on the 9th of January. Our own witnesses fixed it on the same night; and on that night John W. Mitchell was at home with his sick mother, and sat up with her all night.

Gentlemen, it will be asking too much of you by the prosecution to assume, for one moment, that we have failed to connect on testimony of an *alibi* with the correct date of this outrage upon Charles Leach.

If you believe our testimony, John W. Mitchell is not guilty of having been present at this raid. I trust he may be as successful in establishing his innocence of any other of the several charges which have been brought against him. I would be sorry to believe that one who has lived as long as he has, and who has sustained the character that he has, should forfeit it by being shown to have lent any sort of aid and countenance to the perpetration of such outrages upon these people, who are comparatively helpless and ignorant—who are dependant upon the kind offices of those who are more favored than they have been, and who have heretofore received kind offices of him who here to-day sustains a character of uniform kindness toward them. I shall be sorry if he fails to sustain his innocence in connection with every other charge brought against him.

I feel well assured, gentlemen, that under the sanction of your oaths you can honestly say that he is not guilty of this outrage. Having said this much I leave his case in your hands.

TWENTIETH DAY'S PROCEEDINGS.

DECEMBER 22.

The court met pursuant to adjournment, Hon. Hugh L. Bond, presiding. Hon. G. S. Bryan, associate.

ARGUMENT OF ATTORNEY GENERAL D. H. CHAMBERLAIN.

May it please the court and gentlemen of the jury: We are now approaching the conclusion of another long trial. I cannot forget that this trial is similar, in many of its features, to another which has recently been presented to this court and to another jury; but I ought to remember, in presenting this case to you to-day, that it is a new case, and that I am not to assume that any part of this case, or any features of this conspiracy about which this discussion is about to be had, are known to you. I am not to suppose, gentlemen of the jury, that you, sitting here upon this panel, have any

knowledge of this case or of this conspiracy, except what the Government and the defense have presented to you during the progress of this trial.

I don't forget that there are some faces before me that were before me in the former case, but yet this trial concerns new defendants, it rests entirely upon new evidence, and it is necessary for you and me to remember that we are to try this as an entirely new case, and it devolves upon me—a labor which I could wish to avoid—that of again presenting to you fully and completely, so far as I am able, the features of this conspiracy, its intentions, its purpose, its methods, and its operations, and then to see what connection these two defendants have with this conspiracy.

I have, gentlemen, the same feelings in commencing this trial which I had in the former case. These prisoners have been well defended—defended by as much ability and as much eloquence as the profession of South Carolina can boast. Whatever there is of law or of evidence which tends to show that these two defendants were not connected with this conspiracy, has been presented to you; and it is a pleasure for me to say, with the greatest respect both for the ability, the ingenuity, and the eloquence with which my friends, the counsel for the defense, have presented the case to you. I can have no feeling, therefore, that I shall unduly urge upon you in this case on behalf of the Government. I have not the ability, I fear, to equal their eloquence or ingenuity in the prosecution of the case in behalf of the Government.

But, gentlemen, there is another feature which draws a broad line between this and the former case. These two men who are before you to-day are nobody's dupes. They are not thoughtless, uneducated, ignorant and inexperienced young men. They cannot plead any exemption from the full responsibility of what they have done, and what they intended, on the ground that they occupied an humble position in society, and that when they found that community swept by the terrible tornado of this conspiracy, they were driven into it against their judgment and their principles. These men, gentlemen of the jury, Dr. Whitesides and Captain J. W. Mitchell, are men of standing, and men of principle, and men of education; men who have been accustomed to lead and influence the community of which they formed a part. It is not necessary for me to say to you that the United States does not seek to convict these men unless the evidence and the law point to their guilt. The Government does not ask for vengeance or for blood. But when we do meet a case like this, of gentlemen concerned in a conspiracy with intent to deprive whole classes of the community of their rights, and find they are men of repute and men of influence, the Government says, and the conscience of every man says, that then, if ever, the full measure of justice, the full responsibility for acts done and purposes planned, is to be visited upon such defendants; and therefore it is I have another feeling which I did not experience in the last trial, not only that I ought in justice to this cause, but that I can feel honestly that every particle of evidence and every principle of law should be pressed to its full and just conclusions as against these defendants, defended, as they are, by learning and eloquence; the defendants, reputable citizens, in high social standing in the community. If you do find that the evidence points to the guilt of the defendants upon this indictment, then, if you are not swift to find your verdict, you will at least be unhesitating in following the line of the evidence and the law.

No, gentlemen of the jury, these defendants are arraigned upon an indictment containing four counts. The first count charges them with a general conspiracy, not a conspiracy directed against Charles Leach, or any other particular individual, but charges that they were engaged in a general conspiracy to deprive the colored citizens of York County of their right to vote. The second, the third, and the fourth counts charge them with a special conspiracy. The second count charges them with a conspiracy to injure Charles Leach, because he voted in 1870. The third count charges them with a conspiracy to prevent him from voting in 1872; and the fourth count charges them with a similar conspiracy to injure and oppress him because he voted for a particular individual, A. S. Wallace, as member of Congress. You see, therefore, gentlemen, that the first count alone, what I may call this Ku-Klux conspiracy, and the second, third, and fourth charge of general conspiracy, to injure and oppress a single individual named Charles Leach, it is my duty, gentlemen, to draw your attention to the connection of these defendants to the first count; and what I propose to show to you in the first place is that this was a conspiracy in York County which called itself the Ku-Klux Klan, the object of which was to deprive colored citizens of that county of their right to vote; in the second place, that they carried out that conspiracy and did attempt, in all their operations and by numerous raids, to carry out the purpose of that conspiracy; and then, in the third place, these two defendants were members of that conspiracy and responsible for its operations and its acts. Now, gentlemen of the jury, there is another point in law which you must carry in your minds through this discussion, and that is, that when a number of individuals have banded together for the accomplishment of a common purpose, the law treats them as one man. If you twelve men who sit before me join together to accomplish an unlawful purpose, the law looks upon you as one man, and the meaning of the word conspiracy is "a breathing together;" you speak one voice, you wield one arm, you are a single man while

engaged in that conspiracy; and therefore what any one of you says or does, while in pursuance of that conspiracy, is the act and declaration of you; it is not, therefore, Mr. Foreman, necessary that we should prove that you did the act which we charge upon the conspiracy; it is not necessary for us to prove that you, Mr. Jurymen, were the party who made the declaration; but if the last man that sits upon the panel while in pursuance of that conspiracy has uttered a word or done an act connected with that conspiracy, it is the act of every one of you twelve; if, gentlemen, we succeed in showing that Dr. Whitesides and Captain John W. Mitchell were members of that conspiracy it is unnecessary for us to prove, to show, under this first count, that they went upon a raid; that they ever lifted a lash or struck a blow; if they are members of that conspiracy, whatever raid any member rode upon, there rode Dr. Whitesides and Captain Mitchell, and upon every negro's back that they struck their blow, no matter what their names, if they were conspirators, and members of this Klan, those blows were struck by Dr. Whitesides and Captain Mitchell.

Now, gentlemen, if we can show that such a conspiracy existed, and that these defendants proposed to deprive colored citizens of their right to vote, and that Dr. Whitesides and Captain Mitchell were members of that Klan, then they are guilty under this first count.

Your honors, speaking the voice of this court, have already given us the law, which is the common law of conspiracy, about which there can be no dispute, and in order to ask your verdict on this first count it is not necessary to prove that Dr. Whitesides or Captain Mitchell ever went on any raid, although we *shall* prove it. It is not necessary to show that they were perfectly cognizant that Charles Leach was ever whipped, or that any colored man in York County was ever whipped. If they joined the conspiracy which had that for its object, they are responsible for the acts which carried into effect the purposes of that conspiracy.

No, gentlemen, I am not pressing the law in order to envelop these defendants, but I am stating to you the law precisely as it has been already delivered to you by the court, and as it will be delivered to you before you are charged with this case.

The court, in the case of the United States *vs.* Robert Hayes Mitchell, instructed you that the act of one was the act of all. It is not necessary to show that Charles Leach, Charles Good, and others were whipped because they were radicals. They may have had private grudges which they went there to gratify; they may have chosen to whip these men because they were members of the militia company. It is not necessary to show that to prevent them from voting was the only effort of this conspiracy. If we show to you it was one of their objects, it is enough; so that, gentlemen of the jury, I want you to understand just how much is to sustain this first count; that we shall show, and that it is simply this: That the Ku-Klux organization was a conspiracy to deprive persons of color of their right to vote, and that this was understood to be its object, and that Dr. Whitesides and Captain Mitchell were members of that order, and while we shall show to you, gentlemen, that they were not only members of the order, but that they participated in its acts, and were present at its meetings—but it is not necessary for us to show more than simply to show that they were members of this Klan.

Now, gentlemen of the jury, what evidence have we of this conspiracy? We have, in the first place, the evidence of its written argument. I know, gentlemen, that many of you are aware, from a former case that has been presented here, what I am about to say; but I beg that you will listen to me, because you are charged with this case alone, and I must present it to you as if it were a totally new case.

This paper purports to be the constitution and by-laws of the Ku-Klux Klan, of York County, South Carolina. It is recognized by its oath by Mr. Davis, by Mr. Gunthorp, by Mr. Gunn, and by Mr. Foster. Its oath is recognized by each of these four witnesses as the oath which was administered to them when they were admitted to the order.

Now, gentlemen, what does the oath indicate as the purpose of this conspiracy? Let us look into it and see whether it has a lawful purpose, or whether it intends to accomplish its purposes by unlawful means.

The oath binds each member of the order to this, that he is on the side of justice, humanity, and constitutional liberty, as bequeathed to us in its purity by our forefathers; or, as Mr. Davis tells you, in the oath he took, the oath bound him to be on the side of justice, humanity, and to oppose the thirteenth, fourteenth, and fifteenth amendments of the Constitution of the United States. Let us see what this points to—“constitutional liberty as bequeathed to us by our forefathers.” This sounds like an innocent phrase. It is the introductory sentence to the oath of this order. What does it mean? It means precisely what Mr. Davis found it to mean. It means the Constitution before it was amended by the thirteenth, fourteenth, and fifteenth amendments. “Constitutional liberty as bequeathed to us in its purity by our forefathers,” means slavery as it existed in the Constitution of the United States, and was protected, and not only protected by the municipal laws of South Carolina, but protected and enforced by the national law and Government in all its departments; and if some of you, gentlemen, had escaped in those days beyond the limits of South Carolina, even to the last

foot of ground before you reached the dominions of the Queen of England, this national law, this constitutional liberty, as bequeathed to us in its purity by our forefathers, would have seized you, and brought you back, and planted you again upon the plantation, and within the reach of your former masters; constitutional liberty, as bequeathed to us in its purity by our forefathers, means opposition to the thirteenth, fourteenth, and fifteenth amendments. The thirteenth amendment abolished slavery, the fourteenth amendment secured the equal rights of all citizens of the United States against any discrimination or distinction on the part of the governments of the States, and the fifteenth amendment, which crowned the edifice of the United States, in the right to vote against any discrimination on account of race, color, or previous condition. This organization, then, gentlemen, is directed against the thirteenth, fourteenth, and fifteenth amendments to the Constitution. It is, therefore, directed against the freedom of the African race, against their general equality before the law, and finally against their right to vote against any discrimination on account of race, color, or previous condition.

What is the second paragraph of this oath? "We oppose the principles of the radical party." Now, gentlemen, it comes to be narrowed from general opposition to the new amendments to the Constitution down to opposition to the radical party. If it had said, we are opposed to bad government, we are in favor of the Union of the States, we oppose corruption and misrule from whatever party it comes, its purposes might have been so broadly and generally stated that you could not see that it was a political opposition, and directed against a specific party in the community. But an honest guise is worn, and after declaring itself on the side of constitutional liberty as bequeathed to us by our forefathers, it says, we oppose and reject the principles of the radical party. So far, therefore, gentlemen of the jury, we have reached an organization which is to oppose a political party which exists in this community. It is, therefore, an oath-bound organization, directed against a political party, after declaring its purpose to oppose the radical party.

"If any member divulging, or causing to be divulged, any secrets of the order, shall suffer death." Now, gentlemen, we begin to see that this is a serious business. It is not a political club to circulate information, to distribute documents, and exercise its influence, freely and generally, in the community, but they have secrets. They are going to perform deeds which must be concealed from the world, and not only must they be concealed by an ordinary oath, but it must be concealed and kept from the world by an oath, a part of whose obligation is, if he discloses any secrets, he shall be put to death. Do you not know, gentlemen, does not the world know, that any organization formed in this country, whose secrets are so valuable to its members, so sacred and binding, that he who discloses them shall be punished with death, is an illegal and unlawful organization?

Something has been said to you, gentlemen, about the Union League. Did anybody ever pretend that that ever was an organization other than voluntary and existing under the shadow of law? Was it ever pretended that it was an organization which deliberately put down in its constitution that those who divulged its secrets shall be put to death? Does the League punish its members who leave its ranks and expose its secrets? Does it declare itself opposed to any political party? It does not, for most of you, I doubt not, as well as myself, know that that organization excludes no man on account of his politics or color, and demands no political faith for its membership, and harms no man if he joins it, if he reveals its secrets to its deadliest enemy; yet here is an organization which opposes the principles of the radical party and punishes with death those who expose its secrets.

This organization, gentlemen, requires that every member of its organization shall provide himself with a pistol, with a Ku-Klux gown, and a signal instrument. What purposes, gentlemen of the jury, are to be executed with a pistol, a Ku-Klux gown, and a signal instrument? Are they lawful purposes requiring a pistol and a disguise for the body and the voice? I insult your intelligence and your common sense, gentlemen, if I stop to argue to you any longer that an organization which puts members to death for exposing its secrets, and requires its members to go upon their deeds with a pistol and disguises for the body and the voice, is not an unlawful combination, is not a conspiracy, in the most thorough sense of that term.

What next, gentlemen? "No person of color shall be admitted to this order." Why not? Cannot persons of color be on the side of constitutional liberty; on the side of justice and humanity? May they not provide themselves with a pistol and a Ku-Klux-Klan gown and signal instrument? May they not be ready to take an oath and to put to death any fellow-member for divulging their secrets? Certainly they may; and yet no person of color shall be a member of this organization. What, then, have we? We have an organization, bound together to defeat the three amendments to the Constitution of the United States, which declare freedom to the colored race and protect him in his rights, disguised and sworn to put to death any of its members who divulges the secrets of the order, and directed against the colored race, whatever may be their political principles, or other sympathies, excluding them on account of their color from

the ranks of its membership, and all this, gentlemen, drawn out in detail. The election of its officers, its meetings now ordered, its trials of offending members, the sentence of death for disclosing its secrets, and the provision for an appeal, before the sentence of death is executed, to some power which is described as the Grand Cyclops, at Nashville, Tennessee, and all this gentlemen of the jury, written and set down, with pen upon paper, and brought here before you and recognized by every member of the order brought here and placed upon the stand.

Now, gentlemen of the jury, we come to the conclusion, to which every mind must come, that we have here upon this paper not only conspiracy, but a conspiracy that appals every citizen of the country; before we go beyond this point—before we see the actual practice—we are startled with the terrible character of an organization which deliberately provides for the death of any man who shall disclose its secrets.

Then, gentlemen, what evidence have we that interprets this written agreement? You remember the evidence of Mr. Davis, that he was a member of the order; had attended its meetings and had met to go upon its raids; he tells you that its purpose was precisely what this paper indicates to you, and that was to put down radicalism, by whipping all the colored members of the radical party, and that this was its general and all-pervading purpose, and while on special occasions they might add to it the purpose to punish some person who was otherwise obnoxious, yet the general and all-pervading purpose of the organization was the putting down of radicalism and negro suffrage. Mr. Davis is, perhaps, upon the whole, the best-informed member of the order which we have placed before you. He tells you distinctly that his understanding, when he joined the order—and he was clerk of the Klan, and recognized its constitution and by-laws—was the whipping of colored men; to injure and oppress them till they should be afraid to vote the radical ticket.

Mr. Gunthorpe tells us that as early as 1868, three years ago and more, he joined an order in that county, and after he had entered it he found that it was a political organization aimed against the negro radicals, and he left it.

Mr. Foster, who went further than any of these witnesses, and joined in these raids that have been described to you, tells you, in terms that have never been contradicted, that he never otherwise understood that order than that its purpose was primarily and always and everywhere to interfere with the right of the colored of York County to vote and to exercise their free choice in their elections. They undertook, also, to subdue a few scattering white radicals there; but their aim was so to terrorize that community until no colored man who had been set free by the thirteenth amendment, and made a citizen and a voter by the fourteenth and fifteenth amendments, should be any better, or, gentlemen, as well off as when he was a slave; for if Charles Good and Charles Roundtree had been the property of any man in York County, would he have suffered their throats to be cut? If you have not rights, you had better be property, for then, man's cupidity, at least, would protect you in your life. Mr. Foster tells you that always and everywhere its purpose was to go upon those negroes who had influence and who had voted the radical ticket.

Now, gentlemen, what other kind of evidence have we? We have the written agreement, and the testimony of these four witnesses as to how it was to be carried out. What next, gentlemen? Mr. Davis tells you that Charles Good was whipped by this order, and why? Wesley Smith told you that he was whipped because he was a radical and had influence among the negroes, and what became of Charles Good afterward. He was so imprudent as to say he thought he knew some of the men who whipped him, and what happens? Carrying out its opposition to radicalism, they have whipped him, and the poor man tells that he thinks he knows some of the men who did it, and this conspiracy takes him upon the highway and ties him to a tree; half kills him by shooting him and finishes him by smashing his head with a rock. Members of the order go to Mr. Davis, a brother member, and tell him that they have done it, and one of them says, "I shot him," and another says, "I finished him before I left." Gentlemen of the jury, only three or four men may have killed Charles Good; some of those who have not been engaged in this murder may shrink back and be startled into confession by the enormity of this crime, and therefore the order goes forth that every member of the order assemble in the field where the body of this negro lies, and let them carry him and conceal him in Broad River, and every man is connected with the murder, and if he gives evidence he gives it against himself. They meet, gentlemen of the jury, this Ku-Klux Klan; they sink it in Broad River, and one of them, apparently with less remorse or more daring than the rest, jumps upon the body, and drives through it the stakes that are to hold it to the bottom of that stream. That is the Ku-Klux Klan, gentlemen, not upon paper, not by the voice of the witnesses telling you about its order, but it is the Klan speaking through the pistol, under its disguises, and carrying out the full purposes for which it was formed. But this is not all. Do you remember the witness, Mr. Bowens, who was one of the party that raided upon Tom Roundtree, and shot him as he was attempting to escape, and then went to him with a bowie-knife, while he was yet breathing, and cut his throat from ear to ear? And what is the matter with Tom Roundtree—was he a militia man?

Had he fired anybody's house? Had he threatened to kill from the cradle to the grave? "That cradle to the grave," gentlemen, is a white man's story. We have heard enough of it; you know, gentlemen it is not the vernacular of the negro; it is the white man's tale, told after the deed, but even this is not brought against Tom Roundtree; he is a man of substance, a reputable citizen of that community, and the only known offense which he has committed, is that against which this conspiracy is aimed—that he was an influential member of the radical party.

Gentlemen, shall I go over these other instances of violence and atrocity? No, I cannot; it is enough that it has been repeated in this court, and that it will go forth to the world in the public prints. Let us not, if we can avoid it, stain our lips or fill our minds again with those horrible details; but wherever we find the Ku-Klux Klan striking, they are striking against radicalism—against negro radicalism; and my eloquent friend asked yesterday, if when they are ravishing women, and whipping women, if they are still pursuing radicalism? I answer, yes, yes. When they whipped Mary Robertson it was to make her tell where her husband was; when they ravished Jane Simril, it was to punish her as well as to gratify their lusts, and to punish her because she would not tell where her radical husband was—because she would not disclose where her radical husband was. Not an act, gentlemen, but what points, gentlemen, to this general purpose, wherever you see the Klan. Its general and constant purpose was the terrorizing of colored people by injuring them; by injuring their families until they shall have paid their penalty for their radicalism, and which may deter them from voting at future elections. Now, gentlemen, how much is established? That the Ku-Klux Klan existed in York County; that it was an unlawful conspiracy to prevent colored men from voting; and now the serious question remains for these defendants—are they connected with that conspiracy? Remember, gentlemen, it is not necessary to prove that they killed Tom Roundtree; that they ravished Jane Simril; whipped Charles Leach, or killed Charles Good. Are they members or the Klan that had this for their purpose? If they are, they are responsible for all its acts.

Now, gentlemen of the jury, is John W. Mitchell a member of the Ku-Klux Klan? It is admitted that he is. His counsel yesterday told you that with the evidence that had been presented, he could not argue that John W. Mitchell was not a member of the Klan in York County. Charles W. Foster knows him to be a member of the Klan; was present when he was elected chief of the Klan, in the old field near Mrs. Wright's house. He recognized him on the Presley Holmes raid, the same raid with which we shall soon connect him in whipping Charles Leach; but, I need not refer to this testimony, because it is now admitted that John W. Mitchell was a member of the Ku-Klux Klan. I have nothing under the first count, therefore, to do with J. W. Mitchell, except to take the admission of his counsel, and the proof goes to show to you that the nature and purpose of the conspiracy was such as I have described to you, and that J. W. Mitchell, as a member, is guilty upon the first count of the indictment.

Is Dr. Whitesides a member of the Ku-Klux Klan? We have no witness who saw him sworn in; we have no witness to whom he confessed in so many words that he was a member of the Klan; but let us see if he acted with the Klan as an active member, and engaged in at least three of its raids. We come to the testimony of Charles W. Foster, and he tells you that on the raid that whipped Charles Leach and others, he went with Dr. Whitesides to the house of Milton Watson. He details to you the circumstances.

Now, gentlemen, it is always very dangerous for a witness who is telling a false story to dwell on details; if the witness had said generally that Dr. Whitesides was a member of the order, he cannot well be contradicted; but if he tells you where he met him, who was with him, what he said, he can be easily contradicted. Foster tells you that he was at the house of Milton Watson; that there, with the women of that family, they engaged in making their disguises for the Charles Leach raid; that while they were engaged, Dr. Whitesides, having no saddle, he (Foster) was sent to a neighbor, whose name he gave, to get a saddle for him to raid with. Now, gentlemen, we have Milton Watson connected with that affair, and we have that neighbor who loaned the saddle. If I had been defending Dr. Whitesides I think I would brought Milton Watson here. I think I would have gone to that neighbor—and asked this court to wait, and this court would have waited—to say whether he loaned a saddle on a certain night to Charles Foster. I think I would have gone into these details, and if my client could have shown that Milton Watson was somewhere else, and that neighbor did not loan that saddle, I think I should have done a good deal toward impeaching the testimony of Foster; but nothing of that sort is done. Watson is beyond the reach of any of us; gone, we know not where, a terrified and self-convicted Ku-Klux, and if he comes here to defend Dr. Whitesides, he comes to meet his own indictment and conviction. Mr. Foster goes on to tell us, with the details, how he met him with the saddle, where he met him, and of Dr. Whitesides taking the saddle and riding upon it, and details the conversation about the whisky, and where they went, and who they met. Now, gentlemen, let us look at Charles Foster as he comes here

as a witness. Both of the counsel yesterday dwelt upon the fact that Foster was a confessed Ku-Klux. So he is. They mention it to throw a suspicion upon his testimony. But how did Foster come into this court to testify? Why did he originally come to make known the acts and purposes of this order? If my friends can show that he was induced by any offer that he should not be prosecuted—that any inducement was held out to him to testify—then they will have done something to destroy his testimony. Have you heard a word of anything of the kind, gentlemen of the jury? He was like everybody else in York county who had belonged to that order. He knew it was written down in the purpose of that order that if he disclosed any of its secrets, two thousand men in York County were sworn to kill him. There were promises of exemption from punishment offered him, and yet he comes to Colonel Merrill and tells the whole truth, and comes knowing that the testimony he shall give will convict him of felony, whose punishment is the penitentiary; and he came with the pistols, two thousand loaded pistols, pointed at him, and every man sworn to kill him, and yet he comes and tells his story; he goes to jail; he comes out of it; he meets Dr. Whitesides; he meets members of the Klan everywhere; he is badgered in jail, he is coaxed and entreated everywhere, and still says firmly, "When I go upon the stand I shall tell the whole truth." Why, Mr. Foster, one word from you will set Dr. Whitesides free; have you any animosity against Dr. Whitesides? None in the world. Why, then, will you not say the word that shall set him free? Because, gentlemen of the jury, it is not true; he was there, and when I come to tell the Government about this conspiracy, I determined to tell the truth. It has been told, and while I wish that Dr. Whitesides could have been left out upon that raid, I am on my oath, and against entreaty and against threats, I tell you, gentlemen of the jury, that Dr. Thomas B. Whitesides's testimony is the strongest possible testimony that can be brought before you. It is the confession of a self-convicted, self-accusing fellow-conspirator, done without malice, done without any desire to injure others, but simply under the solemn conviction that this whole matter shall be fully stated under the sanction of his oath in this court.

Charles W. Foster's testimony comes here under sanctions such as attach to no other witness, because he comes here to brand himself as a felon—as a man who was once capable in some way or other of joining a conspiracy which he knew had these horrid purposes in its mind.

Mr. Foster, as I have told you, connects Dr. Whitesides distinctly with one entire raid, upon which no less than seven negroes were whipped—every one whipped because he was a radical, or because he was a member of the Union League. Gentlemen, let me say to you I am not forgetting the defense in this case; I am now simply going over the evidence which the Government has presented. What else, gentlemen, than the testimony of Foster, connecting him with what is known as the Charles Leach raid, which commenced with Presley Thompson, to Charles Leach, to Charles Good, to Amos Howell, Jerry Thompson, and two others, on the plantation known as the Beauty Spot? We have the testimony of James Crosby, a colored man, who was whipped because he was a radical, who lived on Mr. William Wilson's plantation. There had been four raids upon the Wilson plantation; it was upon the first that James Crosby was whipped; it was upon the second that Mr. Wilson was taken out of his house and threatened and injured; it was upon the third raid that Mary Robertson was whipped; it was upon the fourth that Mr. Wilson's house was surrounded and James Crosby was taken out and threatened with hanging but finally let off. It was upon the first raid upon the Wilson place that they whipped James Crosby. He was here and detailed all the circumstances of his whipping; and when the question was put to him, "Did you know any of the party?" he named to you four of the men who were engaged in this whipping. They were Captain John W. Mitchell, Dr. Thomas B. Whitesides, George Leach, and Ed Leach. He says he knew them by their size and by their general appearance, by all the evidences that could come from a familiar acquaintance with men whom he had known for years. James Crosby is a preacher. He comes here without anything to impeach his testimony; without any sort of evidence that he has any animosity against Dr. Whitesides. But he tells you positively that he knew Dr. Whitesides and Captain Mitchell, and two others. The witness had no hesitancy in saying it was Dr. Whitesides and Captain Mitchell. You remember, gentlemen, that in the third raid upon that plantation they whipped a colored woman whose husband is John Robertson. She tells us they came inside of her cabin; that there was a bright light there, and that while they staid there that she recognized their faces by the light of that fire, which were not covered. She recognized Dr. Whitesides and Captain Mitchell. Here are Ku-Klux raiding in the accomplishment of their purposes, and they raise the cover from their faces, and the faces of these two defendants. Has this woman any motive in coming upon the stand, and, under her oath, telling you that it was Dr. Whitesides and Captain Mitchell? She can have none, but desired to tell the truth. Remember, gentlemen, at this time the Ku-Klux held full sway in York county; that their purposes were accomplished boldly; that the press was silent, and the voice of the grand jury, and every public utterance of that kind, was that it was peaceful and quiet; no outrages; no disturbances; so completely had the Klan gained possession of

that county; and on that Dr. Whitesides and the chief of a Klan did not think it necessary to keep the disguises over their faces. This, gentlemen, is the evidence that connects both of these men with the Klan. I do not care whether Dr. Whitesides took the oath or not. I don't care whether he knew the signs or not. Three witnesses tell you that he was on the raids of the Klan, that he participated in its acts, and that is more conclusive of his responsibility for this conspiracy than if he had sworn the oath and joined the organization and remained at home. These two defendants, gentlemen, were members of the order, and one the acknowledged chief of a Klan; and the other has been found on three separate occasions acting with the order, going upon its raids, and executing its purposes. Now, gentlemen, up to this point we have said nothing about the Charles Leach raid. We have simply confined ourselves to this general conspiracy, to inquire what it was, and whether Dr. Whitesides and Captain Mitchell were members of it. We have found that conspiracy was to prevent colored men from voting, and we have found that these two defendants were connected with that conspiracy, and that they are, therefore, responsible for all the acts of the conspiracy done from the time when they first made their connection with it.

I come now, gentlemen to the second, third, and fourth counts of this indictment, which all charge an offense committed against Charles Leach. The first count charges that they had injured him because he had voted; that they injured him to prevent him from voting; and the third, that they injured him because he had voted for Mr. Wallace, as a member of Congress; but it is all confined to one individual, Charles Leach.

Now, we are to see what is the evidence that connects both these defendants with this particular act of whipping Charles Leach. All that I have said about the testimony of Charles Foster, in the former part of my argument, applies here. Mr. Foster, Mr. Watson, and Dr. Whitesides go on this raid; they meet Captain Mitchell, with the members of his Klan, and they go to Presley Thompson's, or Presley Holmes, as he is sometimes called, and they whip him because he is a radical. Then they go to Jerry Thompson's, and they whip him and others because they are radicals. Then they go to Charles Good's upon the same errand; and then they go to Charles Leach's, and then to Amos Howell's, on the Howell plantation. I want you to remember Amos Howell, who is whipped upon the same night as Charles Leach, Presley Good, Presley Thompson, and others. This is the true testimony which connects Dr. Whitesides with Captain Mitchell upon this particular raid; Charles Leach did not know them; he never pretended to know them, for they were in disguise.

We come now to the defense upon this case. There is no defense upon the first count, but upon the second—the raid upon Charles Leach—they attempt to prove that upon the night on which Charles Leach was whipped Dr. Whitesides and Captain Mitchell were both at Mitchell's house, and remained there all night. Let us see whether this is true or not. In the first place, gentlemen, the date is the important feature in this portion of the testimony. Both of the counsel who addressed you yesterday told you that the Government had fixed the date on which Leach was whipped as the 9th of January. Now, gentlemen, if that be true, there is evidence that Dr. Whitesides and Captain Mitchell were somewhere else on that night; but you will remember that both the counsel insisted that we had fixed that date; that subsequently Amos Howell told you that he was whipped on that night, and that he saw Charles Leach next morning, and the other victims of this raid, and that it was about the 25th, 26th, or 27th of January; yet they told you that we are bound by the testimony of Foster, of Leach himself, to the 9th of January. If they can prove, therefore, that these defendants were somewhere else on the night of the 9th of January, they cannot be convicted of the raid upon Charles Leach. The testimony of all these witnesses is now before me, and I find that neither Charles Leach nor Charles Foster fixed the date upon the 9th of January with any certainty; that Charles Foster distinctly testified upon his cross-examination that he knew nothing about the date except what he had been told since he came here. Had we known as much as we now know, we could have shown that this information came from the defendants. I don't want you to be doubtful about the testimony of Charles Leach, because if this raid is not located on the night of the 9th of January the *alibi* of these defendants is gone. I will read the testimony of Charles Leach. The testimony of Charles Leach, therefore, is simply, that it was on a Monday night after Christmas, and he thinks after New Year; but he does not fix it upon the night of the 9th of January, and he distinctly refuses to say that it was the Monday night after Christmas, meaning the Monday night after Christmas week, which the counsel was anxious he should fix upon as the night when he was whipped. Remember, gentlemen, the claim is that we had selected the 9th of January, and fixed the date, and that we cannot say now, in view of this defense, that it was upon some other night. Charles Leach does not testify that it was upon the night of the 9th of January, or any other particular night in January, but simply that it was after Christmas, and he thinks after New Year; and in answer to the questions which was to fix it as on the night of the 9th, he distinctly says that he cannot say.

Then, it is claimed that Charles Foster has fixed the night as the 9th of January.

Here is his testimony upon his direct examination. The defense intended to prove that on the night of the 9th of January Dr. Whitesides and Captain Mitchell were at home, and therefore when you come to the cross-examination of Foster you are not surprised to find that they seek to draw from Foster, with certainty, that it was on the night of the 9th of January, because they were going to prove that on that night Whitesides and Mitchell were at home, and there the cross-examination of Foster, with reference to this matter, naturally stopped. "I know nothing about the time except what I have been told since I have been here." Were I to tell you, gentlemen of the jury, what Charles Foster was told and who told him, it would not be evidence, and I cannot, therefore, inform you. But this, gentlemen of the jury, is the entire evidence of Charles Leach and Foster as to the time when this raid upon Charles Leach occurred. It was essential to this defense, gentlemen, that this raid should be on the night of the 9th of January, because they have an *alibi* already proved for that night. Now, gentlemen, an *alibi* is a swift and complete defense, but the defense have made two or three fatal mistakes in getting up theirs, and it is therefore utterly valueless. In the first place, they had to claim that we had fixed the night of the 9th of January; but we had done no such thing. Charles Leach does not know what night it was, except that it was after the New Year, he thinks; and Foster knows nothing about it, except what he has been told since he came here.

Now, we have another witness, Amos Howell, and he says he was whipped on the night of the 25th, 26th, or 27th of January, about a week before the raid upon Mr. William Wilson; and then comes Mrs. Wilson, who testifies that her child was born on the 3d of February, which fixes the time of Amos Howell's whipping, and Amos Howell knows that this was the night which Leach was whipped.

Now, gentlemen, what is the evidence for the defense that Dr. Whitesides was not present at this raid? Aside from the general denial, that on the night of the 9th of January he was sitting up with Captain Mitchell's mother, who was sick; but what matters it, gentlemen, where these defendants were on the 9th of January? On the night of the 9th of January, you have been told, that the time laid in the indictment is of no consequence, and it is not. We give no positive evidence except the testimony of Amos Howell, who knew that he was whipped some night with Charles Leach, and that was late in January.

Now, what was the testimony for the defense? First, W. C. Whitesides, a brother of this defendant, testifies that Dr. Whitesides was at Dr. Darwin's on that night, and that they passed by his house on their way to Captain Mitchell's. The next testimony was that of Dr. Darwin, and he, gentlemen, is connected with this organization, and you are to bear that fact in mind in judging of the value of his testimony. Dr. Darwin at first denied that he was a member of this Ku-Klux organization; upon his cross-examination he admitted that he was present at a meeting of the Klan when Mr. Albertus Hope was elected chief. Next, we have the testimony of Mrs. Howe and Miss Howe, the mother and sister of Julius Howe, whom we have proved over and over again to be a member of this order. I do not say to you, gentlemen, that they are not stating the truth, but these witnesses come upon the stand with the benefit or burden of their surroundings, and their motives, and their relations. The next witness is Mrs. Whisonant, a sister of Captain Mitchell. These are the witnesses brought upon the stand to testify that on the night of the 9th of January these defendants were at home all night with the sick mother of Captain Mitchell; but, gentlemen, it is not enough to prove this; they must go further, and show that that was the night on which Charles Leach was whipped.

Now, how have they proved that? Captain Mitchell's little son is brought here to prove that the next morning he went to the post-office, and there heard that Charles Leach had been whipped the night before. Did he see Charles Leach? He did not. Amos Howell saw him. Little Samuel Mitchell did not pretend that he saw anybody that had been whipped that night; and you must remember that he is the son of this defendant, and comes here to testify for his father. All the rest of their witnesses simply testify that they heard it from this little boy, and he heard it at the post-office as a mere rumor. Dr. Darwin testified that on his way home next day he heard the rumor at Wiley's store; but did he see anybody that had been whipped, or did he see anybody that had seen the victim? He had not. And yet, gentlemen, that is the entire defense.

On the part of the Government, we present the testimony of one of the victims, and he saw the other victims the next morning, and the testimony is that it was late in January that the whipping was done.

An *alibi*, gentlemen, is a good defense when it is made out; but when it fails, everything is gone. The defendants stand here against the charge of whipping Charles Leach, and the defense is that on the night of the 9th of January they were at home, whereas the full and positive evidence is that it was on the 25th, 26th, or 27th of January that Charles Leach was whipped.

Now, gentlemen, the case is before you, and you are now in a condition, so far as my efforts are concerned, to understand this testimony, and to see how completely and

beyond controversy these parties are connected with the general conspiracy which is charged in the first count of the indictment; and how, by the positive and circumstantial testimony of Charles Foster—a witness entitled to the utmost credit—Dr. Whitesides was a member of that party who raided upon Pressly Holmes, Charles Good, and Charles Leach on the night of the 25th, 26th, or 27th of January; while everything that can be brought here to turn your minds away from the necessity of a conviction for whipping Charles Leach is that these defendants were, on the night of the 9th of January, at the house of Mrs. Mitchell. I called your attention, gentlemen, to the case with which this story of Charles Foster could be disproved. It is circumstantial—it gives details—and if it could be contradicted the witnesses to do so could and would have been brought here. I have not the heart, gentlemen, to dwell upon the attempt on the part of the defense to involve Charles Foster in some contradictions with reference to his identification of Dr. Whitesides as a member of a party that raided upon Charles Leach. We have the testimony of Robert Riggins and John S. Miller that when Foster left the jail he told Dr. Whitesides, in response to his inquiry, that he was going to Colonel Merrill to correct the mistake he had made. But I must call your attention, gentlemen, to these witnesses, Robert Riggins and John S. Miller. Who are they? If anybody was ever stamped upon his face, before his lips broke into speech, as a natural-born Ku-Klux, it was Robert Riggins. He is a Ku-Klux, and was elected chief of the Klan at Sharon church. John S. Miller says he is not a Ku-Klux, and yet confesses that he attended the Sharon Church meeting; and Elias Ramsey testifies that he was at the Sharon church meeting, and saw John S. Miller. These are the witnesses who come here to prove to you that Charles Foster said that he would correct his mistake about Dr. Whitesides. We could not, gentlemen of the jury, exclude them from the witness stand, but you, gentlemen, can exclude them, and you are bound to exclude every man's testimony who is proven members of this conspiracy; and I go further, and I say that you are bound to disregard any witness who comes upon this stand who is known to have a connection with this order, which would tend to induce them to give evidence in favor of those who are charged with this conspiracy.

