

**Pierce Egan's account of the trial of John Thurtell and Joseph Hunt. With an appendix, disclosing some extraordinary facts, exclusively in the possession of the editor. With portraits, and many other illustrative engravings / [Pierce Egan].**

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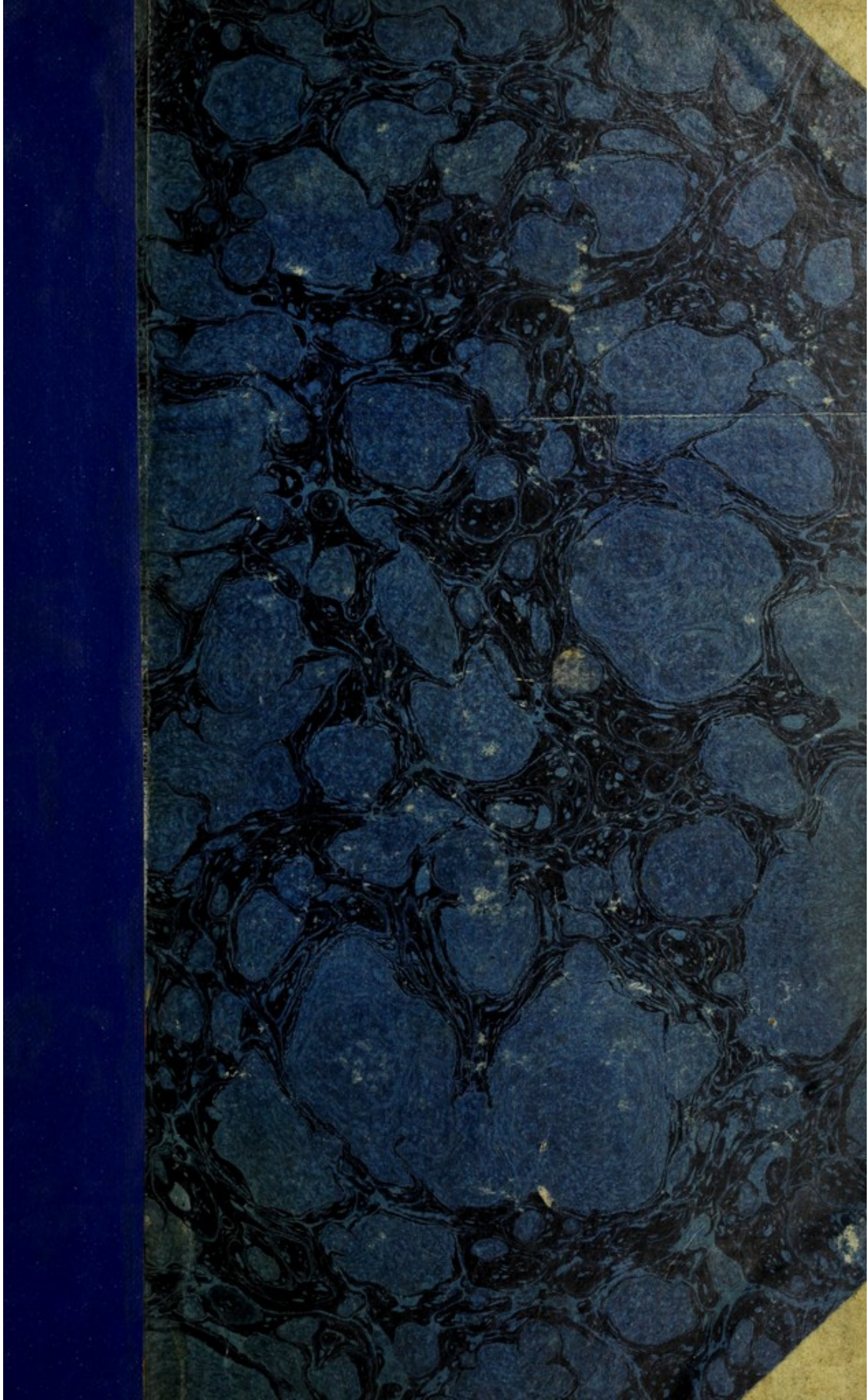
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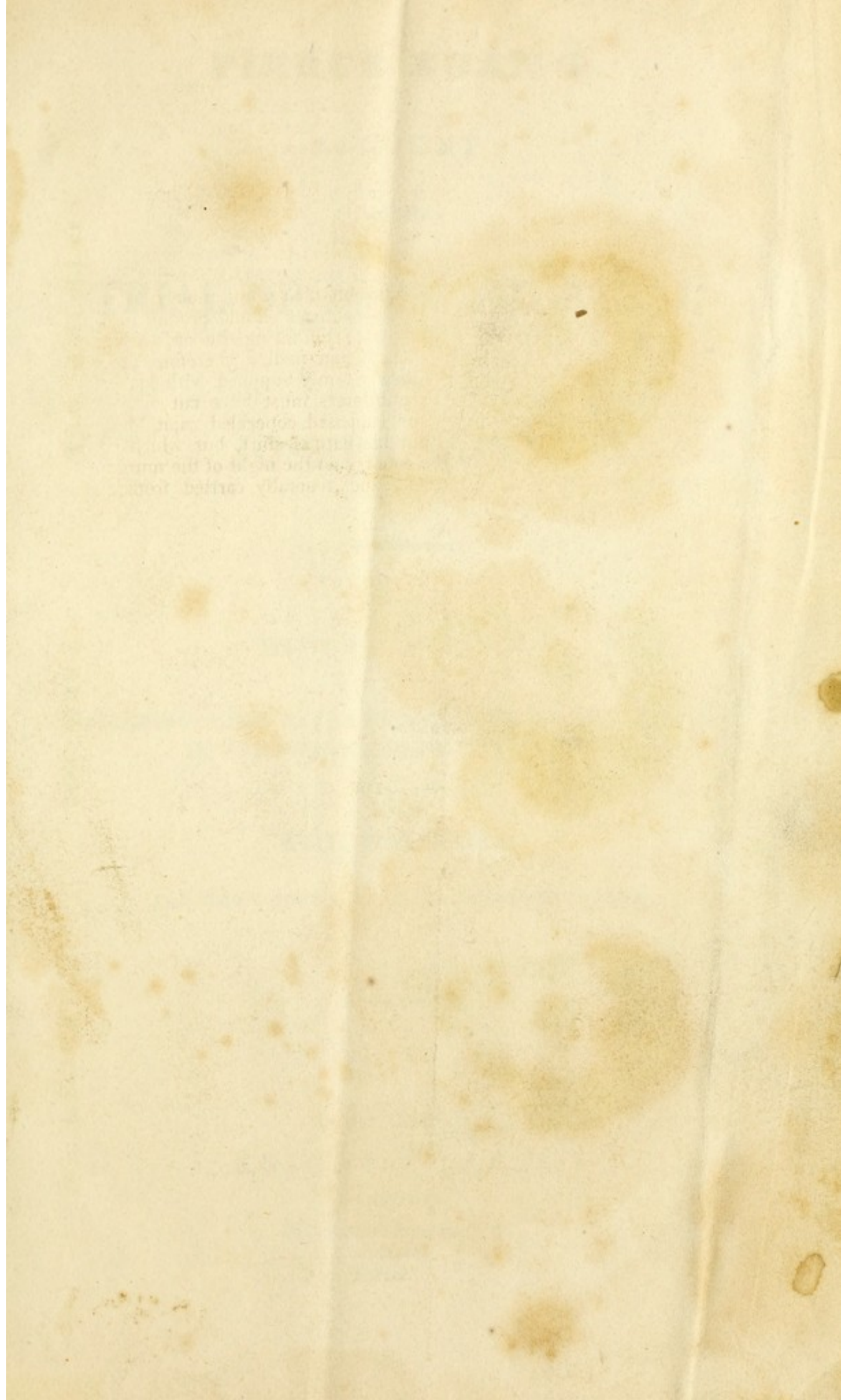


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WM PROBERT.



JOS. HUNT.



JNO. THURTELL.

*Knight & Lacey, Publishers, 24. Paternoster Row*

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**PIERCE EGAN'S**  
**ACCOUNT**  
**OF THE**  
**TRIAL OF JOHN THURTELL**  
**AND**  
**JOSEPH HUNT.**

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**WITH AN APPENDIX,**  
**DISCLOSING SOME EXTRAORDINARY FACTS, EXCLUSIVELY**  
**IN THE POSSESSION OF THE EDITOR.**

**WITH PORTRAITS,**  
**AND MANY OTHER ILLUSTRATIVE ENGRAVINGS.**

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**LONDON:**  
**KNIGHT & LACEY,**  
**PUBLISHERS,**  
**24, PATERNOSTER-ROW.**  
**1824.**



PIERCE EGANS

ACCOUNT

TRIAL OF JOHN THURTELL

JOSEPH HUNT



THE Proprietors of this Edition of the Trial, intended to have published it with an Appendix, at the price of Three Shillings, or Three Shillings and Sixpence; in consequence, however, of the extraordinary demand for it, they have resolved to publish the Trial separate, at Two Shillings. And, in a day or two, the Appendix will be ready, which will contain the CONDEMNED SERMON, authentic Memoirs of THURTELL, HUNT, and PROBERT, from the pen of PIERCE EGAN; interspersed with Anecdotes of many well known Characters, disclosing some very extraordinary Facts never yet published. Also an accurate Account of the demeanour of the Prisoners since Sentence was passed, and every particular relating to the Execution.

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#### CRANIOLOGICAL APPEARANCES OF THURTELL'S HEAD.

SPECIAL PERMISSION having been given to the Editor of the MEDICAL ADVISER to examine the body of Thurtell after the execution, a full account of the PECULIAR CRANIOLOGICAL Appearances, with illustrative engravings, will appear in the next Number, price THREE-PENCE only.

\* \* The Medical Adviser is published every Saturday morning, and may be had of all Booksellers and Newsmen.

24, *Paternoster Row*,  
Jan. 9, 1824.







## HERTFORD ASSIZES.

THURSDAY, DECEMBER 4, 1823.

AT half-past 10 o'clock this morning, the Judges (Mr. Justice Holroyd and Mr. Justice Park) arrived in Hertford, from Lord Verulam's, where they slept on the previous night, and were conducted and escorted by the high-sheriff, &c., in the usual form, to the Court-house, where the commission was opened: they afterwards repaired to church, to hear divine service, and a sermon preached by the Rev. Mr. Lloyd; and the court met again at 12 o'clock to proceed to business.

After the routine business of reading the proclamations, calling over the roll of magistrates, constables, &c., was disposed of, the following gentlemen were sworn upon the grand jury. There was an unusually full attendance of magistrates and grand jurors:—

The Hon. Wm. Lamb, of Hatfield, M. P.,  
Foreman.

The Right Hon. Sir George Ousely, of  
Hartingfordbury, Bart.

Sir John S. Sebright, of Flamstead, Bart.

Sir Culling Smith, of Essendon, Bart.

Sir George Duckett, of Cheshunt, Bart.

The Hon. Baron Dimsdale, of Essendon.

Henry Cowper, of Servin, Esq.

William Baker, of Bayford, Esq.

Thomas Hope Ryde, of Ware, Esq.

Nicolson Calvert, of Hunston, Esq.

Thomas Byron, of Bayford, Esq.

Samuel Smith, of Walton, Esq.

Tho. Daniel, of Little Berkhamstead, Esq.

Daniel Giles, of Standon, Esq.

Adolphus Meetkerke, of Juliam, Esq.

Patrick Haddow, of Shenley, Esq.

Wm. Robt. Phillimore, of Aldenham, Esq.

Charles Edmond Rumbold, of Watton, Esq.

William Wilshire, of Hitchin, Esq.

John Currie, of Essendon, Esq.

William Heygate, of North Mims, Esq.

Thomas Nash Kemble, of North Mims,  
Esq. and

Jacob Bosanquet, of Broxbourn, Esq.

Mr. Justice *Park* then addressed the gentlemen of the grand jury. His learned brother and himself were present among them at an unusual season of the year, under a special commission of Oyer and Terminer, and of general gaol delivery, to try such offences as had been committed in the county since the assizes which were held in it during the last summer. In that service they were employed in the most important function which could befall them as members of civil society—namely, the administration of criminal justice; and the present numerous appearance of gentleman of their rank and intelligence, and also of the other individuals whom he saw around him, satisfied him that his Majesty's wisdom in issuing that commission would not be frustrated; for, frustrated it would be, if a time should ever come when a commission of Oyer and Terminer was not attended by that rank and dignity which he then had the happiness of beholding; for it would lessen the dignity of the administration of justice in the eyes of the common people of England; and he was sure that they would feel that nothing could be more incumbent upon men in their station of life, than to sustain the administration of justice in the estimation of their fellow-countrymen by their attendance on such occasions. The calendar which was now before him contained different offences, and there were a great number of criminals who



stood upon it committed for trial. What the result of that trial might be, it was not for him now to judge; but, notwithstanding the number of prisoners, and the variety of crimes of which they were accused, it was unnecessary for him to address any observations to them upon that subject; for the crimes for which they were committed were such, as they were unfortunately employed upon in their magisterial capacities, weekly, and he was afraid he might almost say daily. All the principles of law that were applicable to such crimes were as well known to the gentlemen of the grand jury, as they were to himself and his learned brother; but if they had any doubt regarding them, he trusted that it was needless for him to add, that any inquiries they might think proper to make, they would find himself and his learned brother, as far as lay in their power, ready and willing to answer. There was, however, one case, on which he would take the liberty of making a few observations, because he understood it had already made a considerable noise in the world. He said *understood*; for of his own knowledge he could say nothing, since, except by reading the depositions which had been transmitted to him in this case, he knew nothing of it, having cautiously abstained from reading the statements which had appeared in the public prints, ever since he had reason to suppose that he should be appointed the judge to try it. He could therefore say, that as far as this case was concerned, a more impartial man could not be found in the King's dominions than himself. Circumstances, however, made it necessary for him to offer to them certain preliminary remarks. The language of rebuke was not pleasant to him—it was hostile to his feelings, and repugnant to his nature; but in the administration of justice, he was bound to pay no regard to his own wishes and feelings, but to look at higher and more important public considerations. These depositions, he understood (for he again repeated he knew nothing of the fact himself,) had already appeared very copiously, and even with notes and comments, in the public press. Now, it appeared to him, that the first fault (and he had no doubt it was most unintentional, and in noticing it he did not mean to wound the feelings of any individual)—it appeared to him that the first fault originated with the magistrates allowing any persons to enter into their private apartments for the purpose of taking notes of their proceedings. He held that there was a vast difference between the inquisitorial and judicial power of the magistrates: where the magistrate was acting judicially, his conduct was as open to the inspection and judgment of the public as that of himself and his learned brothers on the bench; to such publicity he had no objection, for he could wish every thing he said as a judge to be heard and fairly canvassed by the public. He knew he erred sometimes, because he was human, and nothing that was human could escape without error. But when a magistrate was acting inquisitorially, when he was taking an inquisition for blood, were those proceedings fit to be known and published to the world? He was bound to investigate and inquire—ought his inquiries and investigations to be conducted in a private or public manner? The statute law of the land prescribed the course to be pursued upon such an occasion for more than 200 years. There was a statute of Philip and Mary, which stated, that depositions before magistrates should be taken in writing, in order that they might be transmitted to the judges who were to try the offence under the commission of oyer and terminer for the county. He appealed to the experience of every gentleman who heard him, (and he knew what his own experience as a judge had taught him,) whether the constant course was not to transmit them to the judge, taking good care that the person accused should not have an opportunity of seeing them. The prosecutor or his solicitor might have access to them, but not the party accused. For what would be the consequence if the latter had access to them? Why, that he would know every thing which was to be produced in the evidence against him—an advantage which it was never intended should be extended towards him. He must now add, that since he had come into court, an additional argument had been suggested to him why the depositions should not



be made public. They, as members of the grand jury, were sworn to keep the king's counsel, their own counsel, and the counsel of their fellows. Now this was an unnecessary caution if the depositions were to be sent forth at full length to the world. He had made these observations to them, because he was peculiarly anxious to preserve the purity of justice, and because he was convinced that the purity of justice could not be preserved if such practices as the press had recently adopted were allowed to continue. Highly as he valued the liberty of the press, and sacred as he held it as a palladium of liberty, he valued the trial by jury still higher, and considered it as a still more sacred guardian of the public security, so long as it remained untainted and incorrupt. But it was impossible that it should long continue incorrupt, if the practice of publishing ex-parte statements of what occurred before magistrates, with notes and comments, were permitted to prevail. Such practice could not fail to produce the most serious inconveniences; for it might not only be dangerous to the accuser (and he was sure that the gentlemen of the grand jury would see that circumstances might occur rendering it full of danger to the accuser, without his further specifying them,) but might be also dangerous in the extreme to the accused. At any rate, the address which he was at that moment delivering to them, convinced him that it was most detrimental to those who were concerned in the administration of criminal justice; for it compelled them to address even the gentlemen of the grand jury with all the energy they possessed, in order to prevent them from having any improper bias on their minds. That very circumstance, however, was convincing to him of the impropriety of the present practice. To him it appeared to be more favourable to the accused than to any other party; for it gave him a benefit which the law never intended to give him, namely, the knowledge of the evidence that was to be produced against him on his trial. Let it, however, be advantageous to one party and disadvantageous to the other, or let it be disadvantageous to both, he was sure that it could not be free from blame that such a practice was permitted to exist. He had no difficulty in stating, in the presence of his learned brother, with whom he had not communicated on the subject, that it was the decided opinion of the court of King's Bench, and indeed of every judge who had sat for the last century in Westminster-hall, that to print evidence, with notes and comments, which *à priori* was calculated to prejudice the administration of criminal justice, was a high crime and misdemeanour, punishable, upon conviction, by fine and imprisonment; and though those who had not read deeply upon the subject, might perhaps attack him for this open statement of his opinion, he was sure that he was not erring when he declared that opinion to be the clear and positive law of the land. He was aware that the conductors of the public press, in publishing these statements, were only acting in subservience to the public will. There was an appetite for this species of intelligence in the public mind, which he did not consider as at all tending to its credit; there was a pruriency for news among people of the present day, just as voracious as there was among the Athenians of former days. Still, with all their eagerness to learn the passing events of the hour, he thought that there were few individuals who would undertake to defend one thing which he was told had been done upon the present occasion—he meant the publication of the confession of one of the prisoners. Now, as it could not be known whether that confession would be admitted as evidence, until he had judged upon it, it was certainly most unadvisable, to use no harsher term, to print it until he had decided whether it should be admitted or not. Without entering further at present into the subject, he would merely express a hope that the topics to which he had just alluded would produce consideration in future amongst those who had thrown impediments unintentionally, perhaps, in the course of the pure administration of public justice. Indeed, he spoke less in blame of the past, than in caution and admonition for the future. With regard to the crime itself, he would now say a few words. It was a charge, as against a person styling himself John Thurtell,



another person styling himself John Hunt, and a third person styling himself William Probert. The crime charged was murder—an awful charge under any circumstances, but in this case stated to have been accompanied by several circumstances of peculiar atrocity. What the intention of the prosecutors was, whether to indict them all as principals in the first degree, or some of them only as principals in the second degree, or as accessories before the fact, or as accessories after the fact, he could not tell; nor indeed was it within his province to be informed. All he could tell them was, that though the form of stating the charge might be different, the result of it, supposing it to be substantiated, would be the same as regarded the parties accused. The principal in the first degree, he need hardly tell them, was the person who actually committed the murder. The principal in the second degree was a person under these circumstances: he might be aiding, counselling, and abetting the murder, and yet, though he did not actually strike the blow, he was equally guilty with the party who did. He might even not be on the spot, and yet be a principal in the second degree: for, though not on the spot, he might be on the watch near it, to prevent any body from approaching to prevent or detect the murder; and by such participation in it he became a principal in the second degree. The accessory before the fact, was a person who, though he was not on the spot, had yet, by counsel, participation, and knowledge of the murder before it took place, made himself a party to it. The accessory after the fact, was a person who, knowing the murder to have been committed, received, harboured, and entertained the principal felon. Under what description of charge, and with what distinctions, it might come before them, he again repeated that he did not know; but under whatever form it came, he was sure that they would pay the closest attention to it, and decide according to the evidence which might be adduced. That evidence would establish the commission of a dreadful act of murder by some person, under circumstances of great atrocity. It was, like most other evidence in cases of murder, chiefly circumstantial. For what man, who committed an atrocious crime, ever committed it in the face of day, or in the presence of witnesses? It was in secret he committed it, removed from the observation of the world, and enveloped in darkness, forgetting, however, that the all-seeing eye of Providence was upon him, “to whom all hearts are opened, and from whom no secrets are hid.” He was sure he need not tell gentlemen of their rank and education, that circumstantial evidence was often more satisfactory than positive proof sworn to by only one or two witnesses; and it was so upon this account—that it brought home the same result from different ends, and that it was not likely that thirty or forty persons should agree to invent facts which should all chime in with the links of evidence which were to form the chain against the prisoner. He therefore thought they would have no difficulty arising from this kind of evidence. There was one circumstance which he had learned from the depositions, and which he thought it requisite to bring under their notice. He understood that one person had been placed in custody, and would be removed from it to give evidence before them and the petty jury, under very peculiar circumstances—he meant Mrs. Probert. Now Mrs. Probert was the wife of one of the individuals accused; and he must therefore tell them, that if the three prisoners were jointly united in one indictment, that circumstance was sufficient to prevent her from being called upon to give evidence against any one of them. If there was only one indictment she could not be called, on the one hand, to convict her husband, or, on the other, to acquit him: for the law, from a wise policy, did not permit a wife to give evidence either for or against her husband. He had now nothing more to say to them; he was afraid that he had already detained them too long; but if he had, he trusted that they would pardon him for so doing, since his motive was to render their minds easy in the discharge of their duty. He would merely add to what he had already observed, that in investigating the charge they were not called upon to try its truth or falsehood, (for that was the peculiar province of the petty



jury,) but to examine whether there was sufficient ground for putting the prisoners upon their trial. If they undertook to hear witnesses *pro* and *con*, they would be assuming a power which the constitution did not give them, and would be invading the duties of the petty jury. With these observations he should dismiss them to the business of the county.

The charge of the judge (with reference to Mrs. Probert,) as well as some other circumstances which had occurred in the course of the day, altered the intention of the prosecutors, and new indictments were immediately prepared for the crown.

At two o'clock, Mr. Broderick entered the court, as of counsel for the prosecution, and applied for leave to admit Probert to go before the grand jury for a particular purpose. He observed that he saw no other case in the calendar against him, but one.

Mr. Justice *Park* said that the application was one of course, and there was no necessity to say any thing more on the subject.

An order was then made that the gaoler should forthwith prepare Probert to be brought before the grand jury, and he was at half-past three o'clock brought in a post-chaise to the Town-hall, and sent into the grand jury-room. Mrs. Probert is also in attendance.

The indictment now before the grand jury, and upon which, if found, trial will follow to-morrow, embraces the cases of Thurtell and Hunt; the former is charged as the actual perpetrator of the murder, and Hunt as aiding and abetting therein.

Thomas Thurtell, in the course of the day, applied to the Rev. Mr. Lloyd, for permission to see his brother. The request was complied with, and the interview took place in the presence of Mr. Lloyd, Mr. Jay (who was with his client at the time,) and two or three other gentlemen: they shook hands, and John Thurtell, after some family questions, talked with an air of perfect indifference upon ordinary topics.

When Mr. Wilson announced to Probert at the gaol that he was wanted in the Town-hall, he became greatly agitated, and asked for what purpose they desired his attendance? When his agitation subsided, Mr. Wilson informed him; and he then rose into high spirits. When taken to the Town-hall, he was sworn as one of the witnesses, his name put on the back of the bill, and he was placed in a room in waiting with other witnesses.

At four o'clock Mrs. Probert was examined before the grand jury. She had not seen her husband; means were taken to keep them in separate rooms.

Thomas Thurtell was in attendance as a witness.

Mr. Jay spent the entire day with John Thurtell.

The grand jury, after being in consideration of the evidence until half-past eight o'clock, and after examining 22 witnesses, among whom were Mrs. Probert and Probert, who were examined (separately) for a considerable time, returned at the judge's lodgings a true bill against John Thurtell for the murder, and against Hunt as an accessory before the fact.

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### FRIDAY, December 5.

At half-past seven o'clock, the doors were opened, and the greater part of all the space in the court was filled immediately. It is needless to describe the expression of eager curiosity which took and kept possession of all faces. The boxes of the magistrates, and those set apart for the accommodation of the gentry of the county, (among the latter class there might be present about 20 ladies,) were filled last. At eight o'clock, the trumpet announced the approach of the judge, and within a minute or two Mr. Justice Park



took his seat. His Lordship directed that the prisoners should not be called until the court was perfectly quiet.

The clanking of chains was immediately heard, and the stillest silence prevailed, all eyes being turned towards the dock. The prisoners appeared and took their stations—Hunt first, on the left-hand of the judge; Probert followed, and stood next to him, and Thurtell took the place next to Probert. The appearance of all three, as to exterior, was respectable. Hunt and Probert were in decent black, rather worn; Thurtell in a blue coat, with fawn-coloured trowsers, and a waistcoat nearly corresponding—the whole in a style rather elegant than otherwise. The general appearance of Hunt was unpromising; a face of little expression with nearly a straight profile; stature of middling height, with slender proportions. Probert is plump in the cheeks and corpulent, clear but inexpressive eyes, surrounded by features the character of which might be deemed sensual; the hair, which seems to have been black, thin, gray, and curling. The appearance of Thurtell was the most genteel: his frame well knitted; his countenance bold; his hair of a good auburn hue and combed backwards; projecting brows, and a receding forehead, with an air of martial firmness, rather agreeable to the beholder. The worst part of his face is his mouth, which has a very obstinate and rather stupid expression.

