THE DISPATCH
BY JAS. A. COWARDIN.

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THE DAILY DISPATCH.

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THE FINCASTLE TRAGEDY!!

EXAMINATION OF

HENRY W. BOWYER

FOR KILLING

Jas. McDowell, Sr.

Circumstantial Account of the Shooting.

THE EXCITEMENT CONSEQUENT!

STATEMENT OF THE PRISONER.

TOUCHING CONVERSATION BETWEEN THE FATHER AND DAUGHTER, &c., &c.

[REPORTED FOR THE RICHMOND DAILY DISPATCH.]

FINCASTLE, VA., Sept. 8, 1858.

WEDNESDAY—SECOND DAY.

The Called Court assembled this morning at 10 o'clock, and the following Justices appeared on the bench:

Andrew L. Boyd, Wm. B. Carper, Thornton A. Flaherty, Lewis Linkenhoger, Thomas J. Obenchain, James L. Patton, John H. Bell, and Jacob Peters.

It was objected that two Justices were upon the bench who had not set on Monday, whereupon the two gentlemen last named said that they were not acting as magistrates, and no farther objection was made to their presence.

The throng in attendance to-day was large, but nothing like as numerous as on the Monday when Mr. Bowyer was first arraigned for shooting Mr. McDowell.

Sheriff Wilson stated that a witness for the Commonwealth had not been found, and the attachment was returned unexecuted.

The prisoner, HENRY W. BOWYER, was brought into Court, and seated beside his counsel. He maintained the same composed appearance, noticed in my last letter, and no one could have supposed that there was a single feeling in his heart, which reproached him for the act for which he was brought into the presence of a court of justice.

Messrs. Wm. H. Anthony, Raleigh T. Daniel and Benjamin F. Wysor, appeared for the Commonwealth; and Messrs. Thomas J. Michie, Hon. Henry A. Edmondson, Wm. W. Boyd, Col. John T. Anderson and Wm. Watts for the defence.

The witnesses for the Commonwealth were then called.

Wm. M. Creery (Cashier of the Farmers' Bank) being sworn, deposed—I was standing at my desk on Thursday, the 26th of August, and Mr. McDowell was writing at the counter, when Mr. Bowyer entered. When he got opposite Mr. McDowell he drew a pistol, which snapped first. Mr. McDowell picked up a book, and Mr. Bowyer kept on firing. Wm. H. Smith, George W. Carper, Andrew Obenchain and J. Camper, were present. Mr. Bowyer said nothing, to my recollection. He stood about six feet from me, and I would probably have heard him if he had spoken. When he came in some gentlemen were between me and Mr. Bowyer, who walked around, and when he snapped the pistol was just across the counter. Mr. McDowell made no attempt to draw a weapon. He was at the counter between the two desks. He seized an account book—cannot say whether he held it before him or not. Mr. Bowyer kept on firing. At the time of the occurrence, Mr. McDowell was writing in the transfer book, transferring some stock. He was President of the Bank—Don't remember to have heard McDowell say anything, nor did I hear Mr. Bowyer say anything.—After he ceased firing, Mr. Bowyer turned and went out at the front door. One of the gentlemen present caught hold of him while he was firing, but can't say which one it was.

I think four shots were fired. Don't know how many took effect. The book which Mr. McDowell picked up was found afterwards in the window.—There was blood on it, and also on the window. I never saw the wounds, and can't say how many there were. There is a hole through the partition, in front of the counter, opposite where Mr. McDowell stood, and another through the wash basin which sat on the safe. A ball passed through this basin—in at one side and out at the other. Mr. McDowell stepped behind a large desk where he picked up the book, which was laying there. Consequently, Mr. Bowyer must have changed his position or shot through the desk; but I cannot say what his position was. Mr. McDowell was taken out immediately, through the front door. (The witness here described the position of the parties, and the basin, before alluded to, was produced.) Mr. McDowell was leaning down on the counter writing, near the right hand desk.—Mr. Bowyer walked in at the front door. The pistol seemed to snap. Mr. McDowell immediately arose and grabbed a book, while Mr. Bowyer continued firing. The safe, on which the basin sat, was not much higher than the counter. I did not see Mr. Bowyer when he first came in. I had just lifted the book to find when the stock note of Obenchain was due. The window was up, and there was no weapon in it.