Now, gentlemen of the jury, Dr. Whitesides and Captain Mitchell, it is said were good men. I hope they were. Whatever there may have been of good in the past of these men's lives, let them cling to it, let them hold fast to it, for their character from this hour is gone. Men of intelligence and education, they have associated themselves with a stupendous conspiracy that has now come to light, and that only awaits your verdict to meet its doom. You stand face to face, gentlemen, with two men who are members of that conspiracy, and who has little claim to your sympathy, under any circumstance, as any two men who could be singled out from this vast organization in the whole country; and on this occasion, and in arriving at your verdict, you can certainly not dissuade to anything less than a verdict of guilty upon all these counts against these two defendants.

A jury is always the protection of a community. You are bound to remember, gentlemen, that you are the last defense of the liberties of every man, and you are not to raise this question about the propriety of punishing these two men because you have hearts of pity and of sympathy for individuals; but you are bound to raise yourselves to the height of your responsibilities, and to remember that you sit here to protect the rights of the entire community, and that your verdict is to be made up under the solemn responsibility which you are under to save the rights of the entire race, and to vindicate the claim of our country that we are enlightened and civilized, and that we live under a Government which protects alike the great and the feeble, which bestows rights and defends them, which clothes an entire race, once slaves, with complete freedom; and never pauses until that freedom has been made secure against every attack and every conspiracy.

The jury returned into court announcing that they could not agree on a question of fact, on which they were again directed to retire. At 9 o'clock on the following morning (Saturday) the foreman returned the following verdict:

On the first and third counts of the indictment—*Guilty*. On the second and fourth counts—*Not Guilty*.

On motion of Mr. Corbin, the prisoners were remanded into the custody of the marshal to await the further order of the court.

Mr. C. D. Melton, of counsel for the accused, moved for a new trial in arrest of judgment.

The court then adjourned till Wednesday morning, December 27, at 11 a. m.

TWENTY-FIRST DAY'S PROCEEDINGS.

DECEMBER 27.

The court met at 11 o'clock, pursuant to adjournment. Hon. H. L. Bond, presiding; Hon. George S. Bryan, associate judge.

The case of the United States vs. Samuel G. Brown being called, Mr. Wilson, counsel

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for S. G. Brown, announced that he waived the arraignment, and consented, on the part of his client, to plead *guilty* to the indictment, but would submit affidavits to the court before sentence was pronounced.

MOTION IN ARREST OF JUDGMENT IN THE CASE OF ROBERT HAYES MITCHELL.

Mr. STANBERRY said: May it please your honors, the jury have found this defendant, as he stands charged in the second count of the indictment.

The offense set out in that count is a conspiracy to injure Jim Williams, *alias* Jim Rainy—described as a person of African descent, over twenty-one years of age, and a citizen of the United States—on account of giving his support, in a lawful manner, in favor of the election of one Wallace, as a member of Congress.

The offense so charged is expressly provided for by the second section of the enforcement act, passed April 20, 1871; and it is also claimed by the prosecution, that the same offense is provided for by the sixth section of the enforcement act of May 31, 1870.

The point which we make in arrest of judgment is, that the indictment, whether framed under the provisions of one or either of these acts, cannot be sustained, because it contains no allegation that Williams was punished in reference to his vote on account of his race, color, or previous condition. There is no question whatever that the indictment follows the very language contained in the second section of the act of 1871, for neither that act, nor the act of 1870, in defining the offenses against the right of voting therein provided, takes any notice of any interference on the ground of color, race, or previous condition of the party whose voting is interfered with. This indictment would, therefore, be good, if these acts of Congress can be sustained. They define and punish offenses against the elective franchise, such as bribery, personal violence, and intimidation to prevent the voter from exercising his privilege, and for injuries upon the person of the voter for having exercised his privilege, and for providing also against double voting, against voting out of the district where the party is entitled to vote, and in fact for almost every act which is punishable by the laws of the several States, in order to preserve the purity and safety of their elections.

The point, therefore, that we make under this motion is, that these acts, so far forth, are unconstitutional.

It is the purpose of my colleague and myself to take this question before the Supreme Court of the United States, under the *habeas corpus* act; but as it very properly arises at this time under the motion in arrest, I will proceed to state, as briefly as possible, the grounds upon which we rely to show the unconstitutionality of these enactments, in the hope that your honors may, perhaps, divide in opinion.

The certificate of division of opinion would be a much more ready and easy mode of putting the question before the Supreme Court of the United States, than by the circuitous proceeding of *certiorari* and *habeas corpus*.

It is under the provisions of the fifteenth amendment that it is claimed that this legislation comes within the power of Congress, as an appropriate means of carrying into effect that amendment. What, then, is the scope of that amendment? Simply this: that as to a person otherwise qualified to vote, he shall not be excluded in consequence of race, color, or previous condition, any law or regulation of any State to the contrary notwithstanding.

Now, it will be found that all the sections of the two enforcement acts which provide punishment for offenses against the right of suffrage, one not founded on race, color, or previous condition of the voter, nor for the offense in reference to the color, race, or previous condition of the voter; on the contrary, they are general provisions in favor of all voters, and against interference with the right of suffrage in respect of and one qualified to vote, whether white or black.

Mr. Stanbery here read various sections of both the enforcement acts to show that they did not proceed upon any ground of protecting a voter from discrimination on account of race, &c.

He then proceeded as follows:

These sections, may it please your honors, form, in fact, a criminal code, on the subject of elections in the States, as I have said, and as appears from the reading of the sections, they define and punish just such offenses against the suffrage, and are provided for in the election laws of the several States; and what is still worse, by express enactment in the enforcement act of 1870, it is provided, that over the offense therein defined and punished the courts of the United States shall have exclusive jurisdiction. And this purports to take away all the right of the State, and of the courts of the State, to administer their own election laws, or to punish offenses specially provided by that legislation for the security of their elections.

What authority does the fourteenth and fifteenth amendments give to Congress to enter into such a wide field of legislation on the subject of the elective franchise, and to deprive the States of their right of self-protection? If, in carrying out the provisions of the fourteenth and fifteenth amendments, it was liable to punish acts committed by

individuals against the purpose of that amendment, as to which there may be some doubt, yet such positive legislation by Congress could not extend beyond interference with the right, on the specific ground of the color, race, or previous condition of the voter.

It might be said that legislation of that kind would be appropriate to carry out the object of the fifteenth amendment; but, as I have said, in all the punitive clauses of these two enforcement acts this matter of discrimination on account of color, and of interference with the suffrage on that account, are totally wanting. What has the offense of voting twice at the same election to do with the fifteenth amendment? In what way does the offense of voting but at one district interfere with any right to vote on account of race or color? I might go on to enumerate all these various offenses so provided against, but these instances must suffice to show into what a field of legislation the exclusive jurisdiction of the Federal courts is carried by these two acts.

Your honors will further observe that the enforcement act of 1870, especially, makes all these offenses so provided apply in the case of all elections within the State, not merely for members of the House of Representatives, territorial Delegates, and election of President and Vice-President, but of all descriptions of State elections and of State officers, whether executive, legislative, or judicial.

There never has been a bolder sweep taken to enlarge the powers of the Federal Government, or to strip the States of their essential rights. I understand it, however, to be claimed by the prosecution, that the act of 1871, which provides for the offenses of conspiracy to prevent the voter from voting at an election for Representative in Congress, or for injuring a party subsequently on account of his having so voted, although it may not be appropriate legislation under the fifteenth amendment, may yet be supported as appropriate legislation under another section of the Constitution, to wit, that which provides for the regulating power of Congress in the matter of elections of Representatives of Congress, in respect to times, places, and manner of such elections.

It is obvious that the regulating power over times and places would not justify this species of legislation, for the only question that could be made would be upon the use of the word "manner." The meaning of this has always been understood as having reference to a choice between voting by ballot or *viva voce*, or by general ticket; or single districts or double districts, or whether a majority of all the votes cast is necessary to elect a candidate, or as in some States, by a plurality of votes as in others.

Mr. Stanbery closed by referring to Story on the Constitution, as follows:

"The States now regulate the time, the place, and the manner of elections in a practical sense exclusively. The manner is very various, and perhaps the power has been exerted, in some instances, under the influence of local or party feelings, to an extent which is indefensible in principle and policy. There is no uniformity in the choice or mode of election. In some States the Representatives are chosen by a general ticket for the whole State; in others they are chosen in districts composed of a population sufficient to elect two or three Representatives, and in others the districts are sometimes single and sometimes united in the choice. In some States the candidate must have a majority of all the votes to entitle him to be deemed elected; in others, as it is in England, it is sufficient if he has a plurality of votes. In some of the States the choice is by the voters *viva voce*, as it is in England; in others it is by ballot"—(Story on the Constitution, volume 1, section 826, page 573.)

The court here desired the counsel for the Government to proceed with another case.

Mr. Corbin announced that he was ready to call the case of the United States *vs.* John S. Millar, who was before the court.

The following jurymen were then impaneled and sworn:

John Nott, colored; Philip Salter, colored; C. H. Bankhard, white; Joseph Keen, colored; Joseph Smith, colored; Cyrus Alston, colored; William Smith, colored; John Freeman, colored; Henry Fordham, colored; Joseph Munnerlyn, colored; John A. Pugh, colored; E. Johnson, colored.

Mr. C. H. Bankhard was appointed by the court foreman of the jury.

John S. Millar was then arraigned on the following indictment:

"That John S. Millar, together with divers other evil-disposed persons to the jurors aforesaid as yet unknown, late of York County, in the State of South Carolina, at York County, in said district, and within the jurisdiction of this court, on the 28th of April, A. D. 1871, unlawfully did conspire together with intent to violate the first section of the act entitled 'An act to enforce the rights of the citizens of the United States to vote in the several States of this Union, and for other purposes,' approved May 31, 1870, by unlawfully hindering, preventing, and restraining divers male citizens of the United States of African descent, above the age of twenty-one years, qualified to vote at any election by the people in said county, district, and State, from exercising the right and privilege of voting, and by other unlawful means, not allowing them, the said male citizens, to vote at an election by the people to be held on the third Wednesday of October, 1872, within the county, district, and State aforesaid, contrary to

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the act of Congress in such case made and provided, and against the peace and dignity of the United States."

Mr. CORBIN said: Gentlemen of the jury, I desire only to offer you one word of explanation in reference to the testimony that will be presented to you. The indictment which has been read to you contains but one count. We shall show to you, first, that this defendant is a member of the Ku-Klux Klan; that he was present at two meetings of the Klan. We shall show to you the nature and purposes of the Klan, how they were to be carried out, and how, finally, they were carried out by whipping and killing the colored members of the radical party, and practicing all sorts of atrocities upon them, and committing all crimes known in the catalogue of offenses, and this for the purpose of hindering, preventing, and restraining them from exercising the right to vote.

TESTIMONY OF ELIAS RAMSEY.

ELIAS RAMSEY, a witness for the prosecution, being duly sworn, testified as follows:

I live in the southwest portion of York County; I know the prisoner Millar, and have known him for three or four years; I was a member of the Ku-Klux Klan; Chambers Brown swore me in at Hickory Grove, in York County; [the constitution and by-laws of the Ku-Klux Klan organization were here read;] that is the oath to which I swore when I was initiated. The oath was read, and I repeated it after Chambers Brown. I saw four others initiated after that in May, and also one at another time. I was at one regular meeting of the order, when they met to elect officers; Squire Samuel Brown was there; also Chambers Brown, John S. Millar, Napoleon Millar, Samuel Ferguson, William Sherer, James Sherer, Hugh Sherer, Sylvanus Sherer, Hugh Kell, Banks Kell, Sherod Childers, Robert Riggins, Henry Warlick, Robert Hayes Mitchell. That meeting was at Sharon Church, in the western portion of York County, about eight or nine miles from Yorkville. The meeting was called to elect a chief. Those who were in favor of Robert Riggins stepped forward, and in this way they voted. I did not notice John S. Millar step forward, but I know he was present in the meeting when it voted. Next, they elected in the same way a monarch, Chambers Brown; next they elected the Turk, and then they elected a committee of three to examine candidates for admission into the order; William Sherer was one, Banks was another, and I was another.

The general purpose of the Ku-Klux Klan order was to keep the radical party from voting, and this they were to do by raiding amongst them in the night-time; when on these raids they were armed with pistols, and had disguises on.

I never was on but one raid; that one Jim Williams. We met about Squire Wallace's about 10 o'clock; we were about nine in number. Then we were joined by another party of about twenty-five, making thirty-four in all. Hugh Kell halted the other party as they came up. "Who goes there?" said he. "Friends of our country," they replied; on which they were ordered to advance. It was at this time that the four Sherer boys were sworn in. The whole party then mounted and started down the road by Wallace's, passing by Henry Latham's, where we got water. We went on to McConnellsville, and I heard talk among the crowd that the object of the raid was to seize guns. We stopped and dismounted, when most of the party started off; but Chambers Brown told me to go back and remain with the horses, and in case I heard a pistol fired to bring up the horses. While I was remaining there two men, Dr. Love and Mr. Latham, came up. I halted them and told them to remain there till further orders. Alonzo Brown, when he came back, spoke to them; he asked Mr. Love if he knew where any guns were, and Mr. Love said that the guns were about Bethesda Church; a major of the militia, he understood, had them.

As they went on I noticed they had a black man on a mule, and some one in the party told them to set him down. The crowd crossed the railroad, and in traveling on they became scattered very much, especially as the roads were muddy; and I suppose it was a hundred yards from the head of the line to the rear, or more. Shortly after we struck the woods I heard them say that they were going to hang Jim Williams. We traveled on, I suppose, two miles from where we stopped, when the crowd got off their horses and hitched up. I heard no order given, but the front part of the crowd went off through the woods. I sat down. They were gone perhaps half an hour. Presently Hugh Kell came past me, and John Caldwell came up. While they were absent I heard something like the voice of a woman in distress. When they came back they mounted their horses and started. As we got into the old field James Neil said to me something to the effect that the men were hard-hearted. We went on through the field some distance, and came out into the big road that leads from York to Chester. The first house we came to is a black man's house on the right of the road. There were several persons in the house, and as I rode up with the party I heard Dr. Bratton say not to go for the old man if he behaved himself; if he would be a good old man he would not be bothered.

Just after passing Mrs. Bratton's we fell into line, and one portion of the crowd to the right, and the other to the left; I was with the left. The party I was with went up

the big road to John S. Bratton's house, where we stopped a few minutes, till the party that had taken the right came up with several guns that they had taken. When I rode up crackers and whisky was passing around among the men. Some of the boys said there was ham and cheese, but I didn't get any. The guns they had looked, number to number, about twelve to fifteen.

William Wilson then said he wanted five or six men to go to J. S. Bratton's house. I was one of them that went. We went into his piazza and hollowed; at last he came out in his under-clothes. They asked him what he meant by so many guns being on his place; that if they caught any more guns on his place they would hold him responsible. He said he didn't own all the black people, and to hold him responsible it was not right. He also said he had not voted the radical ticket. We then left.

Chambers Brown said, speaking about some niggers in Chester, if these niggers didn't leave they would go like Jim Williams—that he was hung for his principles. He said he was an old radical amongst the niggers down there, and that he consumed a great deal of time mustering with his company.

Cross-examination by Mr. WILSON:

Question. Was John Millar ever sworn into the Ku-Klux Klan?

Answer. I never saw him. I never saw him initiated, and don't know of his being on any raid of the Ku-Klux order. I never saw him at any meeting, except at Sharon.

Question. Do you know why he went to that meeting that night?

Answer. No, sir; I didn't ask him his reasons.

Question. Do you know of his going with a cousin out of curiosity?

Answer. Don't know; the Ku-Klux didn't allow a man in without he was going to be a member; they didn't allow them in their secrets.

Question. Why did you go into the Klan?

Answer. I went into it for protection. The Ku-Klux came to my house in November, 1870. I had been away and came back at 10 o'clock, and a black man had stole some money from me, and I went to get a warrant. About three hundred yards from the house I meets up with the Klan. They frightened me, and I went back. They rode up and asked what in hell I meant. I told them I meant nothing, only I was on business. They wanted to know what in hell business I was on. I told them I was after a warrant to arrest a nigger for opening my store. They put me under arrest, and went into the yard, and they were in the store drinking whisky and taking tobacco. After that they took my brother-in-law and said he was the man they wanted, and told me to go and "tell that distressed woman we are not going to hurt her husband; we are going to whip him." I went to the house and told my sister that they warn't going to kill him. They took him off and I heard the licks very plain. When they left they says, "Now, God damn you, you close this business." I said I was owing something, and what would I do? They says, "We don't mean that you should close right now, but, damn you, close it as soon as you possibly can. We wont pay you but one more visit." In three or four weeks after that Hugh Kell told me to move off what whisky I had in the house, for the Ku-Klux were coming on me to-morrow night again. That was on Thursday before Christmas. I moved all the whisky out and rode up to Yorkville, and I meets up with Theodore Byers, and he got to talking with me, and asked me, and said, "Don't you want to join this order?" I told him "No, I didn't know," and he commenced giving me signs. I didn't understand, and he says, "Damn it, you don't know nothing." Says I, "No, I don't know nothing about your signs." He says, "If you want to go into this thing you go to York and Major Avery will initiate you." Some time after that I seen Chambers Brown, and he name it to me that he wanted me to join. I told him I didn't believe I would; and the next time I met with him, on Sunday morning, the morning I was initiated, he said I had better go into it, for he had saved my life that night they were at my house; that they would have shot me if it hadn't been for him. I concluded, then, to go in it, and he said, "I want you to come with me to-night on a raid on the treasury." I said I wouldn't go there. Well, he swore me in that morning.

Question. Did you ever see Mr. Millar with a disguise on?

Answer. No, sir.

Question. All you know is that you saw him at that meeting at Sharon?

Answer. That is all.

Redirect examination:

Question. Did you see him with a pistol there?

Answer. No, sir; no pistol.

TESTIMONY OF ANDREW KIRKPATRICK.

ANDREW KIRKPATRICK was the next witness called for the prosecution. He was duly sworn, and said:

Direct examination by Mr. CORBIN:

Question. Do you know the prisoner?

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Answer. Yes, sir ; I have known him two or three years.

Question. State whether you have seen him at the meetings of the K. K. K. ?

Answer. I have seen him at one meeting at Sharon, along about the last of last April or first of May. Henry Warlich told me of the meeting. Chambers Brown was chief until that night, and then Robert Riggings was elected.

Question. How did they vote ?

Answer. Every man that preferred him stepped off to one side, and them in favor of Chambers Brown to the other side. They elected Riggings as chief, Pol Miller as Turk, and Chambers Brown as Monarch.

Question. Did Millar vote with the rest ?

Answer. Yes, sir ; I think he did. He stepped off with the rest.

Question. Did you attend any other meeting at Sharon ?

Answer. Yes, sir ; we met there the night we had the last little ride, a week or two after this meeting. John Miller was at that meeting, but he didn't go on the raid. When we met we went to putting on disguises.

Question. Do you know whether Millar had a disguise or not ?

Answer. No, sir ; I don't think he had. Those that didn't have disguises didn't go on raids. The first place we went was to Squire Sam Brown's ; we just went to see him to have a fuss, I reckon.

Question. You knew him to be a member of the Klan ?

Answer. I seen him at a meeting.

Question. What did you do at his house ?

Answer. We brought him to the gate, and some of them was talking to him. I couldn't hear what they said. We then went to Ed Byers's, and brought Sam Ramsey out.

Question. He was a member of the Klan too, wasn't he ?

Answer. He was with us that night a little while. We only made him run across the yard a time or two.

Question. What did you do next ?

Answer. The next place we went to, I think, was Charles Ramsay's. We brought out Charley Russel, a colored man living with him, and made him dance a little. The reason they brought him out was because he had made his brags that the Ku-Klux could never catch him.

Question. Where did you go next ?

Answer. Went home.

Question. You have been on other raids ?

Answer. Yes, sir ; some three, I believe. I was on the Jim Williams raid and the Henry Latham raid.

Question. What did you do to Henry Latham ?

Answer. He was whipped that night.

Question. How old are you ?

Answer. Twenty years old last June.

Question. When did you join ?

Answer. In February.

Question. Who swore you in ?

Answer. Chambers Brown.

Question. Do you remember the oath ?

Answer. I remember the last part of it—that the traitor's doom should be death ! death !! death !!!

Question. Listen to this, and see if you recognize it. [Reads obligation.]

Answer. It may be the same one or not.

Question. What about the last portion ?

Answer. It is the same, I believe.

Cross-examination by Mr. WILSON :

Question. Can you be positive that John Millar voted at the election of chief ?

Answer. I think he stepped over, but I won't say for certain.

Question. Did you ever see him with a disguise on ?

Answer. I never did.

Question. Did you ever see him on a raid ?

Answer. No, sir.

Question. Do you know whether he went to that Sharon meeting out of curiosity to see what it was ?

Answer. I have heard of that since then.

Question. Do you know whether Millar was uneasy for fear of the Ku-Klux ?

Answer. No, sir ; I don't know whether he was or not.

Redirect examination :

Question. When the vote was taken did all the parties that were present step one side to indicate their preference ?

Answer. Yes, sir.

TESTIMONY OF JOHN RAMSEY.

JOHN RAMSEY was the next witness called. He was sworn, and testified as follows :

Direct examination by Mr. CORBIN :

Question. Do you know this prisoner ?

Answer. Yes, sir ; I have known him for two or three years.

Question. State whether you are a member of the Kn-Klux Klan.

Answer. Yes, sir ; I was initiated in 1868, at Yorkville.

Question. By whom ?

Answer. There was four or five in the room. Squire Sam Brown, James Simerfort, Albertus Hope, and, I think, Wash Hope.

Question. Do you recollect any portion of the oath ?

Answer. I recollect about not to divulge, nor cause to be divulged, any secrets. [The oath was read to the witness, and he continued :] I don't recollect whether there was that much of it or not.

Question. What was the process of initiation ?

Answer. I was blindfolded, and knelt down on the floor. I think Squire Sam Brown swore me in, but I don't know.

Question. Were any signs given to you ?

Answer. Yes, sir. The first was something similar to that, [passing the right hand over the right ear,] and the other was to return it with the left. Then the second, I think, was to feel as if you was feeling for a pin, [indicating the left lappel of his coat.] The next was to slip the right hand into your pocket and leave your thumb out, and the answer was with the other hand. Then, if you was passing, and met up with a man, and wanted to find out whether he belonged to it, "I s-a-y," and he would return, "N-o-t-h-i-n-g." The grip was to lock the little fingers together ; the last meeting I attended was at Sharon church.

Question. Who were there ?

Answer. Alonzo Brown, Chambers Brown, John S. Millar, the prisoner, Napoleon Millar, and Dan Carroll, and my brother, Sam, Andy Kilpatrick, Robert Riggins, and some of the Sherer boys.

Question. Do you allow persons to be present at meetings of the Klan who are not members ?

Answer. No, sir ; only when they wish to be initiated.

Cross-examination by Mr. WILSON :

Question. Did they sometimes allow persons to come with their friends to see whether they would join or not ?

Answer. No ; I never knew any person to come ; I don't know of any case of that kind.

Question. You don't know whether Mr. Millar was ever initiated ?

Answer. I don't know that he was.

Question. You didn't see him with a disguise, or pistol, or on any raid ?

Answer. No, sir ; not that I recollect.

TESTIMONY OF SAM FERGUSON.

SAM FERGUSON was the next witness called. He was sworn, and testified as follows :

Direct examination by Mr. CORBIN :

Question. Whether you attended any meeting of the Klan at Sharon church.

Answer. Yes, sir ; the last of April, some time. John S. Millar was there. Robert Riggings was elected chief that night, and Pal Millar and Chambers Brown to the two other offices.

Question. How did they elect them ?

Answer. Them that was going for one would stand one side, and them that was going for the other would stand on the other side.

Question. Did you see this defendant voting or not ?

Answer. I don't mind whether I seen him vote or not ; I seen him there.

Cross-examination by Mr. WILSON :

Question. Do you know that Ku-Klux visited and threatened you ?

Answer. Yes, sir.

Question. Do you know that they visited and threatened John Millar the same night ?

Answer. Yes, sir ; I think I heard Pal Millar say so. He said he was there.

Question. Did he say anybody else was with him ?

Answer. Aly Stewart, I think.

Question. Did he state whether they went in disguise or not ?

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Answer. Didn't say. I know they had their horses covered. That was about two months before the meeting at Sharon.

TESTIMONY OF THOMAS S. BERRY.

THOMAS S. BERRY was the next witness called. He was duly sworn, and testified as follows:

Question. State whether you were ever initiated into the Ku-Klux Klan.

Answer. It was last January, at Wesley Smith's. I had to kneel down, and there was a Bible on a box in front of me; and I was blindfolded, and the oath was administered to me.

Question. I will read the oath to you, and see whether it is the one you took. [Reads the obligation.]

Answer. Yes, sir; the same, sir.

Question. What do you understand were the objects of the Klan?

Answer. My notion was that it was to tear down the party in power and build up the other party.

Question. How did you understand that purpose was to be accomplished?

Answer. Well, it was to be done by whipping and killing the members of the radical party. I knew one man that was killed by them—Charley Good. After he was missing, I met Wesley Smith, and inquired if he knew anything about Charley, and he says, "Berry, you quit inquiring for Charley Good," for, says he, "he is killed." I says, "In the name of God, Wesley, and by whom?" And he ups and tells me that he and William Smith, and Spencer, and William White done the deed. — days after that I met White, and says I, "You killed Charley Good." He says, "Yes, we got a single-barreled and a double-barreled gun, and we laid for him, and tied him to a pine sapling and shot him." I know that he was put in the river.

Question. Were you present?

Answer. I was, sir; I was notified to come that evening by Madison Smarr, and I refused to go. He says, "You have never done anything, and you have got to go. They are threatening you now." I says, "I suppose I will have to go." We found the body by the pine sapling. He was lying on his face but he didn't smell any. He was perfectly dead. White said when he shot him he turned the butt of his gun and sunk the cock in his head. We first put the body in some bagging and carried him to the river and put him in.

Question. Who put him in?

Answer. Pinck Caldwell, I think.

Question. What sort of a man was Charley Good?

Answer. He was a very good man, and I think bore a good character in the community.

Question. What was the object in killing him?

Answer. I don't know.

Question. What were his politics?

Answer. He was a radical.

Question. Was it the understanding that he was killed pursuant to the purposes of the Klan?

Answer. Yes, sir.

Question. What proportion of the white people in the western portion of the county where you live belong to the Ku-Klux?

Answer. All belong to it; nearly all; very few exceptions.

Question. Have you heard from members of the Klan of other murders?

Answer. Yes, sir; there was two gentlemen told me that on the 8th of March, I think, about Turkey Creek bridge, they shot a couple of negroes on the bridge down there. They were Joe Smith and Pinck Caldwell; they said they put them up on the banisters of the bridge and shot them, and one fell back on the bridge and the other fell in the creek; they shot at him several times before he fell; when he first fell he swam to a little pile of trash, and they shot him there.

Question. Give the names of the negroes?

Answer. Sam Skafe and Eli McCollum.

Question. Whether you know anything about the Aleck Leach murder?

Answer. Well, William Leach told me that it was Mitchell's Klan that done that—he and John Wallace.

Question. You know them to be members of the Klan?

Answer. Yes, sir; I do.

Question. Who was the chief of your county?

Answer. Major J. W. Avery, I think, sir; so said.

Question. Who was grand cyclops?

Answer. General Forrest; that was my understanding in the matter.

Question. Who was the cyclops, or chief of this State?

Answer. Banks Lyle, sir; I think.

Question. Whether strangers who were not members of the order could attend meetings or were allowed to?

Answer. Not without signs, sir; they was tested by the pass-word, and by certain signs.

Question. Would any man be allowed to come from curiosity or anything of that kind?

Answer. No, sir.

Question. What is your understanding of the penalty for revealing any secret of the Klan?

Answer. It was the traitor's doom, sir; death! death!! death!!!

Question. When and how was this raiding and murdering done?

Answer. In the night, and in disguise.

Question. What was the disguise?

Answer. Well, I never saw but a few. Some few of them was made out of solid calico, and others was made out of Northern home-spun. The gown came down about that far, [indicating below the knee;] some covered the boots. It rested over the shoulders. Around the head they wore a hood.

Question. Would they disguise their horses?

Answer. Yes, sir; they had their horses covered.

Question. Did they disguise their voices?

Answer. Yes, sir; generally, they would talk in broken Irish.

Cross-examination by Mr. WILSON:

Question. Strangers were not allowed to attend Madison Smarr's Klan without the pass-word; do you know what was the practice in Chambers Brown's Klan?

Answer. I don't know anything about that.

Question. If one was not a stranger, if he was known in the neighborhood, and an officer of the Klan were to bring him in with him, do you not think it possible he might come in that way?

Answer. No, sir; It would be out of order to take a man into a Klan without they knew him to be a Ku-Klux.

Question. That was the practice in Smarr's Klan?

Answer. Yes, sir; and I suppose it was everywhere.

Question. You have never met this man on any raid?

Answer. No, sir.

Re-direct examination:

Question. Can members of one Klan visit another Klan?

Answer. Yes, sir; if they was known to be members.

TESTIMONY OF LAWSON B. DAVIS.

LAWSON B. DAVIS was the next witness called. Being duly sworn, he testified as follows:

Direct examination by Mr. CORBIN:

Question. What was your position in the Ku-Klux order?

Answer. At the only meeting I ever attended I was appointed secretary of the order.

Question. Examine that paper and see if you recognize the oath? [passing obligation to witness.]

Answer. I recognize it as the same, with the exception that, in the second section, if my memory serves me right, where it speaks of opposing radicalism, the assertions were the thirteenth, fourteenth, and fifteenth amendments—the fourteenth, I am satisfied.

Question. What do you say, then, was the general object of the order?

Answer. The object of the order was certainly aimed at the republican party.

Question. And what were the means to be adopted?

Answer. The only meeting that I attended the propositions brought before the Klan were that persons who were prominently connected—colored and white—as leaders in the republican party, and members of the League, were to be visited and told that they must discontinue their connection with the party. The second visit these persons were to be whipped, in case they didn't discontinue their connection; the third was a request to leave the country. In case they refused to leave the country then they were to meet the penalty of death.

Question. Do you know that the purposes of the order were carried out in this manner?

Answer. Yes, sir; in one instance—the Charles Good case. He was whipped, and a short time after he was killed. The parties who done the murder were William Smith and Wesley Smith in connection with William White and Leander Spencer. These men, Spencer and White, didn't tell me that they assisted in the murder, but William Smith and Wesley Smith told me that they took part in it. They told me that he had

been watched and waylaid; they shot him and then finished him with a rock; they were summoning men to assist in concealing the body; he was killed on Wednesday, and this was on Friday; they said their intention was to get the white men in the community to assist in removing the body; he said he didn't want anything left behind, so that no information could leak out in reference to Good. I went to Mr. Howell's that evening, and he told me he had received the same information, and we staid until the time had passed; then we went to the place and there was nobody there. Thomas L. Berry, Wesley Smith, William Smith and Pinckney Caldwell came back that way, and stopped and talked awhile; they said I had escaped a scouring, for he was very heavy; Pinckney Caldwell said he was hard to sink, but he had sunk him; for he says, "I jumped on the body in the river and fastened it as well as I could with a stake." Wesley Smith said he had a cotton bagging around the body, fastened with some chains and some plow-shares.

Question. What kind of a man was Charley Good?

Answer. I don't know anything particularly against him, more than his principles.

Question. Did you ever know of such an occurrence as this: of a person who was not a member of the Ku-Klux order being admitted to attend one meeting, and going away?

Answer. No, sir; there was never any person present unless they were sworn.

Question. Was such a proceeding as that according to the rules of the order?

Answer. It was not according to the rules of the Klan where I was admitted.

Question. Did you ever hear of it being done anywhere?

Answer. No, sir; I did not.

Cross-examination waived.

The court here took a five-minute recess. When the judges had taken their seats Mr. Corbin stated that in the case of Samuel G. Brown, he was an old gentleman and quite unwell, and inasmuch as he had come into court and pleaded guilty, he felt that there was no danger of his attempting to escape; and he would, therefore, not ask the court for the usual order to the marshal to take the defendant into custody, but would move that his bond be increased to \$10,000 and he be allowed to attend the court, from day to day, until a final disposition of his case had been made. This was allowed, and the court resumed the hearing of the pending case.

TESTIMONY OF KIRKLAND L. GUNN.

KIRKLAND L. GUNN was the next witness called. He was sworn, and testified as follows:

Direct examination by Mr. CORBIN:

Question. What do you say were the purposes of the Ku-Klux order—political or not?

Answer. They were political, and against the radical party; the object was to be carried out by killing and whipping—killing the men in office, and whipping the voters, so as to intimidate them, to keep them from voting for men to put them into radical offices.

Question. Were the meetings of the Klans secret or public?

Answer. Always secret.

Question. Whether persons not members of the order were allowed to attend meetings?

Answer. Never were allowed to attend any meetings unless they had been initiated.

Question. What was the penalty for revealing any secrets?

Answer. Death.

Question. Was it admissible for members of the Klan to tell each other what had occurred?

Answer. It was owing to the nature of the case.

Question. Did you ever know of any person being allowed to attend meetings of the order who was not there for the purpose of being initiated, or because he was a member of the order?

Answer. Never knew any one except members to attend a meeting in my life.

Question. Ever hear of such a thing?

Answer. Never heard of it, sir; from the fact that such a thing never occurred.

Cross-examination by Mr. WILSON:

Question. Did you ever attend a meeting of Chambers Brown's Klan?

Answer. Never did.

Question. Has your attention ever been called to whether any officer or member of the Klan might take in a friend, without anything more than his indorsement?

Answer. Never heard of such a thing.

Question. You don't remember any case of that kind?

Answer. No, sir.

The court here adjourned until 11 o'clock Thursday.

TWENTY-SECOND DAY'S PROCEEDINGS.

DECEMBER 23.

The court met pursuant to adjournment. Hon. H. L. Bond, presiding; Hon. G. S. Bryan, associate judge.

On motion of Mr. Corbin, John Caldwell, a prisoner, held as a witness, was admitted to bail in \$500 security.

TESTIMONY OF CHARLES W. FOSTER,

Witness for the Government:

I reside in York County, and have been a member of the Ku-Klux organization in that county; the purpose of the order, as I understood, was to put down radicalism, by whipping and killing out the members of the radical party; the Klan is bound by oath to secrecy; no one is allowed to enter the order unless they are members; the penalty of divulging any of the secrets of the organization is death! death!! death!!! according to the constitution; persons who were not members of the order were not allowed to attend its meetings, and there were sentinels always at their meetings to keep away those who were not members.

Cross-examination by Mr. WILSON:

I belong to Captain J. W. Mitchell's Klan; I never was present at a meeting of Brown's Klan.

By Mr. CORBIN:

Answer. I know Chambers Brown; I have seen him frequently; I have seen him on raids; I have seen him on the Bill Wilson raid, when seven or eight colored people were whipped; Johnson was in command of that raid; I was on the raid myself; I do not know of any difference in regard to the usages of the Klans and their object. Brown's Klan and Mitchell's Klan were the same in their purposes and objects, and the members of the different Klans regarded themselves as brethren.

Mr. Corbin here offered in evidence the constitution and by-laws of the Ku-Klux organization.

The counsel for the Government announced that they here closed this case.

TESTIMONY OF DANIEL M'CLURE.

I live in York County with Mr. John Millar; that gentleman, [pointing to the prisoner.] I went to live with him last January; the Ku-Klux visited us while I lived with him; they came twice to Mr. McClure's house; that was the third week in March; I lived there at the time; they came there in the night; they made a noise and waked us up, and called for Mr. John Millar; they also called for the captain of the road; that was myself; I had been appointed captain of the road by the influence of Mr. Millar; there were so many men appointed to work on the roads, and I had the overseeing of them; when the Ku-Klux came to the house his mother said there was nobody there but an old woman, and for God's sake they were not to scare her, and Mr. Millar went into a room and hid when we heard them. I am not sure that the men were disguised; the moon was shining, and the men rode on white horses; I don't think the horses were white, but they were covered with something white; after they left us they went up the road and inquired for Alex. Wallace, Mr. Kell, Mr. Black; old Black is a squire, and used to marry colored people; I think he was a radical, and so was Mr. Kell; I knew there were some guns in the organization that were left with Mr. Millar, and I heard of some at Mr. Bown's; I knew my brother left his gun with Mr. Millar, and another colored man by the name of Brook Burrs; the Ku-Klux came on my brother because he was a class-leader in the church; he and I and Mr. Millar were all raised together, and the guns were brought there to prevent the Ku-Klux from getting them and breaking them to pieces; Mr. Millar took care of them; I don't think Mr. Millar was in favor of the Ku-Klux organization; I know he told me he was scared of them, and I thought by this that he was in favor of them; I don't think Mr. Millar had a pistol or a Ku-Klux gown; Mr. Millar was regarded by the colored people in that neighborhood as a friend to the colored people; and a man of kindness and fairness towards them.

Cross-examination by Mr. CORBIN:

I knew Chambers Brown; I don't know anything against him; I only just know him; if Mr. Millar had had a pistol I should most likely have known it; I knew all the things in the house that he had; I knew he had a gun; he said he found it, but he didn't tell me where; I don't know that any guns were taken on the Jim Williams raid, and I don't know of Mr. Millar getting a gun at that time.

By Mr. WILSON. The gun was kept in the cooking-kitchen, where I staid.

TESTIMONY OF EDWARD ROSS.