The clerk of the court was preparing to read the indictments,

Mr. *Andrews* rose to address the court upon some preliminary objection, the nature of which did not transpire in that part which was assigned to our purposes.

Mr. Justice *Park* interrupted him by saying, "I know nothing of objections nor of jurymen, until after issue joined: and I know nothing either of objections, or of the nature of the issue, until the prisoners shall have pleaded."

Mr. *Knapp*, clerk of the arraigns. John Thurtell, hold up your hand. The indictment charges you, John Thurtell, that you, not having the fear of God before your eyes, but being instigated by the devil, did on the 17th of October last, in the parish of Aldenham, with a certain pistol, value 10s. in your right hand, then and there held on the left side of the head of Wm. Weare, of the county of Middlesex, gentleman, wilfully strike and thrust, and make one mortal fracture, of which the said William Weare then and there died. (Mr *Knapp* read the other counts relating to Thurtell.) And the indictment further charges, that you, Joseph Hunt, in the parish of St. George, Hanover-square, in the county of Middlesex, before the said murder, did stir up, move, abet, and counsel, hire, and procure the said John Thurtell to commit the said murder. How say you, John Thurtell, are you guilty or not guilty? Thurtell. Not guilty.

Mr. *Knapp*. How will you be tried? Thurtell. By God and my country.

Mr. *Knapp*. Joseph Hunt, how say you, are you guilty or not guilty? Hunt. Not guilty, my Lord.

Mr. *Knapp*. How will you be tried? Hunt. By my God and my country.

Mr. *Knapp*. You John Thurtell, you Joseph Hunt, and you William Probert, are charged under the Coroner's inquisition, that you, John Thurtell, did murder William Weare; and you, Joseph Hunt and William Probert, as accessories before the fact. How say you, John Thurtell, are you guilty or not guilty on the inquisition? Thurtell. Not guilty.

Mr. *Knapp*. How say you, Joseph Hunt? Hunt. Not guilty.

Mr. *Knapp*. How say you, William Probert; are you guilty or not guilty? Probert. Not guilty, my Lord.

Clerk. How will you be tried? Probert. By God and my country.

Mr. *Andrews*, in behalf of the prisoner Thurtell, said he had to apply to the Court, that certain affidavits, then prepared, might be sworn.

Mr. Jay, Mr. Fenton, and another gentleman then came forward with a bulky paper, and being asked by the Clerk of the Arraigns the usual questions as to their signatures, swore to the contents of the affidavits.



Mr. Harmer handed an affidavit to the officer of the court, which was sworn to by Hunt.

The affidavit of the solicitors was then put in. The crier of the court read it over to himself, marking it on the several pages, agreeably to a new regulation of the court, by which the officer is to be prepared with a precise knowledge of such instruments, so as to be enabled to identify them when they may be called in question.

This ceremony being over, the deponents were sworn to it.

The clerk of the court then proceeded to read it, and having read as far as that part of it which refers to the widely-spread circulation of *The Times*, and corresponding influence of such publication upon the public mind,

Mr. Justice Park directed him to stop. He knew nothing of the matter in these alleged publications. However the fact might be, he could say conscientiously, that there was one person in court who had not read one word of the alleged descriptions or animadversions. Some among the jury might also remain ignorant of them. Such calumnies, if calumnies they were, might have been circulated even to the extent stated in the affidavit. But supposing the fact to be so, and that the court, concurring in these representations to consent to the postponement of the trial, would not that have the effect of injuring the very cause for the support of which the affidavit was framed? He did not intend to urge the subject beyond what he had now said; but left it entirely, after this one observation, to the excellent good sense and professional accuracy of Mr. Andrews and his learned colleagues, to say whether they would persist in their demand. While the remainder of the affidavit was reading, there would be time for them to consult.

Mr. Andrews, expressing the profoundest respect for the advice of the court, had to inform his Lordship, that himself and his learned friends had repeatedly deliberated upon the step now taken, and after giving the gravest consideration to the subject, they could give no other answer to his Lordship's kind suggestion, but respectfully to require that the affidavits should be read.

Mr. Justice Park. That is quite enough; I have not another word to say, let the consequences fall as they may.

The clerk resumed the reading of the affidavit, and having come to that part of it which went to specify the play-bills of the Surrey theatre, some of the bills were produced.

Mr. Justice Park asked if the bills were exhibited at the time of swearing to the depositions.

The answer was in the negative, but that the deponents had them in hand at the time of swearing.

Mr. Justice Park said that that was not sufficient for the purpose. The deponents must swear to the papers.

The deponents were again sworn accordingly.

Mr. Justice Park directed that the prisoners should have seats, and be supplied with pen, ink, and paper.

Thurtell made the busiest use of the latter privilege, and occasionally stooped down to select from a considerable heap of newspapers which lay before him.

The following affidavit, prepared by the legal advisers of Thurtell was read:—

HERTFORD ASSIZES, }  
December, 1823. }

THE KING AGAINST JOHN THURTELL.

John Allen Adamthwaite, of Dalston, in the county of Middlesex, gentleman, and George Jay, of the city of Norwich, gentleman, and Francis Tarrant Fenton, of Austin Friars, in the city of London, gentleman, and John Helme, of Austin Friars, clerk to the said Francis Tarrant Fenton, severally make oath and say, and first this deponent Francis Tarrant Fenton, for himself saith, that he, this deponent, on Thursday the 13th day of November last, waited on Mr. Nicholson, the under-sheriff, who returns the jury



for the county of Hertford, for the purpose of giving an undertaking to the said undersheriff to put in bail for a gentleman who had been arrested on an attachment of privilege at the suit of Andrew Vansandom for 40*l.*; this deponent saith, that he at the same time offered the undertaking of the said George Jay, of Norwich, who is a most respectable attorney and solicitor, and possessed of good property, and who hath been instructed by the friends of the said John Thurtell, with his concurrence, to defend the prosecution pending against him for murder; or, if necessary, that he, this deponent, and the said George Jay, would execute a bail-bond for the aforesaid gentleman; but the said Mr. Nicholson told this deponent that he knew very little of this deponent, and nothing of the said George Jay, except that he was concerned for John Thurtell, the murderer, and that he considered that circumstance of itself sufficient ground to decline to accept his responsibility, or words to that effect. And this deponent further saith, that he, this deponent, remonstrated with the said Mr. Nicholson on the impropriety of a professional man speaking in such terms of another professional man for acting in a defence which, after he had been called upon to undertake, he, this deponent, considered him bound to undertake; and that he, the said George Jay, was employed by the friends of the said John Thurtell, and not by Thurtell himself; but the said Mr. Nicholson said that he thought even Thurtell's own father ought not to interfere in such a case, but leave John Thurtell to his fate, or words to that effect. And this deponent saith, that he further remonstrated with the said Nicholson on the impropriety of a professional man calling a prisoner a murderer until he had been proved so according to the laws of his country, and before a proper tribunal; upon which the said Mr. Nicholson said, that he was so satisfied of the guilt of John Thurtell and his companions, that he should not complain if they were hanged without trial, or words to that effect. And this deponent saith, that he hath lately been much at Hertford, and has had a deal of conversation with individuals residing there, and of the rank or class of people out of which common juries are generally elected, who all expressed themselves so satisfied of the guilt of John Thurtell and his companions, that this deponent is quite sure it will be totally impossible for the said prisoners to have a fair and impartial trial in the county of Hertford, aforesaid, at these assizes; and this deponent saith, that he, this deponent, did, in company with the said George Jay, apply on the 13th day of November to the Rev. Mr. Lloyd, one of the visiting magistrates, at Hertford gaol, for the purpose of seeing and consulting with the said John Thurtell as his professional adviser, in company with the said George Jay; but the said Mr. Lloyd informed this deponent, that in consequence of an order lately made by a numerous bench of magistrates, he could admit only one professional adviser, and that John Thurtell had informed him that he should prefer to see Mr. Jay; and on consultation between the said George Jay and this deponent, it was judged proper that the said George Jay, being known to the prisoner, which this deponent was not, (he, this deponent, never having seen the said John Thurtell,) was the proper person to visit him as his professional adviser in that instance; and this deponent and the said George Jay asked the said Mr. Lloyd whether, after the said George Jay had seen the said John Thurtell, and had taken his preliminary instructions for the defence, and had informed him, the said John Thurtell, that this deponent had his the said George Jay's confidence, and that he, the said John Thurtell, might confide in this deponent, he, this deponent, would afterwards be allowed to see the said John Thurtell alone? when the said Mr. Lloyd informed this deponent and the said George Jay, that after either the said George Jay or this deponent had once seen the said John Thurtell, the other would never be permitted to see him till the day of trial; and this deponent saith, that from the great distance at which the said George Jay resides from London, being 119 miles, or thereabouts, it was essentially necessary that he, this deponent, should have free and uninterrupted access to the said John Thurtell, for the purpose of preparing his defence. And this deponent saith, that on Saturday, the 15th day of November last, this deponent applied to the bench of magistrates, then sitting at Hertford, apparently about twelve in number, to be admitted to the said John Thurtell as his professional adviser; but he was then informed by the said Mr. Lloyd, on the behalf of the magistrates then assembled, in their presence, and with their concurrence, that they refused to grant such access, and declined stating their reasons; and this deponent saith, that on Wednesday, the 19th day of November last, he, this deponent, applied to his Majesty's Court of King's Bench, for a *mandamus*, commanding the said magistrates to admit this deponent to the said John Thurtell as his professional adviser, which the said court granted, and this deponent saw the said John Thurtell for the first time on Thursday, the 20th day of November last; and this deponent saith, that on Saturday, the 22d day of November last, Robert Clutterbuck, Esq. and ——— Mason, Esq. two magistrates of this county, came to the



gaol at Hertford aforesaid, with a witness whom the said magistrates informed this deponent they intended to introduce to the said John Thurtell, for the purpose of reading over his depositions to the said prisoner, in his, the said witness's presence; and they at the same time informed this deponent, that the same must be considered as an indulgence to the said prisoner, inasmuch as he might not be taken by surprise by the evidence of the said witness on the trial, but this deponent declined to accept such indulgence; and this deponent saith he hath been informed, and believes, that on Friday, the 28th day of November last, the said last-named magistrates again came to the said gaol, and, in the absence of this deponent, introduced the said witness to the said prisoner, for the purpose of identifying him. And this deponent saith, that from these and other interruptions, the mind of the said prisoner became so disturbed and discomposed, as materially to impede this deponent in preparing his defence. And further, a difficulty was also, by the introduction of a fresh witness, at that late period, thrown upon this deponent, in knowing what case on the part of the prosecution he should be called upon to meet. And this deponent further saith, he hath perused a certain daily newspaper or journal called *The Times*, published on the 1st day of November last, which journal or newspaper contains a long relation of the circumstances of the murder of the late Mr. Weare, and amongst other things a confession or statement mentioned to have been made by Joseph Hunt, also indicted, as this deponent believes, for the said murder, before the magistrates who examined him touching the said murder, in which confession or statement the said John Thurtell is represented to have informed the said Joseph Hunt, that he the said John Thurtell had murdered the said Mr. Weare; and this deponent saith, that in the said confession or statement, the following dialogue or conversation is stated to have taken place between the said John Thurtell and William Probert, on their arrival at Probert's cottage, on the evening when the said murder is supposed to have been committed, that is to say, "I (meaning, as this deponent believes, the said John Thurtell) have settled that b—— who robbed me of 300*l*." Probert said, "Who d'ye mean? What d'ye mean?" "Why," said John Thurtell, "I mean to say, I have blown his brains out, and he lays behind a hedge in the lane." "Nonsense, nonsense," said Probert, "you have never been guilty of a thing of that kind, John Thurtell; if you have, and near my cottage, my character and my family are ruined for ever; but I can't believe that you have been guilty of so rash an act. Here, Hunt, (to examinant, meaning the said Joseph Hunt, he being then under examination before the said magistrates,) take in the loin of pork, and desire the cook to dress it immediately." "I (meaning the said Joseph Hunt) went into the kitchen and waited until Probert came in, which, to the best of my knowledge, was after a lapse of five minutes. Before we went into the parlour, I said to John Thurtell, (meaning the said John Thurtell mentioned in the above-mentioned indictment,) you are jesting about killing a man to-night." "Ah, but I have," was his (meaning the said John Thurtell's) reply, "and no one else but Weare; who robbed me of my 300*l*." And this deponent saith, that he hath also respectively perused the journals or newspapers, called *The Times* and *The Morning Chronicle*, published on the 3d of November last, each of which relates or sets forth the proceedings and depositions of witnesses on the Coroner's Inquest, held on the body of the said Mr. Weare, containing amongst other things a statement, entitled "Hunt's Confession," in which the said John Thurtell is represented to have told the said Joseph Hunt, that he the said John Thurtell had murdered the said Mr. Weare; and also a statement by William Probert, who is also indicted for the said murder, in which last-mentioned statement is related the following conversation or dialogue, said by the said William Probert to have passed between him, the said William Probert, and John Thurtell:—"About 9 o'clock, we (meaning the said William Probert and Joseph Hunt) left here, (meaning the Artichoke public-house, in or near the village of Elstree,) and went to near Mr. Phillimore's lodge; Hunt said, I must wait here for John Thurtell, and you may go on." I (meaning the said William Probert) got within a hundred yards of my house, and then I met John Thurtell. He (meaning the said John Thurtell) said, "Where is Hunt?" I (meaning the said William Probert) said, "I have left him on the road waiting for you." He (meaning the said John Thurtell) said, "You must drive back then and fetch him, for I have killed my friend and don't want him." And this deponent saith he believes that the said William Probert, in representing such his statement or confession, that the said John Thurtell had used the words "I have killed my friend," meant it to be understood that he, the said John Thurtell, had informed him, the said William Probert, that he the said John Thurtell had killed the said Mr. Weare. And this deponent saith he hath perused the said newspaper or Journal called *The Times*, published on the 4th of November last, in which is set forth a



further statement or confession made by the said Joseph Hunt, containing amongst other statements tending to show that the said John Thurtell murdered the said Mr. Weare, the following passage:—"I (meaning the said Joseph Hunt) forgot to tell you something. On the return of Thurtell (meaning the said John Thurtell) after the body was removed from the lane and sunk in Probert's pond, Thurtell produced the reader, (flash for note-case,) out of which he took three five pound notes, and also a purse, from which he took four sovereigns; he gave Probert and myself (meaning the said Joseph Hunt) six pounds each, as our share of the property found. He then burnt the note-case and the purse; he also burnt a betting-book, a red one. At the request of John Thurtell, I purchased in Hind-street, Bloomsbury, a sack and some cord, which went down in Thurtell's chaise. Further, John Thurtell told me, when describing the manner in which he had tackled with Mr. Weare, that at one time he had nearly mastered him and got above him, upon which he (meaning the said John Thurtell) took out his knife and cut his throat, the blood of Mr. Weare in consequence came in his face and into his mouth in such quantities that he was nearly choked; it was in consequence of this that he was seized with sickness at supper, and could not eat any pork; after he had cut Mr. Weare's throat the unfortunate gentleman's strength failed, and he threw him off; he then took his own shawl, and wrapped it round the neck of the corpse, to prevent the effusion of blood." And this deponent saith, that *The Morning Chronicle* of the 5th of November contains the following passage (amongst other things)—"The Murder of Mr. W. Weare.—Further and latest Particulars."—"On his (meaning the said William Probert's) arrival there (meaning his, Probert's cottage) he saw John Thurtell, to whom he mentioned that he had left Hunt waiting for him, on which Thurtell said, "Oh, I have done the trick without him;" meaning, as this deponent believes, that he, the said John Thurtell, told Probert that he had murdered the said William Weare without Hunt's assistance, and in the said last-mentioned number of *The Morning Chronicle* is the following passage:—"It would seem from inquiry on the spot, that John Thurtell drove Weare past Probert's cottage, down Gill's-hill-lane, as he was seen in a turning in the lane at 8 o'clock by a man who noticed the distressed state of his horse. Thurtell had then got out of the gig, and seemed to be feeling in the breast of his great coat for something (now supposed to be the pistol); and it is believed, but for the interruption he received, he would have effected his purpose on this spot. Finding himself disturbed here, however, he drove on down the lane till he arrived at the place where the dreadful tragedy took place. This was about 8 o'clock, as Freeman and his wife, who heard the report of the pistol, followed by the groans, and the man who met the parties, both agree. The scene of action was nearly half a mile from Probert's house, and after the murder was accomplished, the victim was drawn through the hedge into a turnip-field, where the body remained till it was subsequently removed to the pond in the garden. The bushes in the hedge, the maple-tree close to the spot, and the fence, all bore marks of blood, which have been since cut off by the curious visitors. The lane in which the deed was done would not admit of two gigs to pass, and has a singularly wild and romantic appearance, being overshadowed with trees. Men are now engaged in widening it, and the place through which the body was taken has assumed quite a different appearance. After Thurtell had committed the murder, he must have gone to the end of the lane before he turned his horse. This was not more than a distance of 200 or 300 yards." And this deponent saith, he hath perused the said newspaper called *The Times*, which was published on the 5th of November last, and hath extracted the following passage from an article therein, headed, "The Murder of Mr. Weare."—"It would appear from what has been stated by one of the prisoners (Hunt) that a desperate struggle took place between John Thurtell and Weare before the latter was completely overpowered. Hunt says that John Thurtell shot Weare whilst he was sitting by his side in the chaise. Thurtell had intended to blow out the brains of his victim, but the ball struck upon Weare's cheek-bone and stunned him, upon which the assassin threw him out of the chaise; when Weare fell upon the ground, he recovered in some degree from the effects of the shot, and got up and ran a few yards. Thurtell then jumped out of the gig, ran up to Weare, and drove the barrel of the pistol into his head. Weare closed upon his assailant, and, to use Hunt's words, 'a sharp scuffle took place, and Weare was near getting the better of him once or twice, until being at length exhausted, Thurtell succeeded in cutting his throat with his penknife.' Hunt was asked how he knew all this, he answered, 'Why Jack (meaning the said John Thurtell as this deponent believes) told me himself.'" And this deponent saith, he hath partly perused the said journal, called *The Times*, published on the 6th of last November, which contains an article under the title, "Murder of Mr. Weare," from which the following is an extract:—"Hunt



is equally earnest in his asseveration of innocence of the crime, and, together with Probert, denies any knowledge of the dreadful occurrence until apprised of the murder by Thurtell himself, when (as has been already stated) he solicited permission to conceal the dead body in the pond of the cottage." And this deponent saith, he hath partly perused the said journal called *The Times*, which was published on the 7th day of November last, in which is an article headed "The Murderers of Mr. Weare," giving an account amongst other things, of further evidence adduced against the said John Thurtell, and evidently holding out to the public that the said John Thurtell is one of the murderers of the said Mr. Weare. And this deponent saith he hath perused the said journal called *The Times*, published on the 8th day of November last, wherein he read an article headed "Murder of Mr. Weare," from which the following is an extract:—"It is alleged that on Sunday, when he (meaning Noyes, one of the witnesses for the prosecution,) went down to Probert's cottage after the murder, he was informed by the murderers (meaning, as this deponent believes, the said John Thurtell, Joseph Hunt, and William Probert) that they had done the deed." And this deponent saith, he hath read in part the said journal called *The Times*, published on the 10th day of November last, in which is an article headed "Murder of Mr. Weare," containing a statement said to have been made by Mrs. Probert, in which she says, that "she saw Hunt and John Thurtell enter the garden from Gill's-hill-lane. Hunt had a light in one hand, and with the other was assisting Thurtell in dragging along some heavy substance; that she could not see what it was, but it was something very heavy, and was enveloped in a sack;" and also containing a statement made by the said Thomas Noyes, as follows:—"That in a conversation with his (the said Thomas Noyes's) sister, Mrs. Probert, she told him, the said Thomas Noyes, that she saw Hunt, Thurtell, and her husband dragging the body of a person across the grounds, and that Mr. Probert and Thurtell were the persons who had hold of the corpse, and that Hunt only held the candle;" and also containing the examination of Charles Tetsall before certain magistrates of Hertfordshire, which said Charles Tetsall is, as this deponent is informed and believes, bound over to appear as a witness for the prosecution against the said John Thurtell on his trial at the approaching assizes for the county of Hertford for the murder of the said Mr. Weare; and this deponent saith he hath perused the said journal called *The Times*, published on the 11th day of November last, in which is an article headed "Murder of Mr. Weare," under which is given a statement purporting to be "An Outline of the London Life of John Thurtell;" and this deponent believes it is intended thereby to connect the said John Thurtell as the murderer of the said Mr. Weare; and this deponent saith he hath partly read the said journal called *The Times*, published on the 12th day of November last, in which is an article headed "Murder of Mr. Weare," from which the following is an extract:—"Now, as the supposition is that Hunt and Thurtell, while sitting up on that night, burnt the clothes which they had previously cut from the body of the murdered man, (meaning, as this deponent believes, the said William Weare,) it is not impossible but the ashes might disclose some fragments of bone or metal buttons, which would establish the supposition already entertained." And this deponent saith, he hath read the said journal called *The Times*, published on the 13th day of November last, in which is an article headed "Murder of Mr. Weare," and commencing as follows:—"The situation of Thurtell, Hunt, and Probert, in Hertford gaol, continues under the same rigorous surveillance and restraint. Two prisoners remain in the room of each, to act, not as attendants, but extra guards; and owing to some improbable notion that a rescue was intended, additional watchmen have been provided within and without the walls of the prison. The precautions display the laudable desire of the magistrates to secure the guilty culprits." And this deponent saith he hath read partly the said journal called *The Times*, published on the 14th day of November last, in which is an article headed "Gambling-house Murderers." "Two prisoners remain in the room of each, to act, not as attendants, but extra guards; and owing to some improbable notion that a rescue was intended, additional watchmen have been provided within and without the walls of the prison. The precautions display the laudable desire of the magistrates to secure the guilty culprits;" evidently giving it to be understood that Thurtell, Hunt, and Probert are the gambling-house murderers of the said William Weare. And this deponent saith he hath in part perused *The Morning Chronicle* of the 6th of last November, in which is an article headed "Murder of Mr. W. Weare," from which he has extracted the following passage:—"It is not a little singular that on the day on which Thurtell and Hunt perpetrated the murder of the unfortunate Mr. Weare, the father of the former had been re-elected mayor of Norwich." And this deponent saith, he hath in part perused *The Morning Chronicle* of the 7th day of November last, in which



is an article headed "The Murder of Mr. W. Weare," from which the following is an extract:—"Indeed suspicions exist that the murderers, (meaning, as this deponent believes, the said John Thurtell, Joseph Hunt, and William Probert) after the deed had been committed, waited until the family had retired to rest, and then brought the body to Probert's house, when the ceremony of stripping took place." And this deponent saith, he hath in part perused the said journal called *The Morning Chronicle*, of the 8th day of November last, in which is an article headed "The Murder of W. Weare, Esq." containing the examination of Mr. Tetsall, who is, as this deponent is informed and believes, a witness on the part of this prosecution; and the said last-mentioned newspaper also contains three plates, representing the facts of the said supposed murder of W. Weare, as the same were detailed by the several witnesses before the coroner, at the inquest on the body of the said Wm. Weare. And this deponent saith, that the first of such plates is headed—"Plate 1. Probert's Cottage and Garden," and represents Probert's cottage and garden, in which are the figures of three persons, intended, as this deponent believes, to represent the said John Thurtell, Joseph Hunt, and Wm. Probert, two of whom are, as this deponent believes, in the act of dragging the body of the said Wm. Weare from one part of a certain pond, represented in such plate, to the other part thereof, whilst the other of the said prisoners is represented to be at a short distance from the other two with his hand on a spade, mentioned, in the confession of the said Joseph Hunt before alluded to, to have been taken down to Probert's cottage by the said John Thurtell, for the purpose of burying the said William Weare; and this deponent saith, that the second of such plates is entitled, "Plate 2—The scene of the murder in Gill's-hill-lane," in which a person, intended, as this deponent believes, to mean the said John Thurtell, is represented as dragging the body of a dead man, intended, as this deponent believes, to represent the said William Weare, through the hedge, whilst the horse and gig, intended, as this deponent believes, to represent the horse and gig mentioned in the evidence before the coroner to be the same in which the said John Thurtell left London, and represented to be standing in the said lane, called Gill's-hill-lane, close by the person intended to represent the said John Thurtell; and this deponent, John Helme, for himself saith, that he hath perused the *Morning Chronicle* published on the 10th of November last, in which there is an anecdote represented as being related by the said John Thurtell, of himself, in these words (that is to say) "He (meaning the said Thurtell) was with the English at the storming of St. Sebastian, and when they entered the town, he (meaning the said John Thurtell) saw a Polish officer in the French service leaning against the wall, seemingly done up with wounds and hard work. I (meaning the said John Thurtell) thought by the look of him, he continued, that he was a Nob, and must have some blunt about him, so I just tucked up my sword in his ribs and settled him, and found a hundred and forty doubloons in the pocket—a good booty was'nt it Joe? turning to Hunt, who assented with a loud laugh, and another fag-end of a song;" the relation of which said anecdote is, in this deponent's judgment, calculated to create a prejudice against the said John Thurtell, and to induce the reader to indulge an idea of the capability of the said John Thurtell of committing murder. And this deponent saith, that he hath perused the *Morning Chronicle*, published on the 11th day of November last, in which there is the paragraph, entitled "The murder of W. Weare, Esq." and in which said paragraph it is stated, that "A curious scene was exhibited in Manchester-buildings on Saturday last, in consequence of Johnson the messenger of the commissioners of bankruptcy breaking into the premises lately occupied there by J. Thurtell. Nearly 200 persons were assembled, and an entrance being obtained, there was a diligent search made for any property which might be there deposited. There was very little furniture in the house; but there were several parcels of goods, glass, quart pots, &c. found, which no doubt had been obtained under false pretences; but the value, however, was not more than 50*l*. Among other things found in the parlour, were a pair of immense dumb-bells, weighing eight or nine pounds each. These were the weapons with which John Thurtell had intended to have murdered Mr. Woods, his rival in the affections of Miss Noyes." And this deponent further saith, that he hath perused the *Morning Chronicle* of the 13th of November, and hath extracted the following passage from an article therein, headed "Murder of Mr. Weare:—James Slack, a dealer in hardware, has also been examined; he lives in Long-acre, and it appears that it was from him the spade was purchased for the purpose of digging the grave in which the body of the intended victim was to have been buried. Mr. Slack's description of the person to whom he sold the spade, exactly corresponds with the appearance of Hunt before he shaved off his whiskers. The purchase took place on the Thursday before the murder, so that it would seem clear, that not only the murder and the