By the Defence:

I was in the bank, occupied in the discharge of my duties at the desk, nearest the door. Mr. McDowell was between the two desks, writing on the counter. I saw nothing of Mr. Bowyer until the pistol snapped. Mr. McDowell was writing, but I cannot say with certainty that he was in a leaning posture. My impression, however, is that he was still in a leaning posture when the pistol snapped. The front window of the bank was at Mr. McDowell's back—not more than six or eight feet distant. The window was up. Any one on the street could have seen Mr. McDowell through the window, and could have shot him from the street without difficulty. My attention was first attracted about the time the pistol snapped. Had noticed Mr. Bowyer an instant before, but he said nothing. Mr. McDowell retired back and grabbed the book. One person present either took hold of Mr. Bowyer or attempted to do so. Don't know that he was taken hold of round the arms. Mr. McDowell was but a short distance from Mr. Bowyer, but rather around the desk. One shot struck opposite the counter in Mr. Bowyer's rear, and another went through the basin. I was excited and confused, and cannot state positively everything that occurred. Mr. McDowell had not finished transferring the stock before he asked me to find Mr. Obenchain's note. There were two transfers to make, and therefore more time was necessary. I have examined the books since. They seem to be completed in Mr. McDowell's hand writing, and he could have done nothing after the shots were fired.

I was not particularly noticing Mr. McDowell, but was looking in that direction. Don't think he had raised up. Mr. Bowyer was immediately in front of Mr. McDowell when he snapped the pistol. The opening in the counter was not closed. Mr. Bowyer did not go behind the counter. I know there was a pistol belonging to the Bank, of which Mr. McDowell had control, but do not know of my own knowledge where it was at the time. It had been laying in the desk for some time, but had been taken out, and I don't know what became of it. It was a five shooter. An order was made by the Board on the 1st of April for its purchase. Think it had been there but a short time. I had little to do with that desk. It was a desk controlled by Mr. McDowell. It was in the back room, previously occupied by the bank.

Q. At whose instance was the pistol purchased, and by whom was it purchased?

The Commonwealth said—We don't see the object of that question.

The defence replied—We want to see if he was in the habit of having such things.

The question was admitted.

I could not say exactly. The order directed the President to purchase a pistol for the bank. Those little matters were usually dictated by the advice of the President.

Mr. McDowell had been absent before this occurrence. I think he got home on the night of the 18th of August, from an entry I have seen. He was gone from here when I got home on the 17th of July—left the day before. I knew he intended to leave. Don't know how long he intended to stay away, but think about six weeks. He did not leave earlier than he expected to leave. There was no understanding between us. He said he was going to Detroit, Pittsburg and New York, but not on the business of the bank. He returned home from the Sweet Springs, but I don't know how he came from the North to the Sweet Springs. Don't know what places he visited. Heard him speak of Niagara and of New York. Not certain that he spoke of Baltimore or Chicago. Don't know when he got to the Sweet Springs. Heard he was there eight or ten days before coming home. Don't know that he said anything to me about going to the Sweet Springs. Spoke of having been there on his return. Don't know that letters were returned to Mr. McDowell after he got home that had been forwarded to Detroit and other places.

I have lived here nearly two years, the last time. I was a merchant previously. Have known Mr. Bowyer to be a peaceable and law-abiding man.

By the Commonwealth:

The front door of the Bank is to the left of the counter, and immediately to the right is the desk I occupy. The window is between the desk and the corner of the building. I was standing at my desk, and Mr. McD. was writing between the two desks. A person might have shot him through the window, and I would not have been in the way.—I have never measured the height of the window, but don't think Mr. Bowyer would have had to raise himself up to shoot in.

I had heard Mr. McDowell say he was going to see his relations—a sister in Pittsburg for instance. Don't know that I heard anything of his investing in real or other estate. Don't know how long he had contemplated the trip. I was afraid that my trip and his would interfere, and I started earlier to avoid being absent at the same time.

Mr. McDowell's coat and vest were taken off immediately after the shooting. I saw no arms.—Some memorandum books and other articles were in his pockets.

By the Defence:

I did not notice the holes in the wash basin and in the partition, until after the occurrence of the shooting. The ball in the partition seemed to be in the opposite direction from Mr. Bowyer—directly behind him. I can't account for how it got there. I think there were four reports of the pistol.

Wm. A. Smith, sworn, said: I was in the bank on the 26th of August, attending to business, and while there saw Mr. Bowyer walk in opposite Mr. McDowell, with a pistol in his hand. Heard a crack—and then three or four more. I went there to get some stock transferred. Mr. McDowell was at the counter writing in the transfer book—Mr. Obenchain had not signed the transfer. I thought Mr. McDowell was about finishing when this thing occurred. He was leaning down. Don't recollect exactly where I stood, but I was near Mr. McDowell and in front. We were directly in front of the counter. Messrs. Carper, Obenchain and Camper were all standing along the counter. If a man had stood in the door we would have been between him and Mr. McDowell. Desks were at each end of the counter. Think I was between Mr. McDowell and the door. Recollect when Mr. Bowyer came in, he stepped up to Mr. McDowell, but whether he passed around or between I cannot say. My attention was first attracted by the snapping of a cap. Don't know that any of us would have been hit if Mr. Bowyer had fired through the window. Don't remember that Mr. Bowyer said anything. Think Mr. McDowell rose up. Don't recollect that he changed his position. Don't recollect seeing any book.—Think I grabbed Mr. Bowyer, but from some cause let him go. There is a fresh bullet hole in the partition in the rear of where Mr. Bowyer stood. I cannot account for it. Can't say, such was the excitement, whether I pulled him around or not. Think there were three or four shots in quick succession. Did not see the wounds. Think Mr. Bowyer walked out after the occurrence. Think he told me to stand back when he came in, but am not positive about it. It must have been after the firing that I caught hold of him. Not certain that I remained, there till Mr. Bowyer went out. Did not see Mr. Bowyer lock in at the window before he entered. Saw no pistol until after I heard the snap.