I live in York County, on Mr. John Millar's plantation; I have been in Mr. Millar's employ for two years; I don't know that Mr. Millar ever interfered in any way with the voting of colored people; I voted the radical ticket, and Mr. Millar knew it, and never tried to induce me not to do it; I don't think Mr. Millar voted in any way; I don't know what his reason was, but the day I went to vote I asked him if he was going, and he said he was not, but if he was he did not know but he would vote the radical ticket; that was in the fall election of 1870; I told him I had never voted anything else but the radical ticket, and expected to do so again; Mr. Millar's general reputation among the colored people for fairness and kindness, as far as I knew, was very good; I never heard any harm of him. As to any guns being kept at Mr. Millar's I heard a colored man say that Mr. Millar kept his gun, and that was to prevent the K. K. from getting it. In the spring Mr. Millar talked as though he was opposed to the K. K. organization.

Cross-examination:

I never went out with the K. K., but I have laid out all night, as other people in the settlement did, for the colored people there who had voted the radical ticket were being whipped and killed, and I was very much frightened about that. I don't think it was generally known who were members of the Ku-Klux Klan and who were not.

TESTIMONY OF DANIEL CARROLL,

Witness for the defense:

I know Mr. John Millar; I lived about two miles away from him; I have known him for the last fifteen years; I think he was in favor of the radical party; he had a great many hands to work for him, and it was necessary he should favor the radical party, or his hands would have run off; I judge what his politics were from his having colored hands in his employ; I think he had kindly feelings towards the radical party; I know of Mr. Millar's being present at the last meeting of Sharon church; I was there with him, and his object was to find out the purposes of the organization.

Testimony objected to by the prosecution.

I know my object in going there was to save my own bacon and my hands', too, and I think Mr. Millar went there to save his hands; I have heard him say he went there to save himself and his colored hands that were working under his control. I knew Mr. Millar was opposed to the Ku-Klux organization.

Cross-examination by Mr. CORBIN:

I was opposed to the organization, though I attended one of its meetings; I was not present at the Jim Williams raid, and I was not sworn in; I was obliged to join the organization; I voted the republican ticket, and all the hands I had also voted the republican ticket; I thought it better to join the organization; they had whipped and hunted a great many people, and they were putting cards in the paper about those that were not radicals, and it was to prevent more mischief being done that I joined the organization; I had been a soldier in the confederate service, and I knew how to fight, having tried it for four years, and I can't say but that I was afraid of the Ku-Klux organization, and that was the reason why I joined them; I did not associate with them at all; I admit that I joined the society and took the oath, but it was to protect myself and my colored hands; whether Mr. Millar joined the organization without taking the oath, I do not know, and I do not, of my own knowledge, know anybody that did.

The defense announced that they here closed their case.

ARGUMENT OF MR. WILSON.

May it please the court and gentlemen of the jury: My duty, as the attorney for the prisoner, requires that I should present his case in accordance with the real position that he occupies, and in the light of the evidence which he has produced before you; and from that stand-point I am satisfied that he was a radical; that he sympathized with the radical party; that he never contemplated or desired to join in any combination whatever to prevent the colored citizens from voting in any election; that his true motive in being present at the Sharon meeting-house on the 1st of last May, and on another occasion, about a week after, was simply as a witness upon the stand, to protect himself and to protect the colored men in his employment. The evidence shows that he went there, not as a conspirator against the rights of the colored people, but to protect the colored people and himself. I submit to you in perfect frankness and candor, as the truth of this case, that the prisoner was not only not a Ku-Klux; that he was not engaged in this conspiracy, but that he was opposed to it, and that he was a republican and a sympathizer with the republican party; and

I will leave you, when I get through, to look over the testimony and see whether that is not, on your oaths, the truth of this case.

Much has been offered in the way of testimony to show what was the object of this K. K. conspiracy; what has been its plans, and what were the acts committed in carrying out its object. It will be contended that it was a conspiracy to prevent colored people from voting in October, 1872, and that each member of that conspiracy is responsible for the acts of the conspiracy; that because the prisoner was present on two occasions at Sharon meeting-house, that, therefore, he was a member of the Ku-Klux conspiracy, and that, therefore, you ought to find him guilty. That will be the line of argument to be pursued by the counsel who is to reply to me. Gentlemen, it is not the duty of jurors to listen only to the case as presented by the counsel for the Government. They, of course, have their duties to perform, and you have yours. Your duty requires you to listen to both sides, to form your judgment upon the evidence in the whole case, and not to decide this case as if it had been only proven that John Millar was present at a meeting of the Klan on one or two occasions; for there is further evidence in the case. Had the evidence stopped there, had there been no witnesses to prove that he was there for a legitimate purpose, the counsel might, with great force and justice, say that he joined in this general conspiracy. But when witnesses come upon the stand, sworn to tell the whole truth, and when the jury go into that box, they are to decide by the whole evidence in the case. Now, the question before you is simply not whether Mr. Millar was present on these two occasions, but *why* was he there? What did he go there for?

What is Mr. John Millar indicted for? There is but one charge against him. The grand jury have ignored and thrown out the other charges that the Government counsel had placed in the indictment. The only count on which they have found a true bill is, did he conspire, with divers other persons, with the intent to violate the first section of the act entitled "An act to enforce the rights of citizens to vote," &c., approved May 31, 1870? Did he conspire with the intent to prevent colored people from voting in October, 1872?

The first question for you to determine is whether his presence at Sharon church upon those two occasions proves positively that he was conspiring to violate the first section of that act, for that is all he is to be tried for. Is it only possible for him to be there for that purpose and no other? Is it possible that that shows his intent, and that he had no other? His intention constitutes the essence of the thing. When a man is tried for crime his intention is the essential point. The language of the indictment is that he intended to violate the first section. You have to decide from the evidence what his intent was. You have positive proof what his intention was. He was not himself allowed to go upon that stand and swear what his intent was, but Mr. Daniel Carroll, who went with him, tells you what his intention was; tells you that he was a republican and voted the republican ticket. He tells you that he went to those meetings to save himself from the violence of the Ku-Klux organization, and to protect the colored people in his employ.

The witness says that he talked this matter over with Mr. Millar, who told him that that was his object. This is the testimony of the man who went to that meeting with Mr. Millar. Mr. Millar is shown to have been afraid of the Ku-Klux. Why did they visit him at night, during the third week of March, in that same spring? They went to his house at night in disguise. They called for him and the captain of the road, Daniel McClure, a colored man in his employ. Does not that look as though the Ku-Klux intended to visit some punishment upon Mr. Millar? Why did Daniel McClure hide out? Does it not show that they were both alarmed and fearful of this organization? And you will remember that they inquired for three men, all of whom were known to be members of the radical party. It shows that they placed Mr. Millar and the colored man, Dan McClure, all in the same list; and the Ku-Klux raid was upon the whole of them. Is not that a circumstance to show what Mr. Millar's intention was in going to Sharon church?

Again, Dan McClure was the captain or overseer of the road; he was appointed by Mr. Millar's influence. It appears further that the guns belonging to the colored people were in Mr. Millar's charge. How did they come there? They were placed there by the colored people to prevent the Ku-Klux from getting them and breaking them up. Does that look as if he was conspiring against the rights of the colored people? Then, again, his reputation in that county for kindness and fair dealing towards the colored people was universally good; he was regarded by the colored people as their friend; that was his undisputed reputation. And how does he act? When Ross, the colored man, speaks to him about going to the election to vote, he does not attempt to prevent or dissuade him from voting the radical ticket. Does he not say that if he voted he would vote the radical ticket? This is not the conduct of a member of a conspiracy whose object was to prevent colored people from voting. The Government may reply to this that he was present at two meetings of the organization, and that therefore he is guilty. I deny it; and I deny that that is the law. The true question for you to determine is, what was his intent in being there? Was

he a part of this conspiracy? Was he aiding in it? Was he favoring it? Did he not, rather, go there solely for the purpose of protecting himself and the hands in his employ?

Now, the mere fact of Mr. Millar being there proves nothing; he might have been there as a detective on the part of the Government. His presence there would then not have been criminal, because his business would not have been criminal, and his intent would not have been to violate the first section of that act. Now, I contend that Mr. Millar might have been there simply as a detective, with the simple object of protecting himself and the colored people in his employ; and there is much to confirm that. It will be your duty, gentlemen of the jury, to examine the whole evidence in this case. I know that I am addressing a jury who, with the exception of the foreman, is of a different color from the prisoner, but in the name of all that is just, in the name of all that is due to humanity, in the name of that consciousness that we have of the presence of Him who witnesses the actions of every tribunal that claims to administer justice and enforce the law based upon reason, equity, and humanity, I ask you to dismiss all prejudices about race and color. We are creatures of the same God; we are all amenable to Him and to his laws; and I ask you now, upon your oaths, is there any incident in this whole case to confirm the position that Mr. Millar was not there simply with the intention of protecting himself and the colored men in his employ; did he ever have a Ku-Klux gown? No. Did he ever have a pistol? No. Did he ever go upon a raid? No. If he was a member of the organization, and an active member, he was bound by the constitution to have a pistol and a gown, to go upon its raids, and obey its orders. Is there any particle of proof that he did any of these things. The very witnesses put up by the Government tell you distinctly that they never saw him on a raid or in disguise, or that he had a pistol, or a signal instrument. All that they do is simply to prove his presence at a meeting on two occasions, at Sharon church.

Mr. Wilson here reviewed the testimony of the Government witnesses, Elias Ramsay, John Ramsay, and Charles W. Foster, whom, he contended, merely proved the presence of Mr. Miller at two meetings of the Ku-Klux organization, and did not prove that he had been sworn a member of the order, or even participated in any way in carrying out the purposes of the organization.

The first question, Mr. Wilson continued for the jury to decide was, whether there was any criminal intent on the part of Mr. Millar in going to those meetings of the Klan. Do you not feel, gentlemen, perfectly convinced that there was no criminal intent, or any intent to violate the law under which he is indicted? And, if he went there simply to protect himself and his colored hands, what, I ask, has he to do with this long list of acts of violence, respecting which so much testimony has been offered on the part of the Government? Admitting that there have been acts of violence, he has nothing to do with them, and he is not guilty, according to the evidence, of any conspiracy to commit those acts. And all this, gentlemen, should not be allowed to influence your minds against my client, for he is not responsible for acts with which he has nothing to do. Mr. Millar was at those meetings simply to disarm the hostility of the Ku-Klux against him, and to ascertain, if possible, if they intended to harm him or the negroes in his employ. Why should all this testimony be offered in reference to the purposes of the organization? I suppose it is simply with the view of showing that there was a conspiracy to prevent the colored men from voting in 1872. Supposing it were so; I contend this had nothing to do with my client if he was not a member of that conspiracy and did not join it with a guilty intent. If he went to that meeting with an innocent intent, and if he did not go there to promote this conspiracy, but to protect himself, then he ought not to be punished. If you have any doubt as to his intention in going there, you certainly ought to give the prisoner the benefit of that doubt. If you cannot, the court must pronounce sentence. His fate, therefore, rests entirely upon you. He is at your mercy. I cannot see why he should be offered as a victim upon the altar. It certainly would be no sacrifice to justice. Suppose you convict him; suppose you entail an imprisonment of five years in some prison, to breathe its fetid atmosphere. Which one of you, gentlemen, can point to a single word that has ever been uttered by this prisoner; which one of you can put your finger upon a single act that he has committed that would justify you in punishing him, and that would satisfy you that he should be subjected to a penalty of that sort? You are to look to the entire evidence, gentlemen; because, if you convict, the court must punish. His fate is in your hands, and I again ask you—and look over the whole of the testimony and answer the question—are you satisfied in your hearts that this man, was a republican in his sympathies and his acts; that he was simply taking care of himself and of the negro hands in his employ, and that he had cause to fear the Ku-Klux; that he was really opposed to the organization, and that his presence at those two meetings was simply an act of precaution and self-defense; and I ask you if you are not satisfied that that was his intent, and not to violate the first section of the act under which he is indicted? And I ask you to decide these questions after looking over all these questions, and not simply confining yourself to the one point

proved by the Government, and the one position taken by the Government, that he was present on two occasions when this Ku-Klux met.

I ask you, gentlemen, in conclusion, to dismiss from your mind any prejudice, if any such should exist, of race and color, and do justice to this man. The passions, the excitement, the strifes, and prejudices of this fleeting life are soon ended, and none of us should forget that we must account hereafter for all our actions here.

ARGUMENT OF MR. CORBIN.

The prisoner at the bar is charged, with others of York County, that he did unlawfully conspire, with intent to violate the first section of an act to enforce the rights of citizens of the United States to vote in the several States of this Union, May 31, 1870.

[Mr. Corbin here read the indictment.] We first notice, gentlemen, that he is charged with being in a conspiracy for the purposes indicated in that act. The court will tell you that a conspiracy consists in the agreement, the entering into a combination to do the unlawful thing. It does not consist in the doing, but simply in the agreement to do it. That charge has been heard over and over again in this court, and it is a proposition that does not admit of dispute. If you read the indictment carefully, you will see it does not charge him with anything except a combining and conspiring to do the unlawful thing. That is the offense; nothing more and nothing less. Such combination and such conspiracies are prohibited by law; and the only question, gentlemen, for you to inquire about in this case is, did this defendant enter into such an agreement and such a conspiracy? How do we show, gentlemen, that he is a conspirator, and that he entered upon this conspiracy? In the first place, we put the members of his own Klan upon the stand, who swear that he attended the meeting of the Klan; that he was present and acted like the rest of the members, and there is no proof to the contrary, and they do not attempt to deny it. Here, gentlemen, you have a secret, oath-bound society or organization that does not permit any stranger to be present, to know their secrets, or permit any of its members to tell their secrets, under penalty of death. The rules of the organization are all alike, and all the Klans declare that any man who reveals any act of the order shall suffer death at the hands of his brethren. Now, gentlemen, this is the testimony of all the witnesses who have been put upon the stand. Even the witness for the defense, Mr. Carroll, says, "I could not go into the Klan without being a member of it, and I don't know anybody that could."

There cannot be, gentlemen, a particle of doubt upon that question. When we see a man filling an office and exercising the functions of that office, we say at once that he is an officer; and if he acts as an officer, his acts are valid so far as the public are concerned; though he may not in reality be an officer at all, he holds himself out to the world that he is an officer. Mr. Ramsey, Mr. Davis, Mr. Gunn, Mr. Foster, and other members of the Klan all say that nobody could go there who was not a member of the order; and Mr. Kirkpatrick says, "I not only saw him there at one meeting, but I saw him at a second meeting." Can there be any doubt about his being a recognized member of the Klan, in full fellowship with them, and in full possession of all their secrets, with a full knowledge of their purposes, and fully advised of all that they intended to do and all that they were doing? So this defendant holds himself out to that Klan as a member. Do you suppose, for one moment, that that band of conspirators, who had been present at murders, who had gone on midnight raids, who had again and again whipped colored people in York County till they did not dare to remain in their homes at night; do you suppose they would have permitted this man to be present if he had not assumed to be a member of the organization and if he was not known to be a member?

Do you suppose, gentlemen, you or I could have been present at the meetings of that Klan without being members of it? We might have done it, gentlemen, but we would never have come back here again! And this is true of the prisoner, John Millar; if he had been admitted to the meetings of that Klan, and it had been ascertained afterward by anybody that he was not a member, would they not have "gone for him" in the expressive language of that county? I tell you they would; and there would have been no John Millar to try here to-day if that had been the fact. The witnesses, Ramsay and Ferguson, saw him at the meetings; four men of that Klan who were present saw him on those occasions, two of them saw him there at different meetings, others saw him at one. Did he not hold himself out to the Klan, and to that neighborhood, that he was a member of that organization? He did, and there is no denying the fact. Why do they not produce some witness to testify that they knew he was not a member—that he was allowed to go there as a sort of honorary member, or visitor? Because, gentlemen, it was not so. There are members of the Klan in this court, and there is no objection to their going upon the stand to swear to that fact, if it were true. Why do they not do it? Because everybody knows it is not the truth. They know that John Millar could never have gone there had he not been known to be a member of the Ku-Klux Klan. He was present at their meeting when

officers of the Klan were elected—when a Monarch, a Turk, and a committee were elected. Witnesses testify that though they did not see him vote, that the members separated into lines to vote for the respective candidates, and that they did not see any man stand on one side and not vote. No, gentlemen; he could not have taken part in these important operations of the Klan had he not have been a member.

Again, if he was not a member it is for him to show it. It is true, as my friend on the other side suggested, though barely possibly, that he might have been there as a Government spy, to find out what the Klan was doing; but if so, he would have been able to show that he was there for that purpose if he had been a detective. Watching to find out if they were going to raid on him or somebody else, he would have been co-operating with somebody, and he might have given information to the Government; but, if so, why did he not tell me, or some representative of the Government, that we might have prosecuted so infamous a conspiracy? No, gentlemen; such a supposition is not for a moment to be entertained. If he had been there by accident, if he was there not to join in its proceedings, there would be some evidence of it. The burden of proof is upon him. When I see you, or anybody, operating with a band of murderers, operating with men guilty of all the crimes in the catalogue, meeting with others of the order night after night, what is the inevitable presumption? Why, that he is one of them; that he belongs to them; that he co-operates with them; that his sympathies are with them in their purposes, and that he takes part in the operations. No truer saying, gentlemen, ever passed into a proverb than that, "A man is known by the company he keeps." This was the kind of company that John Millar kept; this is the kind of association John Millar selected.

Then, gentlemen, the witnesses tell you that he was present at a meeting when the Klan went upon a raid, but the prisoner, having no disguise, went home. Was he not in the secrets of the order? Did he not know all about it? Would he have been permitted to have been at their meetings and to have known their secrets had he not been a sworn member? What did they kill Charley Good for? For the simple reason that he knew some of them who had whipped him. This shows what the Klan will do to any one who is supposed to know the members or the purposes of the order. They will kill him; and this is what they would have done to Millar had he not been a member of the order.

It seems to me, gentlemen, that the testimony is so overwhelming that there cannot exist any doubt in your minds that he attended the meetings of the organization, and was cognizant of all their operations, and therefore guilty of the conspiracy with which he stands charged.

After a review of all the testimony in the case, Mr. Corbin said:

Gentlemen, I leave the case with you. I feel that further argument or further reference to the testimony is unnecessary. If you feel, gentlemen, as I feel when I have heard these awful tales of murder, rape, arson, that you can never forget them and can never banish them from your minds, either in your hours of sleep or in your hours of wakefulness, and the horrible tales that have been told us from that stand, in carrying out the purposes of that organization, is a reality far too terrible either to be forgiven or forgotten.

The court then charged the jury more briefly, but on the same grounds, as on the preceding trials.

The jury then retired.

After the jury had retired, Mr. Corbin moved for sentence upon the prisoners who had been convicted or plead guilty. The court signified a willingness to pass sentence, and the district attorney called the defendants in the United States *vs.* Allen Crosby *et al.*

Sherod Childers, Evans Murphy, Hezekiah Porter, and William Montgomery arose for sentence, and their counsel (Mr. Hart for Evans J. Murphy and W. H. Montgomery, and Mr. Wilson for Childers and Porter) offered affidavits in mitigation of sentence. They were passed up to the court.

While the court were engaged in reading the affidavits, the jury returned, and their verdict of guilty, in the case of the United States *vs.* John S. Miller, was recorded.

SENTENCE OF SHEROD CHILDERS.

Sherod Childers was then called for sentence, and interrogated by the court. The proceedings were as follows:

By Judge BOND:

Question. Childers, what have you to say for yourself in mitigation of your punishment?

The prisoner did not reply.

Judge BOND. Where do you live?

Answer. In York County.

Question. How old are you?

Answer. Twenty-three years old.

Question. When did you first join the Ku-Klux Klan?

Answer. Joined at the election.

Question. Who was chief of your Klan?

Answer. Alec Smith.

Question. How many raids have you been on?

Answer. That one, sir.

Question. Which one?

Answer. That one—that Amzi Rainey. I had to join; I voted the radical ticket, and I had to join in that way.

Question. What did you do to this man Rainey?

Answer. I didn't do anything to him at all.

Question. What was done to him?

Answer. Nothing, as I seen; I wasn't up to the house.

Question. Where did you start from to go there?

Answer. I started from Bullock's Creek bridge, but didn't start with the intention of going there at all. I don't think it was the intention of the crowd to go there.

Question. Whom did you meet at Bullock's Creek bridge?

Answer. Allen Crosby, Sylvanus Hemphill, Evans Murphy, Ki Porter, I think, is all that I met there.

Question. How did you chance all to meet at the bridge that night?

Answer. Van Hemphill brought me word to meet there.

Question. You met for the purpose of going on a raid?

Answer. Not to go there, we didn't.

Question. You met to go on some raid?

Answer. We met to go on the raid, but not to go there.

Question. What raid were you going on?

Answer. None in particular. We was just going out in the country that night. That is what he told me.

Question. What did you think they were going to do?

Answer. I didn't know.

Question. You went to do anything that you were told to do?

Answer. We were not told to do anything.

Question. What did you meet at the bridge for?

Answer. They told me to meet the Klan there, and I met.

Question. What were the Klan going to do?

Answer. They didn't tell me.

Question. I want you to tell me, now, all about this thing.

Answer. I am telling you the truth.

Question. You went to meet the Klan for no purpose whatever?

Answer. Not as I heard of.

Question. What was the business of the Klan—were you in disguise?

Answer. No, sir; not when I went; I was in disguise after.

Question. What did you disguise yourself for?

Answer. That was the rule of the order, for men to disguise.

Question. What were they going to do,

Answer. I didn't hear anything, sir, they was going to do then at all.

Question. Then you met and put on disguises, and then you took them off and went home.

Answer. No, sir; we didn't take them off.

Question. What purpose had you; were they going to do something wrong?

Answer. None that I heard of; didn't hear we were going to do anything wrong.

Question. What purpose had you in disguising yourself?

Answer. I can't tell.

Question. Did you go to Rainey's?

Answer. I went to where Rainey lived on the plantation.

Question. What was done to him?

Answer. I was not at his house.

Question. Can you read and write?

Answer. No, sir; I can't read and write.

Question. What do you follow for a living?

Answer. Farming.

Question. Do you work for yourself?

Answer. Yes, sir.

Question. Have you a family?

Answer. Yes, sir.

Question. What family have you?

Answer. I have my wife and one child.

Judge BOND. Childers, in consideration of the fact that you have pleaded guilty, and shown to the court by that that you have a measure of repentance, the court will

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not be as severe as it would be otherwise. You have not told me the truth, though; you were in the Big Billy Wilson raid, too, the witnesses in the other cases have so stated. The judgment of the court in your case is, that you be fined \$100, and be sentenced for the term of eighteen months. Sit down.

SENTENCE OF WILLIAM MONTGOMERY.

William Montgomery, one of the others who had pleaded guilty in the same case, was then called.

By Judge BOND:

Question. Where do you live?

Answer. In York County.

Question. How old are you?

Answer. I am going on nineteen.

Question. Can you read and write?

Answer. I can read print, but I can't write.

Question. Were you in the confederate army?

Answer. No, sir; I was in no army at all.

Question. What raids have you been on?

Answer. Well, I was on the raid that they got me on—the Amzi Rainey.

Question. That the only raid?

Answer. That is the only raid that ever I was in.

Question. When did you join the Klan?

Answer. I joined it in February some time.

Question. What did you do on this Rainey raid?

Answer. I never done anything; I staid with the horses.

Question. All of you staid with the horses, didn't you?

Answer. I staid with the horses.

Question. Who beat Rainey?

Answer. Nobody, as I know of.

The court inquired of the district attorney whether he had any facts relating to the prisoner, saying: "I don't think we can get them out of him."

Mr. Corbin replied that he was not aware that the prisoner had been in any other raid, and added: "I would state to the court that there were some eight or ten persons whipped that night. Amzi Rainey was the only person specified."

Question. Where did you go to from Amzi Rainey's.

Answer. I went home.

Question. Didn't go with other expeditions the same night?

Answer. No.

Question. Nothing was done to Rainey?

Answer. Nothing, as I know of; I didn't know where Rainey lived, nor anything about it.

Judge BOND. The judgment of the court in your case is, that you be fined \$100 and be imprisoned for eighteen months.

SENTENCE OF EVANS MURPHY.

Evans Murphy was called next.

By Judge BOND:

Question. What have you to say to the court in mitigation of your punishment?

Answer. I don't know as I can say anything.

Question. Where do you live?

Answer. In York County.

Question. What is your business?

Answer. Farming.

Question. Do you farm for yourself?

Answer. Yes, sir.

Question. What family have you?

Answer. I have seven besides myself.

Question. How many children?

Answer. I have four children and sisters-in-law.

Question. How many raids have you been on?

Answer. Never been on but one.

Question. How many people were whipped that night?

Answer. I don't know e'r-a one; I never saw e'r-a one whipped at all.

Question. You held horses?

Answer. No, sir; I didn't hold any horses.

Question. What did you do?

Answer. I didn't do anything myself, nor I didn't see anything done. I never saw anybody struck that night. I don't think there was e'r-a lick struck; if there was, I wasn't in it.

Question. How many of you were there that night?

Answer. There were nine?

Question. How many horses can one man hold on a raid?

Answer. One man held them all that night.

Question. What did the rest do?

Answer. I don't know what they all done; I didn't do anything myself.

Question. Do you know anybody that did do anything?

Answer. No, sir; I did not; I was not with them. Some say that the party went to Rainey's. I was not there.

Question. Did they go anywhere else?

Answer. No, sir; we went from Rainey's back home. I have never been at the house. I didn't know where Rainey lives, myself. I don't know where his house is.

Question. Did they tell you anything about it when they came back?

Answer. No, sir; they never said they had done anything. They run off and left me and several others—Mr. Kirkpatrick, and James Pursely, and Allen Crosby, and, I think, Childers and Porter. They all got off and left us. We didn't know anything about where they went.

Question. Whom did they leave?

Answer. Me, and Childers, and Allen Crosby, and Kirkpatrick, and James Pursely, and Porter.

Question. It turns out those who happen to be indicted didn't do anything, and all those that haven't been caught did the whipping?

Answer. If there was any whipping done I didn't know it, nor I heard of none being done.

Question. What did you go there for?

Answer. I can't tell; I didn't hear anything. I didn't know they were there.

Question. What did you go there for?

Answer. I didn't know they were going there.

Question. What did you go for?

Answer. I was going home from work, and met up with them, and they asked me to go along; said they was going to ride around a piece that night; didn't say for what purpose, nor I didn't ask them.

Question. You didn't want to know, I suppose. What did you go back for?

Answer. To go home.

Question. Had you ridden far enough?

Answer. I suppose so; the crowd turned back, and I had to.

Question. Had a pleasant ride in the evening, and then returned?

Answer. I don't know whether it was very pleasant, or not; we returned home.

Mr. HART. I think your honor misunderstood the prisoner about the parties whom he names as being present as being only those indicted in this case who are absent; I understood him to say that Allen Crosby, himself, Porter, and Childers, were those that were left behind. Montgomery is indicted, and here—

Judge BOND. Montgomery only held the horses, though.

Question. Can you read and write?

Answer. Not much; a little.

Question. What is your name?

Answer. Evans Murphy.

Judge BOND. The judgment of the court is, in your case, that you be fined \$100 and be imprisoned for eighteen months.

SENTENCE OF HEZEKIAH PORTER

Hezekiah Porter was next called for sentence.

By Judge BOND:

Question. Where do you live?

Answer. In York County, sir.

Question. How old are you?

Answer. I am nineteen years old.

Question. How many raids have you been on?

Answer. One, sir.

Question. What raid was that?

Answer. On Rainey.

Question. What was done to Rainey?

Answer. Not anything that I know.

Question. What was done that night?

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Answer. I don't know, sir, as there was anything done.

Question. Where did you meet the raiding party?

Answer. I met with them down there at Bullock's Creek bridge.

Question. What did you go there for?

Answer. I was warned to go there.

Question. By whom?

Answer. Sylvanus Hemphill.

Question. Who was chief of your Klan?

Answer. Aleck Smith.

Question. Who was chief in your county?

Answer. I don't know, sir.

Question. When you got to the bridge what did you do?

Answer. We disguised and went off, on across the bridge; I reckon they went to Rainey's.

Question. What did you do when you got to Rainey's?

Answer. I didn't go there.

Question. How far did you go?

Answer. I went down to the bridge and then across the branch up in the old field.

Question. What for?

Answer. We were hunting for the other fellows; they went off and left us.

Question. Anybody else whipped that night?

Answer. No, sir; not that I know of.

Judge BOND. From the fact that you have pleaded guilty, the judgment of the court is that you be fined \$100 and imprisoned eighteen months.

SENTENCE OF ROBERT HAYES MITCHELL.

Mr. CORBIN. Will the court take up the case of Robert Hayes Mitchell? He is in court.

Mr. HART. Your honors will recollect that was the case in which a motion was filed yesterday in arrest of judgment and for a new trial.

Judge BOND. The court will overrule the motion for a new trial and in arrest of judgment.

The prisoner arose.

By Judge BOND:

Question. What have you to say for yourself why the court should be lenient toward you?

Answer. Well, sir, I don't know what I ought to say.

Question. Say everything you think.

Answer. Well, I might say right smart, and then it mightn't be much benefit. I don't know whether I can say anything to be of any benefit. I never was arrested. I went up to York and gave myself up to Major Merrill and told him all I knew, except some things he didn't ask me and didn't give me time to tell him; but he sent me to jail. I came down here with the intention of pleading guilty and my lawyer kept me from it, and said not to plead guilty; said it was best for me not to do it. That was the reason I didn't plead guilty. I wasn't guilty of the charge, although I was guilty of being on the raid; but I didn't do anything. That was proven here, that I didn't do anything to any one that night.

Question. You held the horses?

Answer. I was with the horses; I don't know that I held any horses but my own.

Question. Who was chief of your Klan?

Answer. Well, Chambers Brown was once chief; Robert Riggings was elected after this, chief.

Question. How many members of your Klan were there?

Answer. I don't know, sir, exactly; it was a pretty strong Klan, seventeen or eighteen men I think perhaps.

Question. What proportion of the white people in that section do you think were members of Klans?

Answer. I don't know; I can't say positively.

Question. Give us your idea?

Answer. Well, there is a good many.

Question. How many raids did you go on?

Answer. I was on that raid, and on another little raid that we went to Charley Russell's house at Squire Sam Brown's, and at one meeting at Sharon, when we elected chief; I never was on a raid in my life until the night we went to McConnellsville—the night Rainey was hung.

Question. Had you heard that these raids had taken place before you joined the order?

Answer. No, sir; I joined the order in 1868, and I never had been on a raid in my life and didn't know who else did belong until the night that we went to McConnellsville.

Question. I don't think you understood me; had there been any raids before you joined?

Answer. No, sir; there had never been raids.

Question. How soon after you joined did they begin?

Answer. Well, sir, I don't know; it was some time; I don't think there was any raiding done to my knowledge after I joined until this last year; awhile before this Christmas a year ago, I think, was the first; might have been in October or November—I don't remember exactly the time.

Question. Did these people you raided upon have any sort of trial in the Klan?

Answer. No, sir, they did not; I didn't know a thing about it until Sunday evening; the man was hung on Monday, and I never heard his name before in my life; I didn't know anything about it at all.

Question. Didn't you think it very remarkable that a parcel of men could be got together to go and hang a man you never heard of before?

Answer. I suppose there was men that did know the negro; I didn't, though.

Question. Had you determined that somebody was to be whipped?

Answer. Never heard that anybody was to be whipped.

Question. There were people whipped frequently?

Answer. There might have been.

Question. I want to know who determined the fact that A or B should have a whipping?

Answer. I am not able to say that; I suppose the Klan gave the orders.

Question. From the commander?

Answer. I don't know that.

Question. There was no committee to determine it?

Answer. Yes, sir; there was a committee. We elected a committee. There was never nothing done after that. We had a meeting and elected a chief. There was a committee to attend to such things. I didn't know there was any whipping mentioned in it; there was none done after that, at any rate.

Question. What is your business?

Answer. Farmer, sir.

Question. Farm for yourself?

Answer. Yes, sir; I have been the last two years.

Judge BRYAN. Mr. Mitchell, it has been your unhappiness to have been connected with a great crime; and if the court could believe that you were a party to that crime—that you had suspected the terrible deed that was to be done—and had any intimation that you had countenanced it, they would exhaust the full penalty of the law, and then it would consider that you had been very mercifully dealt with. But, you have come in and confessed, and your manner has impressed the court that, although you had been so misguided as to join a body of men to punish people, and punish them without responsibility to the law, yet we feel at liberty to believe that you have dealt candidly with the court and that you have told the truth; and it is upon that conviction alone that the court finds its vindication for accepting your declarations and believing that you were in no way a party to it. The sentence of the court is that you be imprisoned eighteen months and fined one hundred dollars.

CASE OF SAMUEL G. BROWN.

Mr. CORBIN. Will the court pass sentence in the case of Samuel G. Brown?

Mr. WILSON. In his case, if the court please, I desire to submit some affidavits which I have not had time to prepare. If it meets with the pleasure of the court, we would prefer to have time to prepare them.

Judge BOND. He may make his statement.

Samuel G. Brown arose.

By Judge BOND:

Question. What have you to say in mitigation of your sentence?

Answer. I should have liked to have got some affidavits to show my position, and why I met the Klan on that occasion. That is the only connection that ever I have had with the Ku-Klux organization, attending one meeting of the Klan. I should have liked to have an opportunity of getting up affidavits to show why I met the Klan on that occasion.

Judge BOND. Do you propose to make to the court a candid statement of all your connection with this Klan, and all the other people in your community who had connection with it? We have no objection of your having until to-morrow to do it; and we want to know not only your connection with it, but of every other person in your position of life in York county who belonged, and if you propose to do it we will allow you time. But if you only mean to make a statement of your innocence—

PRISONER. I can only state what I do know.

Judge BOND. You may have until to-morrow to do it.

SENTENCE OF JOHN W. MITCHELL.

John W. Mitchell was next called, the motions for a new trial and an arrest of judgment having been withdrawn.

By Judge BOND :

Question. What have you to say in mitigation of your punishment?

Answer. Well, I don't know hardly what to say. If I was educated so as to explain myself, I would be glad to do so, but as I have but a poor education, I don't know how to express my desires. I don't deny I belonged to the organization, and never have since I attached myself with it. When I was threatened beforehand, I thought that for to save myself I better get into it, and on the 28th or 29th of December last I joined the organization, betwixt Christmas and New Years. The day that I joined they appointed me chief. They said they wanted a man that was sober and discreet so as not to allow anything to be done out of the way, and I accepted the office as chief in my neighborhood. I never have issued an order to them at no time. Was with the Klan on two raids that was started to be made, but prevented them from going—didn't let them go. The raid I am accused of being on down by my house, I wasn't there. I think I showed to the court satisfactorily that I was not there—the evidence that I produced in court—and it is not worth while for me to state anything about that matter because I know nothing about it. I remained in the order till the 25th of February, and I left it, and hadn't anything to do with it after the 25th of February. I had a disguise, and on Monday morning the 25th, I burned it up. I told my wife; she had advised me to quit it; she didn't think there would be anything to it. I told her I would take her advice and leave it, and have nothing more to do with it. I would be glad for the court to be as lenient as possible, as I have a wife and seven children—my largest you saw here on the stand. I have a son that is married, that I do not consider as my family at all at present, and I have an afflicted mother that me and my son is the only support that she has. My next two largest children are daughters. The raid that they were going to make on William Kell, I heard of. I didn't order the Klan out. I heard that they were going to make a raid; I think that was Monday night. I heard it Monday about 12 o'clock, and I went to the meeting place and begged them not to go, that it was not right to do so. And if Mr. Kell had been able to give in his evidence here he would have showed the court that there wasn't any harsh words, or hard feelings betwixt him and me that night; that is Mr. Hugh Kell. It was spoken of by some of the party, I don't remember who, that they thought it would be well for Mr. Foster, and Mr. Hugh Kell, and Mr. William Kell, all to be killed, and I opposed it. I told them it wouldn't do to take the life of any one. I opposed any such means whatever, and Mr. Foster told me himself that he would have been glad to have gone on and got sight of Mr. Kell, if he had, he would have killed him. I told him that was wrong; he oughtn't to do that. And then on the York raid—I heard that when I was about nine miles from home, going to church. I turned around and goes back home, thinking that the man who had been put in charge instead of me would order out the Klan, and I went back home to propose if it was ordered out to go and stop that raid.

Mr. MELTON. Who was that man?

Answer. Chesterfield McKinney. When I got to where they met, they was just coming out on to the big road. As I rode up, I went on talking to one and another until we got down to the mill, and I persuaded them to make a halt, which they did, and I talked to them and tried to convince them that they was wrong; and after awhile there was two other small Klans came up and asked what we was doing there. I just replied that I did not think that anybody had any business in Yorkville that night; and I told them, "As for myself, I am going back home; the rest of you can do as you please. I have been talking to you, and if you are not willing to take my advice, go your length." I got on my horse and turned round, and I was branded with cowardice. I heard the next day, from a young man of the party, that they had threatened me for not going on to Yorkville; and I got him, myself, and my son, and was prepared for a week or ten days afterward for to meet them, provided they came on me.

Mr. MELTON. Who was the young man who gave you that intelligence?

Answer. Mr. John Wallace.

Mr. CORBIN. Will the court allow me to ask one question?

By Mr. CORBIN :

Question. Didn't you advise your Klan not to go on that raid because you didn't receive expected orders from Mr. Avery, the chief of the county?

Answer. No, sir; I didn't.

Question. Wasn't that statement made at Herndon Mill?

Answer. Yes, sir; that statement was made there.

Question. That statement was made, that the Klan had not received orders as expected, and hence they ought to go home.

Answer. I told them that I would like for them to show the order; there was no order produced, and I turned round and went back home.

Question. What was the understanding that night?

Answer. There was no understanding at all; only that they were to make a raid on Yorkville.