manner of its perpetration, were the subject of a settled plan, but that the mode of disposing of the body had also been decidedly fixed. Connecting these facts with the meeting of all the parties at Tetsall's before the dreadful deed was committed, they excite the strongest sensations of horror, and lead to other suspicions of a painful nature. We yesterday heard that Leman, the notorious gambler, to whom it is attributed that he offered John Thurtell three hundred pounds to put Weare out of the way, had surrendered himself to the police at Paris, for the purpose of being sent home." And this deponent further saith, that in the said last-mentioned paper, there are circumstances detailed relative to the said charge against John Thurtell, and among which it is stated, that "on Wednesday morning early, a Mr. John Thurtell was taken up at the Coach and Horses, in Conduit-street, Bond-street, under a warrant from the magistrates at Watford. In the room occupied by John Thurtell, a large and small pistol were found, and some clothes, which were marked, and in some places almost soaked, in blood:" and, in addition, it was stated, that "Mr. Hunt, one of the persons who had been apprehended, had been induced to disclose the particulars of the suspected transaction, when it turned out, according to his confession, that John Thurtell, one of the prisoners, had on the Friday evening in question murdered a person of the name of Weare at the spot in Gill's-hill-lane, where the two men had been seeking in the hedge; that the body of the murdered man was first of all on Friday evening disposed of in a pond in the grounds belonging to the house occupied by Probert, and lay there till Monday, when it was removed to a pond two miles distant, and there thrown in and left." And in the same article it is further stated, that "on the person of John Thurtell was found a pistol, the fellow of the one picked up in the lane. In his waistcoat pocket were ten swan-shot, a pen-knife, and a pistol key. The pen-knife was identified by Mr. Rexworthy as the property of the deceased, and he saw it in his possession on the Friday when Mr. Weare left London. Mr. Ruthven, the officer, also produced on the Coroner's Inquest a muslin handkerchief marked with blood, a black waistcoat marked with blood, as if a bloody hand had been thrust into one of the pockets of a coat, which was marked with blood in several places, all of which were found on John Thurtell, or in his possession. In Mr. Probert's stable, a torn and bloody shirt were found on Thursday, with the initials of the deceased, and it was of the same make as a shirt found at John Thurtell's lodgings. The gig, which was hired for John Thurtell and himself by Hunt on Monday, and which was used to convey the dead body, was observed, when carried home, to be stained with blood. Mrs. Probert is understood to have deposed, that she saw from the window of her room Hunt holding a candle, and John Thurtell drawing a corpse along the ground; that she heard the conversation between her husband, Thurtell, and Hunt, about sharing the money." And it is further stated in the said last-mentioned paper, that "before leaving London on the Friday evening, it appeared that Thurtell and Hunt had agreed that the latter should be put down by Probert at a certain place called Phillimore's-lodge, which accordingly took place, and that Probert then drove on to his own house. Here he met John Thurtell, by whose directions he went back for Hunt, and brought him back to the cottage in the gig. The presumption therefore is, that the murder and the whole scheme for carrying it into effect was planned (and was to be executed) by Thurtell and Hunt conjointly. Owing, however, to Hunt being later than the appointed time, which again was owing to stopping and drinking on the road, Thurtell performed the whole deed himself. From the state of the body there is reason to believe that the first assault was firing a pistol at Mr. Weare's head, and the cheek-bone turned the ball aside; that afterwards his skull was fractured by repeated punches with the muzzle of a pistol; and that, finally, his throat was cut when he was lying on and grasping his assailant. After he was murdered, Thurtell dragged the corpse through hedge, and left it lying there till the arrival of Probert and Hunt, when all the three went down the lane, and removed it, carrying it and throwing it into the pond, close to Probert's house. On Monday night John Thurtell and Hunt went down to Probert's again, and with his assistance the body was taken out of the pond, put into a gig, carried away a distance of nearly two miles, and thrown into the place where it was found." And this deponent further saith, that he hath perused the *Morning Chronicle* published on the 14th of November last, and that he read therein an article, entitled "Murder of Mr. Weare," and from which said article this deponent made the following extract:—"It is remarkable that Mr. Weare's watch, which John Thurtell exhibited to his associates on the night of the murder, has not yet been discovered, although the most diligent search has been made for it in all directions." And this deponent further saith, that he hath perused the *Morning Chronicle* published on the 18th of November last, and from an article, entitled "Murder of Mr. Weare," he has made the following



extract:—"Evidence has been obtained which carries Mr. Weare from his own chambers to Cumberland-street, New-road. In Cumberland-street he is met by a tall man (believed to be John Thurtell), who assists him in removing his things to a house which it is presumed was the same taken in the name of Brown. He is here lost till shortly after seven o'clock, when two men are met driving in a gig very fast towards Elstree, near the ninth mile-stone on the Edgware-road. One of these men is recognised to be John Thurtell: the other there is every reason to believe was Weare." And this deponent saith, he hath been informed, and believes, that above 7,000 copies of the said journal, called *The Times*, and 3,000 of the said journal, called the *Morning Chronicle* are respectively printed daily. And this deponent further saith, that having seen in circulation, and stuck up in different parts of London, publications, appearing to this deponent to be similar to a certain play-bill produced and shown to this deponent at the time of swearing this, his affidavit, and marked with the letter (A); and on one of these having been delivered to this deponent, he, this deponent, thereupon proceeded to the *Surrey Theatre*, in the county of Surrey, and this deponent examined the said exhibit marked A with a similar paper and advertisement stuck up against the portico of the said theatre, and he saith, that the said exhibit A, is a counterpart or duplicate thereof; and this deponent saith, he hath been informed, and believes, that the said entertainment or performance announced in the said exhibit was performed on Monday evening last, the 17th day of November instant; and this deponent, Francis T. Fenton, saith, that he, this deponent, went on the evening of the same 17th day of November, to witness the performance of the said spectacle, called *The Gamblers*, for the purpose of seeing the circumstances and nature thereof; and on entering the said theatre, bought of one of the persons in the avenues of the said theatre, whose employment appeared to be to sell the play-bills of performance at the said theatre, a smaller play-bill or advertisement to the same effect as the said exhibit (A). And this deponent saith, that the incidents in the said spectacle or entertainment are very similar to, and indeed parallel with, the occurrences detailed in the evidence given before the Coroner, on the inquest on the body of the said William Weare, except that the scenic representation appears to exculpate one of the supposed murderers at the expense of the other two; and this deponent is confident that one of the persons in the melodrama or exhibition is intended to represent the said John Thurtell; and this deponent saith that there was a crowded audience during the said performance, who appeared to be much excited, and expressed great and peculiar applause when the officers seized the person, who, as this deponent believes, was intended to represent the said John Thurtell; and saith, that the said entertainment or performance is evidently calculated to prejudice the public mind with regard to the trial about to take place of the said John Thurtell, for murder. And this deponent, F. T. Fenton, saith, that an application was made in the Court of King's Bench, for leave to file a criminal information against the proprietor of the said theatre for a misdemeanor, in exhibiting the said performance, called "*The Gamblers*," founded on affidavit, setting forth the facts immediately above deposed to by this deponent, and the said Court thereupon granted a rule to show cause why such criminal information should not be filed against him, which rule the said Court afterwards made absolute. And this deponent, John Helme, further saith, that he, this deponent, has been informed, and verily believes, that upwards of 10,000 copies of the book or publication hereunto annexed, marked B, have recently been sold and distributed, and that upwards of 5,000 copies of the said work have been sold and circulated in the county of Hertford; and thereupon this deponent, by the direction of the said Francis T. Fenton, on Saturday, the 22d of November last, went to the printing-office and shop of Joseph Edgerley, No. 76, Fleet-street, London, printer and publisher, in which said office and shop the said Joseph Edgerley then did and still doth carry on the business of printer and publisher and seller of books, and as such printer and publisher hath printed, published, and sold a great number of the books and publications similar to that hereunto annexed and marked B, and thereupon this deponent on the same day purchased of a young man in the said printing-office and shop, who is a brother of the said Joseph Edgerley, and also his apprentice as such printer, as this deponent is informed and verily believes, the book, publication, and narrative, hereunto annexed, marked B, and paid him for the same one shilling; and which said book, publication, and narrative, this deponent verily believes the said young man was authorized by the said Joseph Edgerley to sell for him, in the way of his said business of printer and publisher; and the said young man at the same time, in the said printing-office and shop, told this deponent, that the said Joseph Edgerley had sold at the said printing-office, upwards of 5,000 copies of the said work; and that he did not know how many were sent into Hertfordshire to be sold there; and



the whole of which information this deponent verily believes to be true; and this deponent further saith, that he at the same time observed in the said printing-office a great number of hand-bills or advertisements similar to that hereunto annexed, marked C; and the said young man, in the said printing-office, on the same day, gave and delivered to this deponent the same hand-bill or advertisement hereunto annexed, marked C, and which was, and is, as this deponent is informed and verily believes, printed by the said Joseph Edgerley, as an advertisement of the said book or publication, a copy whereof, marked A, is hereunto annexed; and this deponent further saith, that he did, on the 24th day of November last, purchase two more copies of the said work, marked A, and precisely corresponding with the same, in the said printing-office and shop of the said J. Edgerley, of a youth there, who, this deponent verily believes, was authorized by the said J. Edgerley to sell the same; and which youth gave this deponent the said two last-mentioned copies, and also gave this deponent two other hand-bills or advertisements, similar to the said advertisement hereunto annexed, marked C. And this deponent further saith, that he did, on the said 22d day of November inst. purchase another copy of the said work, which is also hereunto annexed, marked with the letter D, of a shopman of Messrs. Wm. Sherwood and Thomas Jones, in their shop, No. 20, Paternoster-row, in the said city, in which said shop this deponent further saith, that the said Wm. Sherwood and Thomas Jones at that time and ever since, did exercise and carry on the trade and business of booksellers. And this deponent saith, that it appears by the title-page of the said books respectively, that the said Joseph Edgerley is the printer and publisher thereof; and this deponent verily believes he was and is the printer and publisher thereof; and that the said work was sold by the said W. Sherwood and Thos. Jones, at their said shop in Paternoster-row. And this deponent further saith, that he did, on the said 22d day of November instant, purchase a copy of another book or publication hereunto annexed, marked with the letter E, of the shopman of Messrs. William Sherwood and Thomas Jones, at and in their said shop in Paternoster-row. And this deponent saith, that it appears by the title-page of the said last-mentioned publication, marked E, that Messrs. Sherwood, Jones, and Co. are the publishers thereof; and this deponent verily believes that the said William Sherwood and Thomas Jones are the publishers thereof. And this deponent further saith, that he purchased the said book hereunto annexed, marked D and E, in the said shop of the said William Sherwood and Thomas Jones, in the usual course of their business, and that he verily believes that the said William Sherwood and Thomas Jones fully authorized their said shopman to sell the said books, marked D and E, to any person who should propose to buy the same. And this deponent further saith, that he hath been informed, and verily believes, that 3,000 copies of the said last-mentioned book or publication, marked E, have been printed and distributed. And this deponent further saith, that he hath partly perused the books and advertisements hereunto annexed and marked respectively with the letters B, C, D and E, and that in each of the said works are contained statements, not upon oath, the plain deduction from which is, that the said John Thurtell, who so stands committed, as aforesaid, was guilty of the murder, of which he so stands charged; and also that he had intended to murder one Mr. Woods and one Mr. Beaumont, in the said annexed books mentioned, and hath been in other respects a person of infamous character; and to the best of this deponent's judgment the said publications respectively are calculated to create a very strong prejudice in the public mind, and to prevent the said John Thurtell from having a fair trial for the offence for which he so stands committed, as aforesaid. And this deponent saith, that an application was made to the Court of King's Bench for a rule to file a criminal information against the said Joseph Edgerley, William Sherwood, and Thomas Jones, for a misdemeanor, in publishing the said books and advertisements, and the said Court granted a rule *nisi* to show cause why such criminal information should not be filed, and on the said defendants showing cause against such rule, the said Court made an order, a copy of which is hereunto annexed, marked with the letter F. And these deponents, Francis Tarrant Fenton and John Allen Adamthwaite, for themselves say, that on the 25th day of November last, they, these deponents, went to Gill's hill cottage, in the parish of Aldenham, in the said county of Hertford, and there purchased the exhibit hereunto annexed, marked with the letter G. And these deponents say, that the person who sold the said book, marked G, to these deponents, informed these deponents that he had sold about ten thousand copies of the said book at Gill's-hill cottage aforesaid, which information these deponents believed to be true; and this deponent saith, that on Tuesday, the 1st day of December inst. he, this deponent, saw a copy of the said book, marked G, exposed to sale in a bookseller's shop in the town of Hertford; and this deponent, George Jay, saith, that he did on the — day of November last, go to Gill's-hill cottage aforesaid, and there



purchased a copy of the said book marked G, and was informed by the person who sold the same, that about 10,000 copies of the said book had been sold at Gill's-hill cottage aforesaid, which information this deponent believes to be true; and these deponents, John Allen Adamthwaite, George Jay, and Francis Tarrant Fenton, say, that at Gill's-hill cottage they respectively saw a hand-bill, or advertisement, of which the said exhibit is a duplicate, stuck up against the stable belonging to the said cottage.

Mr. *Andrews* then rose. The court had heard the allegations, and was now able to appreciate the effects which might have been produced in disparagement of that purity and entire impartiality of intention and conduct which the law expected from those to whom it intrusted the execution of its sacred purposes. Here it was plain that those purposes had been assailed, the righteous intent of the law defeated, and the interests of public justice grossly endangered by representations calculated to lead to the most unjust consequences. And this, too, in a country where it was the boast and glory of the people that the administration of justice was more pure and impartial in all its offices and functions than in any other on the face of the earth. That this was so in the execution of all the duties connected with those offices, he knew; and he had also the pleasure of knowing that one great example was now in his view, of high judicial officers who would listen to nothing, who refused to have any understanding for any matters, connected with the trial of criminals, excepting such as came in judicial form before the tribunals. Still, though it was not possible for the enlightened mind of his Lordship, tried and established as it was in right views and habits of searching and judging, to be affected by such practices as those recited in the affidavit, it was not impossible that the minds of common men should have been affected by them. His Lordship's good sense and excellent discernment were safe; but it must be well known that with commoner men, engaged in less consequential pursuits, upon an extraordinary case like the present, when all were greedy of whatever information they could obtain, and every one formed some opinion upon the information received, from whatever sources derived, that first impressions once taken, it was next to impossible to root them out. He said this in the outset, to meet the remark made by the court, and to show, that however his Lordship's comprehensive knowledge might secure him from that danger, the same inference could not be drawn with respect to men of inferior note, of lower education and less judgment, and much more strongly did his argument bear upon the public at large. He reminded the court of what had occurred yesterday, when he had occasion to represent that since the 24th of October, the day on which the terrible circumstance occurred which gave rise to the present trials, not once or twice, but day after day, things had been published, which, by the request of the magistrates, ought not to have gone forth—those magistrates continually, but vainly, entreating and requiring of every man seen with a pen in his hand, either not to publish what was witnessed, or at least to publish every thing fairly. The press had been teeming, not merely with publications of facts and circumstances, such as the law was supposed to countenance (though for his part he very much doubted whether the law did warrant the privilege claimed and exercised), but those facts and circumstances accompanied with comments, reflections, and criticisms; all going to fill up the outline of that skeleton, if he might so speak, of original matter of evidence, and so in the main to prejudice the great question, which the humanity of the law had reserved for the highest tribunals—namely, *Is the prisoner guilty or not guilty?* It was a maxim in this country, that not only must justice be easily obtained, but justice must also be speedily obtained; and as a proof how strongly that principle inhered in British jurisprudence, they were now sitting under a new regulation, which the Legislature had devised in order to the more speedy attainment of justice. It had fallen to him, notwithstanding, in this country more eminently favoured than all others with the means of speedily effecting the just purposes of law, and while acknowledging that superiority and glorying in it, to show,



that according to the ordinary construction of men's minds, according to the constitution of our common nature, those who would have to try the cause could not come to it, were it now to take place, with unbiassed and unprejudiced minds. He had before admitted, that so far from the enlightened mind of the presiding Judge being within this danger, his Lordship would have as great difficulty in rooting out the sound principles which usually guided him. The difficulty with others was in rooting out the first impression, though it was of injurious tendency. This was so well ascertained, that in a recent instance, one Judge, of very great excellence in his rank, had, on account of general and injurious prepossession, granted the delay required on that very account. Had he not then, good grounds for the application now submitted? Having shown that of 10,000 copies of a work most ingeniously contrived and got up, 5,000 had been circulated in Hertford county; that the books had been brought home to the very doors of those men who belonged to the classes from which the jury in all likelihood would be taken; and that the contents were calculated to fill the minds of all those classes with disgust and prepossessions against the prisoners at the bar. Was human nature not the same in different parts of the same county?—was it altered, and if so, how and where and at what time had the change been worked? When had the public mind been disenthralled from that power which the press so dangerously held over it? Was it not in the memory of all present, that a case occurred in which delay had been allowed on account of prepossession and prejudice? Was not that deemed a sufficient reason for granting delay? Had he not furnished the court with grounds as strong as any which had been laid before the court on that occasion, for granting delay?

Mr. Justice *Park*. Till when do you ask it?

Mr. *Andrews* would come to that point directly. He required that the trial of this indictment should be put off till the next assizes; or if that could not be granted, for such time as his Lordship, in his excellent judgment should deem sufficient to remove those prejudices, which, as he had shown, made it impossible at present to obtain an impartial trial. It was for his Lordship, and not for him, to determine what length of time would be necessary for the attainment of that object. He implored particular attention to the situation of the unfortunate men—shut out from any communication with their legal advisers from the time of their commitment until the 20th day of November, and the press teeming with publications in their prejudice the whole time. He knew nothing, nor did he presume to scan the motives of the magistrates in making that order. As they were honourable men, he had a right to suppose that their reasons were good; and, at any rate, he was convinced that they acted conscientiously, in not suffering legal advisers to confer with the prisoners. He himself could not understand what reasons there could be for preventing any man, imprisoned for any charge, from enjoying the most unrestrained communication with his advisers and friends. But it was of more importance to observe what had been the opinion of the Judges upon the subject, when it came to their knowledge. Immediately on hearing of it, they sent down their *mandamus*, commanding the restoration of the suspended rights of the prisoners, being persuaded, in their superior judgments, that the suspension of those rights was dangerous to the interests of justice, and in the highest degree prejudicial to the means which the prisoners ought to have to prepare for their defence. Not only had they suffered from premature and partial publications in pamphlets and newspapers, and this suspension of their just and legal rights; but play-bills and infamous placards were seen upon the walls of London, blazoned with the most glaring and attractive characters, calculated to excite curiosity in the readers, and then to fill them with horror and disgust towards the very men now put on their trial. And this was most particularly effected in the town and neighbourhood of Hertford—close to the hall of justice, where the attempts to pollute her sanctuary were most of all active. Prepossessions were bespoke in the very



precincts from which the jury must be taken, in a manner which put it out of their power to come to the trial with pure and unbiassed minds.

Mr. Justice *Park* assured the counsel that he had done all in his power to prevent the effects of any such prejudice, by causing the jury to be selected from the most distant parts of the county.

Mr. *Andrews* was convinced that every thing in his Lordship's power to do had been done, so that these trials might be really impartial: but he would, with the fullest respect for his Lordship's endeavours venture to ask, with what effect? Could his Lordship judge of that which it would be impossible to find out with exactness? Could he ascertain to the satisfaction of his own mind to what extent the prejudices had reached? Could he be sure, in a case of this extraordinary nature, concerning which all persons were hungry after information, that the statements which had been furnished had not carried prepossessions into the minds of some of those who were called upon to decide the question of guilt or innocence? One of the ablest men that ever lived, whether considered as a statesman or a philosopher, found occasion to say, "Let a story which is false and incredible be repeated every day for a year, in the ears of a man who at first refuses to give credit to it, and by the end of the time he will believe it." Apply this maxim of the great *Burke* to the ordinary occurrences and events of life—apply it to this most remarkable occurrence, and how fearful the consequences! One man, a little better read in the statements, or a little more conceited as to his knowledge of them, meets the company in the evening, and fills his inquisitive and more ignorant neighbour with fearful apprehensions. These were the grounds of his application for delay—there must be time given to root out the present prepossessions and lively disgust raised against the prisoners, before they could be justly tried. Was he to be asked for instances in which such delay had been granted, there had been one occurrence of the kind lately at York, in which the Judge now presiding in the other court, had thought that the grounds which he now alleged were so important as to justify postponement. He had proved enough, in showing that undue courses had been taken in regard to the prisoners, and that there was probability that the poison of misrepresentation had crept into the minds of those who were to pass their verdict upon their lives.

Mr. Justice *Park* said, that if the learned counsel meant to assimilate the case at York with the present, he was entirely mistaken in it. The case was no more like this than any other case which could be mentioned. In the York case the most flagrant and direct attempts were made upon the persons who composed the jury. Bills were printed and handed about the neighbourhood, bespeaking the condemnation of the prisoners; the streets were filled with cries to the same effect—such as, "Make way for the witnesses against William Mead," and others as bad, which tended to the most declared and open perversion of justice.

Mr. *Andrews* justified his statement by the contents of the reports made of that case.

Mr. Justice *Park* said, that he could hear of no reports against the authority of the Judge's notes, which he had read over attentively.

Mr. *Andrews* said, that he must, with all humility, contend, at least, that the case showed that prejudicial publications and statements were considered to be a good ground for the postponement of a trial. But why need he cite cases? Was there ever a case which resembled this, either as to the degree of public sensation, or the power used by the press in raising and exciting it? This was the ground for asking—not but that any juror empannelled might be as pure as his Lordship, and, according to the lights of his understanding and his general capacity, be prepared to decide as honestly; but their inferior education, the nature of their circumstances, and every thing that belonged to their condition, aided in preventing them from rooting out the prejudices and feelings which the publications must have imparted to their minds. He



would appeal to the court, to hear what would be the danger of postponement. Could the ends of justice be either compromised or defeated? Was the precedent to be deemed so dangerous as to require that the application should be refused? He apprehended not—he apprehended that the gravest duty of a judge was to administer justice with an equal hand, without feeling too much interest for the prisoner to prevent him from fully considering the interests of the public. What did he ask but delay, and that only for two short months? Could the public inconvenience be so great as to justify refusal? Could the public mischief to be apprehended be a sufficient reason? He was convinced this could not be; because, but for the additional assize which had been appointed for the general interests of justice, the month of March would have been the proper time for these trials. Then look at the situation of the prisoners: let it be considered how unfortunate they were, besides being among the early instances which fell within the new regulation, in the setting of such a stream of prejudicial statements against them. He could not doubt the wisdom of the Legislature in appointing the third assize; but it must be owned, that in this particular case, attended with these extraordinary circumstances, that which had been designed, and wisely so, for the interests of justice, was likely to operate harshly upon them. What other argument could be brought against his application? “Why,” it might be said, “do it now, and you may put any trial off by proving that the facts have been previously published in the newspapers.” He apprehended that such a case would not occur; he expected that the stage and the press would never be put in action in the same manner again, to the detriment of public justice. He expected this consequence from the proceedings of to-day, especially if the court should assent to the reasons which he had adduced. As it was, he apprehended that the comments which would be made by his Lordship upon this most dangerous practice, together with all the various declarations which were likely to be elicited from other quarters, would so operate, that no such injustice would ever be done again. He hoped that he had shown sufficient grounds for granting the delay which had been asked.

Mr. Gurney then put in a short affidavit from Mr. Nicholson, the under-sheriff, denying the expressions attributed to him in the affidavit, and admitting others, which, though but hypothetically, might be supposed to lead to a harsh conclusion upon Thurtell's case.

Mr. Andrews thanked his learned friend for the opportunity of showing the effects which had been wrought, when a gentleman like the under-sheriff, a man of law, with considerable professional experience, and great knowledge of the world, could suffer from them. He, being a minister of justice and a legal agent, found the doors of his mind so locked up by prejudice, that he could by no means again open them to the operation of contrary conviction, but felt himself compelled to pronounce upon the guilt of the prisoner before he had been brought to trial.