By the Defence:

I was in the bank when Mr. Bowyer entered.—The first I recollect of the pistol was when it snapped. I can't exactly say when I seized Mr. Bowyer around the arms. Probably after I heard the pistol snap, though I cannot fix the time precisely. Don't know how many shots were fired afterwards. Don't know whether Mr. McDowell had finished the transfer or not. Mr. Bowyer was just in front of Mr. McDowell when he snapped the pistol. Think Mr. McDowell exclaimed "Oh!" when the cap cracked, but don't remember his seizing a book. Don't particularly recollect his movements afterwards.

By the Commonwealth:

I heard Mr. McDowell say nothing more than that which I have stated. Did not hear him ask what that was for.

George W. Carper—sworn—deposed as follows: I was present when the affair took place, in the bank, seeing about the transfer of some stock. I told Mr. McDowell my business, and he got out the transfer book. I was rather behind the others, towards the door which leads to the old counting room. Mr. McDowell was writing on the counter, and about the time he was finishing I saw Mr. Bowyer come in. I had not seen him previously for some weeks. Thought he looked excited, but his movements were very quick, and I knew not that anything had happened between them. I saw Mr. Bowyer raise his coat skirts and saw the end of a pistol. I then watched him, and saw him make round to the open space. I then retired and got near the back door. Mr. Bowyer walked up and the pistol snapped—whereupon I stood clear back behind the partition. Mr. Smith was nearer to him. I might have got to him, but don't know. I went to the door and hollered to some men that Mr. Bowyer was killing Mr. McDowell. I counted four fires. I went round through the back door and came in again at the front. Mr. Bowyer had stepped out previously.

Mr. McDowell was immediately at the end of the counter; there was something between him and myself, and there were others between McDowell and the front door. I thought Bowyer had his hands under his coat and thought I saw a pistol. As Bowyer walked on I gave back; but I watched him till the pistol snapped. It fired soon afterwards. There were three or four shots, in rapid succession. Heard neither of them say any thing. Couldn't say whether the pistol was cocked or not, when I saw it. It snapped immediately.

By the Defence:

Mr. Smith and I had purchased Mr. Obenchain's stock, and we went to the bank to have it transferred. Mr. McDowell had taken down the book, and I retired towards the inner door, bringing the desk between Mr. McDowell and myself. I had not seen Mr. Bowyer for some time, and when he came in I thought he looked excited. I saw him draw the pistol and advance towards McDowell and heard the snap. Could not say whether McDowell had started up or was leaning at the time. Have looked at the transfer book since and found that the writing was finished for Obenchain to sign.

I was in the door when the pistol first snapped, and left just as it fired first; went through the old counting-room. Did not see Smith take hold of Bowyer. I counted the reports. When I went around the building, Mr. Bowyer had passed out. Mr. McDowell was walking about the room. Did not see where Bowyer went, but understood that he went to Mr. Godwin's, a magistrate, on the opposite side of the street. Mr. Godwin was one of the Justices before whom Mr. Bowyer was afterwards examined.

Thomas Camper, sworn.—I was in the bank when the shooting took place, on the 26th of August.—Mr. Bowyer entered and came within about three feet of Mr. McDowell. The pistol first missed fire, but the second time it fired. Two shots were fired while I stood there, and after I left I heard others. Think I saw Mr. Obenchain take hold of Mr. Bowyer. Heard Bowyer say nothing. When the pistol snapped, McDowell raised up and said "Oh!" Heard him ask no question. Bowyer had walked in some six or eight feet when the pistol first snapped, and was in front of McDowell. The latter went to the lower desk, and as he went, B. advanced to the open space leading to the other side of the counter. I then went out. I saw McDowell have a book open before his face. He was leaning when the pistol snapped, but at once raised up and said "Oh!"

By the Defence:

I was about four feet from Mr. McDowell and between him and the door. He raised up when the pistol snapped, started back and said "Oh!" I left after the second fire. Don't recollect seeing Smith take hold of McDowell. Think it was Obenchain who did so. The book which McDowell held up was an account book, much like the one he had been writing in. I was much confused and alarmed, but recollect some of the circumstances very distinctly. Don't remember that Mr. Bowyer said anything. I told Mrs. Heidrick afterwards that I heard on the street that Mr. Bowyer told Mr. McDowell to look up, but did not hear him say so myself.