Judge BOND. It appears to the court, from the testimony that has been taken in this case, that you were a very prominent man in that neighborhood, and all these young men and ignorant people had a right to look up to you for direction, and then you were a chief of a Klan, and from you all the orders came; you were a man of property and position; you had an opportunity to know the transactions that were going on because you were a chief; you had better means of information than those men had, who were always accustomed to follow the prominent people in their particular section of country. Knowing all this, hearing of the ravishing, murders, and whipping going on in York County, you never took any pains to inform anybody; you never went to the civil authorities, and you remained a chief till they elected somebody else.

The PRISONER. I was afraid to do that for fear of my own life.

Judge BOND, [continuing.] You were afraid of your own life from the very institution you set on foot. You have appealed for mercy on account of your family, and it is proper that you should appeal to the court on that ground. But you never thought of the families of these other people. Men were taken out and murdered within sight of their wives, and men were scourged and their wives scourged by this infamous organization of which you were a chief. The judgment of the court in your case is that you be fined one thousand dollars, and that you be imprisoned for five years.

SENTENCE OF THOMAS B. WHITESIDES.

Thomas B. Whitesides was next called up, the motions for a new trial and in arrest of judgment having, as in the preceding cases, been withdrawn.

By Judge BOND:

Question. What have you to say to the court?

Answer. I have not got anything. What I could say has been proven to you; I cannot say anything more; I can say that I did not belong to the order, and never did, and was always opposed to it.

Mr. WILSON, (*sotto voce*.) State about that Charles Leach raid.

The PRISONER. I wasn't on it. I was at John W. Mitchell's the night this raid was charged against me.

Judge BOND. That has been found otherwise by the jury. The court has got the impression that you were not prominent in this matter. It has never been shown that you took a part in any of these raids, and any participation that you had, it appears, was not active. A man of your position in that county, having a knowledge of these facts, might have communicated them to the authorities.

The PRISONER. I couldn't do any more, sir, than what I did do.

Judge BOND. You might have had some of these people punished; this extraordinary act of Congress, under which jurisdiction has been given to the United States courts to punish these things, would have been perfectly useless if gentlemen, in your position in York County, having found out what was going on, had united to put it down. It seems that the people preferred to live in among this outrageous Klan, rather than under the government of law. Seeing the little connection which appears from the evidence that you had with it, the judgment of the court is that you be fined \$100, and be imprisoned one year.

SENTENCE OF JOHN S. MILLER.

John S. Miller was the next prisoner called.

By JUDGE BOND:

Question. What have you to say?

Answer. I have not anything to say, only I say the first thing I am going to state to you, I am going to tell you how I came to be at the Sharon meeting-house. A cousin came to my house and told me to come and go along with him. And when we went there he told me there was something powerful to be done, and I asked him what it was; he said there had been a man divulging some secrets, and they were talking about shooting him. And I told him I didn't want to go in any such a concern as that. He said, come and go along, and he told me if they asked who comes there to say a friend. Well, we went, and they never said anything like that at all. I hitched my horse and went in and spoke to them, and never let on but what I was a member of the Klan. They said that Andy Kirkpatrick had been telling some tales to Dan Carroll, and they commenced talking about shooting him, and Squire Sam Brown, I think, was there, and he got up, and so did I, and told them that such a thing as that oughtn't to do any such a thing, because there was Andy, and no person to depend on but his

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old mother for a living, and they concluded that it wouldn't do, that maybe Dan Carroll was telling a lie. When I saw Dan Carroll I told him, "You best get in the order," for they said about your being a radical anyhow, and it is best for you to go and get into that thing; and I told him it would be best to know something about it, for we wouldn't be obliged to go on a raid, and they wouldn't hurt our hands. When I went there the next night it was in the session-house, and when I went in I told them about having Dan Carroll with me, and they commenced cursing and said I oughtn't to have brought him there. And I said Dan is a good fellow, and there is no danger of him telling anything, and he went in the house, and they knelt him down and swore him in; but I never was sworn in, and I told Major Merrill them very things the first time I ever went up to him.

Question. What do you mean by joining to keep them from ruining your hands?

Answer. Well, I didn't mean I joined it; I told him just what I tell you, but I didn't join it at all.

Question. How did they run your hands off?

Answer. They had been to my house once before that, and there was a colored man with me—a captain on the road; and they came there once; and they came there and hollered for me and him, and we slipped out in another room; and it wasn't a week before they came there again, but he never told that this morning.

Question. Run what hands off?

Answer. The hands that was working with me.

Question. What did they want to run them away for?

Answer. I don't know anything about what the object was; I reckon because they had been voting the radical ticket. They went to all the white people that was radicals and done something. I always was opposed to that thing, but I knowed they didn't believe me. There was a mighty heap that got away, and I knew when I didn't do anything I didn't want to go away.

Question. Why didn't you inform on these people?

Answer. Who would you went to in that country? There wasn't a man what was radical but what had his card in the paper. Now, who would I went to?

Question. Who is the judge in that county?

Answer. I forget his name, but he wasn't up there. Thomas is the judge up there.

Question. Why didn't you go to him?

Answer. What was the reason why I didn't go to him? He might have been there; but I never had any dealings in court at all.

Question. Has nobody in that county been punished for these things?

Answer. Not as I know of.

Question. Why didn't you go to some trial justice?

Answer. There was no trial justice.

Question. How many of the white people belong to this thing?

Answer. Every one that I have heard say anything of it was obliged to belong to it.

Question. When you met at Sharon did you meet in the church?

Answer. The first time we met in the yard, and the next in the session-house.

Question. What is the denomination of the church?

Answer. It is Seceders.

Judge BOND. The court is of opinion that you are the least guilty of the parties brought here. They will fine you \$20, and imprisonment for three months.

SENTENCE OF THE FOUR SHEARER BOYS.

Sylvanus Shearer, William Shearer, Hugh H. Shearer, and James B. Shearer withdrew their pleas of not guilty and entered a plea of guilty.

By Judge BOND, (to William Shearer:)

Question. What have you to say to the court in mitigation of your punishment?

Answer. I would like that you would be as easy on me as possible.

Question. For what reason?

Answer. Because I didn't know anything about this thing that night.

Question. How came you to be present?

Answer. Chambers Brown sent me word to meet him that night.

Question. You were not members?

Answer. No, sir; but he wanted to take us in.

Question. What did you let him take you in for?

Answer. Well, everybody else was in, almost, and I didn't exactly feel safe without I belonged to it.

Question. What do you do for a living?

Answer. Farm.

Question. Sylvanus Shearer, what have you to say for yourself?

Answer. I want you to be as light as possible.

Question. What punishment do you think ought to be meted out to a man that would go to thrash half a dozen black people in one night for nothing?

Answer. I don't know; it ought to be right smart for them that done it.

Question. You helped?

Answer. No, sir.

Question. You gave them your countenance. What do you think ought to be done to a man that would come to your house and take you out of your house at night and hang you?

Answer. Well, I don't know what.

Question. What sort of an excuse do you think it would be for somebody who went along with them to hold the horses—didn't actually put the rope around his neck?

Answer. I don't know as there ought to be anything done with him.

Question. Can you read and write?

Answer. No, sir.

Question. Were you in the army?

Answer. No, sir.

Question. Was your brother in the army?

Answer. Yes, sir.

Question. (To William.) What was the parole you took?

Answer. I don't recollect, now.

Question. You have forgotten it already?

Answer. Yes, sir; I was too glad to get out of it.

Question. You promised not to take up arms or resist the laws of the United States?

Answer. Yes, sir.

Question. You forgot your parole?

Answer. Yes, sir; that is so; but a man can be scared to forget a good many things sometimes.

Question. (To James.) How many raids have you been on?

Answer. I have been on the Jim Williams raid, and the one on Squire Sam Brown.

Judge BOND. The judgment of the court in each of your cases is that you be fined \$100 and be imprisoned for eighteen months.

The prisoners were returned to the custody of the marshal, and the court adjourned until Friday at 11 a. m.

TWENTY-THIRD DAY'S PROCEEDINGS.

DECEMBER 29.

The court met pursuant to adjournment, Hon. H. L. Bond presiding, Hon. G. S. Bryan, associate judge.

Mr. Corbin said there were four prisoners who were ready to enter their plea of guilty.

The first called was Henry C. Warlick.

In reply to interrogatories by his honor, Judge Bond, the accused said:

The only raids I was ever on was that on Jim Williams and another; I live in York County, and work on a farm; I am twenty-two years old; I joined the Ku-Klux Klan last spring; it was the Pilot's Klan. When I went on the Jim Williams raid, I started from Robert Riggins's with him and Bob Shearer; I did not see the hanging; when the party dismounted and the horses were hitched up, I staid with the horses. I did not see any whipping at all. I could not tell how many there were in the party; some of them had disguises; I had on only a false-face; I do not know any of the superior officers of the Klan.

Judge BOND. The judgment of the court in your case is that you be fined \$100 and that you be imprisoned eighteen months.

Milus Carroll was next called. On being asked what he had to say in mitigation of the crime with which he stood charged, in reply to questions of the court, he said:

I have very little to say; I acknowledge being on that Jim Williams raid; I never was sworn in till that—12 o'clock that day; I was told to meet the Klan at Briar Patch; I did not know till I got there what was their purpose; I understood, after getting there, that they were going to McConnellsville after some guns; I did not see Jim Williams hung; I was with the horses; I suppose there were thirty to thirty-five people on that raid; the horses were hitched up, but I could not tell how many staid with them; I did not see or hear of any being whipped that night, and I don't know who were the men who hung Jim Williams; some of the men were disguised; I had a piece of cloth over my face; the Klan I belonged to was said to be Chambers Brown's Klan.

Judge BOND. The judgment of the court in your case is that you be fined \$100 and be imprisoned eighteen months.

Eli Ross Stewart was next called.

In mitigation of his crime, he said:

I was on one raid; I joined the Klan called Brown's Klan between the middle and

the latter part of last February; Chambers Brown told me to meet at the Briar Patch the night of the Jim Williams raid; there were about thirty to thirty-five on the raid, I suppose, and I understood their object to be to go down to McConnellsville for some guns; I did not go to Jim Williams's house; I staid with the horses after the others dismounted; I don't know the names of any that went to the house, and I don't know the chief of the Klan.

Judge BOND pronounced sentence—eighteen months' imprisonment and a fine of \$100. Josiah Martin, the next prisoner called, said:

I was on one raid; Mr. Avery swore me into the Klan; I was upon the Jim Williams raid, but that was the only one I was ever on; Napoleon Miller told me I would have to go on that raid; I don't know what authority he had for telling me I would have to go; he told me to meet them at the Briar Patch; when the party got off their horses I did not go with them to Jim Williams's house; I staid with the horses.

Judge BOND. The sentence of the court in your case will be a fine of \$100 and eighteen months' imprisonment.

The case of Squire Samuel G. Brown was next called. He was asked by the court what he had to say in mitigation of the punishment for his crime.

S. G. BROWN. I have submitted some affidavits to the court, and I wish to say, in reference to the constitution and the by-laws that have been before the court, that they came into my possession in 1868 or 1869. In a conversation I had with Mr. Albertus Hope, he told me that he had them, and, on my expressing a wish to see them, he gave them to me. Whether this paper that has been read before the court is the same or not, I do not pretend to say whether it is or not. I never read it and never knew the contents of the paper till I heard it read here. I put the paper away and thought no more of it, and my impression was that I had destroyed it.

Judge BOND. Who is the chief in your county?

Answer. I do not know of my own knowledge. I have heard that the chief was Major Avery.

Judge BOND. Who is chief of the State?

Answer. I don't think I ever heard.

Judge BOND. I have your affidavit. It appears, from the evidence given on the stand by several witnesses, that you were not only a member of this conspiracy but that you took a prominent part in it. You are a man advanced in years, and those who were young and ignorant had a right to look to you for direction and advice. Either at the time these raids were going on, or previously, I understand, you occupied some judicial position in your county. The State had armed you with a part of its power, but so far from exercising your power and ability in the direction of peace, law, and order, you brought your influence—

S. G. BROWN, [interrupting.] Allow me to say, sir, I have not held the position of magistrate since, I think, '67 or '68. I have never been a trial justice.

Judge BOND. The condition of those who were the victims of this conspiracy was hopeless. A man who had been appointed to protect the innocent and the helpless was untrue to his trust in giving them no protection. You stated in your affidavit that on one occasion you prevented a raid on some one whom the Klan thought should be raided on. The court will give you the benefit of this one instance of a return to manhood; that human heart would indeed be hard which could hear of bloodshed and violence and take no part in the endeavor to suppress it.

The judgment of the court in your case is that you be fined \$1,000 and imprisoned for five years.

[Mr. Brown was about to make some further explanation, when Judge Bond said: You evidently don't propose to tell all you know, and I don't, therefore, propose to hear further.]

Judge BOND. It has come to the hearing of the court from several witnesses who have been summoned that parties residing in York County have made threats of punishing them when they return. It is our desire that the Government should use all its power, and the court will aid, if it should have to stay here all the winter, to find any of those in York County who have threatened these witnesses, and we would punish them as the law requires.

Mr. CORBIN. I have recently learned of those threats, and I will use all the power under my control to ascertain who they are, and to bring them before the court.

CASE OF EDWARD T. AVERY.

The case of Edward T. Avery, and others, was then called.

Mr. WILSON. We propose to sever.

Mr. CORBIN. We propose, then, to try them separately.

The following were then sworn in as jurors:

E. Johnson, (colored,) William Smith, (colored,) Gabriel Cooper, (colored,) William F. Dover, (colored,) Josiah Mannerling, (colored,) Peter B. Glass, (white,) W. H. Jackson, (white,) Philip H. Salters, (colored,) Andrew W. Curtis, (colored,) William Reed,

(white,) John W. Gordon, (colored,) Edward Reed, (colored.) Mr. Peter B Glass was appointed foreman of the jury.

The prisoner was then arraigned upon an indictment containing four counts, alleging interference with the right of voting of Samuel Sturges, and for threats to injure, oppress, and intimidate the said Sturges.

Mr. CORBIN said: We intend to prove in this case the charges alleged in the indictment. We shall first show that Dr. Avery, the defendant, was a member of the Ku-Klux order in 1868. We shall show you the nature and character of the Klan at that time; we shall then show you what the Klan has become since, and what it was last winter. We shall show you that Dr. Avery was seen on several occasions with the Klan when visiting colored people and whipping and outraging them in various ways.

This will be the scope of the testimony, and we shall further show you that this Klan not only whipped and outraged colored men, who were voters, in various ways, but that they went so far as to kill them. We shall show that in this case it was done.

TESTIMONY OF OSMOND GUNTHORPE,

Witness for the prosecution:

I reside in York County, and have lived there since 1868; I live on the Catawba River, near Dr. Avery's; I have known him since the latter part of 1867; I was initiated in the Ku-Klux Klan by Dr. Avery, and sworn in by him; I remember a portion of the oath I took; it was to oppose and reject the principles of the radical party; we were to protect widows and orphans and female friends, and the penalty for divulging any of the secrets of the order was death.

Mr. Corbin here read the oath from the constitution and by-laws of the organization.

Witness continued: As far as I recollect, that was the oath I took. The organization was represented to me to be for self-protection, but when I was in it I found it to be a political organization in the interest of the democratic party. I afterwards left it. I joined in August, and left it in November. I understood from McCathcart, a member of the organization, that their purpose was to control the election at Rock Hill. He said that the order had agreed to go there and crowd the boxes, and prevent as many radicals as possible from voting. Dr. Avery, I understood, was chief at that time. I got my dismissal from the Klan from Dr. Avery. I told him I was not satisfied with it. I was sworn into the Klan in the woods at night, and there were some fifteen men present. I was blindfolded and got upon my knees, and when the bandage was removed from my eyes there were a number of men pointing at me with their pistols.

The witness here described the signs, pass-words, and grip of the order, which have already been detailed by previous witnesses.

Each member of the order was required to have a pistol and a Ku-Klux gown. The object of the gown was to disguise the person. It covered the whole body down to the feet. They had a kind of cap for the head that hung down over the face, making a false-face. The night I was initiated some of them had their disguises on. Dr. Avery had his on.

Cross-examination:

I joined the order for self-protection. There were rumors in the county, and fears that the negroes would rise. I don't know anything about the negroes being armed. I heard there was a Union League at Rock Hill, and I heard that there were threats from the negroes, but I don't know anything positive. I cannot say that I was afraid, but I thought that as almost every other person was going into the Ku-Klux organization that it might be best for me to do so. After I left the Klan I went to live thirty-four or thirty-five miles away. I never heard anything about night-hawks in the organization, or about a monarch, or a turk, or a magi. There was a cyclops and a scribe in the Klan. Those were the only officers I knew of. I heard from Mr. Cathcart that their intention was to interfere at elections. I only returned to York County once, and that was in the Christmas of 1869, and I did not see any of the members of the Klan then. I don't know that the Klan conspired to injure anybody in 1868, nor do I know of their trying to intimidate voters of my own knowledge. I don't remember anything about radical rule being spoken of as one of the reasons for the organization of the Klan. Its purposes, as I understood it, was to oppose and reject the principles of the radical party. I don't know about the organization since I left it.

By Mr. CORBIN:

Mr. Cathcart told me that the Klan had had a meeting and had agreed to go to the polls to crowd off radical voters.

TESTIMONY OF LAWSON B. DAVIS,

Witness for the prosecution:

I reside in York County, and have lived there two years. I was initiated as a member of the Ku-Klux Klan. I took the oath at my own house. Three persons were

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initiated at the same time. I attended one meeting and heard the constitution and by-laws. That was in last January. The contents of the oath, as near as I can remember, were that female friends, widows, and orphans were to be objects of our protection, and that we were to support the Constitution as it was bequeathed to us by our forefathers; and there was to be opposition to the thirteenth, fourteenth, and fifteenth amendments. The fourteenth was particularly specified in the oath I took. The oath was repeated, and I repeated it after them. There was no written document present. The penalty for divulging its secrets was death.

The constitution and by-laws were here handed to the witness by Mr. Corbin.

The witness continued: That is the same oath that I took except the second section, which, as repeated to me, was "opposition to the thirteenth, fourteenth, and fifteenth amendments." The organization, when I joined it, was called the Invisible Empire of the South. After I joined I found it was the same as the Ku-Klux organization. When I found that I determined to leave them. The first meeting I attended there were eight or ten persons sworn in, and a proposition was brought forward to make a raid upon such and such persons. I inquired the reason, and they said they were prominently connected with the Union League. Their object was to threaten and intimidate people who held radical principles. Their object was to discountenance people from joining the League. I heard this from the members. They said that those who belonged to the League were to be visited and warned; that they must discontinue their connection with the League. If they did not, on the second visit they were to leave the country, and if they didn't leave they were to be whipped; and if after this they did not leave, they were to be killed. I know this was how the purposes of the order were to be carried out. I have known of instances of raiding for guns. They made one raid upon Jerry Adams; Charley Byers told me they had whipped him; he was to be chief of the Klan; he said they had scared the boy very badly—they had fired several guns at him, but didn't mean to hit him. The only charge I ever heard against Jerry Adams was that he was a radical. He was a republican and a colored man. Charley Good, who was whipped very badly by the Klan, came to my house two or three days afterwards. He was a blacksmith, and a very good workman—the best in that part. Charley Good was whipped so badly that he could not follow his trade for several days. Two or three weeks after that he was killed.

Wesley Smith, and William Smith, and William White were among those who killed Charley Good. Smith said he was a member of Smarr's Klan, and some members of that Klan assisted in putting Charley Good's body out of the way. The two Smiths, I know, were members of the Klan. Charley Good was killed because he was a republican. He told me, in the presence of some other persons, that he knew who had whipped him. I told him it would be better for him to keep that to himself. Wesley Smith gave, as the reason for killing him, that Charley Good knew some of the party who had whipped him. I was ordered to assist in disposing of the body of Charley Good. I did not, till then, know that he was missing. They came and summoned me and Mr. Howard to go and secrete the body, which was lying near to where he was murdered.

Wesley Smith said that all who were members of the organization were required to assist, so that they might be connected with it, and that the matter might not get out. I told him that I did not want to go, but he said that all the members had to go. We were ordered to meet at the gate about a quarter of a mile from his house. I left about 9 o'clock and went up to Mr. Howard's, and Wesley Smith had given him the same instructions. He did not feel willing to go, and I said those were my feelings exactly. We waited until the hour had passed, and then when we left we met some ten or fifteen of the party. It was a dark night, and I only recognized Thomas L. Berry, Pinckney Caldwell, Wesley Smith, and Madison Smarr. He is said to be the chief of the Klan. Madison Smarr said I had escaped a scouring. He said the body was very heavy to carry. And Pinckney Caldwell told me that "Charley Good is now at the bottom of the river. The body would not sink, and I jumped in upon him," he said, "and fastened him there, as well as I could, with a stake."

Charley Good was at one time a member of a militia company, and, being told it was not to his interest, he left it and returned his gun. He was regarded as a man of republican principles, and was considered a person of some influence in that neighborhood. I never heard him charged with being a member of the Union League.

At the close of Lawson B. Davis's examination Mr. Wilson said:

As Dr. Avery utterly disclaims and denies any connection with any of these Ku-Klux Klans, by whatever name known, in 1870 and 1871, we deem it wholly unnecessary to cross-examine the witness.

TESTIMONY OF KIRKLAND L. GUNN,

Witness for the prosecution:

I reside in York County, and have been a member of the Ku-Klux Klan. I joined it in January, 1871. It was John Mitchell's Klan. Wesley Smith swore me in. The oath

that was administered to me bound us to oppose and reject the principles of the radical party, and the penalty for disclosing its secrets was death.

(The oath of the Ku-Klux constitution was then read by Mr. Corbin.)

That was the same oath that I took, and it was proposed to be carried out by whipping and killing the members of the radical party. Opposition to the radical party was, as I understood, the chief purpose of the organization. I was present at two meetings, but never went on a raid. The first was a meeting of John Mitchell's Klan to make a raid upon Bill Kell, because he was president of the Union League. They were going to kill him, but a brother of his, Hugh Kell, came into the crowd, and because he was there they thought he was sent as a detective, and they stopped the raid because of his being there. There was a considerable crowd. About thirty-five people were there. They were armed with guns, and had long gowns on that came nearly to their feet. I could not tell what color they were, for it was dark. They also had false-faces, with places for their eyes, nose, and mouth. All the members of the organization had to be armed. Some had pistols, some had shot-guns, and some muskets. They also had a covering for their horses. That was white. The members also had a whistle which made a shrill, gurgling noise. They also had passwords, signs, and grips.

The witness here described them, as on a former occasion. They also had a method of hailing any one who came to their meetings; the party was challenged by saying, "Who goes there?" The reply was, "A friend." "Friend of whom?" was demanded. "Friend of my country," was the reply. Then they had a word of recognition when a member was in distress and others might be present; the word was "Avalanche." I only started on one raid, known as the Jennie Good raid, but as I had no saddle I did not go; in the vicinity where I lived I only knew of three persons who did not belong to the Ku-Klux organization; those were my two brothers and a man named Hugh Burrs.

No cross-examination.

TESTIMONY OF THOMAS L. BERRY.

THOMAS L. BERRY was the next witness called by the prosecution. Being duly sworn, he said:

Direct examination by Mr. CORBIN:

Question. Whether you were a member of the Ku-Klux organization?

Answer. I was, sir; I joined in January last.

Question. What did you find to be the purpose of the organization after you got in?

Answer. The purpose of the organization was to break down the radical party by whipping and killing.

Question. Whether you knew this purpose to be carried out in that way in any instance?

Answer. I did, sir. Wesley Smith told me that he and William White, William Smith, and Mr. Spencer killed Charley Good because he belonged to the radical party—at least I don't know any other reason; White told me that they hailed Charley on his way home, and asked whether he would rather be killed or take a hundred lashes; he said they got one of his straps and tied him to a pine sapling, and Mr. White done shot him.

Question. Did you know Charley Good well?

Answer. I do, sir; I have a right to know him.

Question. What sort of a man was he?

Answer. A very good man; I didn't know anything to the contrary.

Question. What did White say about the mode of killing him?

Answer. He said he shot him, and then turned the butt of his gun and sunk the cock in his head.

Question. What was done with the body?

Answer. It was thrown in the river.

Question. Were you there.

Answer. Yes, sir.

Question. Describe the funeral.

Answer. We picked him up and laid him in a piece of bagging; there was three holes cut in each side of the bagging, so a man could put his hand there and hold; we went on in that way and carried him to the river; he was sunk by putting a couple of plough-shares to him.

Question. Do you know of any other deeds of that kind committed by the Klan?

Answer. Yes, sir; about the same time down in Chester district, there was two negroes killed—Sam Skafe and Eli McCollum. Pinckney Caldwell and Joe Smith, members of the Klan, told me they had done it. The men was taken prisoners, and down at Turkey Creek bridge they put them on the banisters and shot them. One fell back on the bridge and the other fell over in the water; when he struck water he swam to

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a little pile of trash below and caught there, and they shot him dead with an Enfield rifle.

Question. When did you make up your mind to quit the organization ?

Answer. After Charley Good was killed ; I then determined, whenever I got a chance, I would tell all I knew about it.

Cross-examination by Mr. WILSON :

Question. You live near Broad River ?

Answer. Yes, sir.

Question. How far from Rock Hill ?

Answer. It is about thirty miles, I think.

TESTIMONY OF JOHN CALDWELL.

JOHN CALDWELL, a witness for the prosecution, being duly sworn, said :

Direct examination by Mr. CORBIN :

Question. How far from Rock Hill do you live ?

Answer. About twenty miles, I reckon.

Question. When did you join the Ku-Klux Klan ?

Answer. Eighteen hundred and seventy-one, at Yorkville ; Albertus Hope swore me in.

Question. Have you ever been on raids of the Klan ?

Answer. Yes, sir.

Question. Describe them.

Answer. I was on a raid in January or February ; there was Harvey Jennings, Will Johnson, Marion Macofee, John Garner, Levi Garner ; we put on disguises and had pistols ; we were mounted, and went up to John S. Ferris.

Question. What did you do there ?

Answer. They didn't do anything but shoot.

Question. What did you shoot at ?

Answer. We shot at Mr. Ferris's, I suppose ; but they shot the house ; we didn't do anything there. The next raid I was on was at Mr. Barret's, and talked to him a little while and then came home. The next was on Mr. John Harkness ; we took him out and talked to him a little about his politics ; he was supposed to be a radical, and they wanted to get him to change his notion.

Question. Did he promise to do it ?

Answer. Yes, sir ; they ordered him to put a card in the paper, and I think he did it.

Question. What was the object of that card ?

Answer. That he would quit the radical party.

Question. Was Mr. Harkness a white man or a colored man ?

Answer. He was a white man ; then they came back to Harvey Smith's, and they had some talk with him, and he promised to change his politics and put a card in the paper. The next raid I met at Kulp's Mill, with A. Quinn, and went to Quinn's school-house and met Robby Caldwell, John Garner, Levi Garner, and Mart Hall, and put on disguises and went down to a nigger named Prince McCautz, and whipped him, and then they went to Murphy's down to York, and then they went on to Anderson Brown's.

Question. Who is Anderson Brown ?

Answer. A nigger ; that is about all I can tell you.

Question. What did they do with him ?

Answer. Well, they killed him.

Question. What did they do with the body ?

Answer. Left it lying there ; when we got out into the road, we all took an oath not to divulge.

Question. Who administered the oath ?

Answer. Robby Caldwell.

Question. Now tell us about the next raid you went on.

Answer. That was at Abner Hambright's ; they went there and whipped him.

Question. He was known to be a radical ?

Answer. Yes, sir.

Question. Whip him pretty badly ?

Answer. Yes, sir.

By the COURT. How did they get him out of the house ?

Answer. Knocked the door open and went in and brought him out ; then they went to Harry Neely, a colored fellow, and whipped him.

Question. What did you whip him with ?

Answer. Whipped him with hickories tolerably bad.

Question. What did you whip him for ?

Answer. Because he was a radical, I suppose.

Cross-examination waived.

TESTIMONY OF JOHN THOMASSON.

JOHN THOMMASON, (colored,) a witness for the prosecution, being duly sworn, said :

Direct examination by Mr. CORBIN :

Question. Tell what the Ku-Klux did for you ?

Answer. The first time there was six came, and they didn't abuse me ; they were all disguised ; the next time they didn't disturb me much ; they cussed me and knocked me about a little ; they asked me did I belong to the Union party ; I told them I did ; they told me God damn me, if I voted that way again they would put me where I never would see this world again ; the third raid they came on me they told me to make up a light, and while I was making up a light one was kicking me behind all the time ; one raised up to my clock and put two Minie balls through it, and took the gun and busted the glass part in the clock all to pieces ; I had a little glass and a large glass, and they broke them all to pieces, and my house had three glass windows, and they knocked out every pane but one ; they put all of the clothes out of the chest and threwed them over the floor, and made me put on another pair of pantaloons, and they took my pocket-book that had seven dollars in it, and took the money out and throwed the pocket-book in the corner ; about this time there was a bottle of ink setting on the shelf, and they told me to drink it ; I took some in my mouth, and didn't intend swallowing ; says he, " Swallow it down, God damn you, swallow it down ; " I swallowed it ; so then he asked me if I was going to leave this country ; I told him I didn't know as I was ; says he, " We'll give you from now until Saturday night, and if you ain't gone we'll know what to do with you. " [The testimony at this point was too indecent for publication.] They caught me, and knocked me down, and I fell on my elbow and wrenched my shoulder. They left me then.

Question. You then left the country ?

Answer. Yes, sir. They came to my house while I was away again and shot through the house, which I know their intention was to kill whoever was lying in the trundle-bed. And then they went around and shot close to the window, and missed my wife's head about that far [indicating about three inches.] They scared her so she died in July.

Question. Do you think that they hastened her death ?

Answer. I do, sir, positive.

Cross-examination waived.

TESTIMONY OF ABRAHAM BRUMFIELD.

ABRAHAM BRUMFIELD, (colored,) a witness for the prosecution, being duly sworn, said :

Direct examination by Mr. CORBIN :

Question. How old are you ?

Answer. Sixty-four in May.

Question. Voter in York County ?

Answer. Yes, sir ; voted there at the last election.

Question. What ticket ?

Answer. Radical.

Question. Whom did you vote for for member of Congress ?

Answer. Mr. Wallace.

Question. Now, tell us whether the Ku-Klux raided on you.

Answer. Well, they came to my house about midnight—some time in March. I had laid out about four weeks, until I had taken a pain in my shoulder.

Question. Laid out for what ?

Answer. To keep out of the way of the Ku-Klux—every night raiding and shooting dogs, and nobody else couldn't rest hardly ; I got so bad in the shoulder I thought I had as well die in the house as out of doors, but when I saw death coming I got out ; I saw them coming with guns in their hands and disguised, and just throwed the house 'twixt me and them, and laid right down agin a fence about twenty yards from the door, and agin I could get my eye to the crack of the fence, the door was surrounded ; when they all got in the house I went off about forty yards from the house to a pine-bush, and there I laid ; after they had caroused around, they came within ten steps of me and stopped to conclude what way to go back to Ebenezer.

Question. You heard the conversation ?

Answer. Every word.

Question. Did you know any of them ?

Answer. I never knowed but one man by his voice.

Question. Who was that ?

Answer. Dr. Avery.

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- Question.* This man ? [pointing to the prisoner.]
Answer. Yes, sir.
Question. How long have you known him ?
Answer. From a little bit of a boy—raised within a mile of him.
Question. You recognized his voice ?
Answer. I did, immediately ; you see, when they got down there they didn't change any voice ; when they was at the house they talked altogether another way.
Question. You feel absolutely certain that that was Dr. Avery's voice ?
Answer. Yes, sir, I am.
Question. Did they whip anybody else that night ?
Answer. I don't know ; but I met Mr. Postle at Rock Hill next Monday, and told him I was whipped Friday night, and he said he was, too.

Cross-examination by Mr. WILSON :

- Question.* Did you never hear two men talk whose voices were alike ?
Answer. To be certain, I have.
Question. Your only reason for saying it was Dr. Avery is, that you think you knew his voice ?
Answer. I don't think.
Question. You are certain you knew his voice ?
Answer. Yes, sir.
Question. You are willing to swear that he was there just because you knew his voice ?
Answer. Yes, sir ; I am willing to swear any time that it was Dr. Avery's voice.
Question. How can you say but what some man with a voice like his was there ?
Answer. I have never heard any one talk like him but his father.
Question. How many men do you think were there ?
Answer. I was so badly scared, I can't tell.
Question. You were pretty badly scared ?
Answer. I was, of course ; I think there was some nine or ten.
Question. Do you like Dr. Avery ?
Answer. He has been a good man to me, and I have been good to him, and his father, ditto ; he treated me like a gentleman, and I did the same to him ; but it was these radical parties, that's what is the matter.
Question. Was there a man by the name of Sam Sturges living in your house ?
Answer. No, sir ; he was laying there that night, but he didn't stay there regularly.
Question. Where does he live ?
Answer. At Miss Rhody Jones's.
Question. Where is Rhody Jones's ?
Answer. Not far from Rock Hill.
Question. This side of Rock Hill or the other side ?
Answer. No ; it is on there, across—you know all that country ; it is not far from John Campbell's, going sort of towards your house.
Question. I don't live there.
Answer. I know ; but where your stationary home was before you went to York.
Question. Did the party go towards Postle's when they left your house ?
Answer. They went across from Major Berry's, on the big road, leading up where John Biggers lives, towards Mr. Fewell's ; I don't know which way they went after that.
Question. Can you go to Postle's house that course ?
Answer. They could by taking the left, of course ; you know that road as well as I do.
Question. Wasn't that the plainest road to go towards Postle's house ?
Answer. I don't know ; but it would be just as nigh ; you know every piece of that road as well as I do.
Mr. Wilson desired that the Government witnesses should leave the room, and at his request, Mr. Corbin sent out those who had not testified.

TESTIMONY OF EMELINE BRUMFIELD.

EMELINE BRUMFIELD, (colored,) a witness for the prosecution, was duly sworn, and testified as follows :

Direct examination by Mr. CORBIN :

- Question.* Whose wife are you ?
Answer. Abram Brumfield.
Question. The man who was just on the stand ?
Answer. Yes, sir.
Question. Now, tell the court and jury about the Ku-Klux visiting you last winter or spring.
Answer. They came to my house some time in March ; I don't know what day of the

month, but it was on Friday night, and Mr. Brumfield had been lying out for four weeks; he came in all swelled up, and told me to make poultices and poultice his arms and shoulders, and I did, and he laid down, and I laid on two chairs before the fire until midnight, and then his poultice got cold, and he told me to warm it, and when I did, he says, "Now, you go and lay down." I went to bed, and after so long, I dropped off to sleep, and I was woke up by the alarm of the dog; I knew when that dog barked there was some person in the house; I sprung out of bed, and when I got to the door, Brumfield says, "There is somebody out here," and he went out to the lower end of the house, and I went to the chimney; I seed persons coming up through the woods, running, and we went back, and I says, "Ku-Klux! Ku-Klux!!" and he just throwed the house 'twixt him and them, and run back for the fence, and they just came in and had a black man by the name of Hampton Avery; he called three times for Brumfield, and I says, "Brumfield ain't here," and a man that had come up says, "You're a God-damned liar, he is here." I throwed open the door, and says, "If I am a God-damned liar, you may come in and get him." He said, "Now, you have got to tell me where he is; if you don't, I will blow your God-damned brains out." I says, "Then you will have me to shoot to-night." They says, "Well, I am damned sorry he ain't here." I made answer, and said, "I am very glad." "For we are men from North Carolina, and have been riding ever since yesterday, dinner-time; we heard this old man talked, and I came here to put him where he couldn't talk no more in this life." They says, "Let's go up in the loft." I says, "There is nobody there but Sam Sturges." "Come down out of that; don't wait to put your breeches on; come down! come down!" He come down, and just as he come on the second step they throwed him down; then they asked the old man was he ever hung; told him, "No, sir;" if he was ever half hung; "No, sir." "Well, don't you want to feel how half-hanging feels?" He says, "No, sir." "Well, you have got to feel it;" and they put a line over his neck and held the ends of it up; and then he came to speak to me, and says, "You tell that old man, Brumfield, that I came here to-night to send him to hell, for I am just from hell myself, and I came to send him there;" and the answer I made was, "When a soul dies and goes to hell it can never come back here again."

Question. Did you recognize anybody?

Answer. The captain.

Question. Who was he?

Answer. There he sits, before me, [pointing to the prisoner.]

Question. This man, Dr. Avery?

Answer. That is the man.

Question. How did you know him?

Answer. His disguise didn't cover his moustache, and I noticed he didn't use his left hand; and when he beat my head against the bed-post, and when he had the rope around old man Sturges's neck, I seed his lame hand; I noticed that very particularly.

Question. How long have you known the doctor?

Answer. Ever since he was a little boy.

Cross-examination by Mr. WILSON:

Question. How much of his face was covered?

Answer. All but his moustache here, [pointing to the chin.]

Question. Do you call that his moustache?

Answer. Well, whatever you call it.

Question. You mean the beard that comes from the chin?

Answer. That is what I mean.

Question. Did you know his voice?

Answer. I don't go by his voice much; I had other instruments to go by.

Question. Is there not a man in that neighborhood by the name of Froney Fewel, that he has got a lame hand?

Answer. I knew nothing about him; I know there is no person in that neighborhood that has got a lame hand like Dr. Avery; I seed his moustache, and I seed his hand, and I knew it was the height of Dr. Avery.

Question. You didn't see his face?

Answer. No, sir; I didn't see his face.

Question. What sort of a night was it?

Answer. The moon was shining, and it wasn't right clear nor right cloudy.

Question. Was there a light in the house?

Answer. A very large light.

Mr. CORBIN. If the court please, I would like the prisoner to stand up and see whether he has a lame hand or not.

Mr. WILSON. Stand up, doctor.

The COURT. He is not bound to stand up.

The prisoner arose.

The WITNESS. That is the hand I seen.

TESTIMONY OF SAM STURGES.

SAM STURGES, (colored,) a witness for the prosecution, was duly sworn, and said:

Direct examination by Mr. CORBIN:

Question. Tell whether you were at Abram Brumfield's house last spring, some time when the Ku-Klux came there; if so, what happened?