Mr. Platt spoke in the same argument. It was not enough to show that in the case of one or two persons likely to be called upon the jury, there had been no prejudice lodged; nor was it enough that one or two persons should feel satisfied that no prejudice had been worked; the public mind, in the general sense of that expression, must be satisfied that the prisoners were brought to a really impartial trial. To show this was impossible, after the going forth of garbled statements, and the publication of heated and prejudicial allusions. The time which had been asked was inconsiderable—only three short months; the object was of the deepest importance to secure the purity of justice. One exemplary instance of the power of these prepossessions had been but now furnished to them. He cared not, for his argument, whether the conclusions of the under-sheriff were hypothetical or not. It plainly evinced what was to be expected from minds less experienced and refined, and therefore less worthy to be trusted. Still, he had a higher authority than that case afforded him, to show the power and extent of the prejudice. His Lordship had found it necessary, in the exercise of his great



judgment, to collect a jury from other and more distant parts of the county. That was the strongest argument which could be urged in favour of the application. There was fear in the mind of the Judge that the prisoners would not, without that precaution, have a fair trial. What had the legal advisers of the prisoners done to counteract this prejudice? They had done all in their power—all which the law empowered them to do, to expose and punish all the parties engaged in this mode of counteracting the due administration of justice. From the time when they had cognizance of these transactions, and from the time when they had access to their client, but eight days of the term remained unexpired. During those eight days, counsel had been occupied in filing criminal informations against the offending parties, against the public press, against the theatres. Now see the advantage of this suspension. Public justice will have time to act; another term will allow the counsel for the prisoners to undo, as far as possible, the mischief which at present operates. It is true that under any circumstances, and almost at any time, a prejudice must exist against the prisoners from what has already occurred; but still, if a reasonable time be allowed for the counteraction of what has been done, the punishment of the parties who have impeded the course of public justice will have some weight in securing an impartial feeling. The strong arm of the law will have its force—the intervening time will have had its weight, and prejudices will have subsided. He did not mean to say that those who necessarily incurred the imputation of those prejudices, were culpable; indeed, if culpability could be ascribed to them, he knew not where he could stop in casting the imputation. What individual in the county—what individual in the kingdom, he might add—had not read, and reading had not felt, the operations of the statements which had been so injuriously disseminated? In that very town, of one publication alone, no less than 5,000 copies could be proved to have been circulated: how many more of others, all tending to the same excitement, it was impossible to say. In fact, there was no jury in the kingdom which could now be impanelled, that it would not be dangerous for the prisoners to appear before; he meant dangerous, from the natural effect of the excitement which had been so unfortunately excited. He did not mean to insinuate that there was any certainty of an unfair trial, but merely that there was a danger of it. Under such circumstances, he called upon his Lordship to secure to the prisoner the fair trial to which, as a British subject, he was entitled. He was not aware that he could offer any further remarks in addition to those so ably charged by his learned friend (Mr. Andrews); but it did appear to him, that he could not sit down without most seriously calling his Lordship's attention to the situation in which the prisoners stood. His Lordship, indeed, felt that strongly when he made the just and true remark in his charge to the grand jury yesterday. It was not alone the jurors to whom that remark applied; in fact, there was not an individual in the county, nay in the whole kingdom, to whom it had not reference. He was the more anxious to press these observations upon the court, from the particular nature of the indictment: his Lordship knew, that this was a case from which, if conviction followed, all mercy was shut out; the result was not only easy of anticipation, but solemnly and irrevocably prescribed by the law—certain execution must speedily follow upon conviction. In the same proportion that the danger of the prisoners was imminent, did he call upon the court to pause and weigh well the prejudice under which they suffered. What he asked was not alone on account of the prisoners, but on account of the public. The administration of the law must not only be firm, but also calm and dignified. Of what value then, could any verdict be, which must be tinctured with prejudice? It could tend to no public advantage, but to quite the reverse. He implored, then, the court to put the prisoners upon their trial when they could be assured of having an unprejudiced jury, as least one unbiassed as far as the nature of the case permitted; such a jury as, in conclusion, he humbly submitted, the prisoners could not reasonably expect to have at the present moment.



Mr. Chitty followed on the same side. He commenced by impressing strongly upon the court, the violent effect of the public excitement which had taken place in this case. That excitement was, from the very nature of its operation, general. Who could draw a line in society, which was to set limits to the poisoned effect of the publications which had gone forth? Who could say where that poison ceased to flow, or where it had not tainted? Then how, he asked, were the prisoners to have that constitutional mode of trial to which by law they were entitled? The jury empannelled for such a trial ought to come prepared very differently for the performance of their duties. When he alluded to the prejudice which so unfortunately prevailed, and asked the postponement of the trial, he did not mean to say that the trial ought not to be speedy; all he desired was, that it should take place when the minds of men were able, coolly, and dispassionately to try the indictment. Criminal informations had already been granted against those who had prejudiced the public mind against the prisoners. On what principle did these criminal informations proceed? Upon no other than the probable influence which necessarily arose out of the acts which these informations impugned. This was distinctly avowed in a judgment pronounced in the case of the "King v. Field." It was the statement of evidence given before a coroner's jury, and where no malicious motive could be imputed to the party publishing such statement; and where, in fact, those who published it deliberately, cautioned their readers to exercise their own cool judgment, and not be led away by a hasty and too implicit perusal.

Mr. Justice Park. What do you read, Mr. Chitty?

Mr. Chitty. My Lord, I was reading, or about to read, the remarks of judges of the Court of King's Bench, upon the case to which I referred, and particularly what fell from Chief Justice Abbot.

Mr. Justice Park. You were not here yesterday, indeed you could not well have been, when I stated to the grand jury my most decided opinion, that the publication of evidence before trial, of that which must afterwards come officially before a jury, and especially publishing with comments, was a high misdemeanor, punishable by fine and imprisonment. I think these were my words.

Mr. Chitty resumed. He knew well, he said, that such were his lordship's sentiments, and that his upright and reasoning mind would reject the influence of such *ex parte* impressions; but he also knew, that with the public at large the transition from the inflammation of passion to the coolness of reason was gradual. Besides, one half the jury empannelled on the present occasion, might not have heard one word of his lordship's charge, and consequently lost the benefit of his humane and just admonition. It was, therefore, upon principle that he urged the protection of his client from the weight of prejudice which encompassed him. He did not mean to argue the mere illegality of such publications, but to call the attention of the court to the principle upon which they were reprehended. Mr. Justice Bayley, also, in the case to which he had alluded, enlarged upon the great importance of securing to a prisoner a trial without prejudice—free from *ex parte* influence, and a decision solely founded upon what shall be heard upon his trial. The chief justice indeed, upon some occasion, entered pretty largely upon the necessary effect of these *ex parte* statements, and said, that every man, who for a moment reflected upon the operation of his own mind, when acted upon in this manner, must be instantly struck with the natural effect they produced, and then, as a probable consequence, struck with their mischievous tendency. Still more mischievous must these statements be, when circulated with comments. The excitement of prejudice was therefore the principle upon which criminal informations of the nature he alluded to were grounded. He would state another case, to show the unfeeling and unmanly tendency of getting at conclusions by such hasty and irregular strides. It was a case in which a man's own counsel felt it his duty to move for the postponement of his trial, rather than be instrumental to the creation of an undue prejudice, although



that prejudice was favourable to himself. It was the case of "*the King and Jolliffe*," 4th Term Reports, 285. The case there was an information which had been granted against Mr. Jolliffe, for a misdemeanor, while exercising his functions as a magistrate. There was an affidavit, that three days before trial, the defendant gave the individual three or four printed papers for distribution, which were calculated to create an impression favourable to the interpretation of his conduct, and to affix an imputation upon the prosecutor. In that case Mr. Jolliffe's own counsel applied for a postponement of the trial, and Lord Kenyon entirely concurred in the propriety of the grounds which were urged on the occasion. But how highly aggravated was the present case? On the 2d of this very month, in the town in which the judges were at the present moment sitting, publications violently prejudicial to the prisoners had been disseminated. If, therefore, instead of the precedents being many and with him, there had not been any, this he would say was the case which ought to make such a precedent. No upright Judge could hesitate to admit such a precedent.

Mr. Justice *Park*. What is that case in Burrows?

Mr. *Chitty* said, there were several cases in point, where the prejudice was much less than it appeared respecting the prisoners at the bar. There were here publications on the 2d of December, which were circulated with great activity throughout the county; 10,000 at least might be mentioned; and considering that such publications were lent from hand to hand, it was fair to infer that these 10,000 publications had had upwards of 40,000 readers. How could a fair jury be empannelled under such a wide-spreading excitement.

Mr. Justice *Park*. Consider this—suppose the trial were put off for a month, what reason have you to suppose that this prejudice will cease?

Mr. *Chitty* said that their effect would be diminished by the gradual operation of time: the public mind would recover and improve by reflection—a jury would appeal to their own fair and unbiassed feelings. Indeed, he was convinced that the present jury would rejoice at a postponement, which would make their verdict more satisfactory. If he could put the question to their own breasts, he knew their answer would be—"For God's sake let there be no supposition prevail against us: let us not put public justice in peril, by trying a fellow-creature while such a feeling is afloat." The danger arose both ways—1st, to the prisoner, lest he might be sacrificed to passion: and 2dly, to the public justice of the country, lest a jury might withhold a verdict of conviction to escape the chance of having their motives suspected. A short delay would obviate this serious evil—there would then be the reaction as well as the action of the public mind. Such was the case in the trial of "*the King v. Mead*," of all the particulars of which I have the fullest recollection.

Mr. Justice *Park*. I thought that case was tried at York.

Mr. *Chitty* replied that it was, but some motions were subsequently made in the Court of King's Bench, in which he was concerned with Mr. Jones, and he was therefore acquainted with the whole case. In that case, Mr. Justice Holroyd most unquestionably admitted and enforced the broad principle for which he was now contending, and said, "that although it was most important, that charges of a criminal nature should be tried as speedily as the interests of public justice permitted, yet still he thought it highly important that judges should attend to what would secure to the party accused a fair and impartial trial: not, indeed, that a corrupt motive might not be assigned, but that the excitement of passion should be avoided in the certain administration of justice. It was important that a verdict should not only be just, but satisfactory to the public mind: how was such satisfaction to be assured, unless the motive for the verdict were as clear as day?" Lord Coke had also ably and truly said, "that it did not follow though a trial was long postponed, justice was delayed." In the present case the most abominable excitement had been practised. Not only were the parties held out to the world as directly implicated in a cruel and deliberate murder, but motives



were directly imputed to them for their conduct, and they were described as being base conspirators. The vilest fabrications were made to destroy before trial the character of one of the prisoners (Thurtell). A false and infamous anecdote was circulated of his having, while an officer engaged in the service of his country, killed a foe at the siege of St. Sebastian, while yielding and sinking under the agony of a mortal wound. Was not such an anecdote calculated to arouse against the prisoner the vehement indignation of every British heart? (Here Mr. Chitty evinced an emotion, which for the moment affected his utterance.) Then, again, came the deliberate and infamous story of his having provided an air-gun to assassinate Mr. Barber Beaumont; and dumb-bells to murder Mr. Woods.

At this moment the court was interrupted by the rushing into the gallery of four or five persons.

Mr. Justice Park ordered them instantly to withdraw, or else he would commit them; and if he adjourned this commission, he assured them, their imprisonment would last a month. The intruders were with some difficulty ejected.)

Mr. Chitty resumed, and recurred to the danger of these inflammatory publications. No man could, he said, calculate upon the extent of the mischief which they had caused. While under their excitement, no man could act safely as a juror on this trial; and when such was the fact, what danger arose from a short postponement, to allow passion and prejudice comparatively to subside? The prosecutions which had been instituted in the Court of King's Bench would correct much of the mischief now in operation, and give a salutary lesson to the public. The novelty of the occurrence would wear off—the influence of the day would be mitigated, and the excitement of crowded audiences by scenic exhibitions would pass away. He implored the court, for the sake of public justice, as well as in mercy to the prisoners, to yield to his solicitation.

Mr. Gurney said that he was not at all interested in the success or failure of the motion which had been made by his learned friends. He appeared on this occasion only as an assistant, whose duty it was to promote, calmly and dispassionately, the administration of justice. His learned friends who were concerned for the prisoners had moved for a postponement of the trial, which motion was founded on three grounds. The first of these grounds was, that the prisoner Thurtell could not now come to trial fully prepared, because sufficient time, and a proper opportunity for arranging his defence, had not been afforded him. To this allegation a plain statement of the circumstances would give a full and sufficient answer. The prisoner was committed for trial on the 1st of November, and it was not until the 12th that any application was made for professional assistance. On the 13th he was visited by Mr. Jay; and on the 14th, an application was made for the admission of another professional gentleman, which was refused. On the 19th, a motion was made in the Court of King's Bench, for a rule to show cause why Mr. Fenton, the prisoner's attorney, should not have free access to him. The court immediately granted a *mandamus*, directed to the magistrates of Hertford, and calling on them to assign their reasons for the refusal complained of. The instant the application to the court became known to the magistrates, and even before they had acquired that knowledge, complete access was given to Thurtell's attorney. Let it not then be supposed that the same means of defence were not vouchsafed to him as would have been given to any other individual under the same circumstances. Another ground of complaint was, that one of the magistrates had attended at the gaol for the purpose of enabling a witness to view the prisoner, for the purpose of identifying him; and also, that it was proposed that the depositions should be read over to the prisoner, to which proposition a decided objection was taken. Now he would say, that a more unfounded or improper complaint could not have been made—first, because it was beneficial for the prisoner that he should be made acquainted with the whole charge that was brought against him; and next,



because it was essential to the ends of public justice that he should be identified. The conduct of the magistrates was dictated by a kind and humane feeling.

Mr. Justice *Park*, without meaning to anticipate what the bearing of the learned counsel's argument might be, must say, that it was extremely improper, on the part of the magistrates, to act thus. Doubtless their conduct was kind and well intentioned; but it was certainly wrong.

Mr. *Gurney* proceeded. He now came to the third ground—namely, the ill effect which the various publications on this subject were likely to produce. He entirely agreed in what had fallen from his learned friends with respect to the nature of the publications which had issued from the press on this occasion, and which had been so properly commented on by his Lordship. It was impossible that such publications could leave the minds of those who read them in the same calm and quiet state in which they would have been had those publications not gone forth; and he coincided in the opinion of his learned friends, when they observed that care should be taken, not only to administer justice, but to administer it in the most satisfactory manner. His Lordship knew it was probable that he might be called on to sit in judgment on this case, and therefore he had abstained from perusing those publications. But he (Mr. *Gurney*) was bound by no such restraint. He had read those publications, and he had read them with the greatest pain; for he well knew that it was impossible that such productions could issue from the public press without creating an effervescence in the public mind which might possibly defeat justice, but which, beyond all doubt, must render its administration less satisfactory than it would have otherwise been. He recollected the case of "*The King v. Fleet*," which had been referred to by his learned friends; and the court stated at the close of the case, that it was fitting that the publications which were there complained of should be laid before the law officers of the crown. If that had been done, which was perhaps called for on that occasion, probably they would not have seen those publications on which he was now animadverting. There was no doubt whatever that the publication of depositions before coroners, and especially before magistrates, which were calculated to give an undue bias to the public mind, was, as the learned Judge had said, "a high misdemeanor." Such publications could not be too strongly characterized. They were mischievous and improper. He felt shame and sorrow when he found that an audience of Englishmen had witnessed a dramatic entertainment founded upon the late melancholy events. He regretted that the audience did not put down that performance at once by unanimous consent. He was concerned when he reflected that those who had brought forward so revolting a subject were not driven from the stage. He wondered how any persons dared to insult public feeling, and to outrage public morals, by so disgusting an exhibition, at the very moment when the parties accused were about to be put on their trial. He admitted that the public feeling had been strongly excited in various ways; and the question was, whether that excitation had sufficiently subsided, so that the prisoners might safely proceed to trial. The latest publication on this subject which was noticed in the affidavits was that of the 16th day of November. Whether any publications had occurred since that period, his Lordship could not officially know; neither could he know, supposing publications to have taken place, what their peculiar character was—whether they were of one description or of another. It was not for him to give an opinion on this subject; it was his duty to leave the matter entirely to the decision of his Lordship. If his Lordship thought that the public feeling was sufficiently subsided, so that a jury could come to the consideration of the evidence with calmness and temperance (by the exercise of which qualities alone could they do justice), he would not postpone the trial; but if his Lordship felt that the agitation of the public mind had not so subsided, if he thought that the gentlemen empannelled on the jury would act under any prepossession, however created, he knew that his Lordship would defer the trial for such a period as he, in his wisdom, might deem fit. His learned friend (Mr. *Chitty*) had adverted



o a case, where the counsel for the prosecution not merely consented, but prayed for a postponement of the trial. That was a case where one of the individuals concerned had been guilty of sending forth publications which tended to obstruct the course of justice. If those who had instructed him had been guilty of the publications which were complained of in this case, he certainly should not have waited until his learned friends had called for its postponement; he would have certainly called for it himself. His Lordship was the guardian of public justice; and he felt perfectly assured that he would administer it purely, without prejudice or bias. His Lordship would feel that there were parties to be tried for a very grave offence, and he was well assured his Lordship would give them all the protection which was due to them. As far as regarded himself, he would not attempt to take away any part of that protection. He should say nothing to aggravate their situation. All he wished for was, that justice should be administered, and satisfactorily administered. He now left the matter in the hands of his Lordship, whose decision, be what it might, would, he was confident, further the ends of justice, with respect both to the prisoners and to the public.

Mr. *Andrews*, in reply, observed, that the learned gentleman was not opposed to him, but was, in fact, an advocate in his cause. He had not attempted to struggle against the weight of facts which he (Mr. Andrews) had stated to the court; but had at once admitted that the publications in question had created a very strong feeling—had given rise to powerful excitement—and he therefore censured them in the strongest possible terms. It was inseparable from our nature, that publications of this character should excite strong sensations, and cause a powerful emotion in the public mind; and when the dates of those productions were looked to, he would only call on the learned Judge to ask of himself, whether the operation which they must have had on the minds of society in general, could have ceased and subsided at the present moment? If his Lordship had any doubt upon this point, he would call on him to look at the crowds which beset the doors of the courts—to view the members that thronged the galleries, and who also filled the body of the court, so as to render it difficult for those professional gentlemen who were engaged in the cause to perform their duties with ease and satisfaction. He had the learned Judge's own high authority, delivered in terms which he would not attempt to amend, that "those who dared to publish those polluted accounts were, beyond all doubt, guilty of a misdemeanor, and subject to fine and imprisonment." When his Lordship admitted that, and when he (Mr. Andrews) stated that they continued publishing such accounts down to this day, then he held that his Lordship's opinion must coincide with his own. He contended that those were mischievous publications, and were likely to lead to most mischievous effects. Why was the publishing these accounts treated as a misdemeanor? Because it tended to mislead the public mind. In this case, confessions had been published that never were made; and which, even if made, should not have publicly appeared there with the name of Thurtell or Hunt signed to them. Had such documents been introduced to the court, his Lordship would not have allowed them to be read. Why were such publications sent forth amongst the public? Was it to advance the ends of justice? No; it was for the dirty, paltry gain that belonged to those productions which every Sunday and every daily paper sent forth so unsparingly. If he could not procure a delay of three or four months, he should gladly receive any postponement which his Lordship's charity, consistently with his duty, might incline him to grant. He appealed to his Lordship's justice, and to his merciful exercise of the power with which he was invested. Happily, he felt that he had the pleasure of addressing a Judge equally venerated for his moral and religious feelings as for his extensive legal knowledge and great ability. He confidently asked for this delay, because he was convinced that it would answer the ends of justice. To promote those ends had been his Lordship's constant and anxious wish; and a compliance with the request now made by himself and



his learned friends, would raise still higher the exalted character which his Lordship had ever maintained.

Mr. Justice *Park* said, this application had been made on long affidavits, and was formed on two distinct grounds. The one was, that sufficient time had not been given for preparation. This, however, was not the fact; for more time had really been given than was usually afforded. They all must recollect one of the most atrocious cases of murder ever perpetrated in this country, where the offence was committed on Monday, and the culprit was executed on the Monday following. It was not stated in the affidavits, that any one witness could not be procured, or that proper assistance could not be commanded, on account of the shortness of the time, and therefore he could not on that ground accede to the application. With respect to the arguments of the learned gentlemen who had addressed him on behalf of the prisoners, he must say, whatever might ultimately come of this motion, that he thought the cases quoted did not at all apply to the present matter. The proceeding in the case of "the King and Fleet," was merely that which every man who had read a law book, or who was connected with the inns of court, must at once recognise to be established law. The application was against a printer, for doing that which was now complained of—namely, publishing certain prejudicial statements, and the court acceded to it. Again, there were the cases of "the King v. Follett," "the King v. Grey and another," which was tried before Mr. Justice Holroyd; in every one of which cases, it was to be observed, the guilt of the publication and dispersion of the obnoxious papers was brought home to individuals connected with the prosecution. In Follett's case, an attempt was made to prejudice the minds of the jury against the defendant. The same might be observed in the "King v. Ray;" and with respect to the "King v. Meade," which was tried before Mr. Justice Holroyd. The circumstance to which that learned judge's observations applied was, that the publications, horrible as they undoubtedly were, were clearly brought home to the prosecutors. He endeavoured to pervert the course of justice by publishing placards in the city of York, and by inserting gross libels in the newspapers. In these productions, he asserted that the government was oppressive; that the judges of the land felt no disposition to do justice; and that every part of our establishment was corrupt. In short, a greater body of infamous charges he never saw brought forward than was contained in that case. It was a case of a witness for the crown who was defended by government; and all these publications were issued by the prosecutor to corrupt and prevent the due administration of justice. Therefore it was a case wholly different from the present, since it was not pretended that those by whom this prosecution was instituted were at all connected with the publications complained of. He must here take leave to say, without meaning to reflect on any individual, that he did not think it was a very wise thing to bring all those papers immediately under the observation of those who were likely to compose the jury. If their minds were strongly excited by those publications a month ago, surely they were calculated to make a deep impression now, and therefore ought not to have been again forced into notice. He had said yesterday, and he would repeat it to-day, that nothing could be more disgraceful than publications of this nature. The trial by jury was the great palladium of public liberty: it ought to be protected, and nothing should be tolerated that tended in any degree to weaken or impair it. If, on account of the pruriency of the public mind, or if from the desire of gain, publications of this mischievous description were to be sent out to the world on all occasions, however grave or important, justice would, in the end, be defeated. There was a circumstance of considerable importance attached to this case, which he could not pass over. If the trial were put off, the prosecutors would be subjected to an enormous expense; for he observed the names of no less than 55 witnesses endorsed on the bill, who had been brought here at a very great expense. Still, however, he would say, that no idea of expense, that no apprehension of judicial labour



should interfere to the prejudice of men who were placed in such an awful situation. He had no appetite to try this cause, but still he would take care not to shift the burden from his own shoulders to the shoulders of others; and if he put off the case now, he certainly would himself try it at a future day. He perceived very plainly, that the same difficulty which was now urged might be urged with equal force at the next assizes. It might be stated then, as it had this day been stated, that those improper publications had been disseminated through the country, and it might be asserted that a new jury were likely to be infected with the same prejudices, the existence of which was dreaded at present. All he had to say and to hope was, that those who presided over the country, for the guardianship of judicial justice, he meant the government, would use their most strenuous efforts to prevent that horrible delay of justice which was productive of so much mischief. Considering the greatness of the delay, he would not put off the trial till the next assizes. If those people were innocent, as he fervently hoped they were, why should there be such a delay of justice? Why should these special commissions be appointed at this unusual season of the year, but for the purpose of arriving more speedily at justice? Some of the causes which occurred were very proper for a special commission. Indeed, if there were no other cause to try but the present, it would very well justify such a proceeding. He hoped and trusted that something would be done to prevent the evils which he had yesterday alluded to as arising from publications similar to those which had been recently brought under the notice of the court. Such publications might injure the accusers in a way which he would not state, and they might likewise inflict injury on the accused. This, however, he would observe, that in divulging to the accused all that might be said and urged against him, you imparted to him a very considerable advantage. What, however, he lamented was, that by allowing such a course of proceeding, justice was impeded; justice, if not defeated, was retarded, and therefore it ought not to be tolerated. He trusted that those who had erred, doubtless without intention, on this occasion, would consider the cruelty of such conduct towards individuals, and reflect on the evil they were committing against society, by adopting a system, the tendency of which was to paralyze the efforts of justice. Having said thus much, he would now adjourn this commission to Tuesday, the 6th of January next; the prisoners at the bar most clearly understanding, that he would not, when their trial came on, listen to any grounds, similar to those advanced this day, for the purpose of procuring a farther postponement. If they attempted to put off this trial again, it must be on new and distinct grounds. The court is now adjourned to eight o'clock in the morning of the 6th of January next, then to meet in this place.

The court was about to break up, when, we believe, Mr. Andrews spoke to his Lordship in a very low tone.

Mr. Justice *Park* thanked the learned gentleman for having reminded him of a point which he had omitted. It had been supposed that that which passed in a court of justice was not an unfair subject for publication. But where an affidavit of the description of that which had been just laid before the court was produced, repeating all those reports and rumours that were complained of, and which had formed the subject of inquiry and discussion during the morning, it was to be hoped that it would not for the present find its way beyond those walls. He trusted that the feelings of humanity, of kindness, and of tenderness, towards the accused, would induce every one who was within the sound of his voice, to disclaim and to withhold such a publication.

The prisoners were then removed from the bar, and the court adjourned.



## ADJOURNED ASSIZE, HERTFORD.

WEDNESDAY, JANUARY 7, 1824.

THE interest excited by the expected trials of the parties charged with the murder of Mr. Weare, so far from having been lessened by delay, seems to have been greatly increased. In fact, the town of Hertford was infinitely more crowded than on the former occasions, when the parties were put to the bar. At an early hour on Monday afternoon, the roads leading to the town were thronged with vehicles of all sorts, which continued to arrive to a very late hour, and the same bustle was renewed the next morning. Inquiries of all sorts were made as to the mode of obtaining admission to the court, and premiums to a considerable amount were offered for the certainty of such an advantage. The whole arrangement of the court, however, being under the supervision of the sheriff, these inducements were without effect, and all those who were not provided with tickets were left to take their chance with those who, by an early attendance, had to seek entrance to the galleries.