The Court at this stage of the proceedings, took a recess till 1½ o'clock, P. M.

AFTERNOON SESSION.

At the opening of the Court, the transfer book of the bank, containing the entries made by Mr. McDowell directly before the shooting, was produced; also, the book which Mr. McDowell held up before him. These books were exhibited merely to explain the statements made by witnesses in the morning.

George W. Johnson, being sworn, said: I was at Price's hotel at the time of the shooting. I saw Mr. Bowyer as he turned the corner, but did not suspect that he was going into the bank except on business. I think he paused a moment at the window. I saw Mr. McDowell as he came to the window as if to jump out. Think I saw a pistol in Mr. Bowyer's hand, but cannot say with certainty. When McDowell came to the window, it was after the reports of the pistol. Bowyer seemed to be walking in about his usual gait. Think he walked into Mr. Godwin's after the occurrence.

Thomas Goodwin, sworn.—I saw Mr. Bowyer pass the bank on the 26th of August—approaching from Church street. Did not see him look in at the window. As he passed in at the door I saw him draw his hand up and thought I saw a pistol. A few minutes afterwards I saw a pistol presented, but cannot say by whom. Heard firing directly.

By the Defence:

I was standing in the lower porch at Price's, and saw Bowyer come in by the way of Church street. I made the remark—"There's Mr. Bowyer; its the first time I've seen him for some time." Thought I saw him going to Godwin's a few seconds after the firing. Had no particular impression on my mind as to what Mr. Bowyer was going into the bank for. Merely saw him draw something and thought it was a pistol. Said at the moment there was going to be a difficulty.

Q. What made you think there was going to be a difficulty?

This question was objected to by the counsel for the prosecution. It was then put as follows by the defence:

Did you know of any cause of difficulty?

I did not—none in the world. I thought Mr. Bowyer was going into the bank on business.—Could not see at whom the pistol was presented. The window was up. I don't know that it would have been easy to have shot a person in the bank through the window—should think it might be done if no person stood between. I could have stood outside and shot any man not looking at me at the time, and if no one else was looking.

Q. What made you think there was going to be a difficulty?

This was objected to by the prosecution and ruled out.

Robert Kyle, sworn.—I was not present at the time of the shooting, but was immediately afterwards. I went over from Price's hotel. When I got in the bank a few persons were there and many outside. One or two stood near Mr. McDowell, who was unbuttoning his vest. He had previously taken off his coat, and I took his vest off and laid it on a chair. He soon went with me to his room and went to bed. I was present when his wounds were examined. There was one in the left arm; one in the left side and one in the right side. He was bleeding profusely from the left arm and left breast; but don't think the other wound was bleeding. When I got him on the bed he clamped his hand to his side. He had no weapons. Think there was a key and a knife in his pockets.

By the Defence:

I was at Price's tavern, dining, when the shooting took place;—when I got to the bank, after passing a great many people, it seemed to me that I recognized Mr. Bowyer passing into Mr. Godwin's, but don't positively know. I aided in taking Mr. McDowell to his room and in undressing him. The first that I knew of his being in a difficulty he was holding his hand to his left side. Saw no arms, but thought there was something like a small knife and a key in his pockets.

Dr. Charles Williams, sworn—deposed as follows: I was called to see Mr. McDowell shortly after he received the wounds. I found him lying in bed, and examined the wounds with Dr. Carper. There were three wounds: one in the left arm through the front bone; one just below the left shoulder, where a ball had entered, but we could not trace it—though we found a contused place between the left shoulder and the spine, and supposed the ball rested there; the third wound was on the right side, near the 9th rib. We attempted to probe this last, but it went downwards and forwards.—There was an examination of the dead body, and we found that the ball passed in by the 10th rib, and below the lower edge of the liver—passing near the spine and turning downwards to the pelvis, where it was lost. Death was caused by this wound. There was coagulated blood and serum in the body.

The Commonwealth here announced that they were through with the examination in chief, and witnesses for the defence were called.

Joseph P. Gaunt, sworn.—I was not present at the time of the shooting, but was immediately afterwards. Heard a sound as of a concussion, and George Carper came to the back door of the bank and cried murder. When I got half way across the street I saw Mr. Bowyer walking to Mr. Godwin's. When I got to the bank I saw Mr. McDowell with a chair—and he said where is the scoundrel—or the d—n scoundrel—I don't known which. I went to Godwin's—Bowyer was remarking to Godwin what he had done. I stayed in the bank but a second.

[The witness was proceeding to relate the statements of Mr. Bowyer to Mr. Godwin, but the prosecution objected. Mr. Michie then said that he would examine Mr. Godwin upon that point.]