Answer. Yes, sir; I was there. They roused me up out of bed. I was up in the loft. They told me to come down. When I got on the step next the bottom, they fastened me by the ears, and bully-ragged me over the house, and jerked me down on my knees, and kicked me, and put a pistol to my head.

Question. Did you recognize anybody?

Answer. Yes, sir.

Question. Whom did you know?

Answer. There is the man sitting over there.

Question. How did you know him?

Answer. I knew him by his voice, and I caught his face. He came up and asked me if I knowed him, and his false-face was off at one side, and I noticed all his whiskers then.

Question. How much of his face did you see?

Answer. Just along about this portion of his face, [indicating the back part of the right side.]

Question. How long have you known him?

Answer. Near about twenty-two years.

Question. Live near him?

Answer. Yes, sir.

Question. See him often?

Answer. Yes, sir.

Question. Talk with him?

Answer. No, sir, not much; but I have heard him talk frequently, down in Rock Hill.

Question. What did they jerk you up for?

Answer. Because I was a radical and belonged to the League.

Question. What did they say about it?

Answer. They made me swear against it. They said their business was to break down these damned Union Leagues, and these radical parties. They made me swear that I never would vote the radical ticket any more.

Question. When did you see Avery's lame hand first?

Answer. Directly after he got shot.

Question. When did you first see it that night?

Answer. Before I came down stairs, right through a crack.

Question. Was there a bright light in the room?

Answer. Yes, sir; they had a light roused up.

Question. Did you recognize that hand as soon as you saw it?

Answer. Yes, sir.

Cross-examination by Mr. McMASTER:

Question. Was Major Merrill the first man you gave information to that Dr. Avery was in this crowd?

Answer. Yes, sir; he was.

Question. Was that after martial law was declared in York County?

Answer. Yes, sir.

Mr. CORBIN. Martial law hasn't been declared there.

Mr. McMASTER. O, that is a play upon words.

Question. Who put the rope around your neck—was it Dr. Avery?

Answer. No, sir; that ain't the man. The man that put the rope around my neck was a black man.

Question. Anybody else take hold of the rope?

Answer. No, sir.

Question. What spite had these devils against you?

Answer. I don't know. I didn't give any person any occasion, more than I was a radical.

Mr. McMASTER. Well, that is a very great misfortune, but it pays, sometimes.

At 4 o'clock the court adjourned until 11 a. m. Saturday.

TWENTY-FOURTH DAY'S PROCEEDINGS.

DECEMBER 30.

The court met pursuant to adjournment, Hon. H. L. Boud, presiding; G. S. Bryan, associate judge.

TESTIMONY OF HARRIET POSTLE.

Examination by Mr. CORBIN :

I live in the eastern part of York County, about four miles from Rock Hill, on Mr. James Smith's plantation; I am about thirty years old; my husband is a preacher; I have a family of six children; the oldest is about fourteen; the Ku-Klux visited me last spring; it was some time in March; I was asleep when they came; they made a great noise and waked me up, and called out for Postle; my husband heard them and jumped up, and I thought he was putting on his clothes, but when I got up I found he was gone; they kept on hallooing for Postle and knocking at the door; I was trying to get on my clothes, but I was so frightened I did not get on my clothes at all; it looked like they were going to knock the door down; then the rest of them began to come into the house, and my oldest child got out and ran under the bed; one of them saw him and said, "There he is; I see him;" and with that three of them pointed their pistols under the bed; I then cried out, "It is my child;" they told him to come out; when my child came out from under the bed, one of them said, "Put it on his neck;" and the child commenced hallooing and crying, and I begged them not to hurt my child; the man did not hurt it, but one of them ran the child back against the wall, and ground a piece of skin off as big as my hand; I then took a chair and sat it back upon a loose plank, and sat down upon it; one of the men stepped up; seeing the plank loose, he just jerked the chair and threw me over, while my babe was in my arms, and I fell with my babe to the floor, when one of them clapped his foot upon the child, and another had his foot on me; I begged him, for the Lord's sake, to save my child; I went and picked up my babe, and when I opened the door and looked I saw they had formed a line; they asked me if Postle was there; I said no; they told me to make up a light, but I was so frightened I could not do it well, and I asked my child to make it up for me; then they asked me where my husband was; I told them he was gone; they said, "He is here somewhere;" I told them he was gone for some meal; they said he was there somewhere, and they called me a damned liar; one of them said: "He is under the house;" then one of them comes to me and says: "I am going to have the truth to-night; you are a damned, lying bitch, and you are telling a lie;" and he had a line, and commenced putting it over my neck; said he: "You are telling a lie; I know it; he is here;" I told them again he was gone; when he had the rope round my head he said, "I want you to tell where your husband is;" and, said he, "The truth I've got to have;" I commenced hallooing, and says he: "We are men of peace, but you are telling me a damned lie, and you are not to tell me any lies to-night;" and the one who had his foot on my body mashed me badly, but not so badly as he might have done, for I was seven or eight months gone in travail; then I got outside of the house and sat down, with my back against the house, and I called the little ones to me, for they were all dreadfully frightened; they said my husband was there, and they would shoot into every crack; and they did shoot all over the place, and there are bullet-holes there and bullet-marks on the hearth yet; at this time there were some in the house and some outside, and says they to me: "We're going to have the truth out of you, you damned, lying bitch; he is somewhere about here;" said I: "He is gone;" with that he clapped his hands on my neck, and with one hand put the line over my neck; and he says again: "We're going to have the truth out of you, you damned bitch;" and with that he beat my head against the side of the house till I had no sense hardly left; but I still had hold of my babe.

Mr. CORBIN :

Question. Did you recognize anybody?

Answer. Yes, sir; I did; I recognized the first man that came into the house; it was Dr. Avery, [pointing to the accused.] I recognized him by his performance, and when he was entangling the line round my neck; as I lifted my hand to keep the rope off my neck, I caught his lame hand; it was his left hand that I caught, his crippled hand; I felt it in my hand, and I said to myself right then, "I know you;" and I knew Joe Castle and James Matthews—the old man's son; I didn't know any one else; I suppose there was about a dozen altogether there; Dr. Avery had on a red gown with a blue face, with red about his mouth, and he had two horns on his cap about a foot long; the line that he tried to put over my neck was a buggy-line, not quite so wide as three fingers, but wider than two; they said to me that they rode thirty-eight miles that night to see old Abe Broomfield and preacher Postle; they said that they had heard that preacher Postle had been preaching up fire and corruption; they afterward found my husband under the house, but I had gone to the big house with my

children to take them out of the cold, and I did not see them pull him out from the house.

Cross-examination by Mr. McMASTER :

Mr. Smith's plantation is about two miles from Ebenezer ; I don't know how far it is to Abram Broomfield's house ; I never was there ; I do not live far from Dr. Avery ; I see him frequently, sometimes every day ; Dr. Avery was always kind to my husband as far as I knew ; there were no cross feelings between them that I knew ; I don't know that he ever talked or advised with my husband about his preaching ; the raid was made on us on Tuesday night ; it was a bright, moonlight night ; Dr. Avery was the first man that came into my house ; I don't think I knew him until the fire was made up ; he did not put the rope round my neck till there was a light ; he had a pistol in his hand when he came in, but he did not have anything in his hand when he put the rope over my neck ; I don't know that he made a loop, or noose, before he put the line over my neck, but I know when I raised my hand I caught his left hand in mine. It's true I was very much frightened, but I know that the man that first came into the house was the one that put the line over my neck ; when they put the line over my child's neck they asked him where his father was ; the child did not know, and began to cry. I don't know who it was that lifted the plank up and tilted me over with my babe ; I was sitting on the chair on the plank, with my babe in my arms, when they tilted me up ; the man who put his foot on my babe was Dr. Avery, [pointing ;] I can't be sure whether he put the line over my neck before or after I was tilted up, but it was after the light was made ; my child was scared well nigh to death, and now when the dog barks it looks like it would go into fits ; I begged him to take his foot off my child, and I grabbed him by the boot, and then he took his foot off when I asked him ; Dr. Avery, I know, has a little family of his own—of little children, but I am certain he put his foot on my child that night ; some of the Ku-Klux had false-faces on, and some had old rags tied over their faces, and some had white faces ; the only three I knew were Dr. Avery, Mr. Castle, and Mr. Matthews ; I don't know what has become of Mr. Castle ; I believe he has gone away ; the first white person I told about this was Mr. Corbin ; I told my husband about it, but he is the only one besides I told particularly ; Dr. Avery has talked to me some about it ; one day Mr. Cooper came to see my husband ; Mrs. Avery wanted him to come up to her to see her, but my husband was away ; she wanted my husband to withdraw the charge, or something like that.

TESTIMONY OF ISAAC A. POSTLE, ALIAS ISAAC, THE APOSTLE.

Examined by Mr. Corbin :

I live in York County, near Rock Hill, about four miles from Mr. James Smith's place ; I have been a preacher for about five years ; I have lived in York County ever since the days of emancipation ; the Ku-Klux came to my house last spring ; it was on Friday night, and I judge it was between three and four o'clock ; they came and called for Postle to come out ; thinking I might be killed, and being quick to wake, I jumped up, and my judgment was to get out of the way, and there being a loose plank in the house, I got under the floor ; my wife she put the plank back, and after she had gathered the baby off the bed she just went and opened the door ; all this time they were knocking and calling out to open the door ; when they got in they began with her, to find out where I was ; some said, "He is under the house," and my wife told them he had gone away ; that I had gone up the river for some meal ; they cursed her and told her it was a d—d lie ; some of them made for the loose plank, and cried out : "Here's where he went ;" they turned up the plank and looked and commenced beating and knocking about ; I heard my wife screaming and hallooing, and after they had got through with her and knocking her over, and putting the rope around her neck, they called for a light, and they got two or three pine torches ; some of them went on one side of the house with their torches, and the others stood on the other side, and I could see them looking round and under the house ; then one of them, that I took to be the captain, saw me and pointed his pistol at me, and said : "Come out ; if you don't I'll kill you ;" then I came out as far as the top of the floor, when he grasped me by the hair, and one of the men struck me with something like a club ; it was a thing that tapers off at one end, and people call it a slug-shot ; the man who had hold of me asked if I knew him ; I said, "No, sir ;" but he still had my hair ; he then put a line round my neck and gathered it up in his hand and took me out of the house ; they took me about two hundred and fifty yards till we struck the woods ; then the crowd got round me and questioned me, and asked me if I hadn't been preaching up burning and corruption, and telling the people to set fire to the gin-houses and barns ; said I, "No, sir ; I never did ;" said I, "I have never preached nothing but peace and harmony," and they repeated their questions over and over again ; said I : "We have had no disturbances in this part of the country ; no burnings nor anything like that in this part of the country ;" said they : "Do you know who set any of these barns on fire ?" Said I : "I do not ; I have been traveling up

and down the river, preaching in my circuit, and don't know anything about it;" then they called me a d—d liar, and said I could tell them if I liked; then they began to question me about guns, and I told them that I knew nothing about them; then they said, "Jerk him with the line," and they made one of them go up a tree, and, said they, "We will have the truth directly;" I thought then they were going to hang me; the one that went up, he drew me up till I had to stand on tip-toe; only my toes touched the ground, so that I was choked and could not tell them anything; then they slackened the line a bit and put all these questions to me over again; said I: "I know nothing about any of these burnings or disturbances;" then the captain told each of the men to hit me two licks apiece, and they stepped up and he handed them something like a halter, an inch and a half wide, and with that they gave me two licks apiece as hard as they could; my flesh was cut so much that it bled, for I had nothing on but my shirt and my slippers; then the man that had been up in the tree came down and took the strap, and he hit me his two licks; the captain then took the line and loosed it off my neck, and questioned me something about my children, and said: "Didn't you say that you would raise your children as good and as nice as anybody's children?" said I: "No, sir; I cannot raise my children so well, because I am not able;" with that he took the line off my neck, and, said he, "If there is any more burning of gin-houses in the country, we intend to kill ten niggers for every one burned, and you'll be the first one;" he said it just so; then they asked me about my politics, and if I did not belong to the League society, and wasn't I for Grant; and I says, "No, sir;" and I told them I was sick at the election time and couldn't vote, and at another time I was away preaching; then they asked me again if I did not preach corruption and burning, and I told them I didn't; I preached only peace and harmony, and I didn't advise or instruct anything, that was wrong; I said that ever so many times, but it didn't seem to have any impression.

Question. Did you recognize any of the party?

Answer. Up to the time they took the rope off my neck I didn't recognize any one, for up to that time it wasn't my expectation that they would let me off; but when they took the rope off my neck it kindled hope in my mind; and the man they called captain talked with me, and said that they were men of peace, of justice, and of right; and then it was that I believed that Mr. Avery was one of the men; I had no knowledge of any man up to that time, because from the time they took me from the house they kept jerking at the rope that was round my neck, and when they took the rope off I gathered some hope; and then I judged that Mr. Avery was the man, and that Howard White was another, and James Matthews another.

The witness had told his story up to this point with a good deal of repetition. He was here interrupted by Mr. Wilson, who said that the witness ought to be instructed to state the facts upon which he based his assertions.

Judge BRYAN. The witness must be allowed to state his testimony in his own way.

The witness continued: These men I have spoken of I believe were in the party; Howard White is a colored man and, I believe, a democrat; he has left our part of the country, and I don't know where he is now; I didn't recognize anybody else in the crowd; the men appeared to be dressed in different colors; when I was under the house I looked at the captain, and his dress appeared to be blue and yellow; he had horns on his head over a foot long, and something over his face that appeared to be of different colors; I didn't hardly know what it looked like, but I believe it was blue and yellow; he had a long gown that came pretty much down toward his feet; some of them had on dresses, as I saw while I was under the house, that appeared to be short dresses like half-grown girls wear, and seemed to come down to their knees; some of them had old handkerchiefs over their faces, with holes in them for their eyes; I think there were about twelve in the company, but I did not count them.

Question. Had you been preaching corruption and burning in the country?

Answer. I had not, sir; I can state what I preached.

Judge BOND. We don't want that; we don't want to hear a sermon.

A voice (*sotto voce*) at the counsel's table. It might do the court good.

I had some conversation with Abram Brumfield about his being visited by the Klu Klux. I went to Rock Hill on the Sunday morning after the Friday on which I had been whipped, and saw Abram Brumfield who told me how they visited him, and he was thinking how he could make his escape; but there was a company of Yankees there at the time, and we supposed they were come to protect us. I and Mr. Brumfield talked it over, and I told him that I had heard them say they had come thirty-eight miles that night for old Abe Brumfield and Postle; I was under the house when I heard that.

Cross-examination by Mr. WILSON:

I am acquainted with Nancy Dunlap, but I do not know that I mentioned to her about my having been whipped; and I don't remember talking with her at Ebenezer, in the presence of other people, about it. When I said I knew it was Dr. Avery from the "commonness" of his talk, I meant that I was commonly with him and knew his lan-

guage very well, because I passed and repassed him so often, and I naturally believed he was the man. I did not make a statement afterward that Dr. Avery was not the man. [A paper was here handed the witness.]

Mr. WILSON. Did you sign that paper?

Answer. Yes, sir.

Question. And made that affidavit?

Answer. That is my signing.

Question. Before what magistrate did you make that affidavit?

Answer. Mr. Crook, I believe it was.

Question. Was the Rev. Mr. Cooper present?

Answer. He was.

Question. Who drew the paper?

Answer. Mr. Cooper.

The affidavit was here read as follows:

"Personally appeared before me R. C. Cook, trial justice in and for the county aforesaid, Isaac A. Postle, *alias* Preacher Postle, who, being duly sworn, deposes and sayeth that the following charges against Dr. Avery, on the night in March, 1871, to oppress, threaten, injure, and intimidate the said Isaac Postle, the preacher, are, according to the evidence now appearing, incorrect and false.

"Signed,

A. POSTLE."

Question. You made affidavit, then, that the charges against Dr. Avery were false?

Answer. No, sir; Mr. Cooper put in that about my being satisfied; it was false and incorrect.

Question. Was not this read over to you before you signed it?

Answer. Yes, sir; Mr. Crook read it to me in Mr. Cooper's presence.

Question. Was any one else present?

Answer. I don't know that there was any one else present, but several persons were passing and repassing.

Question. Did you not express the belief that the charge against Dr. Avery was untrue?

Answer. If you want that matter explained I can tell you all about it.

Question. Well, tell all about it.

Answer. After the charges against Dr. Avery were, I suppose, published in the papers, one night—Wednesday—my wife told me after I had come home from an appointment that Mr. Cooper had been to our house and wanted to see me very much; he wanted to see me as much in my behalf as it was in his own; he told my wife he wanted to see me very much; the next morning, which was Thursday, I crossed the country and met with a man that Mr. Avery used to own, returning from Ebenezer; Mr. Brumfield was with me when he met us; he told us that Mr. Avery was put in prison for whipping Postle and Sam Sturges; and said he, "Mr. Cooper tells me that they asked about you and wanted to see you." I told him I would be certain to see him, and he said I must be sure to come on to Mr. Cooper's house. Going home I passed by Elias Masse's house, and calling there he told me that Mr. Cooper had been there that night, and had left word that if he saw me to be sure to tell me to come up to see him; I first went home to see my wife, but she was out at a neighbor's; I went there to see her, and while I was there Mr. Cooper came there, and we had some talk; says he, "Postle, I want to see you as a friend;" and says I, "A friend is hard to find; I have been living in trouble and alarm all the year;" says he, "I want to talk with you about a matter that is in your behalf as well as in mine;" says he, "Charges are coming out against Mr. Avery, and he is put in prison for whipping Postle and Sturges." Mr. Cooper said, "From that we believe that you have put him in prison;" said I, "I have not put him in prison;" "Well," said he, "here are the charges anyhow;" then said he, "If we can show you sufficient lawful evidence will you withdraw the charges?" I told him—Mr. Cooper—I did not believe he could do it with lawful evidence. "Well," said he, "if we can, will you do it?" Says I, "I don't believe you can;" said he, "It is not your will or desire to punish a man that is innocent?" Says I, "It is not the mind of any Christian man, much less a preacher, to punish a man if he is innocent." Then he wanted to know if Dr. Avery had ever threatened me or intimidated me at any time; "No," said I, "as for passing and repassing, he has never interfered with me." He urged upon me to give him some satisfaction, and wanted me to go that evening and see Mrs. Avery; "No," said I, "I have been travelling and am tired;" but he urged it upon me very much, and though I did not want to go, at last I consented. "She is in trouble," said he; and I said, "I did not put Mr. Avery in prison, and I cannot take him out." "Never mind," says he, "you just come and see her; he won't be in prison always," says he; and then I began to think when they got out it might be that they would oppress, or arrest, or whip and disturb us, as they had done; Mr. Cooper would not leave me until I promised to go and see Mrs. Avery the next morning. My wife tried to persuade me not to go, but I saw Mr. Cooper riding up the road, and I told him I could not do Mrs. Avery any good, and I said to him, "I don't know Mrs. Avery, and I learn that she is a high-spirited woman, and if I talk to her she may

get mad, and I don't know what will come of it;" said he, "You must go." We went up, and she invited us in, and we sat by the fire, and she said to me, "Has Mr. Avery ever threatened you, or hindered you, or forbidden you from bearing arms, or anything of that kind?" "No," said I, "he has never interfered with me in that way." She then told me that Dr. Avery had been put in prison for whipping Postle and Sam Sturges: "And," said she, "If I give you lawful evidence that will satisfy you that he did not whip you, will you withdraw the charges?" Says I, "Mrs. Avery, I did not put Mr. Avery in prison, and nothing that I can do can take him out; I never swore against him, and I don't intend to swear either way," said I. Then she got up and read the charges to me; said I, "That was when they shot into my house and asked me about arms." Then she said that she had sufficient evidence to show that he had not troubled you; said I to Mrs. Avery, "These Ku-Klux do their work in the night, and no one knows it; and I don't believe that your husband could leave your bed very long without you knew it. We had been talking so long that I began talking very common to her; "I will swear," said she, "that Dr. Avery did not do it;" I felt very small being with a lady like her—of her ability and position—and I felt it was almost wrong not to submit to her. "Will you not take my oath," said she, "for I will swear to it;" says I, "I don't want you to swear; I never swore against Mr. Avery;" then Lizzy and Ellie Chambers said, "We will swear that Mr. Avery did not whip you; he didn't leave his house or bed;" said I, "When it was done it was midnight and dark work, and nobody knows anything about it up to this time." Then they talked to me for a considerable time. At last, Mrs. Avery said, "Our talk is all in vain," and, said she, "if it was me, I would not ask the favor of any man; I would present my case and call for my evidence, and they would come up and prove me guiltless, and," said she, "I would sue you for 'salt and purgery,'" if I don't mistake the language, for I am not very common with words according to the law; and, said she, "I would bring you to the same condition, and as such, to be cropped and branded and penitentiared for ten years, and perhaps for your life-time." Then I flinched, for I had never been in the law; I did not know what to say or do. Said I, "Mrs. Avery, I have been in fear and dread all the year, and now it is the same thing over again." Mr. Cooper then spoke up and said they would take the effort of the law on me, and sue me for "salt and purgery," and throw me into the same condition, and as such, I would be cropped, branded, and penitentiared. After this I began to feel miserable and there I sat; Mr. Cooper, and Mrs. Avery, and Lizzy, and Ellie Chambers, all said they would draw on their oaths, and they said their oath would be taken in court; and said Mr. Cooper, "We will have a chance after awhile;" then says I, "I will withdraw on *your* oath, but not on *my* oath;" that is how it was. Then we went to the magistrate, and Mr. Crook did the writing, but it wasn't right, and then Mr. Cooper wrote it, and as I understood it, it was resting on their oath, not on my oath—that I would withdraw it on *their* oath—and then I signed it; that is the way the whole matter went.

Question. Did this man that took the rope from your neck strike you with both or one hand?

Answer. I don't think, to give the men justice, that any of them struck me with both hands.

Redirect examination :

Question. What did you mean by this language in you affidavit, "According to the evidence now appearing?"

Answer. That was those women Kizzy and Louisa Chambers, servants of Dr. Avery; says I, "If their evidence is good, then I must be mistaken."

Question. Do you think you are mistaken?

Answer. I don't, at all; I still believe Dr. Avery was the captain of the party that night.

TESTIMONY OF THOMAS MOREHEAD.

THOMAS MOREHEAD, (colored,) a witness for the prosecution, being duly sworn, testified as follows:

Direct examination by Mr. CORBIN :

Question. State whether the democrats at Rock Hill, crowded the polls at the election in 1868.

Answer. Yes, sir; the polls were very much crowded, and a great many colored people were crowded away.

Question. Who was a prominent man standing around the polls in the way?

Answer. Dr. Avery and other white men stood in a ring around the polls, and elbowed colored men back.

Question. Have you lived in Rock Hill since then?

Answer. Until this year.

Question. Why did you move away?

Answer. On account of threats by the Ku-Klux; they put up a notice two or three times; the last one had Squire Davis's and my names at the head of it.

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Question. What did that paper say?

Answer. They had marked on the top of it, as well as I can remember, "K. K. K.," and it read, "O, ye blind and foolish parties; stop, stop, and study before you further go;" and at the bottom of it they had a grave and a coffin; it says, "We won't stop; we have guns and bayonets; we have bowie-knives and pistols, and if you wont now stop before you further go, and listen and sympathize with us, then you shall be shut up in a lonesome valley, where you will never be heard no more;" I don't recollect it all; there was about twenty or thirty pages of it.

Cross-examination by Mr. McMASTERS:

Question. Which got the majority at Rock Hill, at that election in 1868?

Answer. Well, it was said that the radical party, but I don't know.

TESTIMONY OF GOVERNOR FEWELL.

GOVERNOR FEWELL, (colored,) a witness for the prosecution, being sworn, testified as follows:

Direct examination by Mr. CORBIN:

Question. Are you a republican or a democrat?

Answer. I am a republican, sir.

Question. State whether the Ku-Klux visited you?

Answer. They visited me before the election in 1868; they shot all in my house and knocked down my door, and aimed to come in and I knocked them down as they came; they called for a boy that Captain Ferris had, and I told them if they didn't leave my door I would give them a load of shot; they went back and came again and threwed down my door, and aimed to come in, and after I knocked them down so fast they went around my house and shot it.

Question. Did you know any of them?

Answer. I knowed Dr. Avery, and Parker Wilson, and Gaines Alston.

Question. Is this the Dr. Avery here?

Answer. Where is he? [Catching sight of the prisoner.] Yes, he is the very man, I wont deny; he is the very man. They shot in Captain Ferris's room that night, and if he had been in bed they would have killed him.

Question. Were they disguised?

Answer. Yes, sir.

Cross-examination by Mr. McMASTER:

Question. You knew these people by their voices?

Answer. Yes, sir.

The prosecution rested, and Mr. Corbin asked that the defendant's witnesses be sent from the room, except Dr. Talley, who, he understood, was present as an expert witness.

TESTIMONY OF REV. R. E. COOPER.

Rev. R. E. COOPER, (white,) a witness for the defense, being duly sworn, testified as follows:

Direct examination by Mr. WILSON:

Question. What conversation had you with Postle in relation to the occurrence he has described?

Answer. I conversed with him on Monday, and he said that on the previous Friday he had been visited by a number of disguised gentlemen, and that they sorely afflicted him, as he has stated. I asked him if he knew any person that was present, and he told me he did not, and if he swore to any person at all he would swear to a lie.

Question. Were you present at the interview between Mrs. Avery and Postle?

Answer. I was; she said, "Mr. Postle, I have sent for you in order to lay some facts before you; as the wife of Dr. Avery, my testimony will be worth little or nothing, but my testimony to you is valid, if you will believe me what I say; I am willing to testify upon my oath;" and rising to the importance of the occasion, she remarked, "If my hopes of salvation depended upon the statement which I am now about to make to you, I would still say it, that Dr. Avery, my husband, was in my chamber that entire night;" and, gentlemen, I conceive that to be true; then she summoned aunt Kizzy and Louisa in the room, and aunt Kizzy says, in her own peculiar dialect, "Mr. Postle, mas' Ed was at home that night, and I am willing to swear it on a stack of Bibles as high as the sky;" and Son, the other servant, says, "Dr. Avery was in his chamber that entire night." I told Postle I saw no difficulty in the way of his giving the affidavit; that Mrs. Avery didn't wish to secure this affidavit in order to liberate Dr. Avery from a trial, but release him from confinement in York jail. So far from saying anything at all about twenty years' imprisonment in the penitentiary—it is true

we referred to the penalty of perjury, but only in the abstract. Mrs. Avery made this remark, "Now, Postle, I neither threaten, I neither beg, nor either do I buy, but I ask you in the name of justice, if you are satisfied with this evidence, to give your affidavit;" the old negro said he did, and I ordered my horse, and took him with me to a magistrate, and at the request of the magistrate I drew the affidavit, and Postle swore to it.

Cross-examination by Mr. CORBIN :

Question. What did you tell Postle the consequences of perjury were ?

Answer. I told him that the law would have redress ; I didn't state particularly, for I don't know now what the consequences are.

Question. Didn't you tell him that a man who committed perjury would have to go to the penitentiary ?

Answer. No, sir, I didn't, and neither did Mrs. Avery.

Question. What did you say anything about it for ?

Answer. I wanted to get the old negro to tell what I believed to be the truth. Some person had sworn that Dr. Avery committed these charges and we know them to be incorrect, and if he testified to that crime, he would lay himself liable, I think, to the law.

Question. How did you know the charges against Avery were incorrect ?

Answer. I knew it, sir, upon the testimony of Mrs. Avery, a lady of uncompromising veracity, and I believe it as implicitly as if I saw it, because I know Mrs. Avery is a truthful lady.

Question. You knew the Ku-Klux were raiding around the country ?

Answer. It was a general rumor through the country. It was a common report, but I paid no attention to it.

Question. It didn't interest you ?

Answer. Not at all.

Question. Did you ever preach against these whippings and murders by the Ku-Klux ?

Answer. No, sir ; I was not commissioned to preach against those things. I don't preach political sermons at all.

Question. You regarded this Ku-Klux raiding on the colored people a political matter, did you ?

Answer. Well, I don't know ; I always—the impression I did form about it was simply an organization in opposition to the Union League.

Question. But I am asking you about this whipping and pounding of people to death ?

Answer. I thought that was wrong.

Question. But you didn't preach against it ?

Answer. I never conceived, sir, that I had any right to preach against raidings of that kind. I have no colored people belonging to my congregation at all.

Question. You never thought it your duty to speak against these outrages ?

Answer. My idea is to preach Christ and him crucified, and I try to stick to my text.

Question. You didn't think that involved the bodies and souls of your congregation ?

Answer. No ; because I didn't suppose any of my congregation belonged to it.

Question. Did you or not state to Colonel Merrill that you never stated the consequences of perjury to Postle ?

This question had been put to the witness several times and evasively answered ; finally Mr. Corbin said :

Question. Will you say whether this didn't pass ?

Answer. Put your question again, and I will answer it on my honor as a minister.

Mr. CORBIN. I would rather have your oath.

The WITNESS. I know I am on oath, but I consider my responsibility as a minister, and my accountability to God, as binding on me as my oath in law.

The question was repeated.

Judge BOND. Now you can answer that, certainly.

Answer. I have no recollection of making that statement to Colonel Merrill.

Judge BOND. You have been a quarter of an hour stating that fact.

The court here adjourned until seven in the evening.

EVENING SESSION.

The court met again at seven, and resumed the business before it.

TESTIMONY OF LOUISA CHAMBERS.

LOUISA CHAMBERS, (colored,) a witness for the defense, being duly sworn, testified as follows :

Direct examination by Mr. WILSON :

Question. What is your business ?

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Answer. I am a nurse at Dr. Avery's.

Question. Where was you upon the night of this raid upon Postle and Sam Sturges?

Answer. I was in Dr. Avery's house; I usually sleep in the room opposite his door, a piece from the house; but that night I was in the house. The baby was sick with teething, and I slept right in Dr. Avery's room.

Question. Do you know whether he remained at home that night?

Answer. Yes, sir; he remained at home the whole night.

Question. When did you hear of this raid?

Answer. The next morning.

Cross-examination by Mr. CORBIN:

Question. How many nights did you stay in the room?

Answer. Two nights.

Question. Which was the first night?

Answer. Friday night.

Question. What was the matter with the child on Saturday night?

Answer. The same; it was teething.

TESTIMONY OF KIZZY AVERY.

KIZZY AVERY, (colored,) a witness for the defense, being duly sworn, testified as follows:

Direct examination by Mr. WILSON:

Question. Where do you live?

Answer. I am a cook at Dr. Avery's.

Question. Where do you sleep at night?

Answer. In my room, about ten steps from the white folks' door. I can see from my room right into Dr. Avery's.

Question. Did you hear of the whipping of Postle and Sturges?

Answer. Yes, sir; on Saturday morning, the next day after it happened.

Question. When was that?

Answer. That was in March.

Question. Where did Louisa Chambers sleep that Friday night?

Answer. In the house; the baby was sick, and they called on her to sleep in the house.

Question. Did you see Dr. Avery that night?

Answer. Yes, sir; he can't go out any time but what I know it; I didn't hear him moving about that night at all after he went to bed.

Question. Were you present at the interview between Mrs. Avery and Postle?

Answer. Yes, sir.

Question. What did Postle say?

Answer. He said that he didn't prosecute Dr. Avery, and couldn't say it was Dr. Avery.

Question. You heard no threats made to him?

Answer. No, sir; no threats.

Cross-examination by Mr. CORBIN:

Question. When did you first begin to talk about this being on Friday night?

Answer. After Dr. Avery was put in jail, I talked with Mrs. Avery and told her I remembered it was Friday night.

Question. Didn't she tell you that she remembered it before you told her that you remembered it?

Answer. Yes, sir.

Question. Do you remember Mrs. Avery saying to Postle if he committed perjury he would have to go to the penitentiary for twenty years?

Answer. She said providing if Dr. Avery went; if he said Massa Edward was the one that whipped him, and Massa Ed had to go to the penitentiary, he would have to go too.

Question. Did you hear Mr. Cooper say the same thing too?

Answer. Said providing he went, mind.

Question. Do you remember what ailed the baby that night?

Answer. Had something like the colic.

TESTIMONY OF DR. TALLEY.

Dr. TALLEY, a witness for the defense, being duly sworn, testified as follows:

Direct examination by Mr. McMASTER:

Question. What was your occupation during the war?

Answer. Surgeon in the confederate army.

Question. Have you ever examined Dr. Avery's hand ?

Answer. Yes, sir ; I examined the wound to-day by request ; traces of the wound are still apparent in the arm-pit ; the brachial plexus nerves were torn through entirely, and the nerves which preside over the motions of the forearm, especially the extensor muscles of the forearm, are paralyzed completely, so as to deprive him of the power of moving the finger ; the arm is entirely useless.

Question. With regard to the capacity of raising the arm up ?

Answer. That is very much impaired ; he has more power over the arm than over the forearm ; he could raise the arm to a horizontal position ; he could not extend it to any height.

At the request of Mr. Wilson, the prisoner exhibited his hand to the jury.

Cross-examination by Mr. CORBIN :

Question. Is the position of the hand permanent ?

Answer. Yes, sir.

Question. Whether the arm is raised up or hangs by the side the hand remains a fixture ?

Answer. Yes, sir.

TESTIMONY OF R. P. MAYRANT.

R. P. MAYRANT, a witness for the defense, being duly sworn, testified as follows :

Direct examination by Mr. WILSON :

I was a constable at Rock Hill in 1868 ; there was no crowding of the polls there ; Dr. Avery was there a while in the morning and went away ; I was a member of the constabulary force.

Cross-examination by Mr. CORBIN :

Question. Did he challenge anybody ?

Answer. I didn't see him, but I don't know.

TESTIMONY OF FRANKLIN H. BROWN.

FRANKLIN H. BROWN, a witness for the defense, being duly sworn, testified as follows :

Direct examination by Mr. WILSON :

In the fall of 1868 I was solicited to meet to organize for self-protection, and I concluded to go ; they said it was simply for self-defense, and if I concluded to go into it I must be initiated ; so I took an oath.

Question. Who initiated you ?

Answer. Dr. Avery.

Question. How long did that organization last ?

Answer. I don't know anything about that ; we broke up at once after I was initiated ; I never heard of a meeting after that.

Cross-examination by Mr. CORBIN :

Question. What was the process of initiating you ?

Answer. There was a handkerchief thrown over my face ; I don't know much more about it.

Question. Made you kneel down ?

Answer. I think they did.

Question. Do you remember that you swore not to reveal the secrets of the order under the penalty of death, death, death ?

Answer. I think there was something of that kind in the last of it.

Question. Did you see any disguises ?

Answer. I saw one man disguised.

Question. What did you want of disguises for mutual protection ?

Answer. That is what I didn't know.

Question. Where was this meeting held ?

Answer. In an old pine field, about fifty yards from the road.

Question. When ?

Answer. In the night.

TESTIMONY OF FRANK CARUTHERS.

FRANK CARUTHERS, a witness for the defense, being duly sworn, testified as follows :

Cross-examination by Mr. WILSON :

I joined an organization for home protection in 1868 ; Iredell Jones was chairman of the meeting when I joined ; Robert Alston, a clergyman, was sworn in at the same time ; I don't know what became of the organization ; I never heard of any meetings

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TESTIMONY OF JOHN A. McCOLLOUGH.

JOHN A. McCOLLOUGH, a witness for the defense, being duly sworn, testified as follows :

Direct examination by Mr. WILSON :

I joined a society for home protection in 1868; there was nothing said in it about interfering with the colored people, nor intimidating them; there was some secrecy in it; I was blindfolded and took an oath. Rev. Robert Alston joined at the same time.

Cross-examination by Mr. CORBIN :

Question. Do you remember that the oath said you were not to divulge anything under the penalty of death, death, death?

Answer. Well, I think there was some secrecy about the thing.

Question. And some death about it too, wasn't there?

Answer. I don't know; I expect there was.

At 11 o'clock p. m., the court adjourned until 11 o'clock Monday morning.

TWENTY-FIFTH DAY'S PROCEEDINGS.

JANUARY 1.

The court met pursuant to adjournment; Hon. H. L. Bond, presiding; Hon. Geo. S. Bryan, associate judge.

The defense announced that they here closed the case.

TESTIMONY OF C. H. BANKHARD.

Called by the Government in rebuttal.

I am on duty as a juror in this court. On Saturday evening I saw the witness, Lizzie Chambers, in close conversation with Dr. Avery just before the opening of the court for the evening session. They were just at the bottom of the "State-house" steps in the rear; I was coming up to the court-house and saw a lady and Dr. Avery in front and an old lady; the gentleman was in close conversation with this younger lady, and when the witness, Lizzie Chambers, came on the stand, I perceived that she was the one that Dr. Avery had been talking to.

TESTIMONY OF GOVERNOR FEWELL, (COLORED.)

I was present at the election at Rock Hill in the fall of 1868; Mr. John Ruterec, Dr. Avery, and Ira Jones, were there crowding colored people from voting.

Cross-examined by Mr. WILSON :

I think the colored people had the majority of votes, but those gentlemen tried to overpersuade the colored people, and to push them away; they shoved them back to keep them from voting, and tried to make them vote on the democratic side; they pushed some of them back because they said they were not old enough to vote; I don't know who the election was for; I don't know that they were voting for members of Congress; but I just voted.

Question. Who did you vote for?

Answer. I voted for Grant.

Question. Who else?

Answer. Scott.

Question. Who else?

Answer. Dr. Neagle, and I don't know who.

TESTIMONY OF MAJOR MERRILL.

Question. Are you a United States officer on duty at Yorkville?

Answer. Yes, sir.

Question. How long have you been on duty there?

Answer. Since the 26th of last March.

Question. State whether about two or three weeks ago the Rev. Mr. Cooper, of Rock Hill, came to your office in Yorkville, and had conversation with you in reference to the intimidation or interference of Isaac A——, one of the witnesses.