In the course of Monday evening the counsel engaged in the case arrived; namely, Messrs. Gurney, Bolland, and Broderick, for the prosecution; Messrs. Chitty and Andrews for Thurtell; Messrs. Williams and Phillips for Probert; and Mr. Thessiger for Hunt. Each party had long consultations with the respective solicitors by whom they were employed, in the course of the night, and again early this morning. The solicitors also had long interviews with their respective clients in the gaol. Thurtell was still unmoved, while Hunt was manifestly a good deal depressed. Probert was placid, and seemed determined to submit to the ordeal he had to go through calmly, and with as little agitation as his feelings could permit.

## OPENING THE COURT.

As early as four o'clock this morning the streets in the immediate neighbourhood of the court-house were thronged to excess, but from the darkness which prevailed, it was impossible to distinguish one person from the other, except by the voice. Watchmen were stationed inside the area next the public door of ingress, to prevent unfair or improper obtrusion. They walked up and down with their lanterns, and this was the only light afforded till day broke. Strict orders were given that no person should be admitted till seven o'clock. Shortly before that hour, Magistrates and their friends, and such as had been provided with tickets, began to arrive. They obtained entrance by a private door; but such was the overwhelming pressure of individuals anxious to get in at all hazards, that the utmost exertions of the constables became necessary to prevent the court being completely filled at this avenue. The same rush was made at the door pointed out for the ingress of the gentlemen of the press and the members of the jury. All sorts of expedients were adopted to get in, and many ingenious stratagems were frustrated. Some asserted they were reporters, others that they



were witnesses, and others magistrates; but as those persons could not produce tickets, or any persons to vouch for their veracity, they were forced back, thereby creating additional inconvenience to those who were regularly privileged, many of whom were seriously bruised. Some few were successful by passing as barristers' clerks, and for once carrying the bags of their friends in that character. The public were admitted to the galleries at the time appointed, and the rush which was then made was really alarming. Cries of anguish burst from all quarters, but we did not hear of any particular injury beyond a few bruises. Every seat instantly found an occupant, and the most expert manager of a theatre could not have packed his audience more compactly. The body of the court also presented a dense mass of auditors, while the places set apart for the magistrates and the friends of the high sheriff were likewise filled to an overflow. During the entrance of these persons the greatest confusion prevailed, and disputes, arising from resistance to those to whom the duty of preserving order in the court was entrusted, were constantly arising. On no former occasion, in fact, did we witness a more extraordinary desire to be present at judicial proceedings. We noticed, among others on the bench, Lord Errol, Lord Verulam, Lord Essex, and Capt. Fitzclarence. There were only four ladies in court; two in the gallery, and two close to the prisoners.

At half-past seven precisely, the officers of the sheriff arrived at the gaol with a post-carriage, to conduct the prisoners to the court. The prisoners had previously been shaved and dressed. Thurtell, as on the former occasion, was placed inside the carriage, while Hunt sat on the box. They had their irons on, but moved with ease. Thurtell was dressed in a dark frock coat, drab cloth waistcoat with gilt buttons, white corderoy breeches, and black stock. Hunt was attired in a shabby suit of black. The former looked very well, but there was a gloomy cast on his countenance, while the latter was pale and somewhat agitated. On their arrival at the court-house, they were placed in the pound behind the dock, previous to being put to the bar. They sat at a distance from each other, and were visited by their respective solicitors. Instead of eating a hearty breakfast, as when last up, Thurtell took but a quarter of a round of toast, and then he seemed to eat with difficulty. Hunt's appetite was equally bad. Neither of them spoke to the other. The prisoners' irons were knocked off in this court; and in consequence of some difficulty arising while Thurtell's irons were removing, a piece of cloth being in the way, he exclaimed passionately, "Haven't you a knife?" and on one being produced, he exclaimed, "That's the way, I like to use a knife on such occasions," or words to that effect. They were subsequently all conducted to the pound behind the dock. Thurtell had a desk before him, on which was placed a volume of the Newgate Calendar, an Almanack, and some pens and paper, of which he made free use in the course of the day.

Previous to the arrival of the Learned Judge, Mr. Andrews and Mr. Chitty, Mr. Williams and Mr. Phillips, crossed the court, and proceeded to the prisoners, and held a personal consultation with their clients. The object of Messrs. Williams and Phillips' interview was, we understand, to recommend to Probert, in any evidence he might be called upon to give, to tell the whole truth, and every thing he knew touching the crime imputed to him and his associates: for if he should take a different course, he was still liable to be himself indicted and tried—the condition of his being a witness for the crown being, that he should make a candid and correct statement of all that came within his knowledge. Probert promised to abide by this advice, and the counsel shortly afterwards returned into court.

The witnesses who had arrived the preceding night, were now brought to the court-house, and placed in a room by themselves. Thomas Thurtell came down in the care of Bishop, the Turnkey of Newgate, and one of his assistants; he was removed, as before, by a writ of *Habeas Corpus*. Mrs. Probert was accompanied by a friend, and on being brought into the passage



of the court, she was greatly affected, and cried with much bitterness; when she subsequently heard that her husband had been removed from the bar, she became more calm.

At eight o'clock precisely, Mr. Justice Park arrived, and with some difficulty was, from the dense crowd on the Bench, enabled to take his seat. As soon as his Lordship was seated, he gave public notice to the auditory, that such persons as had seats must be seated, and those who had not must leave the court, in order to prevent pressure and the stagnation of the air.

Mr. Knapp, the Clerk of the Arraignment, then ordered Mr. Wilson, the gaoler, to place the prisoners at the bar.

Mr. Wilson and his assistants withdrew. [A considerable time elapsed before the prisoners appeared.]

Mr. Knapp desired to know the cause of the delay?

One of the Under Sheriff's assistants informed the court, that the prisoners were having their irons removed.

A delay of at least ten minutes then ensued. The bustle and noise which had prevailed from the first opening of the court had not yet subsided. In this interval, Mr. Jay and Mr. Fenton, the attorneys for the prisoner Thurtell, having left their client after the consultation above-mentioned, were struggling to find their way through the crowd, for the purpose of obtaining places near the prisoner's counsel, and having reached the point intended, and there being great noise and confusion in the effort;

Mr. Justice Park inquired who were the persons thus increasing the disturbance?

Mr. Fenton and Mr. Jay respectfully intimated that they were the attorneys in the case.

Mr. Justice Park, with considerable warmth, said, "Nonsense; it is only just to make a fuss; you ought to be here at seven o'clock in the morning."

Mr. Jay respectfully suggested, that himself and Mr. Fenton had occasion to communicate with their client.

Mr. Justice Park. You ought to be here early in the morning. It is nonsense—only just to make a fuss.

Messrs. Jay and Fenton not being able to find accommodation, and upon the learned Judge waving his hand, they withdrew to the space between the dock and the seats allotted to counsel.

The noise, bustle, and confusion still prevailing,

Mr. Justice Park said, If those who have nothing to do with the proceedings will feel for the responsibility of those who have, they will make way.

Several persons occupying the seats appropriated to counsel were ordered to make way, and some gentlemen at the bar, who do not usually attend the Home Circuit, having been attracted by curiosity to hear the trial, were accommodated with seats. Messrs. Jay and Fenton still remained standing in the body of the court.

### APPLICATION TO POSTPONE THE TRIAL OF JOSEPH HUNT.

As soon as the prisoners were placed at the bar,

Mr. Thessiger rose, and informed the learned Judge, that preparatory to the arraignment of the prisoners, he had an application to make, founded on affidavit; the affidavit was not sworn, but it would be ready in a few moments.

Mr. Justice Park. To what subject does your application relate; is it as to any thing arising before the last occasion we were here?

Mr. Thessiger said his application was to postpone the trial of his client Joseph Hunt.

Mr. Justice Park. On the former occasion, when a motion was made to postpone this trial, I laid down a rule that I would not entertain any further application for postponement.



Mr. Thessiger reminded his Lordship that he had not been heard at all on that occasion.

Mr. Justice Park. Does your affidavit state any matters of fact?

Mr. Thessiger said that his affidavit, when sworn, would be submitted to the court, and fully explain the nature of the application he was about to make.

Mr. Justice Park. Why was not the affidavit sworn before? I have been in this town since yesterday evening, and the affidavit might have been sworn at my lodgings.

Mr. Thessiger. My Lord, it could not be sworn until your Lordship came into court, my client being a prisoner.

Mr. Justice Park. That's true; I beg pardon.

During this discussion, Mr. Harmer was employed in engrossing two affidavits, one to be made by Hunt, and the other by Mr. Noel, the solicitor.

Mr. Gurney. Perhaps Mr. Thessiger will have the goodness, whilst the affidavits are swearing, just to state the nature of the motion which he proposes to found upon them.

Mr. Thessiger. The nature of the application I am to make is, that the trial of Joseph Hunt may be put off, in order to enable him to apply in another quarter, upon the promises of favour which have been held out to him by the magistrates.

Mr. Justice Park. Will that point be acceded to by the counsel for the crown?

Mr. Gurney. I certainly cannot accede to such a proposition.

Mr. Justice Park. But is this a sort of motion which can be entertained after plea pleaded?

Mr. Thessiger reminded his Lordship, that on the former occasion he had declared that he would not entertain a motion to put off the trial until the parties had pleaded. This was a motion to put off the trial of his client, and he apprehended that this was the only proper period at which such an application could be entertained. For this proposition, he was fortified by an express authority.

Mr. Justice Park. State your authority.

Mr. Thessiger cited the case of the King v. Rudd, Leach's crown cases; in which Mr. Justice Aston said that the motion could only come before the court upon an application to put off the trial, in order to give the prisoner time to apply elsewhere.

Mr. Justice Park. I have read that case with great attention, and have communed with other persons of my own order upon it, and I don't find that it was not a motion made before plea pleaded. Now, whenever a prisoner's plea is pleaded and recorded (and here the prisoner's plea is upon the record), I apprehend it is impossible to entertain an application of the nature suggested. The plea being on the record, I dare not order it to be taken off, and therefore you must now go to the crown to attain the object in view. After the trial, it may still be competent to the prisoner to apply to the crown.

Mr. Thessiger. Unquestionably, my Lord, but still—

Mr. Justice Park. I will hear the facts.

Mr. Thessiger dropt some expression, importing that the trial was hastened on.

Mr. Justice Park. Don't say that. You stated that you had a motion to make; you ought to have been prepared before.

Mr. Thessiger. I can't explain why we were not prepared before.

Mr. Justice Park. I only mention that the expression *hastened on* is not quite correct.

Mr. Thessiger. I am sure I meant to impute nothing to your Lordship.

Mr. Justice Park. Let the affidavits be read.

The following was then read:—

“HERTFORDSHIRE.—*The King v. Joseph Hunt* on a charge of murder.—Joseph Hunt, the above-named defendant, maketh oath and saith, that on



the morning of Wednesday, the 29th of October last, he was taken into custody, at his lodgings in King-street, Golden-square, by Ruthven and Upson, two police-officers, and conveyed by them, first to Bow-street and afterwards to Watford, in the county of Herts; and this deponent further saith, that when he arrived at the latter place, an investigation was going on before Robert Clutterbuck and J. F. Mason, Esquires, assisted by Mr. Noel, a solicitor, respecting a murder then supposed to have been recently committed in that neighbourhood; and this deponent saith, that during the journey the officers endeavoured to draw him into conversation, and frequently interrogated and importuned him as to his knowledge of the supposed murder; and immediately on his arrival at Watford, he was conveyed into the room where the before-mentioned magistrates and Mr. Noel were assembled, when Mr. Noel, addressing this deponent, said, 'Mr. Hunt, whatever you know of this murder, for God's sake tell, in the presence of these magistrates, and *in all probability* you will be admitted as King's evidence.' And this deponent saith, that fearing he might be involved in difficulty, if he made a disclosure without a full promise of indemnity, he declined making any confession or acknowledgment on the vague promise thus held out to him, and told Mr. Noel and the magistrates that he knew nothing of the business. Whereupon Mr. Noel said, 'It is clear, Mr. Hunt, that Mr. Weare has been murdered, and we only want to find where the body is; and if you know, for God's sake tell us, and you will be safe.' But as this deponent still denied all knowledge of the circumstance, both the magistrates, Mr. Clutterbuck and Mr. Mason, said, 'Mr. Hunt, you had better retire and consider the offer made to you, and recollect your perilous situation.' And this deponent further saith, that he was then taken into another room, and while there with Ruthven and Upson, Mr. Noel came to him, and, in their presence, again interrogated him most minutely, evidently with a view to obtain a confession; but not succeeding in his object by this mode of importunity, both he and the officers most earnestly advised the deponent, for the sake of his wife and mother, to save himself by making a disclosure; and Mr. Noel expressly said, that the magistrates had given him a positive assurance, and had authorized him so to inform this deponent, that if he would tell where the body was to be found, his life should be spared. And this deponent saith, that Upson then said, 'Hunt, you have a mother?' Deponent answered, 'Yes, he had.' 'And a wife also?' Deponent told him he had. He then asked, 'Do you love them?' Deponent replied, 'Yes, very dearly.' 'Then,' said he, 'for their sakes, do not risk suffering a terrible death, but give your evidence immediately; for if you delay, Probert or the other may disclose, and then you will be too late, and nothing can save you.' And this deponent saith, that this mention of his family greatly affected him, and Mr. Noel perceiving that this deponent's resolution was shaken, repeated the observations and arguments of the officer, and said, 'Mr. Hunt, you have now a chance; for God's sake, and the sake of your family, avail yourself of the offer which is now made to you: for I am authorized to say that the magistrates will not only admit you a witness for the crown, but will take care that you are not treated like the other prisoners; you will merely be confined until the trial to give your evidence, and then discharged.' And this deponent saith, that having his feelings worked upon in the manner above described, and fully relying on the assurances made him of his being admitted as a witness for the crown, he consented to make the desired confession. Mr. Noel then asked this deponent if he knew where the body was deposited. Deponent answered 'Yes, he did; and that he could show the spot, although he could not name the place;' whereupon Mr. Noel struck his hand upon the table, and exclaimed, 'That's all we want;' and shaking me by the hand, said, 'I am very glad, Hunt, you have taken our advice and saved your own life. Now come before the magistrates and tell us what you know.' And this deponent further saith, that he was then taken into the room where the



magistrates were, and Mr. Noel, addressing them, said 'Gentlemen, I am happy to tell you Mr. Hunt is ready to tell you every thing he knows. I have already informed him that you will admit him as an evidence, but it may be more satisfactory to him to hear it from yourselves before he begins his statement;' and both the magistrates thereupon informed this deponent that he might safely disclose to them all he knew, and that he should be received as a witness for the crown. Mr. Noel then said, 'Mr. Hunt, I hope you are perfectly satisfied with the magistrates' decision. Now take a seat, and let us know all about it.' And the magistrate asked this deponent to take some refreshment before he commenced; and some brandy and water was brought to him. And this deponent further saith, that he immediately proceeded to relate, in as circumstantial a manner as the exhausted state of his mind enabled him, all the facts that had come within his knowledge relating to the offence in question; and after his narrative was concluded, he was left in charge of the officers until the morning should be further advanced, when he was to accompany them to point out the place where the body was secreted. And this deponent further saith, that as his statement was not commenced until long after midnight, and he had been many hours previously suffering great anxiety and perturbation, he accidentally omitted to mention many circumstances which had taken place, but as soon as they occurred to his recollection he sent for Mr. Noel and communicated them to him. And this deponent further saith, that he went with the officers and Mr. Noel and showed them where the body was deposited; and it was in consequence of this deponent's information alone, that the corpse was discovered. And this deponent further saith, that he was afterwards taken before the magistrates, when the additional facts which he had communicated to Mr. Noel and the officers were mentioned, and these were, as this deponent believes, added to his former statement; and deponent was, on this occasion, told, that, as in the hurry and confusion of the night, he had most probably omitted many facts which he might afterwards recollect, he had only, when any thing occurred to his memory, to mention it in a letter addressed to the magistrates, and it should be immediately attended to. And Mr. Clutterbuck gave directions that deponent should be treated with kindness during his confinement, and provided with every thing necessary for his support. And this deponent saith, that he was accordingly treated most kindly in his way to gaol, and likewise during his stay at St. Albans. And this deponent saith, that he was afterwards brought before the coroner, when the inquest was holding on the body of the deceased, and on that occasion several of the magistrates were present, who, aware that this deponent had been positively promised and virtually admitted a witness for the crown, pressed the coroner to examine this deponent on oath, but the coroner, although he took this deponent's statement, declined administering the oath to him."

The affidavit of Mr. John Noel, Gent., Attorney-at-law, of Great Ormond-street, Queen-square, was then read. It stated, that the deponent had been on terms of intimacy with the late Mr. William Weare; that, upon hearing a report of a suspicion that Mr. Weare was murdered, he went down to Watford, and found an investigation going on before the Magistrates, relating to the supposed murder; that Mr. Clutterbuck and Mr. Mason, who were engaged in the investigation, readily accepted deponent's assistance therein, and after being engaged for many hours in ascertaining the circumstances of the case, and in endeavouring to find the body, without effect, it was deemed necessary and advisable to make an overture to the prisoner Hunt, to induce him to discover it, and make a full and voluntary confession; that deponent, with the sanction and by the direction of the said Magistrates, communicated the offer to Hunt, that if he would make a full disclosure (provided he had no hand in the actual commission of the murder) of all the circumstances of the murder, he would be received as a witness for the crown; that previous to Hunt's confession, he (Mr. Noel) assured the prisoner, with the approbation of the magistrates, that if he would give any evidence, or make any dis-



closure as to the place where the body was concealed, he would be entitled to a merciful consideration; that it was the opinion of the magistrates, and the firm belief of deponent, that unless Hunt had pointed out the body of Mr. Weare, it would never have been found; that nobody would have thought of examining or searching so insignificant a spot as that where it was concealed, especially as it was at the distance of three miles and a half from the place where the murder was committed; the opinion being, that it had been thrown into the Thames, and never would be recovered; and that deponent told Hunt, when he was under examination before the coroner, that there would be no breach of faith towards him, and that the magistrates would keep their promise.

Whilst this affidavit was reading, Mr. Rooke, the Coroner, who was in court, said he could confirm part of Mr. Noel's statement.

Mr. Harmer then took his instructions for an additional affidavit on the part of Mr. Rooke.

Mr. Thessiger applied for time until Mr. Rooke's affidavit could be prepared.

Mr. Justice Park. I can make no order about it.

Mr. Thessiger said he did not know until this moment that Mr. Rooke could depose to any fact material to the motion.

Mr. Justice Park then asked Mr. Gurney if he had any answer to the affidavits just read?

Mr. Gurney said he was not prepared with any direct answer to these affidavits; but having heard from rumour since the last assizes, that some such application as this would be made, he had given directions that affidavits for the crown should be prepared in anticipation of what would probably be adduced for the prisoner. Affidavits had accordingly been prepared, and if his Lordship was of opinion that the affidavits just read required any answer, he was ready to put in the affidavits alluded to.

Mr. Justice Park. If you think proper, in your discretion, to put in the affidavits you mention, I will receive them. It is entirely in your own discretion. If you don't think proper to read them, I shall give no direction at all upon the subject.

At this moment the proceedings were interrupted by the introduction into court of a person in custody of a sheriff's officer, charged with making a noise in the lobby leading to one of the galleries. From the sitting of the court the greatest noise and confusion had prevailed outside, and Mr. Justice Park had repeatedly given directions to the officers to bring any person into court who behaved disorderly.

The offender, whose name was John Grozer, a shoemaker in Maidenhead-street, Hertford, was (upon the complaint of the officer, which was denied by the former) committed during pleasure.

Mr. Justice Park. Don't let him be in hearing.

Mr. Gurney then put in the affidavits of Robert Clutterbuck, Esq., an James F. Mason, Esq. the magistrates, which were read by Mr. Knapp.

They stated, that it having been reported to them on the 28th of October, 1823, that a murder had been suspected to have been committed in the neighbourhood of Gill's-hill, they caused to be apprehended certain persons suspected to be concerned in the said murder; that John Thurtell, who now stands charged as principal in the murder of Mr. William Weare; Joseph Hunt, who now stands charged as being accessory in the said murder; and William Probert, who lived at Gill's-hill, where the murder was suspected to have been committed, were brought before them, charged with being guilty of the said suspected murder; that thereupon several witnesses were brought before them to give evidence, and having given evidence, caused them to believe that a murder had been committed on the body of William Weare, but after considerable inquiry and search, the body could not be found; that Mr. Noel was present during the greater part of the time such witnesses were examined; that they conceived that Mr. Noel was attending



as the professional friend of the friends of the deceased; that on the 29th October, after several witnesses were examined, and their depositions taken, the said Joseph Hunt was alone interrogated by deponents, but on that occasion nothing was said to him by them importing that if he made a voluntary confession he would be received as a witness for the crown; that, on the contrary, about the close of the examination on that day, the said Mr. Noel stated to them, that the said Joseph Hunt wished to make a full and free confession, and give evidence for the crown; that thereupon Mr. Noel went out and presently returned, informing them that Joseph Hunt had made a disclosure of the parties concerned in the alleged murder; that deponents said they were ready to hear, if the prisoner was willing to make such disclosure; that neither of deponents gave to Mr. Noel any authority to inform the said Joseph Hunt that if he would merely discover where the body was, application would be made to the crown to admit him as King's evidence; and both deponents say, that upon the information of the said Joseph Hunt, and declaring himself that he was willing to make a disclosure of all he knew of the murder, he was admitted into deponents' presence, and then informed by them, that, provided he made a full disclosure of every thing he knew concerning the murder, application might be made to the court at his trial to have him admitted, but that these deponents could not give any assurance that his request would be granted; that the said Joseph Hunt made certain confessions, and afterwards discovered the body of William Weare; but from circumstances which had since come to their knowledge, they verily believed that in such confessions he did not make a full disclosure of every thing he knew concerning the said murder; but, on the contrary, such confession was materially defective and untrue.

Mr. Gurney then said, he must apprise the learned judge that the statements which were made by Hunt were not made on oath: even the statement before the coroner was not so made, although Hunt had said the contrary in his affidavit. Had the statement before the coroner been taken on oath, it would have been returned by the coroner with the other depositions. Supposing it to have been so taken, he (Mr. G.) should not now desire it to be read, in mercy to the prisoner. In the present stage of the proceedings, he did not think it necessary to lay before the court other affidavits, for the purpose of showing that Hunt had privately communicated facts to different individuals, which he did not state either before the magistrates or the coroner.

Mr. Justice Park. I certainly do not see the necessity of such affidavits; and, if they were read, they would to a certain degree prejudice the prisoner, which ought on every account to be avoided. I am aware of the difficulty, the very great difficulty of avoiding prejudice in these cases; but this is an evil in the present case, which is in some measure to be attributed to the parties themselves. On the former occasion, when affidavits were produced to postpone the trial, to my utter astonishment, those very affidavits were at that moment printed in a newspaper, although the prisoner's counsel, instructed by the prisoner's attorney, urged the court to prohibit the publication. I was then averse from the reading of those affidavits, lest they might be calculated to prejudice the prisoners, but a different course was adopted. If there be any thing stated in the affidavits at all tending to prejudice the prisoner, I should prevent their being read. Without stating any specific fact, perhaps it will be sufficient for your purpose, Mr. Gurney, just to state the object which you have in view by producing an additional affidavit.

Mr. Gurney. It would appear from the additional affidavit, that of the facts stated privately by Hunt to other persons (which are very important,) we do not find one word either in his account of the transaction before the magistrates, or the coroner. The only object of the affidavit would be to confirm what is stated by the magistrates, on their information and belief, that the prisoner did not make a full confession; but I would rather forego



something in a case of this kind, than do any thing which could by possibility create a prejudice.

Mr. Justice Park. That is the feeling of my mind. Would this answer your purpose? I entertain so much respect for Mr. Thessiger, and what I say to him I would say to the prisoner's other legal adviser (Mr. Harmer,) that if they both think proper they may look at Mr. Gurney's affidavit, and perhaps that will answer their purpose. I wish to throw no unpleasant burdens upon either of them, but I think that will be sufficient for them.

Mr. Thessiger said he was certainly anxious to be informed, when and under what circumstances the private conversations alluded to took place.

Mr. Gurney said he would show his learned friend copies of the affidavits alluded to.

The affidavit of Benjamin Rooke, Esq. the coroner, being now completed and sworn, was handed in and read. It stated that upon the inquest before deponent, Mr. Clutterbuck, the magistrate, told Hunt there would be no breach of faith in the promise made by him.

Copies of the affidavits of Mr. Rexworthy, and Upson, the Bow-street officer, were then handed to prisoner's counsel.

Mr. Gurney then asked the prisoner's counsel if he had any objection to his stating to the court the object of the affidavits now produced?

Mr. Thessiger replied that he had no objection.

Mr. G.—I have now shown my learned friend copies of Rexworthy's and Upson's affidavits, and my learned friend has no objection to my stating that which I am now about to state, which will be less prejudicial to the prisoner than reading the affidavits themselves, and that is this:—Your lordship will find, (having read the account of Hunt's evidence before the magistrates and the coroner,) that he has not stated that he had any previous knowledge of the murder being to be committed; he makes himself, therefore, an accessory after the fact; that, upon the statement which your lordship now holds in your hand, there are other things which are not included in either of these accounts, which are very important, and which go to prove a crime of a different description. I believe I have, with as much delicacy as possible, forbore to state what would be prejudicial to the prisoner; but I must not forbear to state that which is essential, namely, that he did not, in either of those accounts, swear that he did not make a full disclosure of that which he knew.