Thomas G. Godwin, sworn and examined: I was at my store, opposite the bank, writing at the desk, when I heard firing, and before it ceased I started to the door. Saw Mr. McDowell trying to defend himself by moving about rapidly. Could not see Bowyer, but he soon came out, walked leisurely to the store and entered.

Q What were Mr. Bowyer's declarations?

The Commonwealth's counsel objected to this question. Mr. Daniel addressed the Court in opposition to receiving the statements and explanations of the party who committed the homicide.

Mr. Anderson replied, contending that if this were excluded, no defence could ever be made in the case under trial. He alluded to the case of Myers, in Richmond, wherein evidence of the same character was heard by the court—the court saying they would hear it and then judge of its merits.—If the court does not now allow this evidence to be admitted, it will be a mere mockery of justice.

Mr. Anthony (for the Commonwealth) replied, quoting authorities to show that the prisoner's declarations were not part of the *res gestæ*.

After a rejoinder by Mr. Anderson, the court was addressed by Mr. Edmondson for the defence, and by Mr. Michie, on the same side, both in speeches of great power and eloquence. After further discussion between the counsel, Mr. Anderson appealed to the court to hear the declarations made by Mr. Bowyer immediately after the shooting.

The Court decided to hear the evidence.

Thos. G Godwin resumed: Mr. Bowyer said something about shooting Mr. McDowell: that he had been prevented from killing him by Billy Smith. He then gave himself up, with his pistol, and said he supposed I would admit him to bail, as the public understood the circumstances under which the act was committed. Many persons came in. I was called out, and heard it said that an attack would possibly be made upon Mr. Bowyer that evening. (The witness was here stopped by the prosecution, but afterwards allowed to repeat what he had said.)

I don't think Mr. Bowyer stated the circumstances in general terms. I understood him to say something about his daughter.

Q. Did you understand him to say something about his daughter?

This was objected to by the counsel for the Commonwealth, and stopped.

The witness resumed: He appeared much excited. I never saw a man more so. The conversation commenced near the door, and the pistol was handed to me in the counting room. I think Mr. Word was the first person who came in. Mr. Gaunt also came. My door is exactly opposite to the bank window, and about forty feet from the bank door—in an oblique direction.

By the Commonwealth:

The pistol was delivered to me, and I gave it, with the papers, to the Clerk. Can't tell how long before Mr. Word came in—though 'twas but a short time. I think Mr. Bowyer came slowly across the street, though he was excited. I heard the shooting and went to the door. Saw McDowell throw a chair across the counter. Immediately saw Bowyer come out—suppose it was not more than one or two minutes. I had not seen Mr. Bowyer from the time his daughter left until that day.

By the Defence:

I came here in 1828, and have been acquainted with Mr. Bowyer ever since. His character is as good as any man's can be. He is a very quiet, unobtrusive, law-abiding man.

Joseph P. Gaunt—recalled—I was at Godwin's immediately after Bowyer went over and delivered himself up. I first heard George Carper halloo, and thought he was at Godwin's—when half way across I saw Bowyer from the bank. Stepped in and saw McDowell with a chair in his hand, and he said—where is the scoundrel—or d—n scoundrel? I saw that McDowell was shot. As an officer it was my duty to pursue the person who committed the act—and I went to Godwin's. Asked—what is all this about? Mr. Bowyer said—If he is not killed, Billy Smith is responsible for it. I came to discharge a duty I owed to my family and the community. He also said—I surrender myself to Messrs. Godwin and Gaunt—and asked that Capt. Breckenridge (a brother-in-law) might be sent for to go his bail. It was a very exciting time. Mr. Bowyer's remark was—"There was an obligation resting upon me and my family to do what I have done."

By the Commonwealth:

Mr. Bowyer's house is nearly half a mile from the bank.

By the Defence:

I have lived here all my life. Have been in public business twenty-five years. We have no better man than Mr. Bowyer, as a law-abiding, correct and useful citizen.

Wm. E. M. Word—sworn—deposed as follows:—I was present when Mr Bowyer surrendered himself to Mr. Godwin. Previously I was in Morgan's shop and some one said there was shooting going on. I jumped up and ran down to the bank.—Was told that Mr. Bowyer had gone over to Mr. Godwin's. Went to the counting room and found Bowyer there, much excited. His face seemed elongated, and his eyes were glassy. I asked—what is the matter? Mr. Bowyer said that McDowell had ruined the peace of his family; he had shot him; and but for Billy Smith, would have killed him, that he came for the purpose of killing him; that as he passed the corner of the bank he saw Mr. McDowell through the open window, writing at the counter; that had he been disposed, he could have riddled him then, but did not want to take that advantage, that he walked in, and saw several persons, one standing between him and McDowell, and he pushed him aside, and said "McDowell, look up!" that he did look up, and he snapped the pistol; that McDowell seized an open book from the desk to shield himself, and exclaimed "Oh!" that he (Bowyer) took aim as well as he could, and the second time, (McD. using the book and the counter being high,) it was with difficulty that he could shoot; that Billy Smith then grabbed him, and every time he shot he was either jostled or grabbed.