Answer. Yes, sir; such a conversation occurred in my house.

Question. State how it commenced and what was said, as nearly as you can recall it.

Answer. Mr. Cooper had been arrested by the United States marshal on a warrant issued as the result of charges of intimidation; he was brought by the United States marshal to my house; when he got there, I was at dinner; a few minutes subsequently I went into the parlor and found him there, and asked him to sit down; he instantly began a series of explanations of his relations to the indictments; I checked him, and

cautioned him that he was before me, while I was acting in my official capacity, and that any admission he might make in regard to the matter might be used against him as evidence, and that he should, therefore, be careful in his statements, and make no admissions that might injure himself; I further cautioned him by telling him that I had no disposition to discuss the merits of the case; he expressed a great deal of solicitude to discuss the case, and did so at some length; after again cautioning him, I said he might say anything he pleased, and I would listen to him; in the conversation I repeated to him what had been told me by Postle, as to the character of the intimidation used by Mr. Cooper and Mrs. Avery; Mr. Cooper positively denied that any such language had been used; he then said to me that possibly the negro's own notion of perjury had influenced his mind as to what had been stated to me; on his suggesting this to me, I asked him distinctly if anything at all had been said by him or by any other person to this man Postle in regard to perjury; he distinctly and repeatedly said that no allusion was made to it at all.

Question. What did you state to him of Postle's story to you?

Answer. I told him I had learned—I do not remember I told him of whom; possibly it was from the counsel for the defense—that Postle had made an affidavit, which, without looking at it, I understood Postle to say was, in effect, a denial of any knowledge of the relations of Dr. Avery to this particular outrage; I had not looked at the affidavit at that time; I told Mr. Cooper that fact; I was not sure that I told him where I got my information from in regard to it; having been especially anxious to protect Government witnesses against intimidation, I sent for Postle and questioned him in regard to it; he repeated, substantially, the story he told here on the witness-stand; that story I repeated to Mr. Cooper, and said I had nothing to say about its truthfulness; that I did not charge, personally, that the matter related by Postle was true, but that it had become necessary for me, in the discharge of my duty, to issue a warrant for his arrest, for intimidation, and then followed the conversation.

Question. Then he was fully advised by you that Postle had stated to you that he had named the consequences of perjury?

Answer. Yes, sir; I stated to him, in explicit terms, that Postle had told me that Mr. Cooper and Mrs. Avery had told him that Dr. Avery would be acquitted, and that, to use his own expression, they would then take "the effort of the law" upon him, which would result in his being put in the penitentiary for twenty years, and be branded and cropped; to that he replied that no such conversation had occurred at all. I asked him the question, and repeated it several times, as to whether anything had been said to the negro about his statement being false, or as to the consequences of his testifying, and the reply of Mr. Cooper was several times and emphatically, that no such statement had been made.

Cross-examined by Mr. McMASTER:

Question. Have you not received credible information that these outrages upon Sturges and Postle were committed by some other parties?

Judge BOND. That is new matter, and, so far as new matter is concerned, you make him your own witness.

Mr. McMASTER. We so understand.

Major MERRILL. I don't recall at this moment, and I do not think it is a fact, that I have any information upon the subject outside of the testimony given before the court here, and most of which I previously knew of.

Question. Have you any information in your possession at the present time that would be sufficient for you to arrest other parties for these alleged crimes?

Answer. Unquestionably, if I could find them. The persons are those named in the indictment, which, if I am not mistaken, contains all the names except two, and those are the two persons identified by Harriet Postle, and with whom I never had any conversation until a very few days since in this place, and who, I think, were not before the grand jury; that I understand to be the reason why the names are omitted from the indictment.

Question. Are those the only two names of which you have information that were engaged in this crime?

Answer. I believe they are; I cannot state positively; from the quantity of information I have received from various sources, it is possible that certain points may have escaped my memory at the present time.

Question. Since you came down to this prosecution, have you not received information that you are proceeding against the wrong parties?

Answer. No, sir; I have not; if I had, I should have very carefully investigated the matter and called the attention of the district attorney to the fact.

Question. Have you ever received information of the persons who shot into Governor Fewell's house?

Answer. Yes, sir.

Question. What time did you receive that?

Answer. Aside from the information which has been partly testified to before the

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court here, some other of the same kind of information was very distinctly and specifically given me by Mr. John Rateree, who was wounded on that night. He mentioned quite a number of outrages I do not now recall, but a good many of those names were unfamiliar to me.

Question. Do you remember him saying that Dr. Avery was not in that crowd?

Answer. Mr. Rateree distinctly said that Dr. Avery was one of the persons who was there. I said to Mr. Rateree that a young man named Parks Wilson was there, and Mr. Rateree denied that, and said he knew he was not there. Among those he named as being present were Ira Jones, Major Avery, and Bill McElwee. I think he is the same man that the witness Castle referred to in his testimony; and there was a young man who was called Daniel Mathew; I do not know whether he is the same that has been referred to or not. James Austin's name was also mentioned. Mr. Rateree's statement as to the names was much fuller than I can now give, because the names were unfamiliar to me, and I don't recall them all.

Question. Did you make any note at the time of the names?

Answer. I did not personally, and I do not now remember if the phonographer was there or not. The examination of Mr. Rateree was quite long. I remember Mr. Rateree expressed an earnest solicitude to tell me all he knew about the Ku-Klux organization, but when he came to my house he faltered and prevaricated to such an extent that induced me at last to tell him that I had no desire to listen to him any further; that if he chose to tell me what he knew, I was willing to listen to it; but if not, that I was not disposed to get it out of him by means of a corkscrew. He had not left two minutes before one of my brother officers informed me that Mr. Rateree desired to return and make a full confession. Mr. Rateree then came back and made a very clear and connected statement till he came to the point where he was to tell of this Ferris business, in which he himself was wounded. Those facts I got from various sources, and I questioned him very closely on that point, and, with great difficulty, seemingly, to himself, he was induced at last to tell all he did.

Question. Are you not mistaken about Dr. Avery being in that party?

Answer. I cannot be mistaken; I think a part of Ira Jones's Klan was there; Major Avery's, from Yorkville, and Dr. E. T. Avery's Klan, from Ebenezer. There were three Klans engaged in that outrage. I questioned him closely as to those who were present.

Question. Were you informed by him of the cause of the shooting that night, and how it originated?

Answer. If I recollect his purpose in going there, it was to get at a certain negro about the election.

Question. Was there anything about a conspiracy to kill a man?

Answer. I did not hear anything about that.

Question. Do you remember his mentioning the name of Tom Lowry in connection with that conversation?

Answer. His name is very familiar, but I don't remember it being mentioned on that occasion.

Question. Was anything mentioned about a certain tree on the road, which Tom Lowry had passed in going to his plantation?

Answer. I don't recollect anything of that kind, and I am very sure it could not have been the case, for I should have recollected so marked a circumstance. That fact would have fixed it in my mind.

Question. Will you now recite the occasion of the shooting that night at Ferris's?

Answer. As explained by Mr. Rateree, it was this—and I repeat now only my recollection of the statement. A party, I think he said, of forty or fifty, or more, had assembled in the old field near Ebenezer. In reply to a question as to their purpose, he said they had no intention of interfering with so reputable and nice an old gentleman, but were going to take out a negro for something about the election. He didn't distinctly state what it was, and whether he knew or not I could not gather. At any rate, he did not tell. He said that the party went up to the house, some of them dismounted, and others remained at a little distance from the house; I don't recollect he stated whether the firing first commenced on the house or not; my impression is that Ferris fired the first shot at them. He went on to say that some of the party, without telling who, had gone into the yard and attempted to get into the house for one of the negroes; that a good deal of disturbance followed, in the course of which there was a considerable amount of firing from the Ku-Klux party, in which he was wounded. Whether he said that Ferris fired first or not, I do not recollect; but he did say that Ferris fired, and that one of the shots struck him in the cheek, and made quite a deep gash, and he said he instantly retired, for that had given him a sufficient dose of Ku-Kluxing.

Question. Did you cause the Rev. Mr. Cooper to be arrested?

Answer. I made the affidavit upon which he was arrested.

Question. Who else did you cause to be arrested in regard to that matter?

Answer. No one.

Question. Did you have any other person indicted?

Answer. I cannot say that, but I gave the information to the United States attorney, and I suppose he has sent witnesses having that information before the grand jury, and I understand parties were indicted.

Question. Who were they?

Mr. CORBIN. It is a matter of record. The Rev. E. Cooper, Mary Avery, Lizzie Chambers, and Kizzie Avery, are indicted for the intimidation of Isaac A. Postle.

The prosecution announced that they here close the case on the part of the United States Government.

ARGUMENT OF MR. McMASTER.

May it please the court, and gentlemen of the jury: It has been said by a great man that from very early times in Great Britain a man was entitled to be tried not by judges, but by his fellow-subjects. That great privilege of the jury, which is called the palladium of liberty, is descended to all countries which have received their laws from England. England herself, however, in the management of her colonies, has departed from that mode of trial—that is, they have followed the forms, but they have, in some cases, destroyed the spirit and the intention of the jury law, which was to allow citizens to have a full and fair investigation of their cases; and in Ireland, until the last few years, the jury, instead of being the bulwark of defense of the rights of citizens, has been made the instrument of conviction. You may remember the case of Mr. O'Connell, one of the greatest patriots, and one of the greatest men, that Ireland ever produced. The authorities in Dublin convicted him as they had convicted hundreds before. Mr. O'Connell was a Catholic. The question was between the Catholic and the Episcopal Church of England. In Dublin the juries were so arranged that every man who sat upon them was an Episcopalian. Mr. O'Connell was convicted.

It was the custom of the English court, whenever there was a conflict between races or individuals, when justice could not otherwise be done, to select six men on one side and six on the other, as Mr. Macaulay illustrated in one of his speeches.

Mr. CORBIN. I don't notice the defendant in court. I have just asked the counsel where the defendant was, and the reply I received was, that was for me to find out.

Mr. McMASTER. I repeat it now.

The COURT. Where is your client?

Mr. WILSON. I understood, may it please the court, when we adjourned on Saturday night, that Dr. Avery had gone to see his family, and that he would return to-day.

The COURT. Do you expect him back?

Mr. WILSON. I had no interview with him; I expected him to return by the next train; I knew nothing save from the information I have received from Mr. McMaster.

The COURT. What time is the next train due?

Mr. WILSON. At 2.30, I believe.

The COURT. Do you know where your client is, Mr. McMaster?

Mr. McMASTER. I beg the court will excuse me from answering that question.

The COURT. Had you any knowledge from your client that he was going away?

Mr. McMASTER. I hope the court will excuse me from answering.

The COURT. The clerk will lay a rule on Mr. McMaster to answer the question or show cause why he should not be thrown over the bar.

The COURT, (addressing Mr. Corbin.) Do you propose to have the bail forfeited?

Mr. CORBIN. I do, sir.

Mr. McMASTER. Will the court allow me to offer a suggestion?

The COURT. We would rather you answer the rule.

Mr. McMASTER. I hope the court will appoint a time in which I can answer. Your honor will not, certainly, demand an immediate reply to a grave question of that sort. I am to show cause why my name should not be stricken from the roll; you certainly will give me time, at least until to-morrow, to consult with counsel on a motion of such importance as that.

The COURT. Mr. Clerk, call the prisoner.

The clerk called, in open court, three times, the name of Edward T. Avery, to which no response was made.

The COURT. Forfeit those parties' bail, Mr. Clerk.

Mr. CORBIN then made the following motion:

United States vs. Edward T. Avery *et al.* The defendant, Edward T. Avery, in the above-entitled cause having failed to appear and attend court from day to day, according to the stipulation of his bond, and having been three times called, and not answering, it is, on motion of the district attorney, D. T. Corbin, ordered, that said bond be forfeited, and that *scire facias* be issued thereon.

January 1, 1872.

GEO. S. BRYAN.

United States Judge for the District of South Carolina.

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Mr. CORBIN said: There is some little uncertainty in the mind of the attorney general and myself as to the proper course to be pursued. We have exhausted so much time, trouble, and expense in the prosecution of this cause, that if it be permissible to go to the jury with it, we should like to do so. Whether, if we proceed to a conviction, the proceedings would not be invalid, is somewhat uncertain. Before putting the case before the jury, for their conviction or acquittal, we would ask the court to adjourn, to give us time for consultation.

The court then adjourned until Tuesday morning, 11 o'clock.

TWENTY-SIXTH DAY'S PROCEEDINGS.

JANUARY 2.

The court met pursuant to adjournment, Hon. H. L. Bond presiding; Hon. G. S. Bryan associate judge.

The large library hall, in which the Government trials are held, was unusually crowded, the galleries, according to rule, being exclusively occupied by colored persons of both sexes.

Mr. Wilson said that the Rev. Robert E. Cooper had this morning been arrested upon a bench-warrant, but, as he had previously given bail to United States Marshal Poinier, at Yorkville, in the sum of two thousand dollars, he moved for his release from confinement.

Mr. Corbin said that the fact of Mr. Cooper's having given bail was not known to him. He had no objection to offer to his release.

It was so ordered by the court.

Mr. Thomas Bell moved for the continuance of the case of William Mowry, filing affidavits to show sufficient cause.

Judge BOND. The case will be continued.

ARGUMENT OF MR. CHAMBERLAIN.

Mr. Chamberlain said that, since the adjournment of the court yesterday, the district attorney and himself had examined the question, as fully as the time had permitted, as to the proper course to be pursued upon the flight of the prisoner, in the case now before the jury. There was no doubt that in cases of felony the prisoner must be present to plead to the indictment, to confront his witness, and to be present at the rendition of the verdict. In cases of misdemeanor the prisoner may, under certain restrictions, be allowed to plead by attorney and be absent even from the judgment and the passing of sentence.

The present question was whether the prisoner, after he had pleaded and had conducted his case thus far—after confronting his witnesses and examining them in his own behalf—whether the prisoner, in his own wrong, and of his own motion, and with the obvious purpose of escaping from the trial and jurisdiction of the court, could absent himself and flee from the officers of the court. That was the question.

The authorities furnished one example precisely similar to the present case. Instances were on record where a request had been made by a prisoner that he might not be compelled to be present in court to listen to the verdict, and this in gratification of his own feelings; but, in such cases, the courts, in England and in this country, insisted that he should be present. In such cases the prisoner was within reach of the court, and could, on its order, be brought to stand before the jury when rendering their verdict.

The case which appeared exactly parallel to the present one occurred in the State of Ohio when the prisoner was being tried on a charge of counterfeiting. In the progress of the trial the prisoner ran away, and the precise question involved in the present case arose—can the trial proceed to a verdict?

Mr. Chamberlain read the passage from the chapter in "Bishop's Criminal Procedure," on the "presence of the prisoner in court," (section 687,) showing that, in the case of felony or treason, the prisoner must be present in court, and that where the prisoner, in his own wrong, voluntarily runs away and escapes beyond the reach of the officers of the court, the court may proceed to a verdict.

Mr. Chamberlain then referred to a case in 1 Bailey, p. 651, the State vs. McKee, presenting a case different in its circumstances from the present, but tending conclusively to show that the jury should not be discharged without rendering their verdict.

In the case referred to the defense had concluded their argument, and it came to the knowledge of the solicitor that the foreman of the jury charged with the case had said that he would not convict any white man for the killing of a negro. The solicitor claimed the right of entering a *not pros.*, on account of the statement made by the foreman of the jury. The question arose whether, under these circumstances, the jury could be discharged, or whether it must proceed to a verdict. That brought up the whole question of the circumstances under which a jury could be discharged. The case was argued by the circuit judge, and taken by appeal to the appeal court, where the decision was rendered by Judge O'Neill.

The decisions of the English courts, of the Federal courts, and of the State courts were given, and the conclusion reached that only on the following grounds could a jury be discharged: First, the illness of the prisoner; second, by the illness of one of the jury or court; third, the unavoidable absence of one of the jurymen; and, fourth, the impossibility of their agreeing on a verdict.

If that be the law, continued Mr. Chamberlain, they were shut up to the necessity of giving this case to the jury. There was no ground upon which this court could discharge the jury at the present stage. The practice of the English and American courts insisted upon the corporeal presence of the prisoner, and if, after being present and pleading and listening to the evidence for and against him, he made his flight, there was sufficient authority for the jury to proceed to the verdict.

As to the other question, whether this prisoner could claim a formal acquittal in case of the discharge of the jury at the present time, there was no doubt that he could not make that plea, even were the jury now discharged. The decisions of the Supreme Court upon that point were clear that it is a decision of the jury, by acquittal or conviction, that constitutes once in jeopardy.

Mr. WILSON. In this case I deem it proper and feel it my duty to leave the question entirely with the court.

Judge BOND. We think it proper to proceed with the trial, and when the verdict is given any question may be argued on motion before judgment.

ARGUMENT OF MR. McMASTER.

Mr. McMaster continued his argument for the defense, as follows:

Yesterday I described to you the intention, spirit, and powers of the jury, and attempted to show that in Ireland, in all the state cases, that the jury, instead of being the palladium of liberty, was an engine of oppression. In our country, that professes to have more freedom even than Great Britain, it is unfortunate that there has not been a provision made by Congress to provide against similar outrages to those which have been perpetrated in Ireland.

What do we see here to-day? The law requires that in making up a jury for the circuit court, there shall be one hundred persons selected by three assessors, from different parts of the State—good, responsible, intelligent, and reliable men, who are fit to be jurors—and from them a certain number shall be drawn to serve as the jury of this court. It is well known that the proportions of persons entitled to vote, and, consequently, able in this State to sit on the jury, is in the proportion of two white to three colored persons. Does this jury exhibit that proportion? There is another fact that must strike every impartial observer, and that is that this is a political question before us, in some of its aspects. We have been told by a distinguished authority that you can count the white radicals in South Carolina on your fingers, but the smaller number of whites that are on this jury are nearly all of them of that class. Now, gentlemen, I want to be very plain and honest with you, for I consider that you occupy a very responsible position—a position that would require great effort for you to vindicate justice and do justice. This jury is infinitely worse than a jury of Episcopallians trying the great Irish orator and patriot, who was a Catholic. It is a great deal worse, for there are undoubtedly on this jury eleven men who are strong partisans, who are opposed to my client, Mr. Avery, in political faith. But it does not rest there. I see here nine colored men, selected by the prisoner, from the panel, as the best, when the very outrages with which my client stands charged were perpetrated on colored men. Can you be other than naturally indignant at these outrages? Will not your hostility be naturally greater than a white man would feel? Therefore it is that I say the world has never seen a greater outrage than in the jury that is now trying this question. If Mr. Macaulay said, with regard to those Irish trials, that in every case of indictment for state offenses there was a reasonable certainty of a verdict being against the prisoner, in this case the chances of such a verdict are increased a hundred fold.

But, gentlemen, it seems to me that if I were a colored man I would rejoice in the opportunity of sitting on such a jury; I would rejoice in the opportunity of exhibiting to the world that I was for justice and for freedom; that the black man, despised as he has been in the past, has now put himself in a position where he can vindicate his character, and show that a black jury may be superior to an Irish jury. He has an opportunity of rising above his prejudices, and doing justice not only to a political enemy, but to a white man, who is charged with being connected with a conspiracy whose object was to drive the black man from the soil of South Carolina. Gentlemen, that is your proud position to-day. Therefore it is I beg and entreat you to lift yourselves above prejudice, and do justice to a political enemy, so that in future times your conscience can never reproach you, and that the world may say of your action it was well done.

Gentlemen, I know I stand here to-day under the shadow and displeasure of the court; I stand here suspected, possibly, in Dr. Avery's absence. I do not care, at the present moment, to vindicate myself. This is not the fitting opportunity. I am aware

that I stand here fighting against a prejudice in your minds in favor of the guilt of Dr. Avery, from the fact that he has run away. Gentlemen, I beg you to be careful how you allow that prejudice to rest in your minds. If you would judge the case fairly, I ask you to put yourselves in the position of my client; ask yourselves what you would have done under similar circumstances. That, I say, is the only way in which you can render a fair judgment.

Now, Mr. Avery has gone; I hope he is in a country that is freer than this by this time; he gave his bond to attend this court; he came down here bold, defiant, and confident, as he always is, ready to fight any antagonist in the day-light, never in the dark; he came here with confidence, conscious of his own innocence, but he did not know the jury that was to try him; he saw that at least eleven men out of the twelve were strong partisans and politically hostile; but such was his confidence in his cause, that in the selection of the jury, when a jurymen was announced to be connected with the republican paper of this place, instead of refusing that juror, he said, "I like that man's face; I believe he can do me justice;" the case went on, and he was horrified and astonished at the tales, the surmises, the suppositions, and positive gabble the prosecution introduced, and by which they sought to give horror to the scenes, and to show how terrific they were; and when he saw the desire of the prosecution to connect him with the horrid and unnatural crimes, committed by the off-scourings of creation—by the coal-field men of York County, men that were never of any use to any country, either in times of peace or in times of war; when the desire was manifested to inflict upon a gentleman of York district, of which he was a good representative, such a stain, and stamp him with infamy, and when he knew that three months would not roll by before the parties who committed this atrocious outrage will have honor enough to vindicate him from all complicity; when this fact came to his knowledge from one of the men who participated, and when he saw the probability of ten years in a penitentiary, I ask, can any man, under such circumstances as this, blame him for going "where the woodbine twineth." Put yourselves, gentlemen, in his place, and say what you would have done.

His honor, gentlemen of the jury, in the discharge of his duty, put an old man in the penitentiary for five years, because he did not exercise his power and stop these outrages. Great goodness! Is such a thing possible? How is it possible in a country desolated by war, where the people are so impoverished as to be unable to leave their place; how can men be held responsible for the actions of an entire community? Are these men to be punished for not going out of their way to stop wrong doings and outrages, when every sentiment of honor and justice is being outraged in South Carolina; where bribery, corruption, and stealing exist, from the highest to the lowest officer of the State? Has not the debt of the State been increased in three years, from five to at least twelve millions of dollars, according to the last showing? And yet not a school-house built, not a court-house built, not a railroad built; nothing done to elevate the race, but everything to impoverish and to put shackles upon our industry and commerce. The court said to this old man, you should have stopped these things, that did not even occur in his district! But this seems to have made no difference; you should have stopped it, though it happened twenty miles away. You should have known it, and you should have prevented it. Does not this show how difficult it is to judge of the State of South Carolina, by a knowledge of what may exist in Florida or Maryland? We have not yet simmered down into a condition of order, quiet, and peace, from the recent war which devastated our State. War permits license and outrage that would not be tolerated in time of peace. It is therefore impossible to judge about the condition of South Carolina by what may be found in New York, Pennsylvania, or Maryland.

Now, I would call your attention to the class of witnesses by which it was sought to convict my client. I do not accuse any of positive lying; but witnesses have been upon the stand who are incapable of telling the truth. They speak of events that happened many months ago; their memory is confused; facts are intermixed; imagination often supplies the plea of fact, and their whole statement is confused and utterly unreliable.

Let us look at the alleged crime with which my client stands charged. He is charged with raiding on Sam Sturges and for whipping Postle on the night of Friday, the 1st of March. He is charged with being a Ku-Klux. He undoubtedly belonged to an organization in 1868, as did almost everybody in that section of country at that time. Now, I don't care what they called the organization then—Ku-Klux or anything else—it was not illegal; no more so than the Union League, and there was no law against it. A man might have been a member of that organization and yet have nothing to do with the outrages that have been perpetrated since the enforcement act of 1870; of these he is "scot free." Mr. Gunthorpe says that Mr. Avery was initiated in 1868; admit it; Mr. Gunthorpe says there was no constitution that he knew of, and there has been no constitution proved to the organization that existed in 1868. The purpose of that society, as he says, was "opposition to radical misrule." It was not illegal; for the thirteenth, fourteenth, and fifteenth amendments, and the acts for their enforce-

ment, were passed after that. The organization that then existed did not oppose these amendments, but only spoke of opposition to radical misrule. We have, moreover, proved by a number of witnesses, that this organization broke down by its own weight. It had subserved its purpose; and besides it has been proved that it was merely a society for home protection. It may have been foolish; there was no occasion for alarm; for the disposition of the colored man is not to hurt anybody.

I protest in the name of humanity against the action which has been exhibited by the prosecution in this case; I utter my solemn protest against it; I come to you, gentlemen, to vindicate justice, and you, gentlemen, [addressing the counsel,] before many months have rolled over your heads will say that I was right; you, gentlemen of the jury, I trust will bear in mind that it is far better that many guilty men should escape than that one innocent man should suffer; save the innocent, punish the guilty; show that you can appreciate justice; show that you can rise above prejudice; show that you are worthy to be free, and worthy to be jurors in any case, whether trying white or black. But I imagine that five years will not roll by before my friend, the major, will repent of any such resolution; for I cannot but believe that he will arrive at the conviction that the present measures are inhuman and unjust; these measures cannot surely be carried out in a spirit of revenge; revenge is an unholy passion; gentlemen, show that you are equal to the position; do justice, vindicate your character; show that the black man can rise above prejudice; show that they deserve to be the pillars that support the country; that they deserve to be on the jury to help support the palladium of liberty.

Gentlemen, there may be some of you who know that I sympathize with Mr. Avery. Let me say that I hate a low, vile man that does his deeds of darkness in the night, as I rejoice in a brave, open contest and a fair surrender, and I believe in then shaking hands afterward, as brave men always do. I know, gentlemen, that we cannot judge of military men as we can of men of peace. Men who are educated to conditions of strife and war are unlike men of peace. The conditions of war are unlike the conditions of peace; but your military men, even in time of peace, are somewhat governed by their notions of war; they seem to think it necessary that people should suffer, that even women and children should suffer sometimes, assuming it to be necessary in the general progress of events. It may be that the sympathies of heroes who participated in the war of the Piegau Indians may have justified the ripping up of poor Indian women, and decapitating Indian children and filling them with fear and terror. They seem to argue that it did not make any difference if an old negro woman and a kind and intelligent nurse should be charged with perjury and indicted and thrown into prison. It makes no difference if a man like Mr. Avery, known and respected in his community, even should he be innocent, that he should be punished. The higher the standing, the more striking the example. How delightful it would be to have Wade Hampton as a vicarious substitute for all the gentlemen of the South, and put him in the penitentiary for ten years!

It is said that oppression sometimes makes a wise man mad, and it may have made him mad; for has he not had dire oppression in his case, as he lay in a crowded, filthy, poisonous jail, incarcerated in a cell many days while lying on a sick bed, bleeding from wounds and paralyzed with cold? It is, then, in the confidence of his innocence that he sends for Uncle Postle, who had charged him with whipping him; sends his wife to find out Postle and talk to him. The wife's pastor intercedes for the innocent husband; the old servant and faithful nurse, too, and all this is constrained into additional conspiracy. An old, faithful negro woman, sixty-six years of age, is charged with intimidating Postle! Gentlemen, is not that cruel, is it not oppression? I had hoped that the Government prosecutor would have thought better than to proceed with such an act as that; but there is not a particle of any such proof in God's world.

Mr. McMaster then adverted to the testimony of the Rev. Mr. Cooper, contending that there was no attempt to intimidate the witness Postle, and that all his ascertains to that effect were but the creations of his own imagination. Mr. McMaster's dwelt at some length on the testimony of Lizzie Chambers and Lizzie Avery, contending that they established, beyond controversy, the fact that Mr. Avery was at home on the night of the alleged raid.

Gentlemen, he continued, I know I have made out my case to any unprejudiced jury; and I know that no jury on the face of God's earth outside of such a jury as we are obliged to have here could convict with such evidence as is before you; and I beg of you not to let the absence of Mr. Avery affect you; do him justice, for he is a bold, kind-hearted, noble man as ever walked on the face of the earth; he fights no man in the dark, but he is always ready to fight any man, with sufficient cause, in the day-time. But he is put up here to indulge in midnight raids. He is known in that entire range of country to be an honest, bold, and brave man. He is a man to fight against odds, not to raid on an old man like Sturges. And yet these poor, ignorant, and credulous witnesses connect him with that conspiracy and speak of recognizing his lame hand under circumstances that make it an utter impossibility. He is described

by witnesses as adjusting the rope over their necks, when the condition of his hand and his utter inability to use it in such a way shows the entire inconsistency and impossibility of much that was testified to in this respect. Gentlemen, you cannot rely upon testimony of this character; besides, it is not in accordance with the admitted character of Mr. Avery. You can tell, from his impetuous look, that, if he went on a raid, he would go in an entirely different manner. If any fighting was needed to be done, he would have done it; but these raids are not in his style. If he had been a Ku-Klux he would have been known in that whole country as such. Weak-minded persons may well have become alarmed. Mr. Gunthorpe left that neighborhood, and he tells us that, though, on one occasion, he returned for a day, he heard no more of it. Had it been in active operation, he would most certainly have known of it. That is my reply to Dr. Avery being connected with this alleged conspiracy. The truth is, there was no harm in it. The idea that he hung that poor old fool Sturges and whipped Postle! You cannot convict Mr. Avery of such an offence, unless you are certain he was there; and I hope you will put far from your minds the idea that he was there.

ARGUMENT OF MR. WILSON.

May it please the court and gentlemen of the jury; though the departure of my client has given me a sudden and unexpected weight to carry in making his defense, it shall not deter me from an earnest effort to discharge my whole duty; and I hope you, gentlemen of the jury, will not allow it to unduly prejudice your minds, for it is not necessarily a proof of guilt, but may reasonably be attributed to a feeling of despair that he was drifting to that maelstrom from which none, none, have as yet escaped.

Dr. Avery is indicted for a general conspiracy to violate an act of Congress passed May 31, 1870; and what is the first proof adduced by the Government? That he was a member of an organization in 1868. Does it not strike you, gentlemen, as something beyond the range of possibility, that a man can conspire in 1868 to violate a section of an act which was not passed until nearly two years afterward? Besides, it is proved in the case that that organization was solely for home protection. I admit that there were many features in this organization of 1868 to remind you of the Ku-Kluxing organization of 1870-'71, that has been proven to have had existence. For instance, this order in 1868 had an oath, it had disguises, and the members were required to be armed, in which it resembles the Ku-Klux organization, are clearly proven to have existed; but while there are those resemblances there are just as marked differences. There was secrecy, it is true; there were disguises and there was an oath; but it does not follow that it was anything more than an organization for self-defense. So much for any argument that may be drawn from the character of this organization of 1868; but the Government does not stop here, and I am very far from being through with the argument. The Government says: You were on a raid, sir, on the night of Friday, the 1st of March; you were in a Ku-Klux gown, committing acts of atrocity upon old men, women, and children. Gentlemen, I admit it, if he was there on the night of the 1st of March, 1871, it is proved that he belonged to the organization. Now comes the great question in this case; was he there?

The first witness offered by the Government was Abram Broomfield, an old man; a man who seemed to be deaf; it was with difficulty that he could hear me; I had to raise my voice to a pitch that would fill this whole building to make him hear me, although he was standing within a few feet of me. What is his testimony? He was sitting in the fence-corner within ten steps of him and he heard Dr. Avery's voice. It is remarkable that he could have heard Dr. Avery's voice ten steps off when it was so difficult for him to hear on that stand. Next comes his wife, Emeline Broomfield. She doesn't swear by his voice, but she knew him by his beard. I think, gentlemen, you would not convict any man because he had a beard that the witness thought was his, for many beards are alike. But she says she knew his hand—she saw that hand when Dr. Avery had the line with both hands putting it over Sam Sturges's neck. Now, what does Sam Sturges swear? He swears that the man that put the rope over his neck was a black man, and his name was Howard White. Now, gentlemen, she said something else, that he grasped it with both hands; you felt that hand, you saw it; you heard what Dr. Talley, a distinguished physician of Columbia, testified to, that it was perfectly useless, no muscular power there. It was impossible for him to have grasped that rope with that hand. The next one is Harriet Postle, the wife of Isaac A. Postle. She says she knew him by his make and by his hand. She caught his hand; that Dr. Avery had hold of the rope in both hands, and while she was trying to pull it down, she caught the hand. Dr. Avery could not have had the hand in that position. The next witness is Isaac Postle. He says he knew Dr. Avery by his being common in his talk. Well, gentlemen, I don't think that any jury would be satisfied that it was Dr. Avery upon that sort of evidence.

Well, now here is the whole testimony, and if you convict Dr. Avery, you must do

it upon that testimony, and if our defense stopped here, would you feel that it was right upon such uncertain, flimsy, and conflicting, contradicted evidence as this, to send a citizen of South Carolina to the felon's cell and the felon's doom; would your duty allow you to do it? Would the practice of the juries of the Anglo-Saxon race of the last two hundred years, wherever that race has been known; would the practice of your own countrymen since you have been clothed with the right of American citizens; would you find precedents there to do that where the evidence is so conflicting, so uncertain? But, gentlemen, we don't stop here; has not Dr. Avery proven to your satisfaction that on the night of the 1st of March, 1871, when they say he was on this raid of atrocity, this contemptible cruelty, this trampling babes under feet, and mashing the heads of women—outrages of disgrace to the human race—when they say he was upon that low work, he was by the side of his wife and sick children. You saw Louisa Chambers; you saw how she testified, and I must say that never since I have been at the bar have I seen a witness subjected to so thorough, so protracted an examination, and I have never seen a witness come out of it more thoroughly intact and unscathed; there was no ingenuity that the distinguished counsel could exert that could make her contradict herself. She says that, on that night, when Samuel Sturges and Postle were raided upon, that Dr. Avery was at home; that he went to bed about between nine and ten o'clock; that his child was sick; that it was her habit to sleep in one of the out-houses, but that night she slept in the house on account of the sickness of the child. Mr. Cooper tells you that he knew the child was sick; old Kizzy tells you that the child was sick, and Louisa was in the house that night.

Gentlemen, I think the evidence of this *alibi* is so conclusive that you cannot entertain a reasonable doubt about it; and I would respectfully say to you that if there is a reasonable doubt left upon your minds as to Dr. Avery's guilt, then, on your sworn duty, you are bound, as a jury, to render a verdict of not guilty.

ARGUMENT OF MR. CORBIN.

May it please the court and gentlemen of the jury: The case before you is certainly a remarkable one. One feature in it, at least, it has never been my experience to meet with before any court. We have, in the regular course of the administration of justice, indicted a defendant who has been informed of the charges against him; he has been summoned to answer; placed before the court and the jury; enters his pleas of not guilty; sits by and selects his jury; sits by and hears the testimony; and then, in the darkness of night, flees. Now, gentlemen of the jury, I say to you that, in my judgment, that is a fact to be considered by you. It is something that has occurred before your eyes, in the presence of the court, and I think, gentlemen, and I believe that you will agree with me, and so will the rest of mankind in his county, or in the country anywhere when they hear the fact, that a flight under such circumstances is a confession of guilt.

But, gentlemen, we do not rely simply upon the conduct of Dr. Avery. Without noticing the argument of my friends on the other side, except incidentally, I propose to call your attention to the testimony. First, has this offense been committed? Second, who committed it? We showed to you the existence of an organization in 1868; Dr. Avery, by his counsel, is admitted to have been a member; an organization of which, it is said, that "any member divulging, or causing to be divulged, any of the foregoing obligations, shall meet with the fearful penalty and traitor's doom, which is death! death!" My friends on the other side talk about a peace society. Their witnesses say "it was a society for mutual protection, but we didn't see any use for it, and didn't go any more."

There is a little piece of testimony that the defendant's counsel insisted on drawing out from Colonel Merrill; they insisted upon his telling what John Rateree, a member of the Klan of 1868, told him, and he says John Rateree, of Rock Hill, told him that Major J. W. Avery, the chief of York County, Dr. Avery, his brother, and Iredell Jones, chief of the Klan at Rock Hill, went on the raid on Mr. Ferris, with their Klans, and Governor Ferrill testifies that when they came to his door he knocked them down with a fire-shovel, and Dr. Avery was one of the men that he knocked down. Gentlemen, don't we find in this organization of 1868—this conduct of the three Klans in 1868, of which this defendant was chief of one—a strong disposition to go on raids? Don't we find this wonderful representative—this gentleman—may God spare the name—going into this same business? Don't we find him covering himself with a mask and sneaking around in the night with his Klan, and attempting to shoot colored people, in 1868? Is this an open fight; is this a broad daylight fight, where gentleman meets gentleman, shake hands and shoot at each other, as the counsel on the other side said was the conduct of Dr. Avery? I tell you, no, gentlemen. We find this scoundrel; this coward and murderer; this everything that is bad—all demonstrated by their own testimony—proving to the world that he is just equal to these Ku-Klux operations.

Gentlemen, you have heard the testimony of Lawson B. Davis, who joined this infa-

mous organization in 1870. He says he was told that it was a society for mutual protection. Gentlemen, was there ever a word so abused; so entirely perverted? Was there ever damnation so foul, covered up by as pleasant an appellation as these words, "mutual protection," "home protection?" Mr. Davis says when he got inside of the Klan he found that it was an organization, for what? To protect anybody? No; but to destroy the opposition party; first, by visiting and warning the member; second, whipping them; third, compelling them to leave the country; and, fourth, killing them.

Mr. Gunn says the object of the organization was to kill and whip the white and colored radicals, until the democratic party should be triumphant in that county. Go up in York County, and call the name of Charley Good; will anybody answer? Go and call the name of Tom Rountree; will anybody answer? Call the name of Anderson Brown; will anybody answer? Call the name of Jim Williams; will anybody answer? No, gentlemen, these prominent colored men are dead, murdered by the Ku-Klux Klan. Gentlemen, if the organization ever existed, to be handed down through all time as excelling in its atrocities the savages upon our frontier, or the conduct of the people of India, or the atrocities of the savages of the islands, that organization is the Ku-Klux Klan.

Now, gentlemen, what is the evidence that connects this distinguished son of South Carolina? I say distinguished in derision, gentlemen; I don't think he is distinguished, except for his crimes. What is the evidence? You have the first evidence in his flight. If he had been an innocent man he would have sat here and, if you found him guilty he would have borne it; he would have attempted to show to the President of the United States that he was not guilty; and if the evidence was forthcoming in three months, as was said by the counsel on the other side, there is no question that he would have been set at liberty. But, instead of sitting here like an innocent man, and awaiting the result of his trial, he flees in the night, God only knows where.