Mr. Thessiger then addressed the bench in support of his original motion. It was now the time to address his lordship upon the facts disclosed in the affidavits now read; but, if there was still existing in his lordship's mind any objection on the ground of the prisoners having pleaded before the application, he must address himself to that point, to obviate that objection, in the first instance, before he pressed upon his lordship the substantial grounds of the application. He (Mr. T.) was not sufficiently prepared on the former occasion to bring this question properly before the court on affidavit. It was only a short time before that he had been retained for the prisoner, and he had therefore had no time to give any directions for the drawing up of the requisite affidavits. Indeed, if the trial had then taken place, he should have been compelled to make this application upon very imperfect grounds. As he was on that occasion partly taken by surprise, he trusted that the delay which had since taken place, owing to his lordship's decision, postponing the trial, would not be considered any objection to his present application. Indeed, the present was the only way in which he could bring the circumstances detailed in his affidavit before the court. He felt that he was authorized by the case which he had already cited, to move for a further delay of this trial. Now the question of delay would depend, in this case, upon the right of the magistrate to admit a prisoner who was an accomplice, and was willing to make a disclosure, as evidence for the crown. He did not pretend to question the law, which had been laid down in the case of the King v. Rudd, and very



lately in a case which had come before his lordship—that a magistrate had no direct power to say that a party should be pardoned on giving evidence against his associates; but he apprehended that indirectly they had such power, and that the ordinary practice was to sanction any promise of pardon held out under such circumstances by the magistrate. That practice had succeeded the application of torture, and had now prevailed for more than 150 years; and in all that time there had been only one case in which a magistrate's promise to a prisoner had either been questioned or violated, and that case was attended by such special circumstances as clearly took it out of the general rule. The affidavits which had just been read to his lordship would inform him, that at the outset of this examination every thing was in darkness; that it was absolutely necessary, to the commencement of this investigation, that a certain fact should be disclosed, and that every subsequent point hinged upon it. The magistrates, naturally and laudably enough, were anxious to arrive at that point. On ordinary occasions, he knew it was not usual to receive the evidence of an accomplice, unless he made a full and fair disclosure of all the circumstances of guilt in which he had been implicated; but he apprehended that in a case of particular importance and atrocity, the magistrate had indirectly, though not directly, a right of giving to the prisoner a promise of eventual safety on the disclosure of that particular fact on which all the subsequent proceedings must naturally depend. There was no person in that court who would question this point.

Mr. Justice Park. I, for one, question it, for I don't know how it appears, and I hope the jury also will question it.

Mr. Thessiger, in continuation, said, it had been laid down by one of the most distinguished judges that ever adorned the bench, that no man could be convicted of murder unless the body was found. If that principle was correct, there was no case, perhaps, to which it was more strikingly applicable than the present. But for the disclosure made by his unfortunate client, by pointing out where the body was deposited, the present solemn inquiry never could have been instituted. It was sworn in the affidavits, most distinctly, that until that disclosure every body remained ignorant of the place where the body was concealed. He would, therefore, take upon himself to say, that, but for that disclosure, his lordship and the jury would not have been assembled on the present occasion. If, then, his client had been induced to communicate so essential a fact, under a promise, however defective in point of authority, on the part of those who made it, still it entitled him, in the hour of peril, to the merciful protection of the law. Supposing the magistrates, without even the colour of authority, had induced him to confess, upon the hope of mercy, still it was sufficient to protect him from prosecution. Supposing the condition had been a full disclosure of every particular, still, if the prisoner had communicated only a part of the transaction, the mercy of the crown ought to be extended to him. In this situation his client now stood; a solemn promise had been held out, that if he would only disclose where the body was to be found, he should be admitted as a witness for the crown. Admitting, for the sake of argument, that the magistrates had acted incautiously and imprudently in giving such a pledge, yet the interests of public justice, and a respect to public opinion, required that pledge should now be held sacred.

Mr. Justice Park interposed, and said he could not listen to this latter topic. "I have heard enough already," his lordship said, "of public fame about this matter."

Mr. Thessiger said, in continuation, that certainly when public opinion was inflamed by undue excitement, he should not urge such a topic on such an occasion; but when reason assumed its sway, and the voice of truth and impartiality cried aloud, he humbly submitted that public feeling was not an improper topic to urge on such an occasion.

Mr. Justice Park. Your arguments may be very properly addressed to the crown; but I, sitting here as a judge, cannot attend to public opinion.



am to act according to the law of the land, and the dictates of my conscience, and am not to be driven from duty by popular applause on the one hand, or popular censure on the other.

Mr. Thessiger. Then I call upon your lordship, on reasons of public interest, which you sit there to protect.

Mr. Justice Park. Certainly, I hope so.

Mr. Thessiger then said, he would ask his lordship whether, considering how important it was, that persons who had been concerned in guilt should be induced to give evidence against their accomplices, and considering how difficult it was in some cases to attain public justice without their aid, was it not of the greatest importance to hold out to them the example of keeping faith without regard to peculiar circumstances or temporary expedients? Did not public interest require that the magistracy should not have their discretion called in question, or their conduct fettered by restrictions, by inquiries whether they had properly or improperly exercised their powers? The public interest demanded that the magistrates should be permitted to act with promptitude in sudden emergencies; and if the court refused the present application, the refusal must necessarily imply a stigma upon the conduct of these magistrates, who would thereby be deemed to have acted incautiously, improperly, and irregularly. He trusted he had urged the topics which he thought it necessary to press on behalf of his client, with proper decency and respect to the court. He felt himself bound to speak with warmth as to what he must consider a breach of faith towards his unhappy client, who, against the solemn promise held out to him, now stood on the verge of the most awful trial to which a human being could be exposed. These were the observations he had to urge, and he waited with impatience, but with confidence, for his lordship's decision.

Mr. Gurney was rising to reply to the motion, when

Mr. Justice Park interposed, and said, I am most clearly of opinion, that although this application has been urged with great vehemence and propriety, and with all that respect that is due to the court, there is no ground for granting it. The argument addressed to me is more applicable in another quarter than to this court. A great deal of what has been said, might be properly the ground for an application to his majesty for his royal mercy, but I see no reason for putting off the trial, and indeed putting off the trial would not be necessary for that purpose. It is not necessary that a person should be out of custody in order to enable him to apply for mercy to the throne. The trial has already been put off exactly one month, during the whole of which time, all the facts which have been disclosed to-day were within the knowledge of the prisoner and his legal advisers. The application, therefore, might have been made to the crown, and if his majesty was so pleased, he might have granted him a free pardon. But no such application having been made, it is not now competent to me to entertain the motion now submitted. If maintainable at all, it must be urged in another quarter. I beg it may be understood (and I do not put it on the ground that the motion is made after plea pleaded,) that I refuse this application solely on the ground that I have no authority to yield to it. The case of the *King v. Rudd* is not an authority for the present motion, as far as I understand it; because it does not appear from the report of that case, that the party had pleaded before the motion was made; but at the same time it will be remembered, that Mrs. Rudd had supposed that there were promises of favour offered to her, although, in fact, there was no such promise held out. With respect to the discretion exercised by the magistrates, there can be no doubt that those respectable persons acted from the purest and best of motives, and I find no fault with any thing they have done; I won't say they have acted incautiously; they have acted according to their best lights and information; but I say positively that magistrates, as these country magistrates, have no right to exercise those powers which belong to a judge of assize, and therefore their authority in this respect was exceeded. But it is very well known and the conduct of



magistrates themselves shows that they have no such authority, for otherwise, why are applications constantly made at every assizes for the leave of the court that accomplices may go before the grand jury to give evidence? Why, because the magistrates below have no such authority. Indeed, the conduct of the magistrates in this instance, shows that they did not consider themselves as possessing such power, for they have taken the examination of this man, not upon oath. If they meant to admit him as King's evidence, and if they had power so to do, they should have taken his testimony on oath; but that is not their conduct in this instance. I am of opinion, therefore, that I ought not to postpone this trial. The circumstances disclosed in these affidavits may afford a strong argument in support of an application to the throne, where I have no doubt they will have their due effect; but I dare not listen to an application which it is out of my power to grant. This is not an application to me, but to the throne, and as to putting off the trial, the prisoner could derive no more advantage than he has already enjoyed by the postponement that has already taken place for a period of one month, during which he had an opportunity of applying to the crown. I do not yield to the application that has now been made; and, therefore, let the trial proceed.

The prisoner Thurtell. My Lord, I wish my solicitors to sit near my counsel.

The Court. Certainly, I have ordered it so long ago.

Mr. Fenton was then, with some difficulty, enabled to approach his counsel. Mr. Jay stood in front of the dock.

Mr. Wilson (the governor of the gaol). Is Probert to be kept in the dock, my Lord? Mr. Gurney. Yes, he is, for the present.

The prisoners were then put to the bar, and Mr. Knapp, the clerk of arraigns, apprized them in the usual form of their power of challenge, and that the time of exercising it was when each juror was called in his place, and before he was sworn.

The proclamation of silence being made, the list of the crown jury was called for; but owing to the pressure of the crowd in every avenue to the court, some delay arose in the assembling of the jurors in the box.

The prisoners appeared to pay strict attention to what was said, and bowed respectfully.

The panel was then called over, and, after several peremptory challenges on the part of the prisoner Thurtell, and two peremptory challenges on the part of the Crown, the following Gentlemen were sworn on

### THE JURY.

JOHN BROWN, of Wynyard, Gent. *Foreman.*

THOMAS BUCK, Brazier, of Bishop's Stortford.

REGINALD JENNINGS, Maltster....ditto.

RICHARD PRYOR, Gent. ....ditto.

GEORGE STARKINS, Gent. ....ditto.

CHARLES FOX, Gent. of Hitchin.

JOHN RUSSELL, Shoemaker. .ditto.

THOMAS CHOCKLEY, Gent. of Stevenage.

WILLIAM FAULBECK, Gent....ditto.

JOHN HOPEWELL, Tanner, of Chipping Barnet.

SAMUEL PRITCHARD, Yeoman, of Bramfield.

WILLIAM KIMPTON, Yeoman, of Barkway.

Mr. Knapp then charged the Jury on the indictment against the prisoners, Thurtell and Hunt, and stated that it was as follows:—

“HERTFORDSHIRE TO WIT.—The Jurors of our Lord the King, upon their oath, present, that John Thurtell, late of the parish of Aldenham, in the county of Hertford, labourer, not having the fear of God before his eyes, but being moved and seduced by the instigation of the Devil, on the 24th day of October, in the year of our Lord, 1823, with force and arms, in the parish of



Aldenham aforesaid, in the county of Hertford aforesaid, in and upon William Weare, in the peace of God and our said Lord the King, then and there being, feloniously, wilfully, and of his malice aforethought, did make an assault, and that the said John Thurtell, with a certain pistol of the value of 10s., which he the said John Thurtell in his right hand then and there held, the said William Weare, in or upon the left side of the head of him the said William Weare, then and there feloniously, wilfully, and of his malice aforethought, did strike, force, and penetrate; and that the said John Thurtell, by such striking, thrusting, forcing, and penetrating the pistol aforesaid, in, upon, and into the left side of the head of him, the said William Weare as aforesaid, then and there feloniously, and of his malice aforethought, did give unto him the said William Weare, in and upon the left side of the head of him the said William Weare, one mortal fracture, of the depth of two inches, and of the width of one inch, of which said mortal fracture the said William Weare did then and there die. And so the Jurors, on their oaths, aforesaid, do say, that the said John Thurtell, him, the said William Weare, in manner and form aforesaid, feloniously, wilfully, and of his malice aforethought, did kill and murder, against the peace of our said Lord the King, his Crown and dignity; and the Jurors aforesaid, upon their oath aforesaid, do further present that Joseph Hunt, late of the parish of Aldenham, in the County of Hertford aforesaid, not having the fear of God before his eyes, but being moved and seduced by the instigation of the Devil, before the felony and murder was committed by the said John Thurtell, in manner and form aforesaid, that is to say, on the same day and in the year aforesaid, with force and arms, at the parish of St. George, Hanover-square, in the county of Middlesex, aforesaid, him, the said John Thurtell, to do and commit the felony and murder aforesaid, in manner and form aforesaid, maliciously, feloniously, voluntarily, and of his malice aforethought, did stir up and move, abet, procure, command, hire, counsel, and direct, against the peace of our said Lord the King, his Crown and dignity.

SECOND COUNT.—And the jurors aforesaid, upon their oaths aforesaid, do further present, that the said John Thurtell, heretofore, that is to say, on the same day and in the year aforesaid, with force and arms, in the parish of Aldenham, in the county of Hertford aforesaid, in and upon William Weare, in the peace of God and our said lord the King, and there being, feloniously, wilfully, and of his malice aforethought, did make an assault; and that the said John Thurtell, with a certain pistol of the value of ten shillings, which he the said John Thurtell held in his right hand, then and there, to wit, at the parish of Aldenham, in the county of Hertford aforesaid, had and held the said William Weare in, upon, and into the left side of the head of him the said William Weare, then and there, to wit, at the parish of Aldenham, in the county of Hertford aforesaid, feloniously, wilfully, and of his malice aforethought, did strike, thrust, force, and penetrate; and that the said John Thurtell, by the said last-mentioned striking, thrusting, forcing, and penetrating the pistol last aforesaid, in, upon, and into the left side of the head of him the said William Weare, as last aforesaid, then and there, to wit, in the parish of Aldenham, in the county of Hertford aforesaid, feloniously, wilfully, and of his malice aforethought, did give unto him the said William Weare, in and upon the left side of the head of the said William Weare, one mortal fracture of the depth of two inches, and of the width of one inch; and that the said John Thurtell, with a certain knife of the value of sixpence, which the said John Thurtell then and there, to wit, at the parish of Aldenham, in the county of Hertford aforesaid, in his right hand had and held, the said William Weare in and upon the left side of the neck of him the said William Weare, then and there, to wit, at the parish of Aldenham, in the county of Hertford aforesaid, feloniously, wilfully, and of his malice aforethought, did strike, wound, cut, and penetrate, and that the said John Thurtell, by such striking, wounding, cutting, and penetrating, the said William Weare, in and upon the left side of the neck of him the said William Weare,



then and there to wit, at the said parish of Aldenham, in the county of Hertford aforesaid, feloniously, wilfully, and of his malice aforethought, did give unto him the said William Weare, in and upon the left side of the neck of him the said William Weare, one mortal wound of the depth of one inch, of the width of one inch, and of the length of two inches, of which said last-mentioned mortal fracture, of which said mortal wound the said William Weare did then and there, to wit, at the parish of Aldenham, in the county of Hertford aforesaid, die. And so the jurors aforesaid, upon their oath aforesaid do say, that the said John Thurtell, him the said William Weare, in manner and form last aforesaid, feloniously, wilfully, and of his malice aforethought, then and there, to wit, at the parish of Aldenham, in the county of Hertford, did kill and murder, against the peace of our said lord the King, his crown and dignity. And the jurors aforesaid, upon their oath aforesaid, do further present that the said Joseph Hunt before the last-mentioned felony and murder was committed by the said John Thurtell in the manner and form last mentioned, that is to say, on the same day in the year aforesaid, with force and arms, at the parish of St. George's, Hanover-square, in the county of Middlesex, to wit, at the parish of Aldenham aforesaid, in the county of Hertford aforesaid, him the said John Thurtell to do and commit the felony and murder last aforesaid, in manner and form last aforesaid, maliciously, feloniously, voluntarily, and of his malice aforethought, did stir up, move, abet, procure, command, hire, counsel, and direct against the peace of our said lord the King, his crown and dignity."

Mr. Knapp then further charged the jury on the coroner's inquisition with the prisoners, John Thurtell, charged as guilty of the murder of William Weare; and Joseph Hunt and William Probert, charged as accessories of the said murder before the fact.

#### ACQUITTAL OF PROBERT.

Mr. Gurney rose and stated that it was not his intention to offer any evidence against the prisoner Probert, who was arraigned on the Coroner's Inquisition.

Mr. Justice Park then briefly informed the Jury, that as it was not the intention of the counsel for the Crown to offer any evidence against the prisoner Probert, they would, of course, find a verdict of acquittal.

The Jury having acquitted him accordingly, the prisoner Probert was then removed from the bar.

Mr. Justice Park then stated, that as it was the wish of the prisoners that all the witnesses for the prosecution should be separately examined, all the witnesses now present would of course leave the court. Mr. Justice Park added, it was unnecessary for the medical gentlemen to leave the court.

Mr. Broderick, as junior counsel for the Crown, then shortly recapitulated the heads of the indictment.

Mr. Gurney opened the case. They were now, he said, assembled for the trial of the two prisoners at the bar, after a month's delay, which the court had ordered. It had been obtained on the ground of the great excitement of the public which had shortly before taken place, and had not then subsided. It was on the former occasion thought by his Lordship that it would conduce to the more satisfactory dispensation of justice, to allow the operation of a short delay to suffer passing events to subside, some of which were of a melancholy character, and capable of producing a prejudicial effect. The jury had now assembled after the delay which had taken place, and prepared to proceed to this trial in that calm and temperate state of mind to enable them to administer justice with perfect satisfaction to their own minds, as well as to their country. It was of great importance to society that a criminal should be punished, in order that crime should be repressed; but there was one thing of more importance, and that was, the protection of innocence. That was the great salutary principle consecrated by the laws of England, which was its distinguishing feature above the code of other nations; for of little interest would it be to any man to say he belonged to a country invested with every charm which could make life and property agreeable, if his safety and his property were not shielded by the



powerful barriers of the law. In England they had happily those great securities. They had in the first instance the preliminary inquiry before a magistracy, such a magistracy as no other country enjoyed. They had next the inquiry before a grand jury; and lastly, the assistance, in a court like the present, of the highest legal authorities, to hear the evidence on the one part and the other; and, with the assistance of a jury composed as they were, to pronounce finally upon the guilt or innocence of the accused. It was the peculiar province of the jury to decide upon the question of guilt or innocence; and they were bound to forget, if ever they had heard, statements probably erroneous, certainly unauthentic. Above all, they were bound to come to the question with the most dispassionate feeling. The crime with which the prisoners stood charged, was, undoubtedly, one of the most enormous magnitude; its perpetration had been attended with no common ferocity. It was imputed to one of the parties, that he had actually committed the murder; and to the other, that he had assisted with his previous counsel and concert, and co-operated in the promotion of the premeditated act. But in proportion to the great enormity of the crime ought to be the strength of the proof; and he did not mean to ask of them to pronounce a verdict of guilty, unless on such evidence as left no rational doubt on their minds of the fact. He repeated, that when they considered the nature of the case, and the violent aggravation with which it was attended, they were bound to call for very strong proof to convince them that any man was capable of so dreadful an atrocity; for if the evidence he had to adduce were substantiated and believed, one of the prisoners at the bar had been guilty, not only of the crime of murder in all its naked atrocity, but of the murder of a man with whom he had been living in habits of acquaintance, if not of intimacy. It was said (whether true or not, he knew not), that the deceased had provoked one of the prisoners, by doing him some wrong at play; and that the other had never been injured by the man whose death he had concerted to aid in inflicting. These persons, under the specious pretences of friendship, had invited the deceased to accompany them upon a short country excursion; but they had invited him into their company to deprive him on the same night of his life. It was emphatically said, that murder was a crime to be perpetrated in darkness. The hour of night was mostly chosen as the opportune time for its infliction; because it was in that moment of solitude thought that no human eye could see, no ear hear the struggles of the dying: darkness rendered detection more difficult. It was therefore the peculiar feature of crimes of this kind that their proof often depended upon circumstantial evidence, which, however, was frequently found to convey, by its character and combination, a demonstration as conclusive as any which could arise from the operation of positive testimony. There was another species of evidence, which was sometimes of necessity resorted to in cases of this nature—he meant the evidence of accomplices in the crime. It was not always within the power of a prosecutor to forego the evidence of an accomplice, nor even to get that species of testimony, without compounding in some measure with acknowledged guilt. Upon a very full and anxious consideration of the whole of this case, those who conducted the prosecution had maturely decided upon the admission of an accomplice into their evidence. The deceased, whose murder was the subject of the present inquiry, was the late Mr. William Weare—a man, it was said, addicted to play, and, as had been suggested, connected with gaming-houses. Whether he was the best, or the least estimable individual in society, was no part of their present consideration. The prisoner at the bar, John Thurtell, had been his acquaintance, and in some practices of play bad, it was said, been wronged by him, and deprived of a large sum of money. The other prisoner, Hunt, was described as being a public singer, and also known to Mr. Weare, but not, as he believed, in habits of friendship. Probert, who was admitted as an accomplice, had been in trade a spirit-dealer, and rented a cottage in Gill's-hill-lane, near Elstree. It was situate in a by-lane, going out of the London-road to St. Alban's, and two or three miles beyond Elstree. The cottage of Probert was, it would appear, selected from its seclusion, as the fit spot for the perpetration of the murder. Probert was himself much engaged in London, and his wife generally resided at the cottage, which was a small one, and pretty fully occupied in the accommodation of Mrs. Probert, her sister, (Miss Noyes,) some children of Thomas Thurtell's, (the prisoner's brother,) and a maid and boy servant. It should seem, from what had taken place, that the deceased had been invited by John Thurtell, to



this place to enjoy a day or two's shooting. It would be proved that the prisoner Thurtell met the deceased at a billiard-room, kept by one Rexworthy, on the Thursday night (that previous to the murder). They were joined there by Hunt. On the forenoon of the Friday, he (deceased) was with Rexworthy at the same place, and said he was going for a day's shooting into the country. Weare went from the billiard-rooms between three and four o'clock to his chambers in Lyon's inn, where he partook of a chop dinner, and afterwards packed up, in a green carpet bag, some clothes, and a mere change of linen, such as a journey for the time he had specified might require. He also took with him when he left his chambers, in a hackney-coach, which the laundress had called, a double-barrelled gun, and a backgammon box, dice, &c. He left his chambers in this manner before four o'clock, and drove first to Charing-cross, and afterwards to Maddox-street, Hanover-square; from thence he proceeded to the New-road, where he went out of the coach, and returned after some time, accompanied by another person, and took his things away. Undoubtedly the deceased left town on that evening with the expectation of reaching Gill's-hill cottage; but it had been previously determined by his companions, that he should never reach that spot alive. He would here beg to state a few of the circumstances which had occurred antecedent to the commission of the crime. Thomas and John Thurtell were desirous of some temporary concealment, owing to their inability to provide the bail requisite to meet some charge of misdemeanor, and Probert had procured for them a retreat at Tetsall's, the sign of the Coach and Horses, in Conduit-street, where they remained for two or three weeks previous to the murder. On the morning of Friday, the 24th of October, two men, answering in every respect to the description of John Thurtell and Hunt, went to a pawnbroker's in Marylebone, and purchased a pair of pocket-pistols. In the middle of the same day, Hunt hired a gig, and afterwards a horse, under the pretence of going to Dartford in Kent; he also inquired where he could purchase a sack and a rope, and was directed to a place over Westminster-bridge, which, he was told, was on his road into Kent. Somewhere, however, it would be found that he did procure a sack and cord, and he met the same afternoon, at Tetsall's, Thomas Thurtell and Noyes. They were all assembled together at the Coach and Horses in Conduit-street. When he made use of the names of the two last individuals, he begged distinctly to be understood as saying, that he had no reason to believe that either Thomas Thurtell and Noyes were privy to the guilty purpose of the prisoners. Some conversation took place at the time between the parties, and Hunt was heard to ask Probert if he would be in what they (Hunt and John Thurtell) were about. Thurtell drove off from Tetsall's between four and five o'clock to take up a friend, as he said to Probert, "to be killed as he travelled with him;" an expression which Probert said at the time he believed to have been a piece of idle bravado. He requested Probert to bring down Hunt in his own gig. In the course of that evening, the prisoner Thurtell is seen in a gig, with a horse of a very remarkable colour. He was a sort of iron grey, with a white face and white legs—very particular marks for identity. He was first seen by a patrol near Edgeware; beyond that part of the road he was seen by the landlord; but from that time of the evening until his arrival at Probert's cottage on the same night, they had no direct evidence to trace him. Probert, according to Thurtell's request, drove Hunt down in his gig, and, having a better horse, on the road they overtook Thurtell and Weare in the gig, and passed them without notice. They stopped afterwards at some public-house on the road to drink grog, where they believe Thurtell must have passed them unperceived. Probert drove Hunt until they reached Phillimore-lodge, where he (Hunt) got out, as he said by Thurtell's desire, to wait for him. Probert from thence drove alone to Gill's-hill cottage, in the lane near which he met Thurtell, on foot, alone. Thurtell inquired, Where was Hunt, had he been left behind? he then added, that he had done the business without his assistance, and had killed his man. At his desire, Probert returned to bring Hunt to the spot, when he (Probert) went to Hunt for that purpose. When they met, he told Hunt what had happened. "Why it was to be done here," said Hunt (pointing to nearer Phillimore-lodge), admitting his privy, and that he had got out to assist in the commission of the deed. When Thurtell rebuked Hunt for his absence; "Why, (said the latter,) you had the tools." "They were no good," replied Thurtell; "the pistols were no better than pop-guns. I fired at his cheek, and it glanced off"—that Weare ran out of the