Mr. Wysor, on behalf of the prosecution, here objected to the reception of this testimony, but the Court decided to receive it.

Witness resumed: Other persons were going in and out. I remained there an hour or two. This conversation occurred but a short time after I entered. It was said that young McDowell was about to shoot Bowyer. Mr. Bowyer stated that he would have preferred that McDowell should have applied the midnight torch of an incendiary to his dwelling, and burned himself and family to ashes, than to have persuaded his daughter to leave her home and placed her in a house of ill fame in the city; that his peace of mind was destroyed forever, and he didn't care to live; that his mind had dwelt upon the circumstances, though he had endeavored to divert it; that on one occasion he took up a newspaper—

The counsel for the Commonwealth here interrupted the witness, but the Court, after listening to argument, decided to hear all the conversation that occurred down stairs.

Witness resumed: Mr. Bowyer talked continually. He said that his wife came and asked if he had got his mind fixed—and he remarked that although he had read the paper through, he could not remember a sentence he had read. No man (continued Mr. Bowyer,) could understand the mental anxiety through which he had passed—that he had not been able to sleep since the circumstance came to his knowledge—that he was satisfied from Elizabeth's statements as to the motive—

Here the counsel for the prosecution again interrupted, and said that as the lady (Miss Bowyer) was in existence, she should be produced as a witness if her statements were to be received.

The Court ruled the testimony out.

Witness resumed: Others came in, among them Dr. Bowyer—

The Prosecution.—Will the Court permit that?

Mr. Edmondson, for the defence, contended that the testimony was part of the *res gestæ*, and therefore properly admissable.

A long discussion followed, between Messrs. Daniel, Anthony and Wysor on the one side, and Michie and Boyd on the other. The Court then decided that all the first and continuous conversation between Messrs. Word and Bowyer might be admitted.

The Court here adjourned until 10 o'clock Friday morning at 9 o'clock.

THIRD DAY—THURSDAY.

The Court met this morning pursuant to adjournment. The magistrates sitting in the case yesterday re-appeared on the bench.

Albert B. Pitzer, Deputy Sheriff, was called to the stand. He stated that he had been in pursuit of witnesses for the Commonwealth, but had been unable to find them.

The defence stated that they were not only willing that these witnesses should be produced but they had actually sent a messenger for some of them, with a request that they would attend.

A process of the Court was asked for by the counsel for the prosecution, for the absent witnesses and granted.

Mr. Wysor for the prosecution, spoke of the embarrassment under which they labored, in consequence of the decision made by the Court last evening. But he was satisfied that if the Court were convinced of error, the steps heretofore taken would be retraced.

Mr. Wysor spoke at considerable length and with ability, and Messrs. Boyd, Edmondson and Anderson replied, in speeches of great eloquence and force. At the close of Mr. Anderson's remarks, the Court took a recess until 2 o'clock, P. M.

The crowd in attendance to day is meagre compared with that of Monday. The wheels of justice move slowly, and those who are here by compulsion have no idea when they will be permitted to depart.

Mr. Bowyer, the accused, seems even more composed to-day than on yesterday, and that his conscience acquits him of guilt is fully apparent to every one.

AFTERNOON SESSION.

At the opening of the Court, Mr. Michie spoke in support of the decision of the Court made last evening, that the statements made by Mr. Bowyer immediately after the homicide, should be received as evidence.

Mr. Raleigh T. Daniel replied to Mr. Michie, as well as to the arguments of the counsel for the defence generally, and at the close of his remarks the Court said they would adhere to the decision made yesterday, and hear all the conversation that occurred between Mr. Word and Mr. H. W. Bowyer before Mr. James Bowyer came in.

Wm. E. M. Word—Re called by the defence:—It is impossible for me to remember exactly when all the conversation between Mr. Henry W. Bowyer and myself took place. I was much excited at the time. Mr. Bowyer spoke in a graphic manner, and his conversation with me lasted only about fifteen minutes, though I was there some two hours. Mr. Bowyer became much abstracted after the conversation.

Here a running debate sprang up between the counsel, relative to the time when this conversation occurred. The witness was directed to confine himself to that which occurred before James Bowyer entered the store.

Witness now repeated his testimony of yesterday without material variation, adding what follows:

Mr. Bowyer said he was under the impression that McDowell was armed and expecting an attack, and that though he might have shot and riddled him through the window, he would not take an unfair advantage. He wanted to meet him face to face Mr. Bowyer went on to say to me that when he entered the bank he said "McDowell, look up!" That he looked up and showed strong guilt in his countenance.