Sam Sturges says he knew that little crooked hand of Avery's; could he be mistaken? Dr. Avery has presented his hand to you, for which I thank his counsel, and they have put a physician upon the stand to swear that that little crooked hand is permanently fixed in one position; that his fingers are doubled, and that it will never change its position, whether it is up or down.

Mrs. Broomfield says, "I saw that little lame hand, and I at once knew it; and I recognized his whiskers." What is the next proof about him? Why, here is old Apostle, an old man, celebrated for his piety. He is a preacher, and his demeanor upon that stand, gentlemen, in my judgment, showed that he was a great deal nearer following that Master—"Christ and Him crucified"—than some other people who were upon the stand. He says—mind, he is not a swift witness—he does not say I know Dr. Avery was at my house, but "I think he is the man; I recognized his voice, because it was a common voice to me, I had heard it so often; and when he says, 'We are men of peace'—after they had hung the old man up and taken him down—"we are men of peace and justice,"—hanging a man without judge or jury—and "we are men of peace and justice."

The other side send a minister after this man; Mrs. Avery goes after him. They get him to swear to an affidavit, written by the reverend gentleman, who never preaches against Ku-Kluxism, and the affidavit says, in effect: "If your evidence is true, then, I am mistaken."

What does Postle's wife say? She knew Dr. Avery by his hand, which she grasped. I tell you, gentlemen, no man or woman living who has grasped that little, lame hand would ever be mistaken about it.

But now, let us turn to the other side. Why, the gentleman on the other side (Mr. McMaster) said that you are the most wonderful jury that was ever got together—that such a jury is not recorded in the history of time. But he hopes that you will be able to lift yourselves on this occasion, and—what?—do justice. In God's name, gentlemen, that is just what we want you to do. But, gentlemen, he didn't intend it in that way; he intended it as a slur upon you, and everybody so understood it. You are all, he says, members of the opposite political party to which this gentleman, his client, belongs, hence you cannot do him justice—you are prejudiced. How does he know that, gentlemen? I suspect that he weighs you in his own insignificant balance—he judges you by himself. I say to you, gentlemen—it is not harsh for me to say so, when a gentleman can stand up before a jury and talk to them as he talked to you—that, because you are of the opposite political party, (and I don't know whether you are or not,) that you cannot do justice to his client; that it is a political question. Great God, gentlemen, is it politics to kill people and to whip people? If it is, let us send this man to the penitentiary who works politics in this way, and annihilate the political party that attempts to enforce its principles in that way.

Now, gentlemen, we come to another interesting matter in which the ministers are engaged. I wish I could find the ministers of York county in better company. It is only a day or two since there was a long article in a New York paper defending the Ku Kluxing in York County, from Rev. Mr. Latham, of York County. Only a day or

two since we saw a long letter in the Charleston News from a Rev. Mr. Winkler. He says: "To anybody who knows the facts about this Ku-Klux business, he would not be true to his God or his country if he wished well to these prosecutions." What do you think of a minister of this kind? What have you to say for a man who preached Christ and Him crucified, had a commission for that, but who says: "I never said a word against Ku-Kluxism. Whipping, killing, and murdering could be done and I say nothing about it, because I don't preach politics." Is there any surprise that Ku-Klux could exist in York County?

The question whether Dr. Avery was in this conspiracy is to be determined by you, by the testimony given you in this case, and, I think, gentlemen, that I am not doing myself injustice or you wrong by saying that I think you will agree with me that the testimony in this case and the conduct of the defendant and his counsel show you, equally, that he is guilty.

The charge of the court was as follows: "Gentlemen, you have heard the court's directions to the other juries, and the court does not think it necessary to give you further directions."

The jury retired, and after the lapse of fifteen minutes returned a verdict of guilty.

During the absence of the jury, some prisoners were arraigned, who pleaded guilty to the charge of general conspiracy, and made a confession in open court, as follows:

Gibson Canter said he lived in Spartanburgh; belonged to the Horse Creek Klan, which had about twenty members; he was sixty-six years old; was a farmer, and had a wife, but no other family. Alfred Harris was chief of his Klan. Jesse Tate, Chrusenbery Tate, Davie Collins, Billy Scruggs, Judge Edwards, King Edwards, and Shufort Blackwell, were members of his Klan. Frank Rea initiated him.

Mr. Turner Phillips said that he belonged to the Doe Pond Klan, of which Franklin Rea was chief. He joined some time before Christmas in 1870. The Klan had about twenty-five or thirty members. He was present at four meetings. The Klan had been on two raids that he knew of. He was on a raid on a colored man named Andy Fernandez; they struck him a few lashes apiece with switches. Fernandez worked in the iron-works. Never had done me any harm. He wasn't ashamed for having whipped Fernandez; was sent by the committee of the Klan to do it, and of course was compelled to do it. He joined the Klan under two magistrates in North Carolina—Cleveland County—and asked if it was a violation of the law to belong to the Klan, and they said it was not. They were Harvey Allison and Langley Samson. He was a member of the church; never consulted his pastor about the Ku-Klux. His Klan whipped Ben Phillips, colored, his wife and daughter, very severely. His daughter was fifteen years old. Nearly all the white people of Spartanburgh County belonged to the Klans. If they didn't go into it willingly they were forced into it. If punishment will put down this thing, I am willing to be punished my part.

D. Lewis Jolly said that he belonged to the Limestone Klan. Banks Lyle was chief of the county; he has run away. Was on a raid to take a white man out of jail in Spartanburgh, who was sentenced to be hung for killing a negro; also on a raid when Mary Bean was whipped. Took her out of bed and whipped her a little. Whipped her for breaking the peace between a white man and wife. Didn't whip the white man; the white man's wife got the Klan to whip her. He was a member of the Klan, and was one of these big, wealthy men.

W. S. Blackwell said that he was sworn in, but the Klan wouldn't receive him. He had tried to recognize the horse-tracks of the Klan, and had been sentenced to death by the grand Klan.

TWENTY-SEVENTH DAY'S PROCEEDINGS.

JANUARY 3.

The court met pursuant to adjournment, Hon. H. L. Bond, presiding; George S. Bryan, associate judge.

The court-room was crowded in every part, all the standing-room being occupied.

Mr. Chamberlain, attorney general, asked that sentence be passed upon Alexander Armstrong, convicted at the April term of the offense of robbing the mails.

The prisoner, who was a youth of seventeen, was then called before the court.

Judge Bryan, in passing sentence, said: The court has been very much touched by your unhappy situation and your youth. The excellent stock from which you come has commended you to the most merciful consideration of the court. I esteem it a great misfortune, and when youths of your age are put in the way of such great temptation—when those who do not well comprehend the responsibility of their situation expose them to great temptations—I have felt that it is not well that the Government should employ, or suffer to be employed, those of such tender age. It is for that reason that the court, on its own motion, when you appeared before it, were studious

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to intervene in your behalf, and not to consign to infamy and dishonor a member of a family well known to this State and community. We, therefore, have felt that this is a case where a crime has been committed, perhaps, for want of appreciation of that which you have done, and we are glad to know that the United States, in its wisdom and benevolence, has provided an institution for those standing in your situation, a place of penitence and a place of reform, where an opportunity will be given for a new life and a useful career. It is in the trust and hope that you will profit by this opportunity that we feel happy in being able to consign you to a house of correction, where you will be educated and have an opportunity of learning a trade, and an opportunity offered you of a life made respectable by virtuous labor. It is a place where you will be free from any vile contact, and in which you will be incited to honorable efforts for the future.

We trust that the benevolence of the Government will not be wasted; but that you will, instead of being a reproach, live to become an honor and comfort to your family, and maintain its most excellent name. The sentence of the court is, that you be imprisoned for a term of five years, dating from the time of your confession, and that you be consigned to the Detroit House of Correction.

CONFESSIONS OF THE KU-KLUX.

William Jolly, in reply to interrogatories propounded by Judge Bond, confessed as follows:

I live in Spartanburgh, and I am about eighteen years old; I belong to the Horse Creek Klan; I joined last spring; there were about fifteen or twenty members in the Klan; we met in the old field; I have only been on one raid; that was on Mary Beman; my brother, Louis Jolly, was with me; Jonah Vassey was the chief of our Klan; he is in Spartanburgh now, I reckon; Zebe Connell was one of our committee-men, and so was old Mr. Tait; I joined the Klan because I was afraid they would whip me if I didn't; my neighbors told me that I had to go in it, or be whipped into it; I was initiated into the Klan by George Scruggs; he told me I had to join; Louis Jolly, Tom Friers, and Membrey Humphreys were the only ones on that raid that I remember.

CONFESSION OF ALFRED BLACKWELL.

Alfred Blackwell, having pleaded guilty, confessed as follows:

I live in Spartanburgh, and I am nearly twenty-five years old; I joined the Horse Creek Klan last March; the chief was Jonah Vassey; there were twenty or thirty in the Klan, I reckon; I was only on one raid; that was on old Reuben Phillips; we brushed him a little; there were seven of us; we brushed him for beating another man's steer to death and throwing it into the branch; 'twas Sam Surratt who said he did it; Phillips was an old black man; we struck him three licks apiece; I don't know whose Klan it was went on this raid, but Shufler Blackwell was in it; I can't write or read, and have no "larning;" I went into the Klan because I was scared into it, and I lay out three weeks for fear, before I went into it; I did not go to any justice, or any one else, to tell them I was threatened, because I was afraid that if I went against them in any way I would get a whipping for it; I thought they would be sure to find it out.

Question. Were any of the justices Ku-Klux?

Answer. I reckon they was.

CONFESSION OF WILLIAM F. RAMSEY.

William F. Ramsey, having pleaded guilty to the indictment, confessed as follows:

I live in Spartanburgh, and am about twenty-five years old; I belong to the Horse Creek Klan; the chief of the Klan was Jonah Vassey; I reckon there was about thirty in it; I attended three of the meetings of the Klan, but there was nothing much done at them; some of the committee would consult and tell us what was to be done; there never was any order issued for a raid out while I belonged to it; Jed Edwards, Mr. Carroll, Mr. Tait, Sam Scruggs, and Mr. Peck belonged to the committee; I was on the Reuben Phillips raid; we took him and his wife out, and gave them three licks apiece; she is about thirty years old, I guess, and he about the same; 'twas about 9 or 10 o'clock at night; I don't know what we whipped them for; Sam Surratt said that Phillips had killed a steer and threw it in the ditch, and would not pay for it; they told me if I did not go on the raid when I was ordered that they would go right for me, and that I would get so many lashes, and would have to pay a fine of \$5; I had been laying out three weeks before I joined the Klan, and my uncle told me I had to join or leave the country; the reason why I did not go to some officer of the law and tell him was because I was afraid to open my mouth about it; I was but a poor, ignorant man, and did not know better, and would be very glad now to call it back if I could; 'twas said that Bank Lyles was chief of the Klan; he has left the country, I understand; why did not I leave the country? Because I was not able to go; I just

came and gave myself up the first chance I got. W. S. Blackwell, Alfred Blackwell Sam Surratt, John Moore, and Kell Moore, seven of us in all, were on the raid; I felt ashamed after I had been on this raid, and said if God would forgive me I would never go on another, and I never did, though I was warned to go on some three or four more; I know most of those who joined the Klan did it for self-protection; I suppose we did not unite and resist them, because we did not have sense enough, but I know a good many didn't join voluntarily. It seems to me that men who had good learning and knowledge ought to have taught us better.

Question. Can you read or write?

Answer. Nary a one. I was raised in Spartanburgh County.

CONFESSION OF THOMAS J. PRICE.

Thomas J. Price, having pleaded guilty, confessed as follows:

I live seventeen miles the other side of Spartanburgh. I am twenty-nine years old. Gilbert Surratt swore me into the Klan. I have been on two raids. R. P. Scruggs was chief of the Klan; our first raid was on Mary Beman, and the other was on Charley Fernandez and Jack Surratt; there were three of his family whipped that night, his wife, son, and daughter; we took them out and gave them a light whipping with hickories. On the first raid there was a negro woman whipped, about one hundred and fifty yards from her house, but that was a light whipping.

Question. What do you mean by that?

Answer. I suppose she had about twenty-five or thirty lashes with hickories. We pulled her out of bed. At the raid on Charley Fernandez, we whipped the two girls of his family; they were grown girls. I joined the Klan because I thought I was obliged to; I was told I would get into a hobble if I didn't, and, perhaps, get a whipping if I didn't join them; they told me that I had to obey orders, or I'd get into trouble; they told me that it would not be safe for me out of the order; they said I would be whipped or used roughly in some way or other.

Judge BOND. I think there ought to be another proclamation of emancipation.

Price continued: Robert Scruggs ordered me to go on the raid. Bank Lyles, they told me, was chief of the Klan. I can't say that I thought of saving myself by going and whipping negroes and children, but I thought I was bound to join the Klan and obey orders, and the reason why I didn't tell some of the authorities then, was that I was afraid to do it.

Question. Why didn't you tell the preachers there about these things?

Answer. I did not know but they might belong to the order.

CONFESSION OF TAYLOR VASSEY.

Taylor Vassey, having pleaded guilty, said:

I belong to the Horse Creek Klan; I joined about the last of March. I attended some three or four of the meetings, but there was nothing particular done while I was there; some of them went off and talked by themselves, but I didn't know what it was about. I have only been on two raids. There was nothing done to Hindu, but they whipped James Gaffney; and there was another fellow whipped that night—Matt Schuggs, a colored boy. We gave James Gaffney about three licks apiece. He was whipped for stealing; they talked to him right smart, but I don't know that they said anything to him about politics. I joined the Ku-Klux because I was afraid they would whip me if I didn't. I am not able to read or write, and am about twenty years old,

CONFESSION OF KING EDWARDS.

King Edwards having pleaded guilty, confessed as follows:

I was twenty-one years old last April. I joined the Horse Creek Klan last March; I joined it through ignorance, I reckon. I can't read or write much. Alfred Harris initiated me. I was on six or seven raids, I guess; we first went on Dick Roberts. Alfred Harris, Jervay Gidney, Thomas Tait, Christenberg Tait, and Jonas Vassey, were on the raid. Dick Roberts was a white man; he had been stealing things from another man, and we talked to him. The next raid was on John Harris; he was a black man, and we whipped him. It was 9 or 10 o'clock at night, I reckon; we pulled him out of bed and whipped him a little with hickories; some of them said they gave him about sixty licks altogether. We whipped another black boy whose name was Mage Cash, and we whipped another named Humphries. He was whipped for whipping his young master. We didn't talk to him about politics. We next went on Martha Jolly, but we didn't do anything with her. We next hunted for Jack Bark, but we didn't find him. Alfred Harris led the first raid, and Jonas Vassey led the other. We made a raid on John Harris, and Billy Scruggs led us that night.

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CONFESSION OF CHRISTENBERRY TAIT.

Christenberry Tait, having pleaded guilty, confessed as follows :

I belong to the Horse Creek Klan ; I am going on for eighteen years old, I guess ; I cannot read or write ; I joined the Klan last January ; I joined it because they shouldn't raid on me ; they told me I had better join for fear of being killed ; I have been on three or four raids ; the first was on Richard Roberts ; we raided on him because there had been talk about his selling whisky on Sabbath day ; he lived near the church, and had a bar-room, and we ordered him to stop selling whisky on meeting day ; then we went to old Ride's ; he was a boy that wouldn't mind his mother, and we told him he had better mind her, and some of them struck him about ten licks with a peach-tree switch ; we went into another black man's house, but we didn't do anything to him ; I do not know but that I have heard that Banks Lyle was chief of the Klan ; there were some respectable people in our neighborhood ; there is Mr. Watkins and Mr. Collins, William McKinney and Miller McKinney ; they are respectable men and well off ; I joined the organization because they told me I would not be safe if I did not ; William McKinney was taken out just before this thing was broken up, and he would have been whipped if he had not joined.

CONFESSION OF JESSIE TAIT.

Jessie Tait, having pleaded guilty, confessed as follows :

(This was the only one of the prisoners who appeared to be over twenty-five years of age.)

I joined the Horse Creek Klan last January ; I live in Spartanburgh, near the North Carolina line ; I never was on a raid in my life ; I joined the Ku-Klux because I thought it would not be safe for me not to ; it was Thomas Tait that told me it would not be safe for me if I did not join the order ; I am an unlearned man, but I never thought about it being violation of law or anything of the kind to join it ; Fred Edwards, Mr. Catterby, David Collins, and William Scruggs are the principal men in our neighborhood ; there were very few men there who kept out of the order ; they all said they would go into it for self-defense, for they got up a report that the majority in the United States belonged to it, and they said that every man that did not go into it would be forced into it ; I can't read or write to make much of it ; I can just manage to write my name ; we have lawyers and preachers up there, but I don't know that they've talked about this thing ; people generally go to church up there ; there wasn't much whipping in our neighborhood, for there are very few negroes there ; I heard of a raid once at Rutherford where they took the editor out, and I heard that Mr. Scruggs was in that ; the order came from the chief. Since I have been down here I have heard him called the great Cyclop. I have learned more about it down here than ever I knew before in all my life. When they were going on that raid only those that had horses were ordered to go. We are very poor up in that neighborhood, and only few of them had horses. I never straddled a horse in my life on any such business, and never had a disguise on or anything of the kind. King Edwards, Alfred Harris, Taylor Vassey were members of the Horse Creek Klan. I live by farming, rented land, and I got news here the other day that the gentleman who owns the land was going to dispossess me and turn my wife out of doors, although she is hardly able to sit up, because I surrendered myself and got myself taken up without being put under arrest. Judge BOND, Take this man's recognizances in \$500 that he may answer at a future sitting of the court.

CONFESSION OF FREDERICK HARRIS.

Frederick Harris, having pleaded guilty, confessed as follows :

I live in Spartanburgh County and belong to the Horse Creek Klan ; Jonas Vassey is chief ; I joined on the 28th of last March ; Dyke Harris initiated me ; I joined it for protection and to keep from being whipped. The Ku-Klux were whipping all around, and it was a great deal talked about among the people, and the only reason I had for joining them was through fear. I have been on two raids, and five were whipped in all. I can't say that I helped whip five people to keep myself from being whipped ; I know I was ordered to do it ; we whipped a colored man named Humphreys ; we pulled him out of bed and talked to him, but not about politics ; we gave him about twenty licks ; there were, I believe, ten of us. The next was a colored man named John Harris. We found him in bed, pulled him out, and whipped him. The next was Maje Harris, the next Matt Scruggs, and the next James Gaffney ; they were colored men. I cannot read or write, and I am going on twenty years old.

Question. Did you not know this was all wrong ?

Answer. No, sir ; I didn't know nothing about it.

Question. Would you not have thought it wrong if James Gaffney had dragged you out of bed and whipped you ?

Answer. Well, I suppose I would have thought hard of it.

Question. Don't you suppose he thought the same?

Answer. I didn't know whether it was wrong or not; I was ordered to do it by the committee; Jed Edwards was one and Steb Scruggs was another; Scruggs owns a farm. David Collins is a respectable man up there; he didn't advise us against it. There was Billy McKinney, I don't know whether he was a Ku-Klux or not. I suppose the reason why I did not say I would not join the Ku-Klux was because I hadn't sense enough.

CONFESSION OF M. T. PHILLIPS.

[The articulation of this witness was so imperfect that it was necessary to use William Robbins, a brother Ku-Klux, as interpreter.]

I never could talk so that anybody would understand me. I am going on twenty-five years old; I joined the Du Bond Klan; I should not have joined it if I had not been forced into it; they whipped me before I joined the Klan. [Interpreter: "That is so."] My brother-in-law said I must join it; it would not be safe for me if I didn't. I was initiated by Franklin Ray. I cannot read or write; almost everybody belonged to it.

CONFESSION OF WILLIAM ROBBINS.

The reason why I joined the Ku-Klux order was that there was more of my side—the democrats—than of republicans. I didn't belong to the Ku-Klux order, but they sent me word that they believed I was after something, and so I was. I had said that I thought the thing ought to be put down, but all seemed afraid to take hold of it. The best men and the highest men belonged to the order, and they advised me to join for my protection. I can't say that they would have forced me into it if I had resisted; but it would have been a pretty bad thing, for when they come about you they don't give you much time to do anything. I know when they first came into my field to get me to join I threatened to fire into them. Next day they sent a man to talk to me, and he told me there were two chances for me; one was to join the order, the other was to be abused by them. I don't think there were many in that part of the country that did not belong to it. I live about two miles from the North Carolina line. I never was on but one raid in my life.

Question. What likelihood is there that the witnesses who have testified in these Ku-Klux cases will be threatened and persecuted when they return to Spartanburgh?

Answer. I would say that I would hate to be one and risk it, because I heard leading men say it would be their day next; I heard them say that when witnesses were called from our neighborhood to go to North Carolina.

Question. Who did you hear say that?

Answer. Gilbert Suratt and Preston Goforth; they are two leading and respectable men; I heard them say it when there was a public meeting there, and they were in the crowd, and it was in the latter part of the summer, about the time they took some of them up to Raleigh to try them. This was at a public meeting at Grassy Pond, and the speaker advised them to stop this Ku-Kluxing; he was opposed to it, he said. I cannot say if Gilbert Suratt is to be found at home; I have been here eleven weeks, and have only had one letter from home in that time.

Judge Bond announced that he would hold these cases under advisement.

CASE OF COLONEL F. W. M'MASTER.

Mr. Corbin read the order of the court, that F. W. McMaster, attorney, show cause why his name should not be struck from the roll of attorneys for refusing to state to the court where his client, E. T. Avery, was, and from whom bail had been taken, at the request of Mr. McMaster. Mr. McMaster was represented by Mr. Fickling and Mr. Waties.

Mr. Fickling read the answer of Mr. McMaster which in substance said:

In answer to the rule, the respondent replied that on the occasion referred to, the question propounded by the court was, "Where is your client?" To which the respondent replied that he hoped the court would excuse him from answering the question. The respondent denies any intention of showing any disrespect to the court, or of putting himself in contempt; but he claims certain rights and privileges as a member of the bar which are as sacred as those of life and liberty, and which he felt bound to assert. He submits that there was no requirement on his part as an attorney to answer the question propounded, and that his mere refusal was no contempt. He submits that it was not his duty to become an informer against his client, and therefore his refusal to answer was not in contempt of the court.

He submits, further, that he was in no wise the custodian of his client, who was under recognizance of bail, and that he was not admitted to bail at his request, but only upon his application as an attorney, and that bail was allowed as a matter of right, upon the terms prescribed by the court.

ARGUMENT OF MR. FICKLING.

Mr. Fickling said: That in submitting the return of Mr. McMaster to the rule of the court, he was conscious of representing a gentleman of tried honor, integrity, and virtue; one who by a life of purity had secured the confidence, esteem, and respect of all who knew him. Mr. McMaster was one to whom anything mean or low, corrupt or fraudulent, or infamous, was abhorrent. He was one who was incapable of doing anything which as a gentleman, or man of honor, or as a member of that bar, it would be improper for him, knowingly, to do under such circumstances. He was startled at the magnitude of the charge preferred against his client. It was not simply a rule to show cause why Mr. McMaster should not be attached for contempt, but why his name should not be stricken from the roll of the bar; why he should not be disgraced, degraded, and rendered infamous for all time as far as it was in the power of that court to render him.

He would first present the question, was Mr. McMaster's conduct any contempt at all?

He would ask their honors whether the court regarded it as their prerogative to ask a member of the bar any question which the court might please to put, and to require thereto a categorical reply.

Contempt was a recognized offense, but it had its limitations. The intention to be discourteous, rude, and defiant to the court was contempt. Mr. McMaster had no such intention. His reply was in the most courteous terms. It was not even a refusal to answer the court, but a desire to be excused from answering; but had it been a positive refusal, not discourteous or in any way insulting, would it then have been a contempt?

Contempt was the doing by an attorney of that which he had no right to do in the face of the court. There must be wrong involved. It was quite possible that a question might be asked by the court which the attorney has not learned to answer.

Comyn's Digest, B, 14, 15, defines contempt, and gives a catalogue of different things which an attorney ought not to do, and for the doing of which an attorney might be punished; but the refusal to answer a question was not among those offenses that came within the rule. He distinctly asserts that there must be some wrong intended or done; something violative of his duty and obligations as an attorney; something corrupt, fraudulent, or some intentional rudeness or insult to the court; none of which existed in the conduct of Mr. McMaster.

Mr. Fickling here read from Bacon's Abridgment, volume 1, under letter I, the grounds upon which an attorney could be charged with contempt, namely, acts showing a base, corrupt, or fraudulent intent.

Again, would not affidavits be required to show that Mr. McMaster was in possession of the knowledge which the court desired him to divulge? Before an attorney could be stricken from the rolls, there must be proof of an offense deserving that judgment. No man was bound to accuse himself, and no man could be punished before conviction. There was no crime in refusing to answer a question; it was no violation of moral obligation; there was no collusion or attempt to deceive or defraud the court.

Again, the court would not proceed to punish for contempt when the party injured, the United States, had other redress. The United States had a full and adequate remedy—the forfeiture of the recognizance. Dr. Avery was not a prisoner at the time he left. He had been a prisoner, but had been released, discharged, was at liberty to go where he pleased, subject to the bond he gave. If he was not here, he had to pay his bond. That was the only restraint under which he was held.

Mr. McMaster was not bound to be an informer; he was in no wise the custodian of the person of Dr. Avery, and in no way responsible for his safe-keeping. He was not morally or professionally bound to declare where he was, even if he knew; indeed it would have been a violation of his professional confidence, if, knowing, he had confessed.

Mr. Fickling then quoted from Bacon's Abridgment, volume 3, under letter A, and concluded by saying, that had Mr. McMaster attempted to betray the confidence of his client, he would have deserved the reprimand of the court.

At the close of Mr. Fickling's argument, Mr. Corbin said that he and Mr. Chamberlain had not had an opportunity to examine the question, but that they felt very confident that the authorities would bear them out in saying that the refusal to answer implicated Mr. McMaster in the attempt to escape, and in that regard it was unquestionably an interference with the due course of justice. He thought, if time could be granted until Thursday, they could furnish a most complete reply to the return.

The court adjourned until 11 a. m. Thursday morning.

TWENTY-EIGHTH DAY'S PROCEEDINGS.

JANUARY 4.

The court met pursuant to adjournment, Hon. H. L. Bond, presiding; Hon. George S. Bryan, associate judge.

CASE OF MR. M'MASTER.

According to announcement, the counsel for the Government proceeded to the argument in the case of Mr. McMaster, as to whether he should be held for contempt in refusing to answer the interrogatories of the court as to his knowledge of the whereabouts of his client, Edward T. Avery, who escaped while on trial for conspiracy.

ARGUMENT OF MR. CHAMBERLAIN.

May it please the court: In the matter of the rule against Mr. McMaster, I do not consider myself as appearing here in the capacity of an advocate, but rather in the discharge of a duty that is laid upon me by the court, as well as in the discharge of my duty as a representative of the Government; for this is a proceeding which affects the discharge and completion of a duty—namely, the prosecution of this case—which we have undertaken for the United States Government.

I think every one who knows me will be assured that I could not press this matter with anything of acrimony or personal ill-feeling toward the gentleman whom this matter more particularly touches, and for whom I have none but the kindest personal feelings.

The facts out of which this proceeding has arisen are not disputed. Upon observing the absence of the defendant, Dr. Avery, the court inquired of his attorney if he knew the whereabouts of his client, and his answer was a request to be excused from answering. He was then asked if he had had any communication with his client in reference to his absence.

Mr. FICKLING. I think his honor determined yesterday that he did not propound that question.

Mr. CHAMBERLAIN. I did not know that there was any dispute about the correctness of the phonographer's report.

Judge BOND. None whatever. Mr. McMaster was asked if he knew the whereabouts of his client, and then he was asked if he had any communication with him before going away.

Mr. CHAMBERLAIN. The questions are precisely as taken down by the reporter:

"The COURT. Do you know where your client is, Mr. McMaster?"

"Mr. MCMASTER. I beg the court will excuse me from answering that question.

"The COURT. Had you any knowledge from your client that he was going away?"

Which question Mr. McMaster also declined to answer.

It is now claimed that the mere declining to answer these questions cannot be construed into proof that Mr. McMaster was aware of the reason or purpose of his client in absenting himself. In other words, and as distinctly stated by his counsel yesterday, the court should be required to prove an *aliunde*, to proceed on affidavit, or, by some other method of proof, to ascertain if Mr. McMaster had any complicity in the escape of his client from trial.

It seems to us that in this matter Mr. McMaster has exposed himself to the just and necessary inference, in declining to answer this question, that he had knowledge of the whereabouts of his client, and that he had communication with him upon that subject before he left; for he says to the court, in effect: I cannot answer those questions because it will criminate myself. His declining to answer those questions, and explain, leaves us to the inevitable inference, as the case now stands, that he did know, and that he did have communication with Dr. Avery with reference to his escape. If this be true, it seems to me that there is but one ground upon which Mr. McMaster can protect himself from the consequences of complicity in the escape of this prisoner. It seems to me that he cannot claim that this communication with his client, with reference to this escape, was in the nature of a privileged communication made by his client to him while in the exercise of his professional duty to that client. Therefore we meet the very grave question, the all-important question in this communication, whether such a communication as that is a privileged communication from a client to his professional adviser.

Let us remember that an attorney is an officer of the court. However widely the popular mind may have strayed from the just conception of the duty of an attorney, he is always considered in law, strictly, as an officer of the court, an officer of justice; concerned always, when he is in the discharge of his professional duties, with furthering the ends of justice. That may recall some of us who are attorneys from a very wide straying from this correct and just conception of our duties, but it is nevertheless true that we are all of us, as attorneys, as much officers of justice as your honors are, or as the marshals, or other executive officers of your court are, and equally and always

concerned in the protection of law, and in the vindication and execution of justice. Any departure from that line of duty on the part of an attorney is a palpable dereliction of duty.

There are in the discharge of the duties of an attorney certain communications from client to attorney which he may not disclose, and which the court will not allow him to disclose, and the question, to my mind, now seems to be: Was the knowledge derived from communications with Dr. Avery to Mr. McMaster the subject of a privileged communication, which this court may not require him to disclose?

Now, may it please your honors, if Mr. McMaster was set to defend Dr. Avery against the charge of conspiracy before this court, he was the professional adviser with reference to this case, and with reference to the indictment against his client, that he had conspired with others to violate the laws of the United States. Now, is there anything in that which looks to any complicity with this escape from that trial? Is he defending Dr. Avery, in any just sense of the term, when he connives, conspires, or communicates with him in reference to his escape from the jurisdiction and authority of this court? When I undertake to defend a client in this court against a charge brought against him, is it competent for me, as his attorney, as an officer set here to further the ends of justice, to communicate with him in reference *not* to his trial, but to his escape from trial; not that justice may be done upon him in the matter of receiving a verdict of guilty or not guilty, but that he may put himself beyond the reach of the court, and prevent justice, either in his behalf or against him, from being attained?

It is true that privilege of client to attorney is very broad, but it does not cover everything, and it does not conflict with that great duty which the attorney, from the nature of his office, under his oath, holds to a court of justice.

A good statement in this general rule is found in 1st Greenleaf on Evidence, section 240.

[Mr. Chamberlain here read the paragraph on protection of communication from client to attorney.]

It will be seen that this entirely covers any communication which may have been made to Mr. McMaster for his professional aid or advice upon the subject of Dr. Avery's rights and liabilities. But what was the case upon which Mr. McMaster had undertaken to give professional aid and advice? Was it a question whether it was prudent for Dr. Avery to stand his trial? No, it was upon his rights and liabilities to the law; not how he might escape from the reach of the law, and put himself beyond the power of this court. Professional aid and advice upon the subject of his rights and liabilities, how he shall be defended, what was necessary to constitute a legal defense against this charge, what evidence is admissible and what shall be excluded, and what consideration shall be addressed to the court in his behalf. Yet I understand the claim now to be made that all this embraces advice and communication with reference to his escape from the very forum where his attorney had been standing to defend him. But is that professional aid and advice? Is that advice upon the subject of the rights and liabilities of Dr. Avery in this court and under this indictment? It clearly is not; but it is communication and advice with respect to his escape from the very position where Mr. McMaster was stationed, and had undertaken to conduct his defense. It was an arrow's flight beyond professional range. It was a confession that the hour for professional advice was gone, and that, having discharged the utmost of his duty and exhausted the utmost of his ingenuity, the law was pressing upon his client to his conviction. Then Mr. McMaster assumed to step beyond that line, and communicate and advise with his client with reference to his escape.

The limitation upon the sacredness of communication from client to attorney is distinctly stated by the same authority: Greenleaf on Evidence, section 244.

[Mr. Chamberlain here read the passage relating to privileged communication.]

There is no doubt when this communication was had with Dr. Avery that the relation of attorney and client existed between those two gentlemen, but the question is, had Dr. Avery's escape anything to do with the professional advice and assistance which Mr. McMaster was bound to give to his client? If, as I have shown you, he could not, in the exercise of the just functions of his office of attorney, have communication and be privileged in concealing it, then we have here precisely the explanation which is recognized by this authority, of communications made while the relation of attorney and client subsists, but having no relation to the execution and performance of professional duty.

This, therefore, could not have been a privileged communication. It could not have been advice or assistance given by Mr. McMaster to his client, because it was upon the face of it a palpable and direct attempt not to act as an officer of this court, but to act in defiance of this court, and for the express purpose of enabling his client not to stand his defense and meet his verdict, but to escape beyond the reach of justice.

My friend yesterday, in his argument in behalf of Mr. McMaster, alluded to the fact that Dr. Avery had been admitted to bail by this court, and he distinctly advanced the doctrine that the forfeiture of that bond was a complete remedy on the part of the

United States, a complete equivalent for the presence of Dr. Avery; and that the United States had chosen to set down the value of Dr. Avery at \$3,000, and that the United States would have its remedy in the forfeiture of the \$3,000 for the non-punishment of Dr. Avery for this offense. I think I never heard a more dangerous or a more unsupported doctrine advanced in any court—the idea that the United States, having fixed the bail of Dr. Avery at \$3,000, now receives its equivalent. For my friend distinctly said that here was the alternative, either stand your trial or pay \$3,000, and Dr. Avery had taken the alternative of paying \$3,000, and therefore the United States and Dr. Avery were even. Did the United States, or did your honors, when you granted that bail and fixed the amount at \$3,000, conceive that that was the equivalent for the offense committed? I need not argue that point. The purpose of that bail was simply to enable Dr. Avery, instead of remaining within the prison walls to await his trial, to be at large, and to visit his family and to enjoy his freedom, under that restraint, until the hour when the Government would call him to his trial. It was simply to secure his presence at his trial, and had no reference whatever, and brought about no such relation, between the Government and Dr. Avery, that if he chose to pay \$3,000, the Government had no further claims against him; and if this claim was supported, then what right has the marshal with his officers and detectives to be to-day upon the track of Dr. Avery? We have got his \$3,000, but if my friend's argument is correct, Dr. Avery owes us nothing more; he has taken his alternative, forfeited his \$3,000 and gone. And then his attorney had the right to advise him to it. No, if it please your honors, he was bound to be here upon the penalty of the forfeiture of \$3,000 to meet his trial. That was the significance of his bond; and it had nothing whatever to do and does not form the slightest justification for any advice or aid from his attorney in forfeiting that bond to take himself beyond the reach of the court.

The general power of the court to punish the offense and misbehavior of attorneys is stated in Bacon's Abridgment, volume 1, page 506, under the title of Attorney, capital letter H.

[Mr. Chamberlain read the passage from Bacon, which was to the effect that attorneys could be struck from the roll for ill practice, attended with fraud and corruption, committed against the obvious rules of justice and common honesty.]

It has not, I think, been claimed in this matter that it was by accident or neglect that Mr. McMaster's communication with his client arose, although it has been claimed that the Government has another remedy against Dr. Avery, to wit, the forfeiture of his bond.

[Mr. Chamberlain here quoted from Cranch's Circuit Courts' Report, volume 4, page 503, showing that an attorney was not permitted to evade the fair operation of the law or impede the course of justice.]

The just rights of Dr. Avery were in the keeping and protection of Mr. McMaster, but nothing more. His rights here were to a fair trial, to a full examination of all his evidence, and the opportunity to present every circumstance and every particle of evidence that might be presented in his behalf; but it extended no further. He was bound to protect the just rights of his client, but he was not bound—he was forbidden by honorable professional conduct—to attempt to evade the operations of the law, or to defeat the administration of justice.

Has the operation of the law been evaded? Has the administration of justice been defeated? If Mr. McMaster, in his communication with his client, had knowledge of this purpose on the part of his client, then he was not in the discharge of his professional duty. It was in violation of professional duty, and in contempt and scorn of this court, when he listened to that communication, and gave that advice and came into this court to decline to answer those questions.

(Mr. Chamberlain here read from the following authorities: Cranch's Circuit Court reports, volume 2, page 379; also Wallace's reports, volume 7, page 364; showing that attorneys could be proceeded against for disobedience of rules and for ill-practice against the obvious rules of justice and common honesty.)

These authorities go distinctly to the point that it is entirely beyond the discharge of professional duty to attempt, directly or indirectly, to defeat the administration of justice, or to evade the operation of the law, and that there is no duty which the court will more jealously and invariably discharge than that of affixing proper punishment for such an offense, on the part of its officers.

Can there be a doubt that, in this instance, the administration of justice has been defeated and operations of the law evaded?

ARGUMENT OF MR. CORBIN.