gig, cried for mercy, and offered to return the money he had robbed him of—that he (Thurtell) pursued him up the lane when he jumped out of the gig. Finding the pistol unavailing, he attempted to reach him by cutting the pen-knife across his throat, and ultimately finished him by driving the barrel of the pistol into his head, and turning it in his brains, after he had penetrated the forehead. Such was the manner in which Thurtell described he had disposed of the deceased, and they would hear from Probert what he said on the occasion. A gig was about that time heard to drive very quickly past Probert's cottage. The servants expected their master, and thought he had arrived; but he did not make his appearance. Five minutes after that period, certain persons, who would be called in evidence, and who happened to be in the road, distinctly heard the report of a gun or pistol, which was followed by voices, as if in contention. Violent groans were next heard, which, however, became fainter and fainter, and then died away altogether. The spot where the report of the pistol and the sound of groans were heard, was Gill's-hill-lane, and near it was situated the cottage of Probert. They had now, therefore, to keep in mind, that Thurtell arrived at about nine o'clock in the evening at Probert's cottage, having set off from Conduit-street at five o'clock; and though he had been seen on the road in company with another person in the gig, yet it appeared that he arrived at the cottage alone, having in his possession the double-barrelled gun, the green carpet-bag, and the backgammon-board, which Mr. Weare took away with him. He gave his horse to the boy, and the horse appeared to be in a cool state, which corroborated the fact that he had stopped a good while on his way. He left Conduit-street, it should be observed, at five, and arrived at the cottage at nine—a distance which, under ordinary circumstances, would not have occupied much more than an hour. The boy inquired after Probert and Hunt, and was told that they would soon be at the cottage. At length, a second gig arrived, and those two persons were in it. They rode, while Thurtell, who went to meet them, walked with them. The boy having cleaned his master's horse, then performed the same office for the horse of Thurtell, which occupied a good deal of time. Probert went into the house. Neither Thurtell nor Hunt was expected by Mrs. Probert. With Thurtell she was acquainted; but Hunt was a stranger, and was formally introduced to her. They then supped on some pork chops, which Hunt had brought down with him from London. They then went out, as Probert said, to visit Mr. Nicholls, a neighbour of his; but their real object was to go down to the place where the body of Weare was deposited. Thurtell took them to the spot down the lane, and the body was dragged through the hedge into the adjoining field. The body was, as he had previously described it to be, enclosed in a sack. They then effectually rifled the deceased man, Thurtell having informed his companions, that he had, in the first instance, taken the fourth part of his property. They then went back to the cottage. It ought to be stated, that Thurtell, before he went out, placed a large sponge in the gig; and when he returned from this expedition, he went to the stable and sponged himself with great care. He endeavoured to remove the spots of blood, many of which were distinctly seen by Probert's boy; and certainly such marks would be observable on the person of any one who had been engaged in such a transaction. In the course of the evening Thurtell produced a gold watch, without a chain, which occasioned several remarks. He also displayed a gold curb chain, which might be used for a watch, when doubled; or, when singled, might be worn round a lady's neck. On producing the chain, it was remarked that it was more fit for a lady than a gentleman; on which Thurtell pressed it on Mrs. Probert, and made her accept of it. An offer was afterwards made that a bed should be given to Thurtell and Hunt, which was to be accomplished by Miss Noyes giving up her bed, and sleeping with the children. This was refused, Thurtell and Hunt observing, that they would rather sit up. Miss Noyes, therefore, retired to her own bed. Something, however, occurred, which raised suspicion in the mind of Mrs. Probert; and, indeed, it was scarcely possible, if it were at all possible, for persons who had been engaged in a transaction of this kind, to avoid some disorder of mind—some absence of thought that was calculated to excite suspicion. In consequence of observing those feelings, Mrs. Probert did not go to bed, or undress herself. She went to the window and looked out, and saw that Probert, Hunt, and Thurtell, were in the garden. It would be proved that they went down to



the body, and, finding it too heavy to be removed, one of the horses was taken from the stable. The body was then thrown across the horse; and stones having been put into the sack, the body, with the sack thus rendered weighty by the stones, was thrown into the pond. Mrs. Probert distinctly saw something heavy drawn across the garden where Thurtell was. The parties then returned to the house; and Mrs. Probert, whose fears and suspicions were now most powerfully excited, went down stairs and listened behind the parlour door. The parties now proceeded to share the booty; and Thurtell divided with them to the amount of 6l. each. The purse, the pocket-book, and certain papers which might lead to detection, were carefully burned. They remained up late; and Probert, when he went to bed, was surprised to find that his wife was not asleep. Hunt and Thurtell still continued to sit up in the parlour. The next morning, as early as six o'clock, Hunt and Thurtell were both seen out, and in the lane together. Some men who were at work there, observed them, as they called it, "grabbing" for something in the hedge. They were spoken to by these men, and as persons thus accosted must say something, Thurtell observed, "that it was a very bad road, and that he had nearly been capsized there last night." The men said, "I hope you were not hurt." Thurtell answered, "Oh no, the gig was not upset," and they then went away. These men, thinking something might have been lost on the spot, searched after Hunt and Thurtell were gone. In one place, they found a quantity of blood, further on they discovered a bloody knife, and next they found a bloody pistol—one of the identical pair which he would show were purchased by Hunt. That pistol bore upon it the marks of blood and of human brains. The spot was afterwards still further examined, and more blood was discovered, which had been concealed by branches and leaves, so that no doubt could be entertained that the murder had been committed in this particular place. On the following morning, Saturday, the 25th of October, Thurtell and Hunt left Probert's cottage in the gig which Hunt had come down in, carrying away with them the gun, the carpet-bag, and the backgammon-board, belonging to Mr. Weare. These articles were taken to Hunt's lodgings, where they were afterwards found. When Hunt arrived in town on Saturday, he appeared to be unusually gay. He said, "We Turpin lads can do the trick. I am able to drink wine now, and I will drink nothing but wine." He seemed to be very much elevated at the recollection of some successful exploit. It was observed, that Thurtell's hands were very much scratched, and some remark having been made on the subject, he stated, "that they had been out netting partridges, and that his hands got scratched in that occupation." On some other points, he gave similarly evasive answers. On Sunday, John Thurtell, Thomas Thurtell, Noyes, and Hunt, spent the day at Probert's cottage. Hunt went down dressed in a manner so very shabby, as to excite observation. But in the course of the day he went up stairs, and attired himself in very handsome clothes. There was very little doubt that those were the clothes of the deceased Mr. Weare. He had now to call the attention of the jury to a very remarkable circumstance. On the Saturday Hunt had a new spade sent to his lodgings, which he took down to the cottage on Sunday. When he got near Probert's garden, he told that individual, "that he had brought it down to dig a hole to bury the body in." On that evening, Probert did really visit Mr. Nicholls; and the latter said to him, "that some persons had heard the report of a gun or pistol in the lane, on Friday evening; but he supposed it was some foolish joke." Probert, on his return, stated this to Thurtell and Hunt, and the information appeared to alarm the former, who said, "he feared he should be hanged." The intelligence, however, inspired them all with a strong desire to conceal the body effectually. Probert wished it to be removed from his pond; for, had it been found there, he knew it would be important evidence against himself. He declared that he would not suffer it to remain there; and Thurtell and Hunt promised to come down on the Monday, and remove it. On Monday, Thurtell and Hunt went out in the gig, and in furtherance of that scene of villainy which they meditated, they took with them Probert's boy. They carried him to various places, and finally lodged the boy at Mr. Tetsall's, in Conduit-street. On the evening of that same Monday, Hunt and Thurtell came down to the cottage. Hunt engaged Mrs. Probert in conversation, while Thurtell and Probert took the body out of the pond, put it into Thurtell's gig, and then gave notice to Hunt that the gig was ready. In this manner



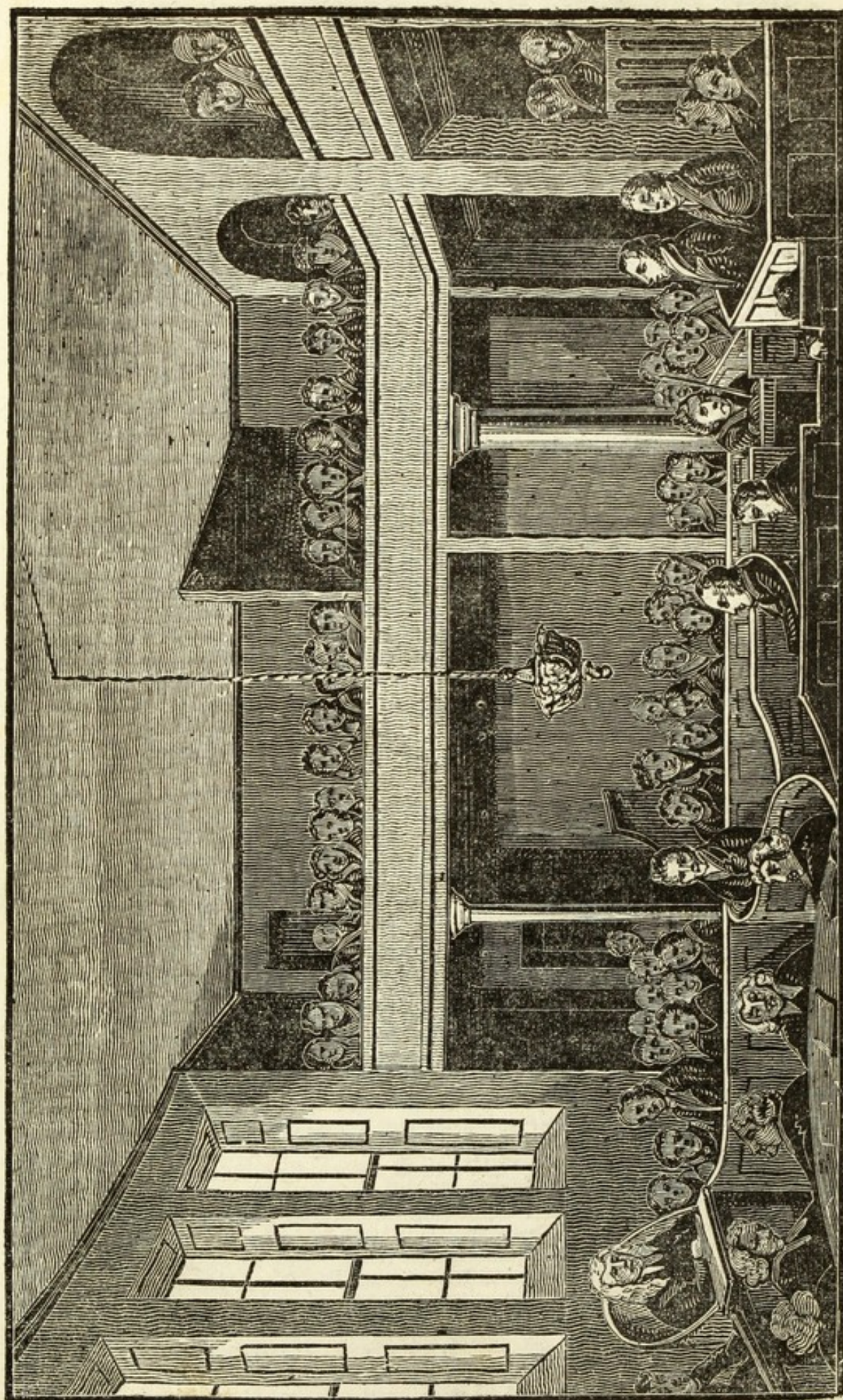
they carried away the body that night ; but where they took it to, Probert did not know. It appeared, however, that the body was carried to a pond near Elstree, at a considerable distance from Probert's cottage, and there sunk, as it had before been in Probert's pond, in a sack containing a considerable quantity of stones. Hunt and Thurtell then went to London ; and the appearance of the gig the next morning clearly told the way in which it had been used over night ; a quantity of blood and mud being quite perceptible at the bottom. The parties heard that the report of the pistol in the lane on the Friday evening, and the discovery of the blood in the field, had led to great alarm amongst the magistracy. Inquiry was set on foot, and Thurtell, Hunt, and Probert were at length apprehended. It was found that Hunt had adopted a peculiar mode for the purpose of concealing his identity ; for when he was hiring the gig, and doing various other acts connected with this atrocious proceeding, he wore very long whiskers ; but on the Monday after the murder, he had them taken off ; and they all knew that nothing could possibly alter the appearance of a man more than the taking away of large bushy whiskers. Strict inquiries were made by the magistrates, but nothing was ascertained to prove to a certainty who was murdered. The body was, however, found on the Thursday, Hunt having given evidence as to the place where the body was deposited. The evidence which Hunt gave, and which led to the finding of the body, he would use : but no other fact coming out of his mouth, save that, would he advert to. He was entitled, in point of law, to make use of that. " If a person tells me, under any promise of mercy, where stolen goods are to be found, and on searching I find them, I am entitled to adduce the fact of finding against the criminal party : and for this reason—because persons may, from hope or fear, be induced to state what is not true. But the finding proves the truth ; and on that point I have a right to proceed." The fact only of the disclosure by Hunt, in consequence of which the body was discovered, was he permitted to make use of ; and to that alone, so far as Hunt's confession went, he would confine himself. But by reference to his conversations with others, and to various circumstances not adverted to by him, he was convinced that he should be enabled to establish a perfect and complete chain of evidence. He had now stated the principal part of the facts which it would be his duty to lay before the jury. Some of them, they must observe, would depend on the evidence of an accomplice ; for Probert, though not an accomplice *before* the murder, was confessedly privy to a certain part of the transaction—to the concealment of the body—to the concealment, consequently, of the murder. He must be looked upon as a bad, a very bad man. He was presented to the jury in that character. What good man could ever lend himself, in the remotest degree, to so revolting a transaction ? An accomplice must always be, in a greater or less extent, a base man. The jury would therefore receive the evidence of Probert with extreme caution ; and they would mark, with peculiar attention, how far his evidence was confirmed by testimony that could not be impeached. But he would adduce such witnesses in confirmation of Probert's statement—he would so confirm him in every point, as to build up his testimony with a degree of strength and consistency which could not be shaken, much less overturned. He would prove by other witnesses besides Probert, that Thurtell set out with a companion from London, who did not arrive at the ostensible end of his journey ; he would prove that he had brought the property of that companion to Probert's house, the double-barrelled gun, the backgammon-board, and the green carpet-bag ; he would prove, that some time before he arrived at the cottage, the report of a gun or pistol was heard in Gill's-hill-lane, not far from the cottage ; he would prove that his clothes were in a bloody state ; and that, when he was apprehended, even on the Wednesday after the murder, he had not been able to efface all the marks from his apparel. Besides all this, they would find, that in his pocket, when apprehended, there was a penknife which was positively sworn to as having belonged to Mr. Weare, and also the fellow-pistol of that which was found adjoining the place where the murder was committed,—the pair having been purchased in Mary-le-bone-street by Hunt. These circumstances brought the case clearly home to Thurtell. Next as to Hunt. He was charged as an accomplice before the fact. It was evident that he advised this proceeding. For what purpose, but to advise, did he proceed to the cottage ? He was a stranger to Mrs. Probert and her family ; he was not expected at the cottage. There



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after the murder, he had them taken off, and they all knew that nothing could  
possibly alter the appearance of a man more than the taking away of large  
whiskers. Strict inquiries were made by the magistracy, but nothing  
was ascertained to prove to a certainty who was murdered. The body was,  
however, found on the Thursday. Some fragments of evidence as to the place  
where the body was deposited. The evidence which Hunt gave, and which  
led to the finding of the body, he would not give, but an offer coming out of  
his mouth, save that, would be sufficient. He was entitled, in point of law,  
to make use of that. "If a person tells me, under any promise of mercy,  
where stolen goods are to be found, and on searching I find them, I am en-  
titled to adduce the fact of finding against the criminal party; and for this rea-  
son—because persons may, from hope or fear, be induced to state what is not  
true. But the finding proves the truth; and on that point I have a right to  
proceed." The fact only of the discovery by Hunt, in consequence of which  
the body was discovered, was permitted to make use of; and to that alone,  
so far as Hunt's confession went, he would confine himself. But by reference  
to his conversation with others, and to various circumstances, not adverted to  
by him, he was convinced that he should be enabled to establish a better and  
complete chain of evidence. He had now stated the principal part of the  
facts which it would be his duty to lay before the jury. Some of them, they  
must observe, would depend on the evidence of an accomplice; for Probert,  
though not an accomplice in the murder, was confessedly privy to a certain  
part of the transaction—to the concealment of the body—to the concealment,  
consequently, of the murder. He must be looked upon as a bad, a very bad  
man. He was presented to the jury in that character. What good man could  
ever lead himself, in the remotest degree, to so revolting a transaction? An  
accomplice must always be a person of less extent, a base man. The jury  
would therefore receive the evidence of Probert with extreme caution; and  
they would mark, with peculiar attention, how far his evidence was confirmed  
by testimony that could not be impeached. But he would adduce such witnesses  
in confirmation of Probert's statement, as would be sufficient in every point,  
as to build up his testimony with a degree of strength and consistency, which  
would not be shaken, much less overthrown. He would prove by other witnesses  
besides Probert, that Thurtell set out with a companion from London, who did  
not arrive at the scene of the murder, and his journey; he would prove, that he had  
brought the property of that companion to Probert's house, the double-bar-  
relled gun, the backgammon-board, and the green carpet-bag; he would prove,  
that some time before he arrived at the cottage, the report of a gun or pistol  
was heard in Gill's-hill-lane, not far from the cottage; he would prove, that his  
clothes were in a bloody state; and that when he was apprehended, even on  
the Wednesday after the murder, he had not been able to efface all the marks  
from his apparel. Besides all this, they would find, that in his pocket, when  
apprehended, there was a penknife which was positively sworn to as having  
belonged to Mr. Wear, and also the fellow-pistol of that which was found  
lying the place where the murder was committed,—the pair having been  
purchased in Mary-le-bone-street by Hunt. These circumstances brought the  
case clearly home to Thurtell. Next as to Hunt. He was charged as an accom-  
plice before the fact. It was evident that he advised this proceeding. For  
what purpose, but to advise, did he proceed to the cottage? He was a stranger  
to Probert, and her family; he was not expected at the cottage. These



Representation of the COURT-HOUSE, drawn during the Trial.





was not for him, as there was for Thurtell, an apology for his visit. He hired a gig, and he procured a sack—the jury knew to what end and purpose. They would also bear in mind, that the gun, travelling-bag, and backgammon-board, were found in his lodging. These constituted a part of the plunder of Mr. Weare, and could only be possessed by a person participating in this crime. Besides, there was placed about the neck of Probert's wife, a chain, which had belonged to Mr. Weare, and round the neck of the murdered man there was found a shawl, which belonged to Thurtell, but which had been seen in the hands of Hunt. In giving this summary of the case, he had not stated every circumstance connected with it. His great anxiety was, not to state that which he did not firmly believe would be borne out by evidence. One circumstance he had omitted, which he felt it necessary to lay before the jury. It was, that a watch was seen in the possession of Thurtell, which he would show belonged to Mr. Weare. After Thurtell was apprehended, and Hunt had said something on the subject of this transaction, an officer asked Thurtell what he had done with the watch? He answered that, "when he was taken into custody, he put his hand behind him, and chucked it away." Thurtell also made another disclosure. He said, when questioned, "that other persons, near the spot, were concerned in it, whom he forbore to mention." As to Thurtell, the evidence would, he believed, clearly prove him to have been the perpetrator of the murder; and with respect to Hunt, it was equally clear that he was an accessory before the fact. If, however, the jury felt any conscientious doubt, the prisoner ought certainly to receive the benefit of it; but where a case was clearly and satisfactorily made out, they would perform fearlessly that duty which they owed to heaven, and to the due administration of justice.

Thurtell, who had been most attentive during Mr. Gurney's speech, looked steadfastly at the door through which the witnesses were to enter. He had some short communication with Mr. Andrews, his counsel; and soon after, Mr. Justice Park having withdrawn for a few moments, he ate a thin sandwich, which the governor of the prison, Mr. Wilson, had provided. Both prisoners conducted themselves with firmness, nor was there the slightest change of manner in the deportment of Thurtell, even in those parts of the statement which detailed those horrible facts in which he was the presumed agent.

[Our readers will find our annexed Plate a correct representation of the court during these interesting proceedings; it was drawn on the spot expressly for this edition.]

## EVIDENCE FOR THE PROSECUTION

John Beeson, examined by Mr. Bolland; I live in the parish of Aldenham; I went in search of a body with Ruthven and Upson, two Bow-street officers, the prisoner Hunt was with us; we went to Aldenham and found the body in a brook called Hill-slough, near Elstree; Hunt pointed it out; the body was concealed in a sack; the head was downwards in the sack; there was a rope fastened round the sack; the length of the rope was two or three yards; there was a stone tied to the end; I was not present when the sack was opened: it was carried to the Artichoke public-house, at Elstree; the pond was a quarter of a mile from Elstree; it was to the right hand side of the road coming from Elstree towards Radlett; I am acquainted with the roads about Gill's-hill. There is a road branching off towards Watford, with a finger-post direction pointing that way. Pursuing that road, you pass a cottage, where a person named Hunt lives; the road divides, one leading to Radlett, and the other to Mr. Probert's cottage at Gill's-hill. A man ignorant of the road might mistake his way. He might, however, return again on the road to Probert's cottage, though he went by mistake to High Cross. It would be a circuitous passage. Even if a person went to Radlett, he might turn to the right and get to Probert's cottage. The roads are very bad and very narrow. If a person met any thing in his way while driving, he must back out. Travelling on from Radlett, he might get by Medbourne to Gill's-hill. A man not knowing the road might mistake. These roads are hilly, and a person, ordinarily speaking, must drive slowly.



Cross-examined by Mr. Thessiger, for Hunt. It was on Thursday the 30th of October, four persons, with the coachman, went to find the body; the place where it was found was two miles from Gill's-hill. They searched in a body, he meant all together. They searched nearly for five minutes. It was about two minutes after the place had been pointed out. The body was found nearly in the centre of the pond. It was possible for any person to place the body in the pond without walking in. Two men might have swung the body in. One man could not have done it. The weather was wet, and the pond was consequently full. None of those who found the body went into the water because they had a ladder. I saw Mr. Hunt point out that pond as the place where the body was. The pond altogether was as large as the table of the court. There was a short piece of the rope round the sack loose. The rope was twisted round the sack in a careless manner. The handkerchief was outside of the sack, and the stones were concealed in it.

Robert Field sworn, and examined by Mr. Broderick. I keep the Artichoke public-house in Elstree; I remember a dead body being brought to my house on a Thursday. I saw the body drawn out of the pond; it was covered with a sack, and that was fastened by cords. The rope was bound round the neck, the middle, and the feet, with a handkerchief tied to the end, full of stones; there were two or three yards of the rope superabundant. That body was afterwards shown to Mr. Rexworthy, and he said it was the body of William Weare.

John Upson, examined by Mr. Gurney. I am an officer of Bow-street; I was present at the examination of the prisoners at Watford; it was on a Wednesday or Thursday; I had a conversation with Thurtell after the body was found; I went in search of the body. I went to the place where it was found, by the direction of Hunt. We went first to one spot, and Hunt said "that is not the place." We then went to another. We had a pole, and tried without success. A man passed with a ladder, and Beeson went on the ladder to drag. Hunt pointed with his finger and said the body was further out. The body was found, and taken on the ladder to the Artichoke. I was not present when the body was examined.

William Rexworthy, examined by Mr. Bolland:—I keep a billiard-room, at Spring-gardens, and knew the deceased (Mr. Weare) very well.

I saw the body at the Artichoke, at Elstree; it was the body of Mr. Weare. There was a mark of the muzzle of a pistol on the left side of the head, as if it had been driven several times against it.

Cross-examined by Mr. Andrews. Mr. Rexworthy, could you, in the state in which the body was, say positively that it was the body of Mr. Weare? I knew him as perfectly as if he were living; and I had known him for fourteen years.

Did you see any blood on the body? I did not.

Now was it in a state to enable you to speak with certainty? I could speak with certainty that it was the body of Mr. Weare.

Did you ever express yourself with any doubt as to its being the body of Mr. Weare? I have no doubt at all; I have not the least doubt about it.

I do not say what your present opinion is; but did you never express yourself with doubt? I did not.

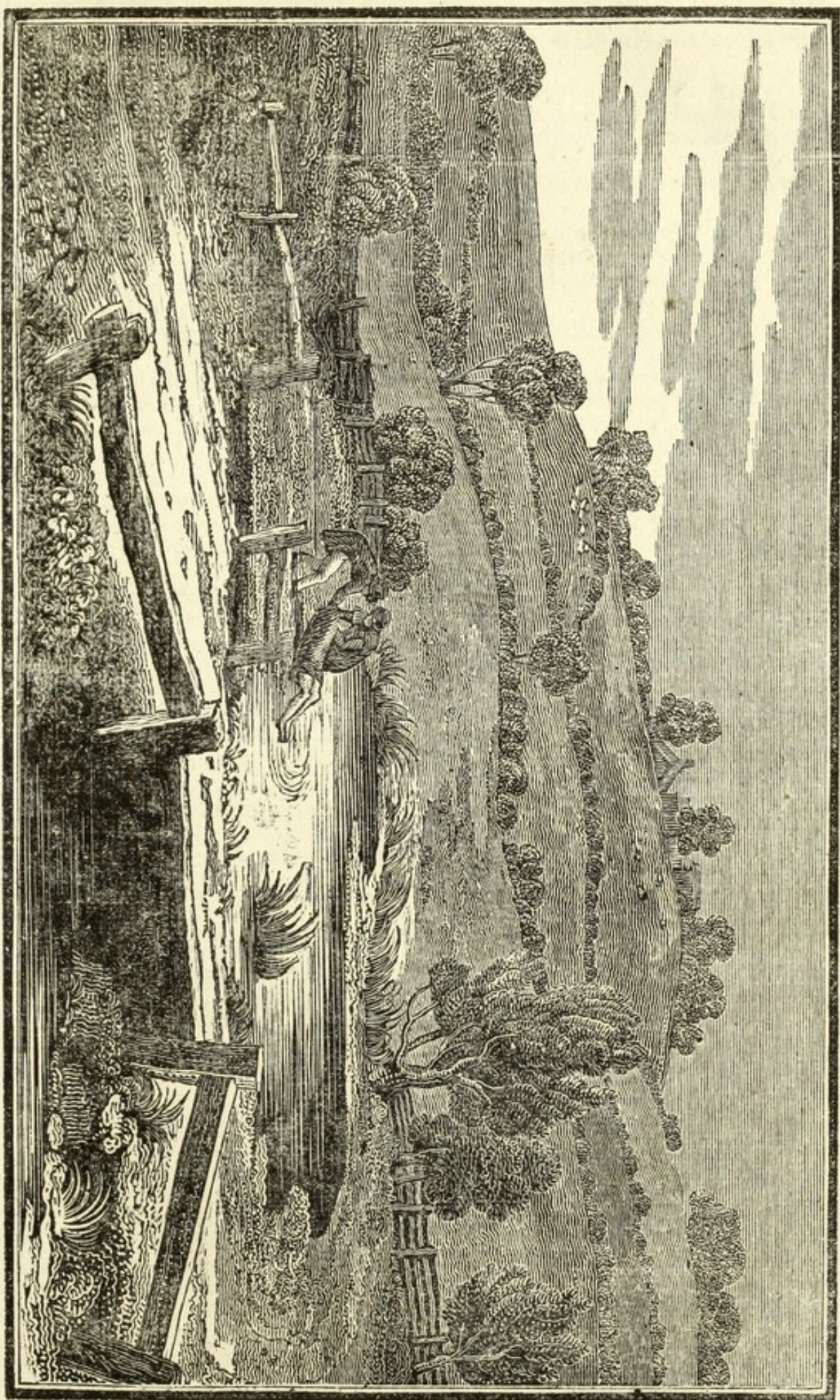
You were always as confident as you are now? I was.