The witness was here interrupted by the counsel for the prosecution, who told him he must confine himself to the conversation which occurred before James Bowyer entered the store.

Resumed: I did not go up stairs with James Bowyer, but went up afterwards. I have much difficulty in separating the conversation that took place before and after he went up stairs, but will relate as well as I can all that occurred before he went up.

The witness then repeated his previous statements, adding:

Mr. Bowyer said that he was satisfied that his daughter was deranged on a certain subject, and he believed that McDowell wanted to take advantage of that circumstance to gratify his malignant feelings towards him. He spoke of Woodville Bowyer's trip to Baltimore, and of his own trip afterwards. Said he went to the Marshal's office; that Mr. Joynes brought Elizabeth in, shut the door and retired, leaving him alone with his daughter; that he said to Elizabeth, "I have not come here to reproach you, but to endeavor to preserve you from deeper degradation." That she then burst into tears, and said that Mr. McDowell had told her that some person would write her father an anonymous letter, telling him of her condition, and that her father would kill her; that he (McD.) was going to New York, and that she must follow three days afterwards; that he would give her $500 and place her in comfortable circumstances; that she must not stop at hotels, but at houses of which he gave her the names, and which turned out to be houses of ill fame, though she did not know it at the time; that McDowell had given her $100 before he went away; that he (McD.) had asked her for the letters and notes he had written her, and she replied that she had them; that he told her he would burn her's, and she promised on that condition to burn his; that the reason she did not leave home on the day appointed was that the men were cutting hay in front of the house and she could not get out to take the stage. Mr. Bowyer proceeded to say something about McDowell's daring to come on his premises with the feelings which had existed between them, and that he thought McDowell ought to have been shot. He said he was not afraid of anybody attacking him—was not afraid of a regiment. In fact he seemed anxious to get out on the street.

Mr. Bowyer also said that Elizabeth was remarkable in the family for her truthfulness, and he had no doubt that the communications she made to him were true. Said he had obtained the same information from other persons, and was satisfied that McDowell was guilty. That he expected to find McDowell armed; that he had understood he carried arms, and that he must have done so then, from the fact that he probably expected an attack after his conduct towards Elizabeth.

By the Commonwealth:

Mr. Bowyer said to me that Elizabeth was always remarkable for her truthfulness. Think he said this down stairs. He further said that she told him Mr. McDowell made her promise to burn his letters, and he would burn hers. Think she told him it had been done. I could not have conversed with Mr Bowyer more than fifteen minutes He was afterwards abstracted and not inclined to talk. I was in there some time before James Bowyer came. I was not on friendly terms with Mr. McDowell before his death—had not spoken to him for many years. I was not the author of an article in the Enquirer in regard to this affair. I never wrote a line on the subject.—Don't know who wrote it. I have neither dictated nor written a line on the subject.

Mr. Bowyer did not say at what time he went to Baltimore. I don't know when he returned. I had not seen him for some time previous to this occurrence.

By the Defence:

Mr. Bowyer was laboring under great mental excitement. I never saw a man more excited in my life.

Joseph P. Gaunt—Recalled.—I have heard Mr. Word's evidence. There is a portion of the conversation between him and Mr. Bowyer which I did not hear, because Mr. Godwin asked me to go to the door and keep out intruders. Everything that I heard has been correctly stated by Mr. Word. I was much excited myself, and asked Bowyer what is the meaning of this? He said, I have shot McDowell; it was a duty I owed to myself, my family and the community; and if I have not killed him, Billy Smith is responsible—or I will hold him responsible, I don't remember which. He also said McDowell had ruined the peace of his family, and he (B.) had done no more than what was right. He had much rather that McDowell had applied a torch to his house and burnt himself and family, than to have destroyed their peace as he had done. I was much confused at the time.—James Bowyer came to the back door and was let in. Did not hear all the conversation that Mr. Word has detailed. Heard Mr. Bowyer say that Mr. McDowell was at the desk and he could have riddled him, but preferred to give him a fair chance; that he went in and pushed young Camper aside, and said, "McDowell, look up!" That he looked up, and showed guilt in his face; that he exclaimed "oh," and grabbed a book; heard Mr. Bowyer remark also that he took good aim at his head, and would have killed him then if Billy Smith had not taken hold of him. Saw Mr. Bowyer walk to Mr. Godwin's, with a pistol in his hand, and deliver himself up. Heard him say that he had discharged an obligation that was binding upon him. He spoke of Elizabeth's conversation to him. That she said McDowell had given her means to go away, and furnished her a waybill to go to houses of ill fame. Recollect that Bowyer said he expected McDowell to be armed and prepared for any emergency, and expected to be shot himself. When threats of violence were afterwards made, Bowyer said he didn't care for a whole regiment, nor for all Fincastle—that he had discharged a duty to himself and his family, and was satisfied. He appeared to be laboring under intense mental excitement. Had no vest on.—Never saw him come to town in such an unusual dress. I had not seen him for some time, though formerly he was in the habit of coming to town every day. On this occasion he came by a near route. I don't remember the precise date of Miss Bowyer's leaving here, nor when her father left in pursuit. Think Mr. Bowyer left after Woodville Bowyer returned. Don't know how long it was after Mr. Bowyer's return that the shooting occurred. I don't wish to state anything unless I am quite positive. I had not seen Mr. Bowyer for some time previous to the shooting—not since Miss Bowyer left. The statement made by Mr. Bowyer relative to his daughter's truthfulness, of which Mr. Word spoke, was made down stairs in Godwin's store. Think James Bowyer entered while the statements were being made. I cannot state positively everything that occurred, though I was there most of the time. Did not hear all that Mr. Bowyer said, though I am certain of his remark about Elizabeth's truthfulness in the family.