May it please your honors: I feel that I need to add but a word to what has been so well said by the attorney general. It is a delicate and a somewhat trying duty to animadvert upon the conduct of a brother attorney. It is an unpleasant duty, because, if the court please, we are all officers of the court, and we are all called brothers at the bar. Our re-

lations are usually and necessarily friendly. Our business communications are constant, and all know how much more agreeable it is to be upon friendly terms with those with whom we have constant business relations. But we sustain another relation, namely, that of fidelity to the court. We have a duty to perform to the court, as well as to each other, and it is a duty which we cannot disregard. The court relies upon us, and it relies upon our honesty, our honor, and our fidelity. And we owe another duty to the community in which we live, and that is to sustain the high character of the profession to which we belong. When one of our number steps aside from the high duty which he, as counsellor, owes to the court, then it becomes a duty, though a painful one, to speak to him as we ought, in vindication of ourselves, the profession, and the court.

What is the necessary and inevitable inference from the reply of Mr. McMaster to the question of the court? "Do you know where your client is, Mr. McMaster? Had you any knowledge that your client was going away?" His reply is, "I decline to answer." The necessary inference from that—and it is one from which neither we nor the court can escape—and it is the inference which the community will draw, and the world readily understand, and that is, he did know where his client was; had knowledge from his client that he was going away. The inference is, that he declined answering these questions in order to conceal the flight of his client, and thus aid in his escape. His client was on trial for a felony; much time of the court had been consumed in the trial; witnesses for and against him had been examined, and when it became apparent that he might probably be convicted, then he, with the knowledge, consent and assistance of his attorney—because concealment is assistance—he seeks safety in flight, and, by the aid and assistance of his attorney, defeats the due course of justice. This is the true statement of the case, and we must not seek to cover Mr. McMaster with a mantle of charity, for the common sense of mankind will draw the inferences I have presented and will adhere to them to the end of time.

Now, I ask, is the conduct of Mr. McMaster consistent with his duty as an attorney and counsellor of this court? The relation of attorney and counsellor to the court is one of confidence. The court relies on his integrity and honor; he is a friend to the court. If any fraud is being practiced on the court he must disclose it; any attempt to cheat, or mislead the court, or defeat the due process of the court, the attorney or counsellor should inform the court of it; because his relation to the court is one of confidence and trust; his oath implies it; he is sworn to faithfully discharge his duties as an officer of the court. Lord Mansfield says that he sustains these relations to the court, and that his conduct should be above suspicion. But, I ask, how does this conduct of this gentleman appear when measured by this rule? The gentlemen on the other side argue, that being counsellor for Dr. Avery, he had a right to conceal everything, including his flight, or anything his client might choose to do. But the rule that Mr. Russell lays down in his work on Crime, volume 2, page 908, is that the privilege of an attorney does not attach to everything that the client may say to his attorney. The test is, whether it is necessary for carrying on the proceeding in which the attorney is employed. If it was necessary for his defense, then Mr. McMaster would be excused, but if not necessary for the purpose of carrying on the proceeding in which the attorney was employed, then his communication was not privileged.

Was it necessary, I ask, to the defense of his client, that he should refuse to tell where his client was, or refuse to disclose the fact of his flight? His flight was the defeat of the progress of the cause. His flight defeated the administration of justice, and robbed the law of its just penalty. Now, if Mr. McMaster was implicated in that, it seems to me that that is the end of the cause. The authority on this point cannot be refuted, and it was repeated in what my assistant, the attorney general, stated, that unless the communication was necessary to his cause, and connected with his cause and the due conducting of the defense, it was not a privileged communication, and it cannot be said that there was any excuse in this case for refusing to reply.

The very moment the demand was made by the court, we witnessed the proper conduct of an attorney. What did Mr. Wilson say when interrogated by the court? Feeling that he might be implicated in the flight of the defendant, on being asked, "Where is your client?" Mr. Wilson replied, "I understood, when we adjourned, that Dr. Avery had gone to see his family, and that he would return to-day." "Do you expect him back?" asks the court. "I have had no interview with him, but I expect him to return by the next train; I know nothing, save from information I received from Mr. McMaster." Here, if the court please, is proper conduct on the part of an attorney. Under the circumstances, he feels that the flight of the defendant may be attributed to him, and he hastens to assure the court that he knew nothing about it, but expected him here. He is ready and willing to disclose the honest relation of himself with his client, so far as the court deemed such information necessary to the protection of the cause. Mr. Wilson, in his frank avowal to the court and the counsel on our side, says in effect, "I hope you will not suspect that I am implicated in the flight of this defendant."

Such conduct is precisely what we have a right to expect from an honorable attor-

ney. Now, contrast it with that of the other gentleman. "I hope the court will excuse me from answering." "Do you know anything about your client?" Again we hear, "I hope the court will excuse me from answering." Why does the court want to know? The court cannot go on without the defendant. We are proposing to go to the jury and to ask the jury to pass upon this defendant. Without the defendant the result of the trial will be a nullity, and why shall the court lose time? Why should the attorney withhold all information with reference to his client; where he is, and whether or not he proposes to return, but for the obvious reason that if his flight is not concealed and we are informed, then his flight will fail and the man will be brought back and placed in the custody of the court, and justice be meted out to him?

Now, I say that if such conduct does not meet with reprehension from this court, it will certainly meet with condemnation from the public at large. I feel, as a member of the bar, and interested in the reputation of attorneys, that such conduct cannot pass without the reprehension of the court. I feel that it is the duty of the court to maintain the honor and integrity of the bar; and if misconduct is seen in the case of any attorney, then the court will purge the bar and not compel us to all stand together. The court knows how popular it is outside of our profession to attribute all sorts of low practices and designs to members of the bar. We know full well it is unjust in many instances, but I hope this court will not aid that public sentiment, but will say, now that this case has been brought to its attention, that the misconduct of attorneys of this court, their interference with, or their connivance at, the defeat of justice shall be punished, and that such practitioners shall be thrown over the bar of this court. In that way the court will protect itself, will protect the integrity of the bar, and not permit attorneys hereafter to interfere with, or connive at, or assist criminals in escaping from the meshes of the law.

ARGUMENT OF MR. WATIES.

Mr. Waties, in concluding the argument in behalf of Mr. McMaster, said that the present question was not only of great gravity to the respondent, but reached far beyond the individual and the present hour; it concerned every individual of the commonwealth. It concerned every member of the bar as well as it did the respondent.

He would first endeavor to show the sufficiency of the return to the rule. The rule requires that the respondent should show cause why his name should not be stricken from the roll of attorneys of this court for contempt in refusing to state the whereabouts of his client, E. T. Avery, for whom bail had been taken at request of Mr. McMaster.

Now, Mr. McMaster utterly disclaimed any intention to show disrespect or contempt to the court by his refusal to answer. But the respondent justified his refusal to answer upon the broad ground that the court had no right to demand an answer, or, in other words, that the court had no right to put the question. If the court had no authority to ask the question, there could certainly be no contempt on the part of the respondent in refusing to answer.

But supposing, for the sake of argument, that the question of the court was legal and legitimate, but that the respondent honestly believed that it was not, and that therefore he was justified in refusing to answer, would their honors hold him in contempt for a mere error of judgment? Before their honors would strike an attorney from the rolls they would first have to decide that he was mistaken as to his rights and privileges, and if they so decided and he was bound to answer that or any question propounded, then they would certainly excuse him from contempt if he honestly made the mistake. But it was contended that he was not mistaken as to his right.

To find the respondent guilty of contempt their honors would first have to find that the court was authorized to demand of him, as an attorney, an answer to the question as to disclosing the whereabouts of his client; and, secondly, that his honest error of judgment, in refusing to answer, was no excuse for refusing to answer; thirdly, that his first and highest duty, as an attorney, was not to his client; and, fourthly, that he was not honest and conscientious in the discharge of his duty to that client.

Viewing this as a privileged communication between the attorney and client, on what principle could the court demand that the respondent should answer the question? Was it not contrary to the practice of courts? Was it not rather the province of the court to prevent an attorney from disclosing the secrets of his client? How much worse would it be were the court to attempt to force him to disclose? Greenleaf, volume 1, paragraph 331, said that what an attorney learned as counsellor or attorney he was not obliged or permitted, to disclose. Mr. McMaster was asked the whereabouts of Dr. Avery. If Dr. Avery told him, it was a secret confided to him by his client, and he was not permitted to reveal it. Greenleaf says this was the rule of law for the protection of the client, and the best way in which Mr. McMaster protected his client was to keep his mouth shut.

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Greenleaf further said, page 332, that no court would permit an attorney to disclose his client's secrets, and if he attempted to disclose them he would be struck from the roll. The rule which Lord Eldon applied to prevent an attorney from disclosing the confidential communication of his client, their honors would not surely apply to force him to disclose them.

If the seal of the law was placed on Mr. McMaster's lips, it was there still, and it must remain there forever unless removed by the client himself, and the court would keep it there, for, as Lord Eldon said, they would not permit him to remove it.

He contended that it was better that the interests of criminal justice should suffer than that this rule and law of professional confidence between counsel and client should be weakened or impaired in the slightest degree. It was better that a criminal should escape than that the seal of confidence should be broken.

He would go further and say that the greater the secret the greater the confidence; the more important the communication made to the counsel by the client the more is he, in honor, bound to keep it, both in honor and in law. How else could there be any confidence between attorney and client?

Such a disclosure as Mr. McMaster was asked to make would not only be a violation of privilege, but would be contrary to law, and would work a manifest injury to society.

I have the privilege of construing that rule, and I do construe it in favor of my client—of my friend. If he was my client I might be called upon to reveal something.

The district attorney and his colleague go outside of the rule in their effort to correct this respondent. They contend that Colonel McMaster's refusal to answer shows complicity in aiding Avery to escape—this refusal to divulge a privileged communication shows complicity in Avery's escape. May it please your honors, in the first place it is denied that there was any escape. Dr. Avery was out on bail, and free to go where he pleased.

Mr. McMaster stands before you to-day, may it please your honors, as pure, upright, and conscientious an advocate as there is at this bar. He has acted throughout this whole matter as became an honorable man and a worthy attorney of this court. He has nothing to blush for, nothing to regret, nothing to retract. He can say, with Luther, when called on to recant before the Diet of Worms, "I cannot; I may not recant, because it is neither safe nor well-advised to act in any way against conscience. Here I stand. God help me. I cannot do otherwise."

Mr. Corbin presented an additional authority in 2 Russell on Crimes, 909, and at 3 o'clock court adjourned.

TWENTY-NINTH DAY'S PROCEEDINGS.

JANUARY 5.

The court met pursuant to adjournment, the Hon. H. L. Bond presiding; Hon. George S. Bryan, associate judge.

PRISONERS PLEADING GUILTY.

Mr. CORBIN said: There are some seventeen prisoners here anxious to plead guilty, and to throw themselves upon the mercy of the court, and I respectfully ask that judgment may be passed upon them. They have come in voluntarily to plead guilty. There are in many of the cases extenuating circumstances that ought, in my judgment, to appeal to the clemency of the court. Some of the prisoners are young, many of them are very ignorant, and nearly all claim that they have been driven into this organization by the force of public opinion, by threats, and to save themselves from the visitations of the Ku-Klux; in other words, they went into this organization to protect themselves from its violence.

In almost all the cases to which I ask the attention of the court, the parties have gone upon raids and have assisted in inflicting punishment, more or less severe, upon the negroes of Spartanburgh County.

If it were possible to excuse some of them entirely from the just punishment for these offenses, I, for one, would be glad to do it, for I think the responsibilities of these outrages rests upon the men of the county who were the leaders and chiefs of Klans; in many cases men of property who have led and controlled these others. These are the ones that ought to be punished. But your honors know that most of this class who, from their social influence and position, aided in the perpetration of these crimes, have fled the country. They were able to fly, but many of these parties were not able to flee, and when it was known among them that these charges were made against them, and that proof existed, and was in the hands of the Government, they pleaded guilty and desired to throw themselves upon the mercy of the court.

I do not see how it is consistent with the protection of the citizens of that county to allow these parties to escape without some punishment. I do not see how the Government can permit the plea that the force of public opinion in that neighborhood forced them into an organization like this, and that the fear of visitations from the Ku-Klux should lead them to enter an organization and join in atrocities such as they confessed to and yet be held guiltless. The individual responsibility of the citizen before the law seems to be inconsistent with such a plea.

In making these remarks, it is simply to express the desire that a wise and merciful discrimination should be made in favor of those who have been led, seduced, or forced into an organization guilty of such inhuman atrocities.

The prisoners being in court were ordered to stand up, and, after their names were called and the indictment read, charging them with conspiracy and interference with the right of voting by raiding on and whipping colored citizens, they severally pleaded guilty.

Judge Bond then addressed them as follows :

REMARKS OF JUDGE BOND

You have pleaded guilty to an indictment which charges you with conspiring with other men throughout this State to intimidate a certain class of voters by means of threats, beating, and even killing, because that class of citizens were opposed to the conspirators in political opinion.

We acknowledge great perplexity in determining what punishment shall be meted out to you. We have no words strong enough to signify our horror at the means employed to carry out the purpose of the Klans. Our difficulty is personal to you.

You have, as it appears from your statements to the court, been brought up in the most deplorable ignorance. At the age of manhood, but one or two of you can either read or write, and you have lived in a community where the evidence seems to establish the fact that the men of prominence and education—those who, by their superiority in these respects, establish and control public opinion—were for the most part participants in the conspiracy, or so much in terror of it that you could obtain from them neither protection or advice, had you sought it.

There is abundant proof of the nature and character of the conspiracy. Evidence of nightly raids by bands of disguised men, who broke into the houses of negroes and dragged them from their beds—parents and children—and, tying them to trees, unmercifully beat them, is exhibited in every case. Murder and rape are not unfrequent accompaniments, the story of which is too indecent for public mention. The persons upon whom these atrocities are committed are almost always colored people. Whatever excuse is given for a raid, its conclusion was almost always accompanied by a rebuke for the former exercise of the suffrage, and a warning as to the future exercise of the right to vote.

But what is quite as appalling to the court as the horrible nature of these offenses is the utter absence on your part, and on the part of others who have made confession here, of any sense or feeling that you have done anything very wrong in your confessed participation in outrages, which are unexampled outside of the Indian territory.

Some of your comrades recite the circumstances of a brutal, unprovoked murder, done by themselves, with as little apparent abhorrence as they would relate the incidents of a picnic, and you yourselves speak of the number of blows with a hickory, which you inflicted at midnight upon the lacerated, bleeding back of a defenseless woman, without so much as a blush or a sigh of regret. None of you seem to have the slightest idea of, or respect for, the sacredness of the human person. Some of you have yourselves been beaten by the Klans without feeling a smart, but the physical pain. There appears to be no wounding of the spirit; no such sense of injury to yourself as a *man* as would be felt by the humblest of your fellow-citizens in any other part of the United States with which I am acquainted.

There the citizen upon whom such outrages were perpetrated, stung to madness by the insult to his manhood, would be swift to follow the wrong-doer to the end of the world to make him atone for it. You make excuse for this in your statement to the court that you are very ignorant; that the Klans would have beaten you, and even killed you, had you refused to join them in their crimes. Some of you now particularly before me have actually suffered for your refusal, before you really united in membership with them. The court, in an endeavor to recognize some features of humanity in you, has considered these facts which you plead as excuses. You have grown up in a country where slavery existed for a long time, and where the whipping-post was a standing institution.

To see blacks flagellated was no unusual occurrence. The scene often viewed, with its novelty, lost its revolting effect. And when it came to be understood that the human person was not so sacred in the colored man as to secure immunity from outrage, it did not take it long to lose its sacred character in yourselves, and in all other

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men who, like the colored man, was obliged to labor. It must be from this cause that your utter indifference to wrongs, which among freemen would stir a fever in the blood of age, arises.

And then you tell us that you differ from many other portions of the country in this, that it has always been obligatory upon you, and the class to which you belong, to look to persons of wealth and education for command, and that you, in your ignorance, had to follow such persons implicitly.

It will appear strange to your fellow-countrymen who read your story, and that of your confederates, however willing they may be to believe you, that so large a portion of the young white men of your county can be in such a state of abject slavery to the men of property above them, as to be willing to commit murder at their command.

In no case has there been any resistance to these midnight raiders except on the part of the colored people.

You say some of you "laid out" in the woods night after night, and have hidden yourself in thickets to escape these marauders. None of you, however, have had the manliness to defend your firesides from the assaults of these lawless men. There has not been, on your part, so far as the evidence shows, an assault and battery committed in defense of family and home and all that freemen hold dear.

Admitting all you have said to be true, while the story of your condition and of your participation in these outrages through fear is painful enough, the facts do not excuse you. They may palliate, in some degree, your offense, but they cannot justify you. The punishment the court awards you is partly inflicted that you may learn that no amount of threats or fear of punishment will justify a man in unprovoked violence to another, unless the danger threatened to the wrong-doer be imminent or actually present at the time of his wrong doing, and even then the danger must be of present great bodily harm, and of death itself, before some of the criminal conduct confessed would be justified.

It does not excuse you for participating in this conspiracy and raiding upon inoffensive colored people—dragging them from their beds, beating some, and hanging others—that you had notice if you did not join the Klaus would visit you.

You are bound to run the risk or seek means of protection rather than do violence to your neighbor. The law and your fellow-citizens look to you to make this threat of violence difficult of execution, by a manly resistance or an enforcement of the law. You had no right, when you could escape, to make the price of your security the violation of your neighbor's.

You and your confederates must make up your minds either to resist the Ku-Klux conspiracy or the laws of the United States. They cannot both exist together; and it only needs a little manliness and courage on the part of you ignorant dupes of designing men to give supremacy to the law. Be assured it will not be taken as an excuse in your case or in any other to hear it said, "I slew this man because the chief ordered it, and I was afraid," and "'brushed' and raped these others because I dreaded to be whipped if I did not."

TESTIMONY OF A. HARRIS.

Mr. Corbin here called A. Harris, colored, one of the persons raided on by the prisoners. In reply to questions of Judge Bond he said:

The Ku-Klux raided on me, took me out of my house down the creek a bit, and whipped me with sticks and switches. They whipped me right smart and gave me something over — lashes on my bare back. They first jerked me up out of bed, and then blindfolded me. They said that I had boasted at the election that I would vote for whom I pleased. I voted the radical ticket. There was quite a crowd of them inside the house and outside. After they had whipped me they told me to run and not look back at them or they would shoot me. They whipped me so bad that I could not work, so that I was like to lose my crop. They whipped Major Cast and Humphreys, a neighbor of mine, the same night.

CONFESSION OF AARON EZELL.

In reply to the question, what had prisoner to say why the court should be lenient to him, and in answer to interrogatories of Judge Bond, he replied:

I joined the Ku-Klux Klan because they threatened me and said they would whip me if I did not go into it. I have been on only two raids. There were three colored boys that we whipped. I was on the raid on Mr. Justice, at Rutherford. I joined the organization in March. I can read and write but a little. I am nearly forty years old.

Judge BOND. The sentence of the court is that you be fined \$10 and imprisoned one year.

CONFESSION OF MONROE SCRUGGS.

Why did I join the Klan? Well, I suppose, sir, it was for a want of sense. I have never been on but one raid; that was the one where Mr. Harris was whipped. I am

going on twenty-one years old; but I can't neither read nor write. I work out for my living—hoeing. I did not know anything about the Ku-Klux until I went on that raid, and I didn't want to go on another.

REMARKS OF JUDGE BRYAN.

Judge Bryan, in passing sentence upon the prisoner, said :

The court, in passing sentence upon you, looks upon your youth. You have not the responsibility of settled manhood, and it is but natural that you should have taken direction from those who were older than yourself, and you may have been impressed by the public sentiment around you. The court seeks to find palliation for the enormities, the unmanly enormities, that have been committed. Striking men where men could not strike back to protect themselves, and where they had no redress or hope of redress; striking with masks on, and, therefore, striking without any responsibility! Whether these enormities have been committed on men—still more on women—they were wholly unmanly, and, let me say, utterly un-South Carolinian. Nothing could be so little characteristic of the State; nothing so calculated to bring disgrace upon the State; nothing so calculated to overturn and besmear its ancient, high, and bright escutcheon. These stories afflict all men, but they peculiarly afflict him who now addresses you. I would be glad to regard them as exceptions; I must esteem them as in great measure exceptional; and I say to you, young as you are, you have brought reproach upon your State, and you have done wrong to its character. The greatest possible wrong that any son of hers could do would be to besmear and tarnish her ancient renown and reputation. In passing sentence upon you we cannot but recollect your youth; we cannot but remember the disordered condition of the times; we cannot but recollect that the moral sense of our people, so recently engaged in war, and especially from the disorderly condition of things, may be to some extent blighted; we, therefore, feel justified in greatly modifying the sentence which has just been passed upon the prisoner, who has arrived at full manhood. The sentence of the court in your case is that you be fined \$10 and confined in prison for six months.

CONFESSION OF ALEXANDER BRIDGES.

I am thirty-seven years old, and have a family of seven children. I have been on two raids. I believe there were two or three people whipped. I did not want to go on the raid. I didn't mean to go, but I happened to meet with them, and so I went; but I didn't do any of the whipping myself.

Question. Was not every man required to do his part?

Answer. Nobody asked me, and I did not do anything. Why didn't I inform the authorities? I was afraid to. I thought they might kill me if I divulged anything. Why didn't I get away? I could not take my family with me; I had to stay.

This man was a shade more ignorant—if that were possible—than the rest of the prisoners. He seemed scarcely able to understand the simplest interrogatories of the judge.

Judge BOND. The sentence of the court is that you be fined \$10 and be confined one year.

CONFESSION OF JOHN BURNETT.

I belong to the Ku-Klux organization. I was only on one raid. I was twenty-one years old last April. I can't read or write, but I can just write my name. Do we take any newspaper in our part of the country? I guess not.

By Judge BRYAN:

Question. Are not the people very poor there?

Answer. Yes, sir; very.

Question. Have you had an opportunity of an education?

Answer. No, sir; never had no chance. I haven't got neither father nor mother. The Klan only whipped two negroes while I was in it.

Judge BOND. The sentence of the court is that you be imprisoned six months.

CONFESSION OF W. P. BURNETT.

I am twenty-seven years old. I can't read or write. There are some schools in our part, but I never had no chance to go. I have only been on one raid. I joined the Ku-Klux because they said I would be whipped if I didn't. I was obliged to go in it to save my own self. The two niggers we whipped we gave about thirty apiece, [meaning lashes.] Pretty nigh everybody in our neighborhood belonged to the organization; I mean the laboring people and both classes.

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Question. Did the principal people go on raids?

Answer. No, sir; but they pushed the poor people into it, and made them go. I was induced to join, because they came to my house and told me if I didn't I'd have to pay \$5 and take fifty lashes. It was Henry Cantrell that told me this. I didn't want to go into it, and shouldn't have gone, but all the neighborhood were obliged to go.

Judge BOND. The sentence of the court is that you be imprisoned six months.

CONFESSION OF STEPHEN B. SPLAWN.

I suppose I belong to the order, though I was never sworn into it; there were some people of our place down at Limestone, and they brought up word about the organization, and they brought up the oath, or what they called the platform; I told them I did not see anything wrong in it; it seemed to me like a vigilance committee, and they were getting them up in all the different neighborhoods, and I said I thought it would be very well for us to have one to protect our neighborhood, for there were some depredations committed around; I had nothing to do with getting up the organization; there were some eight or ten joined before I knew anything about it. One day they met, and after a good deal of cavilment they settled that I should be their leader; we kept hearing of these offenses that had been committed in York and Union; I attended a meeting of the Klan at Limestone, and I there found out that the Grand Klan had given orders for whipping men; that didn't comply with their notions; when I returned home I had a meeting, and I told them what I had found out, and we just disbanded, and said we would have no more to do with it; the object of the Grand Klan was to interfere with voting; I don't know that there was anything said about voting, but that was the way I took it; I never was on any raid, but I just met one; I did not think it was right to do what they were doing, and anything that was contrary to law I was opposed to.

Question. Did you communicate this experience of yours to the authorities when you found out it was an unlawful organization?

Answer. I spoke of it in every community I went into.

Question. Did you tell any justice of the peace of it?

Answer. I did.

Question. What did he say?

Answer. Well, he was in it, too. Bank Lyles is the name of the man that presided at Limestone; Sim Moore and Alfred Latham were two more of the men that were there; Alfred Latham was one of the owners of the Cherokee Iron-Works.

This prisoner seemed to manifest great unwillingness in confessing what he knew, on which Mr. Corbin called Robert Cash.

Judge BOND. Do you know this man?

Answer. Yes, sir.

Question. Are you a member of the Ku-Klux Klan?

Answer. Yes, sir.

Question. Are you a member of his Klan?

Answer. Yes, sir.

Question. Did his Klan ever go on any raiding?

Answer. Yes, sir; on one.

Question. Did he go with you?

Answer. Yes, sir.

Judge BOND. The judgment of the court in your case is that you be fined \$50 and imprisoned two years.

CONFESSION OF MARION GARDINER.

Question. What is your business?

Answer. I belong to the order.

Question. What do you do for a living?

Answer. I labor.

Question. What uniform is that you have on?

[The prisoner wore an old United States infantry coat.]

Answer. I bought it.

Question. Were you a soldier?

Answer. No, sir. I have been on one raid, but nothing was done; they didn't find the man they went for. I can't either read or write.

Mr. Corbin having been appealed to by the court, confirmed the general statement of the prisoner.

Judge BOND. The sentence of the court is that you be imprisoned three months.

CONFESSION OF CHESTERFIELD SCRUGGS.

I live in Spartanburgh County, and I suppose I am twenty-five years old. It wasn't I, but my cousin, Bob Scruggs, that went on the raid into North Carolina on Mr. Jus-

tice. I have been on two raids and whipped two colored boys. I joined the organization last April. The chief of our Klan is Joseph Vassey.

Judge BOND. The sentence of the court is that you be imprisoned six months.

CONFESSION OF HENRY SURATT.

I joined the Ku-Klux because they threatened to whip me if I didn't; I shouldn't have joined hadn't it been to have saved myself; I am about twenty years old; they threatened to whip everybody that didn't join the organization; I was never on nary a raid; I advised them not to go; I wasn't going to join them, but they said I would have to protect myself; they said I couldn't stay there if I didn't join them; that was in March; I have already been in jail about two months.

Mr. Corbin confirmed the statements of the prisoner.

Judge BOND. What are you going to do to protect yourself when you get home?

Answer. I don't know, sir; they have threatened us enough, I know.

Judge BOND. They will be likely to be quiet there in a month, and as you have been confined for two months, the sentence of the court is that you be imprisoned for one month.

The PRISONER. I am quite willing to take that to have quiet there.

CONFESSION OF ANDREW CUDD.

I am twenty-two years old; I can't read or write; I have been on two raids; on the raid that I went on we whipped Jimmie Gaffner and Matt (Scruggs); the chief of the Klan was Jonas Vassey; I shouldn't have joined the Klan, but they threatened to whip me, and they abused my folks right smart, and threatened to kill the girl that lived with me. They said if I didn't vote the democratic ticket they'd give me five hundred lashes; one of my friends advised me to join it, for he said they would be sure to whip me if I didn't; I might have left, but I was so fixed that I could not get away; I had a family, and so had to stay with them.

Question. Are there churches in your neighborhood?

Answer. Yes, sir.

Question. Did all the members of the church belong to the organization?

Answer. Pretty much they did.

Judge BRYAN. Did you join in whipping anybody yourself?

Answer. No, sir; indeed I didn't. I have a wife and three children; pretty much all our Klan are here.

Judge BOND. The sentence of the court in your case is that you be imprisoned three months.

CONFESSION OF MARTIN HAMMETT.

I belonged to the Dopen Klan, and am about twenty-three years old; I have been on three raids, I believe; the first time we whipped three, the next time one, and the next two, I believe; the chief of our Klan was Frank Ray. I had to join the Klan or take a whipping; they called on me before I joined it, and threatened to beat me, and took me out and laid me down, and one of them struck me one lick; they said they would come back in two weeks; they said I needn't try to get away for they would follow me. I cannot read or write; I am married.

Judge BOND. The sentence of the court is that you be imprisoned for six months.

CONFESSION OF LEWIS ENDERSON.

I live in Spartauburgh district; I have only been on one raid, but never whipped a negro in my life; I didn't know anything about the raid until they were going on it.

[This prisoner was so ignorant that he seemed incapable of understanding the simplest English or of expressing himself with any coherence.]

Judge BOND. The sentence of the court is that you be imprisoned three months.

CONFESSION OF WILLIAM SELF.

The way I come to join the order was that a couple of friends kept at me, wanting me to join, and I kept wizzening them to know something about it, and at last he just up and told me just as it was, and said I would have to join it now or else they'd whip me or kill me, or I'd have to leave; on them conditions I joined the order; I was only in the order a short time, and then I quit it, and wouldn't have anything at all more to do with it; I guess I've been on three raids; the first was on Ben Phillips; we struck them three licks apiece.

Question. Were they men or women?

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Answer. Well, they was a mixtry; there was two women and one man; the next was on Mr. Roberts, and we went on him; he had a grocery, and had whisky to sell; he was selling whisky on the days of the church; the church was less than half a mile from his house, and there was always a drinking crowd on Saturdays and Sunday, when we went to church; we went to tell him to stop.

Question. Were all your Klan members of the temperance society?

Answer. I don't understand.

Question repeated; no answer.

Question. Do you know what a temperance society is?

Answer. No, sir.

Question. Were they all opposed to drinking whisky?

Answer. Well, I was myself. There was nothing said to the niggers we whipped about politics; we next went on a man named Johnnie Green; we didn't do anything to him. [The prisoner showed evident signs of contrition; the first who had manifested any emotion.]

Judge BRYAN. Didn't you feel very much ashamed of yourself for acting in this way?

Answer. Well, sir, I know I done wrong.

Question. Didn't you know you were doing wrong at the time?

Answer. Well, sir, I was ordered to do it by the Klan; of course, I didn't feel like it was right.

Question. Were you in disguise?

Answer. We had head disguises on.

Question. Can you read and write?

Answer. I can't read nor write, nary one.

Question. Did you go to church?

Answer. Yes, sir.

Question. Did the preacher ever preach against these whippings?

Answer. No, sir; I never heard him say anything about it being wrong.

Question. Didn't they talk about these things in church?

Answer. No, sir; I never heard anything about what happened.

Judge BOND. They talked about what happened 1800 years ago.

I get my living by farming; I wasn't arrested, but I came here without any warrant at all.

Judge Bryan, in passing sentence, said: We trust you realize how unmanly your conduct has been; you seem to show signs of contrition for your conduct, and as you say you were forced into the matter, the judgment of the court is that you be imprisoned three months, including the imprisonment you have already suffered.

CONFESSION OF CHARLES TAITE

I belonged to the Horse Creek Klan; I've been on five or six raids, as well as I recollect; I was on the raid that went on the McKinney negroes; they didn't whip them, but they took their shot-guns; about a week after they were ordered to go back, and then they whipped Reuben McKinney, Wash McKinney, and Henry Scruggs; then I was on the John Harris raid, and the Rutherford raid; Jonah Vasseley commanded that raid; then I was on the Sam Gaffney raid; that was commanded by a man named Russell; the reason I joined the order was that they told me it was a good thing to be in it, and that if I didn't join I would be very likely to be driven from the country; I can't either read or write.

Mr. Corbin, on being appealed to by the court, said he knew nothing favorable of the prisoner.

Judge BOND. The sentence of the court is that you be imprisoned for eighteen months.

CONFESSION OF JUNIUS B. TYNDALL.

I have been on three raids; I was pressed into the order, for they said we had to keep the negroes down; they said they had to keep them from overrunning the white people; then I heard the negroes had drawn guns; it was right smart after that that I went into it; the first raid I went on was for a nigger up at Joe Richards's; the nigger never done me no harm as I knows on.

Question. Did they whip the negro?

Answer. They made the woman whip the man, and the man whip the woman; the next raid I was on was when they whipped Mat Lockhart; the niggers were going to have a picnic on a widow woman's place, and going to have a frolic and dancing, and they didn't want them to have it, and so they were whipped; I am nineteen years old, but I can't read or write.

Judge BOND. The judgment of the court is that you be imprisoned one year.

CONFESSION OF MELVIN C. BLACKWOOD.

I belong to the order, but have only been on one raid ; that was on Ben Phillips ; I am nineteen years old, but I can't read or write ; I get my living by hiring from place to place about. Philip Reubens was the first man that told me I must join. Frank Ray was the chief ; he swore me in ; the reason I didn't know better was that I had nobody to tell me, and the reason I didn't tell anybody I was in it was that any one that told anything about it wouldn't have been safe.

Judge Bryan, in passing sentence, said :

Looking to your extreme youth, and judging by your countenance, and seeing that you have had little connection with these outrages, the sentence of the court is that you be imprisoned for two months.

CONFESSION OF JOHN L. MOORE.

I have been on some four or five raids, I reckon ; I was only three months in the order ; one of the raids was on Dick Roberts, and another was on the McKinney niggers ; one was on Reuben Phillips, and the other was on Alfred Blackwell.

Question. How many people were beaten on the raids ?

Answer. I can hardly tell ; there were some four or five on the night of the raid on the McKinney niggers ; the next time was on Reuben Phillips ; there was three whipped that night ; the next raid was on Alfred Blackwell ; he had it done himself. His wife would not stay at home, and he wanted her to stay at home and cook, while he was making a crop, and he spoke to some of the boys, and they raided on them ; but they only gave her one or two licks with a pine bough ; I can't read or write a bit ; the reason I joined the order was, I suppose, because I hadn't sense to do any better ; nobody that knowed any better didn't tell me.

Judge BOND. The sentence of the court is that you be imprisoned eighteen months.

CONFESSION OF JOHN CANTRELL.

I am nineteen years old some time when this April comes ; I can read printing a bit, but I can't write ; my father belongs to the Ku-Klux ; I've been on two raids ; one was the Blackwell raid ; I didn't see any whipped on the Blackwell raid, but there was one whipped on the other raid. Why did I go into this thing ? I was just persuaded into it by a man by the name of Gilbert ; he is now moved off, and I don't know where he is.

Judge BOND. The sentence of the court is that you be imprisoned for three months.

SENTENCE OF JONAS VASSEY.

I belonged to Dan Harris's Klan, and they throwed him over, and I was chief ; the Klan went on three raids after I was elected chief ; I am twenty-five years old.

Judge BOND. Do you know anything about this man, Mr. Corbin ?

Mr. CORBIN. There is one thing to be said, perhaps, in his favor, that instead of running away, like the other chiefs, he came in and said he proposed to take the consequences, and he has given much information to the authorities.

Judge BOND. The judgment of the court in your case is that you be imprisoned for one year and fined ten dollars.

SENTENCE OF JAMES WALL.

Judge BRYAN. What have you done ?

Answer. I have been on two raids.

Judge BOND. Who is your chief ?

Answer. Aaron Duncan.

Judge BOND. When you saw what this order was why didn't you tell some justice of the peace ?

Answer. They said if I did they would kill me ; that was the oath.

Judge BOND. Do you ever read the newspapers ?

Answer. Yes, sir, sometimes.

Judge BOND. Have you ever been out of the State of South Carolina ?

Answer. Yes, sir ; I have been to Virginia in the time of the war.

Judge BOND. You ought to have had better sense than this ; you can read and write and read the newspapers, and have been out of the State ; that is one advantage you have had ; who is going to put in your crops for you this spring ?

Answer. I have not got anybody.

Judge BOND. Had these people you whipped ever done you any harm ?

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Answer. No, sir; the chief just went on and whipped him because he was telling a lie about the guns; asked him if he had any guns, and he said he hadn't.

Judge BOND. What was that your business whether he had a gun or not; hadn't you a gun?

Answer. Yes, sir; I had guns of my own at home.

Judge BOND. Now, you see, the condition of the thing is just this: if we punish you, as you ought to be punished, there is nobody to cultivate your place; if we do not, you will go to Ku-Kluxing again.

Answer. No, sir; wont go any more.

Judge BOND. How are you going to help it? The chief will come around and tell you to go, and you will go.

Answer. No, sir; I wouldn't go.

Judge BOND. Then he will whip you.

Answer. Then I will have to take it; but I think Ku-Kluxing is done broke up in my county now.

Judge BOND. You didn't help to break it up, though. I am going to trust you this time in order to allow you to put in your crop next spring. I am going to imprison you for three months; you ought to go for about eighteen; I am doing what you didn't do, I am having some consideration for your wife and children; but you had no consideration for other people's wives and children; but I have the happiness of being from a different State.

Judge BRYAN. The court has been very much puzzled to reconcile justice with humanity. It is an extreme exercise of mercy to you, that they announce this judgment.

SENTENCE OF JOHN C. WALL.

I have been on three raids; can read and write; learned in school, in Spartanburgh.

Judge BOND. The judgment of the court is that you be imprisoned three months.

CASE OF LEWIS JOLLY.

Mr. CORBIN. Do you know anything about the Owen murder?

Answer. No, sir.

Mr. CORBIN. Haven't you told people you were there?

Answer. Yes, sir.

Mr. CORBIN. Why did you tell it?

Answer. It was done through a joke.

Mr. CORBIN. Owen was a republican, if the court please, in Union County, who was rudely murdered a year ago this fall by the Ku-Klux.

Judge BOND. I think this person should be held until the question can be tried. It is a very queer thing to joke about.

OTHER SENTENCES.

The following persons were sentenced as follows:

Frederick Parris, six months' imprisonment.

Chrisenburg Tait, three months' imprisonment.

David C. McClure, three months' imprisonment.

Calvin Cook, three months' imprisonment.

Albert P. Clement, three months' imprisonment and \$10 fine.

Dillard N. Cantrel, three months' imprisonment.

Zebian Cantrel, one years' imprisonment.

W. S. Blackwell, six months' imprisonment.

Alfred Blackwell, six months' imprisonment.

William E. Ramsey, three months' imprisonment.

William Robbins, six months' imprisonment.

Thomas J. Price, six months' imprisonment.

Taylor Vasey, three months' imprisonment.

King Edwards, six months' imprisonment.

Judgment in the case of Turner Phillips was suspended, because the court regarded it as deserving of consideration.

At 3 o'clock the petit jury was finally discharged, with the thanks of the court.

The grand jury was ordered to meet in the morning, and the court adjourned until Saturday at 11 o'clock a. m.