Ferdinand Woltz—sworn.—I connect none of my own personal knowledge anything I communicated to Mr. Bowyer before the shooting took place. They were reports that I had heard from others.

The counsel for the prosecution here made an objection to the testimony.

Witness resumed: The morning after Miss Bowyer left, I spoke with Mr. Bowyer, and I found him in deep anxiety. Witness was now

Objected to by the prosecution as to Mr. Bowyer's statements.

Witness resumed: I communicated to Mr. Bowyer on that day a good deal of information on the subject, but nothing of which I knew from my own knowledge.

Mr. Anthony, for the prosecution, here raised the points of objection to Mr. Woltz's testimony—because it was hearsay evidence, and irrelevant. At the close of Mr. Anthony's remarks, the Court adjourned until Friday morning at 9 o'clock.

FRIDAY—FOURTH DAY.

A great portion of this day was consumed by the counsel—those for the Commonwealth objecting to the testimony of Mr. Woltz, and those for the defence urging its acceptance. There was much sharp sparring, and both sides exhibited high legal ability.

At a late hour in the afternoon the Court decided to admit the testimony of Mr. Woltz.

Ferdinand Woltz resumed: I went to Mr. Bowyer's as an intimate friend. He asked me to communicate to him any thing I had heard on the subject. I objected at first, but he urged me, and I went on to say that I had heard many things about his daughter, and believed the story was in every body's mouth. That I had heard it from parties in Fincastle and in Buchanan. He pressed me for names, connected with these rumors and I gave him three or four. I told him I had heard Mr. Chas. T. Beale spoken of. Mr. Bowyer said that he supposed Mr. Beale's feeling were created by his having once desired to address Elizabeth, but which had been prevented by the disparity in their ages. I also told Mr. Bowyer that I had heard that Mr. Wm J. Price had been seen talking with his daughter—one on one side of the fence and one on the other. Then Mr. Bowyer said he must account for it. I also told him something about my own son. Further told him that Mr. McDowell had been seen going frequently towards his place, and Miss Bowyer going in the same direction with McDowell. I thought Mr. Bowyer came to the conclusion that as McDowell left town just before his daughter he must have been conversant with her intention of leaving. He asked me what business called McDowell from home. I replied that I had understood it was a trip of pleasure, to Detroit, Chicago and around the lakes.—Mr. B. at the same time asked me as a particular friend to ascertain all the facts about his daughter's leaving home; that it was my duty, and the duty of all his friends. Told him I would use every effort to throw light on the subject.

I went to some gentlemen, who confirmed the statements I had previously heard. Mr. Charles F. Anderson told me he had seen Mr. McDowell going towards Mr. Bowyer's. These facts I communicated to Mr. Bowyer. I had also understood that Dr. Hopkins and Rev. Mr. Carper had seen McDowell going in that direction. I saw Dr. Hopkins, and he informed me that he and Mr. Carper were together, when McDowell passed by the Episcopal church towards Bowyer's—went into the church yard on his way—and he (Hopkins) remarked laughingly to Carper, that he didn't believe there was any service there that night.—Charles Anderson and his family also saw McDowell going out in the same direction one night, and thought he was disguised. I also learned from a gentleman that Mr. Neale had seen some one walking out in the direction of Mr. B.'s place, and saw Miss Lizzie Bowyer going in the same direction, and that he understood that the gentleman was Mr. James McDowell.

I don't recollect that I communicated any other facts to Mr Bowyer, except the general rumor. I told him that McDowell's name had been recently connected with the matter more than any other. Mr. Bowyer said it was not only my duty, but the duty of all his friends to tell him all they knew about the matter. He even censured me for not having told him of it before; said that I ought to have written him an anonymous letter on the subject, if there were no other method. I replied that I could not throw a firebrand into his family.

Subsequent to this Mr. Bowyer informed me of the communication made to him by his son, whom he had sent in pursuit of his daughter. Then Mr.