Richard Weare was then called in. (He had an air of grief and extreme dejection.) Examined by Mr. Bolland. I had a brother named William. He had no other Christian name but William. I saw a corpse at the Artichoke at Elstree, on a Friday; the day Mr. Rexworthy saw it. It was my brother's body. (Witness spoke in an agitated tone.)

Thomas Abel Ward, examined by Mr. Broderick. I am a surgeon at Watford, and examined a dead body lying at the Artichoke, near Elstree, on the day of the inquest. I examined the head. It had several marks of violence about the left temple, apparently occasioned by some round blunt instrument;



THE POND AT ELSTREE, in which the Body was found.





occasionally, I mean, by the forcing a pistol, for instance, into the head. The marks corresponded with the muzzle of a pistol which was produced before By the court. They corresponded with a pistol which was produced before the Coroner.

By Mr. Broderick. The wounds had penetrated the scalp; next to them was a fracture on the skull, several portions of the bone being broken off and driven into the substance of the brain. It violently forced into the head, that pistol would produce those appearances. By the court. I mean that it would do so, by such forcing, without its being fired off.

By Mr. Broderick. The wounds round the fracture of the skull corresponded with the muzzle of the pistol produced. The wounds in question would occasion death very quickly. I observed a mark on the right cheek, like that of a gun-shot.

By the court. By gunshot I mean the shot or ball of a pistol. By Mr. Broderick. I did not find the wound any further than under the neck the instrument of the wound. There was a wound which alone would not I should think occasion death. There were three wounds altogether. Two of them were on the neck, one on the left side of the neck. Of these, one was immediately under the ear, and one somewhat further back. A knife would have effected them. The former was on the left side was divided.

Cross-examined by Mr. Platt. On the left side of the head, you saw a wound and fracture, which must have been caused by a blunt instrument? Yes.

The instrument, by which that was produced, must have driven itself through the skull? Yes.

It the instrument had not been driven by force into the skull, the mark of the instrument must have been apparent on the surface? Yes.

What was the position of the wound? The fracture was above the temple, just above the anterior angle of the bone of the skull; the marks where there were not fractures were above that, there were several of them.

Now is it possible that an instrument with a larger end than that pistol that was produced, could have been introduced into the fracture? Yes.

And produced the same result? The same result as far as the fracture goes, could have been produced by a larger instrument; the marks which I have said were above the fracture could not have been produced except by such an instrument as the pistol; they corresponded to the end of the muzzle.

Was the skin forced into the wound? The skin was not forced into the wound, though it was depressed by the blow that occasioned the fracture; that is to say, it was wounded, but not detached.

What was the size of the wound? The orifice of the fracture was an inch and an eighth of a quarter in length, and 7-8ths of an inch in width. I can show how it was by drawing it.

Mr. Justice Park. Then do, sir.

Mr. Ward then drew on a sheet of paper a representation of the wound, and produced from a small box the pieces of the skull which had been forced into the wound, and which he had extracted and preserved. The drawing and the pieces of bone were handed to the Bench, and then to the Jury. The bones were returned to Mr. Ward, but he left the drawing.

Does this (the drawing) describe the external appearance of the wound? Mr. Justice Park. Mr. Ward has made it plain; this is the fracture of the skull. You mean the fracture, Mr. Ward, and not the wound, do you not?

Yes, my Lord.

Mr. Platt continued his cross-examination.

Then the fleshy orifice was not cut out? The external skin was broken but not detached; it was a contused wound.

What was the size of the orifice of this contused wound? I really do not understand you. There was no interval; I could have brought up the integuments, and closed them entirely, for no part had been detached.



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By the court. By gun-shot I mean the shot or ball of a pistol.

By Mr. Broderick. I did not trace the external wound further than underneath the integuments of the scalp. That was a wound which alone would not, I should think, occasion death. There was a lacerated wound on each side of the neck. There were three incised wounds altogether. Two of them were on the right, and one on the left side of the neck. Of these, one was immediately under the ear, and one somewhat further back. A knife would have effected them. The jugular vein on the left side was divided.

Cross-examined by Mr. Platt. On the left side of the head, you saw a wound and fracture, which must have been effected by a blunt instrument? Yes.

The instrument, by which this was produced, must have driven itself through the skull? Yes.

If the instrument had not been driven by force into the skull, the mark of the instrument must have been more apparent on the surface? Yes.

What was the position of the wound? The fracture was above the temple, just above the anterior angle of the bone of the skull: the marks where there were not fractures were above that: there were several of them.

Now is it possible that an instrument with a larger end than that pistol that was produced, could have been introduced into the fracture? Yes.

And produced the same result? The same result, as far as the fracture goes, could have been produced by a larger instrument; the marks which I have said were above the fracture could not have been produced except by such an instrument as the pistol; they corresponded to the end of the muzzle.

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Then the fleshy orifice was not cut out? The external skin was broken, but not detached; it was a contused wound.

What was the size of the orifice of this contused wound? I really do not understand you. There was no interval; I could have brought up the integuments, and closed them entirely, for no part had been detached.



But before it was so stretched? There was no stretching; the integuments which covered the skull, a solid substance, had been bruised when forced upon that solid substance which had been broken beneath it by the violence of the blow. The integuments of the skull were not torn away, but were rent in halves, as it were.

Would that drawing you have made denote the size of the aperture if it had been drawn out? It would have been of considerable size. I could have put my finger into it.

Mr. Justice Park. Mr. Platt, I think the case is very clear. The skull was fractured; the bone produced to us was driven into the brain, and the skin or scalp was rent. I think, Mr. Ward, you have given your evidence very clearly.

Mr. Platt. Was the rent of the integuments made in that kind of way, that a larger instrument could have been forced through? Certainly.

The jugular vein was divided, which, if not stopped, would produce death, was it not? Yes.

Was any artery divided? No.

You could have judged that great hemorrhage had taken place? No.

Was there an appearance as if the wound that divided the jugular vein had been inflicted on the living person? There was every appearance as if it had, and nothing to show that it had not been inflicted on the living person.

Could you say, on your oath, that that wound could have been inflicted after death? I think it possible.

Have you not the means of judging whether a wound that appears on a dead body has been inflicted during life or after death? Not after a body has been soaked in water three or four days; the indicia are not such that I would trust them in such a case.

Then the body must have been altered by lying in the water? Yes.

Are not the features more altered in persons dying of hemorrhage, so as to make it more difficult to recognise them? Yes, when the hemorrhage is protracted.

Is the hemorrhage from the jugular vein protracted? The bleeding, in the case of a wound of the jugular vein, is uncertain; sometimes it is protracted, sometimes not.

In this case the jugular vein was divided? Not entirely divided; but the wound was very considerable.

Suppose an individual had been bled to death, and laid for a week in a pond, would it not in such a case have been more difficult for persons to ascertain who that individual was? It would; but I conceive, from the appearance of the body I saw at Elstree, that if I had known the person in his life-time, I should have recognised him then.

Re-examined by Mr. Broderick. What, in your opinion, was the cause of death? The injury to the brain by the pistol.

Mr. Ruthven, the officer, called. He brought into the court with him a large bag of carpeting full of various articles, a hat in a handkerchief, and a dressing case. Sworn, and examined by Mr. Bolland. I am an officer of Bow-street; I apprehended the prisoner, John Thurtell, the Wednesday after the Friday of the supposed murder (the 29th Oct.), at Tetsall's, the sign of the Coach-and-Horses, in Conduit-street, Bond-street, London. I found in his coat pocket a pistol, not loaded. I found a pistol key and a knife in his waistcoat pocket, and a key which belonged to an air gun. I found a muslin handkerchief in a drawer close to the bed side: it appeared to be marked with blood; the marks were just the same then as they are now. In a drawer I found a shirt, stained with blood in each corner of the collar where they project above the neckcloth. I found a black kerseymere waistcoat, with marks of blood on each pocket. I found this on his bed. I found also a black coat, with marks of blood on both cuffs, and a mark on the left shoulder; I found this coat on his bed; I found a hat [produced]; there is a mark of blood now; there was one small mark on another part. I arrested Hunt



at his lodgings, 19, King-street, Golden-square, the same day (Oct. 29). I took no articles out of his lodgings on the Wednesday. On the Thursday night I went again to his lodgings, and found a dressing box and a double-barrelled gun, with the name of the maker, Manton [the gun was produced]. Under the bed I found this sponge [a large sponge was produced]. I found a carpet bag [produced]; it was empty. I found a shooting jacket, a pair of drab breeches, a pair of gaiters or leggings, one pair of half and one pair of Hessian boots, a cord, two waistcoats, two coloured handkerchiefs, three shirts (two of the shirts were marked—one of them W. W., No. 1., the other W.); one neckcloth, one collar, nightcap, clothes-bag, powder-flask, clothes-brush, turnscrew, bullet-mould, and a comb. I have had all these things in my possession ever since.

Cross-examined by Mr. Chitty. The door of Thurtell's room was open; at least it was not fastened.

Any person could have come into the room? Yes.

The drawers in which you found the things were not locked? No.

So that any maid-servant or person about the house might have seen them? A. The things were tied up.

There were many people in the house; were there not? I do not know; it was a public house. There was another person in the same room when I apprehended Thurtell; Thurtell was in bed; the person was sleeping in another bed; Thurtell made no resistance.

In answer to Mr. Thessiger. I did not search Hunt's room on the Wednesday, when I apprehended him; I did not obtain these things by getting a letter to his wife; his wife was not at home; I broke the door open.

Henry Simmons, sworn. Examined by Mr. Broderick. I am the constable of Watford. [He produced a pocket pistol.] It was given me by Mr. Nicholls of Battler's Green. It was stained as it is now, with the pan down. Besides the blood, there was hair upon it: there is now. There was a piece of tow in the muzzle, as there is now. I have a small knife. [He produced it.] He had it from Mr. Nicholls. I have a red shawl handkerchief. [He produced it.] I received it from Dr. Pidcock, the younger, on the 31st of October. I have a gold curb watch chain. [He produced it in a box.] I received it from Mrs. Probert, on the 15th of Nov., in the evening. I received a sack from Robert Field, landlord of the Artichoke. [Produces it.] On the 24th of November, I received another from William Bulmer; a piece of a shirt I have, I received from Mr. Thos. Bates; I received these various articles in the presence of the magistrates, and have kept them ever since.

The various articles mentioned by this witness were handed by him to the officer. The greatest anxiety was shown by the learned Judge, that the hair and blood on the fatal pistol should not be disturbed before they were shown to the jury. I received also, on the 30th of November, a part of a coat and a handkerchief from George Jones.

### PROBERT'S EXAMINATION.

Probert was the next witness called. The mention of his name created a great sensation. He was brought through the dock, and passed the prisoners. Thurtell scarcely looked at him; but to Hunt he was an object of greater attention. He eyed him with earnestness, and during the first part of his examination stood up in the dock.

Mr. Gurney addressed him and said—"Now, Probert, mind and tell me all you know."—Probert then deposed as follows:—

I occupied a cottage in Gill's-hill-lane six months before October last; my family consisted of Mrs. Probert, her two sisters (Misses Noyes), part of the summer a servant maid and a boy; in the month of October, only one Miss Noyes lived with us. In October also I had some children of Thomas Thurtell's, two—none of my own. T. Thurtell is a brother of the prisoner's. I have been for some time past acquainted with the prisoner, John Thurtell; he had been down to my cottage often, sporting with me; he knew the road to my



cottage, and all the roads thereabouts, well. Gill's-hill-lane, in which my cottage was, was out of the high road to St. Alban's, at Radlett; my cottage was about a quarter of a mile from the high road. My regular way to my cottage would be to go along the high road through Radlett; there was a nearer way, but that was my usual way. My cottage was fourteen miles and a quarter from Tyburn turnpike. In the latter end of October, the week in which this happened, the prisoner, John Thurtell, lodged at Tetsall's, the Coach and Horses, in Conduit-street; Thomas Thurtell lodged there also. They were there every day that week. On Friday the 24th, I dined at Tetsall's with John Thurtell and Hunt; Thomas Thurtell and Noyes were there also. After dinner, Thurtell said something to me about money. Four days previous to the 24th, I borrowed 10*l.* from John Thurtell; he then said, you must let me have it back on the Thursday or Friday; on the Thursday I saw him at Mr. Tetsall's, and he asked me if I had got the 10*l.*; I told him I had not; I had not collected any money. He said, I told you I should want it to day or to-morrow, else it will be 300*l.* out of my pocket; but if you will let me have it to-morrow, it will answer the same purpose. On the next day (Friday) I paid him 5*l.* I borrowed 5*l.* of Mr. Tetsall; that was after dinner. He then said, I think I shall go down to your cottage to-night; are you going down? and asked me if I could drive Hunt down. I said "yes." He said, I expect a friend to meet me this evening a little after five, and if he comes I shall go down. If I have an opportunity I mean to do him, for he is a man that has robbed me of several hundreds. He added, I have told Hunt where to stop. I shall want him about a mile and a half beyond Elstree. If I should not go down, give Hunt a pound—which I did. Hunt had just come in, and Thurtell said, "There, Joe, there's a pound; if Probert don't come, hire a horse, you know where to stop for me." I do not know that Hunt made any answer; I gave him twenty shillings in silver; Thurtell left the Coach and Horses almost immediately, in a horse and chaise; it was a grey horse; I believe Hunt brought the horse and chaise; Thurtell left a little after five. I afterwards set off to go in my own gig; I took Hunt with me. When I came to the middle of Oxford-street, Hunt got out of the gig to purchase a loin of pork, by my request, for supper. When we came to the top of Oxford-street, Hunt said, "This is the place Jack is to take up his friend at." In our way down we overtook Thurtell, about four miles from London. Hunt said to me, "There they are; drive by, and take no notice." He added, "It's all right; Jack has got him." There were two persons in the gig—Thurtell and another; I passed them and said nothing. I stopped at a public-house called the Bald-faced Stag, about seven miles from London, two miles short of Edgware. It was then, perhaps, a quarter to seven. When Hunt said "It's all right," I asked him what was his name? Hunt replied, "You are not to know his name; you never saw him; you know nothing of him." I got out at the Bald-faced Stag; I supplied the house with spirits. Hunt walked on, and said, "I'll not go in, because I have not returned the horse-cloths I borrowed." I stopped about twenty minutes; I then drove on, and overtook Hunt about a quarter of a mile from Edgware. I took him up, and we drove to Mr. Clarke's, at Edgware. We had a glass of brandy and water. I should think we did not stop ten minutes; we went into the bar. We stopped a little further in Edgware; and bought half a bushel of corn; I was out of corn at home; I put it in the gig. Hunt then said, "I wonder where Thurtell is; he can't have passed us." We then drove on to the Artichoke, kept by Mr. Field. We got there within about 8 minutes of 8. Neither I nor Hunt got out. We had 4 or 5 glasses of brandy and water, waiting for the express purpose of Thurtell coming up; we thought we heard a horse and chaise, and started; I think we stopped more than three quarters of an hour at Elstree. We went about a mile and a half, to Mr. Phillimore's Lodge, to wait for Thurtell. Hunt said, I shall wait here for John Thurtell, and he got out on the road. I drove on through Radlett, towards my own cottage; when I came near my own cottage, within about a hundred yards, I met John Thurtell; he was on foot; he says "Hallo! where's Hunt?" I said I had left him waiting near Phillimore's Lodge for him; John Thurtell said to that, "Oh, I don't want him now, for I have done the trick;" he said he had killed his friend that he had brought down with him; he had ridded the country of a villain, who had robbed him of three or four hundred pounds? I said, "Good God! I hope you have not killed the man?" and he said "It's of no consequence to you, you don't know







THE SCENE OF THE MURDER, with the Gig in the Lane.





him, nor you never saw him; do you go back and fetch Hunt, you know best where you left him!" I returned to the place where I left Hunt, and found him near the spot where I left him. Thurtell did not go. I said to Hunt, when I took him up, "John Thurtell is at my house—he has killed his friend;" and Hunt said, "thank God, I am out of it; I am glad he has done it without me; I can't think where the devil he could pass; I never saw him pass anywhere, but I'm glad I'm out of it." He said, "This is the place we was to have done it," (meaning near Phillimore's lodge); I asked him who the man was, and he said "You don't know him, and I shall not tell you;" he said it was a man that had robbed Jack of several hundred pounds, and they meant to have it back again; by that time I had reached my own house; John Thurtell stood at the gate; we drove into the yard; Hunt says, "Thurtell, where could you pass me?" Thurtell replied, "It don't matter where I passed you, I've done the trick—I have done it;" Thurtell said, what the devil did you let Probert stop drinking at his c—d public houses for, when you knew what was to be done?" Hunt said, "I made sure you were behind or else we should not have stopped;" I then took the loin of pork into the kitchen and gave it to the servant to cook for supper. I then went into the parlour and introduced Hunt to Mrs. Probert; he had never been there before. Thurtell followed immediately; we had stopped in the yard a little time before we went in. I returned to the parlour and told Mrs. Probert we were going to Mr. Nicholson's to get leave for a day's shooting; before we went out Thurtell took a sack and a cord with him. We then went down the lane, I carried the lantern; as we went along Thurtell said, "I began to think, Hunt, you would not come." Hunt said, "We made sure you were behind." I walked foremost; Thurtell said, "Probert, he is just beyond the second turning." When he came to the second turning he said, "It's a little further on." He at length said, "This is the place." We then looked about for a pistol and knife, but could not find either; we got over the hedge and there found the body lying; the head was bound up in a shawl, I think a red one [here the shawl already produced, was shown to witness]; I can't say that is the shawl. Thurtell searched the deceased's pockets, and found a pocket-book containing three five pound notes, a memorandum book, and some silver. John Thurtell said, "This is all he has got, I took the watch and purse when I killed him." The body was then put into a sack, head foremost; the sack came to the knees, and was tied with a cord; it was the sack John Thurtell had taken out of the gig; we then left the body there and went towards home. Thurtell said, "When I first shot him he jumped out of the gig and ran like the devil, singing out that 'he would deliver all he had if I'd only spare his life.'"

Mr. Justice Park. Do you know if John Thurtell has been in the sea service?

Witness. I don't know, I think I have heard him say so.

Mr. Justice Park. We know that singing out means crying out.

Witness proceeded. John Thurtell said, "I jumped out of the gig and ran after him; I got him down, and began to cut his throat, as I thought, close to the jugular vein, but I could not stop his singing out; I then jammed the pistol into his head, I gave it a turn round, and then I knew I had done him." He then said to Hunt, "Joe, you ought to have been with me, for I thought at one time he would have got the better of me. These d—d pistols are like spits, they are of no use." Hunt said, "I should have thought one of those pistols would have killed him dead, but you had plenty of tools with you;" we then returned to the house and supped. In the course of the evening, after supper, John Thurtell produced a handsome gold watch; I think double cased; it had a gold chain.

Mr. Justice Park. Was the chain attached to it?

Probert. It was, my Lord. He took off the chain and offered to make Mrs. Probert a present of it, saying it was more fit for a lady than a gentleman. Mrs. Probert refused for some time, but at length accepted of it. He put the watch and seal in his pocket; we had no spare bed that night; I asked when they would go to bed. I said my sister would sleep with Thomas Thurtell's children, and that they could have her bed. They answered they would sleep on the sofa. Hunt sang two or three songs after supper; he is a professional singer. Mrs. Probert and Miss Noyes went to bed between twelve and one. When they were gone, John Thurtell took out a pocket-book, a purse, and a memorandum-book; the purse contained sovereigns; I can't say how many.



He took 15*l.* in notes from the pocket-book, and gave Hunt and myself a 5*l.* note and a sovereign each, saying—"that's your share of the blunt." There were several papers in the books; they and the purse and books were burnt; a carpet bag was opened. Thurtell said it had belonged to the man he had murdered; it contained wearing apparel and shooting materials; they were examined and put in again; I think two or three silk handkerchiefs were left out; there was also a backgammon-board, containing dice and cards; I also saw a double-barrelled gun; it was taken out of a case and looked at; all the things were taken away next day in a gig, by Thurtell and Hunt. After this, Thurtell said, "I mean to have Barber Beaumont and Woods;" Barber Beaumont is a director of a fire office with which John Thurtell had some dispute; Woods is a young man in London who keeps company with Miss Noyes. It was a general conversation, and I cannot recollect the particulars; he might have mentioned other names, but I can't recollect them. Thurtell said to Hunt, "We must now go out and fetch the body, and put it in the pond." I said, "By G—d, you shan't put it in the pond, you'll be my ruin else." There is a pond in my ground. Thurtell said, "Had it not been for the mistake of Hunt I should have killed him in the other lane, and returned to town and inquired of his friends why he had not come." First, only Thurtell and Hunt went out; when they came back, Hunt said, "Probert, he is too heavy, we can't carry him; we have only brought him a little way." Thurtell said, "Will you go with us? I'll put the bridle on my horse and fetch him." I went out to the stable with him, and left Hunt waiting near the gate. Thurtell's horse was brought out, and Thurtell and I went down and brought the body on the horse; Hunt did not go with us. We took the body to Mr. Wardle's field, near my gate. Hunt took the horse back to the stable, and came back to the garden, and we dragged the body down the garden to the pond; we put some stones in the sack, and threw the body into the pond. The man's feet were perhaps half a foot above the water; John Thurtell got a cord, threw it round the feet, and gave me the other end, and I dragged it into the centre of the pond, and it sunk. We all three returned to the cottage, and I went to bed almost immediately. I found my wife up; next morning, I came down about nine o'clock, Thurtell said, in presence of Hunt, that they had been down the lane, to look for the pistol and knife, but neither could be found. They asked me to go down the lane and seek them, in the course of the day; which I promised to do. When I went down the lane, I saw a man at work near the spot, so I took no notice. That morning they went away after breakfast. On Sunday they came down again; and Thomas Thurtell and Mr. Noyes came also. Thomas Thurtell and Hunt came in a gig. Hunt brought a new spade with him. He said it was to dig a grave for the deceased that he brought it. Hunt returned with the gig after setting down Thomas Thurtell, and brought John Thurtell and Noyes in the chaise. Hunt was very dirtily dressed when he came down, and went up stairs to change. When he came down, he was well dressed—in almost new clothes. Hunt said the clothes belonged to the deceased; he told me he had thrown a new spade over the hedge into my garden; I saw it afterwards; it was a new spade. John Thurtell and I walked to the pond. He asked me if the body had risen? I said, no; and he said it would lay there for a month. In the afternoon Hewart called, and I went with him to Mr. Nicholls's. On my return, I told Thurtell and Hunt that Mr. Nicholls had told me that some one had fired a pistol or gun off in Gill's-hill-lane on Friday night, and that there were cries of murder, as though some one had been killed. He said it was about eight o'clock, and added, "I suppose it was done by some of your friends to frighten each other." John Thurtell said, "then I am booked." I said, "I am afraid it's a bad job, as Mr. Nicholls seems to know all about it; I am very sorry it ever happened here, as I fear it will be my ruin." Thurtell said, "never mind, Probert, they can do nothing with you." I said the body must be immediately taken out of my pond again. Thurtell said, "I'll tell you what I'll do, Probert; after you are all gone to bed, Joe and I will take the body up and bury it." Hunt was present at this. I told them that would be as bad, if they buried it in the garden. John Thurtell said, "I'll bury him where you nor no one else can find him." As John Thurtell was going into the parlour, Hunt said, "Probert, they can do nothing with you or me, even if they do find it out, as we were neither of us at the murder." Thurtell and Hunt sat up all that night; I, Noyes, and Thomas Thurtell, went to bed. Thomas Thur-



tell slept with his children. In the morning, John Thurtell and Hunt said they went to dig a grave, but the dogs were barking all night, and they thought some one was about the ground. J. Thurtell said, "Joe and I will come down to-night and take him quite away, and that will be better for you altogether." Thomas Thurtell and Hunt, and my boy, Addis, went away in one chaise after breakfast, and John Thurtell, T. Noyes, and Miss Noyes in another. The boy was sent to town to be out of the way. That evening J. Thurtell and Hunt came again in a gig about nine; they took supper; after supper, J. Thurtell and I went to the stable, leaving Hunt talking to Mrs. Probert. Thurtell said, "Come, let's get the body up; while Hunt is talking to Mrs. Probert, she will not suspect." We went to the pond, and got the body up; we took it out of the sack, and cut the clothes all off it. We left the body naked on the grass, and returned to the parlour; we then went to the stables, and John Thurtell went to his gig, and took out a new sack and some cord; we all three returned to the pond, and put the body head-foremost into the sack; we all three carried it to the lower garden gate; we left Hunt waiting with the body, while Thurtell and I went round the pond. I carried the bundle of clothes, and threw it into the gig; we then put the horse to, and Thurtell said, "we had better leave the clothes here, Probert, there is not room for them. The clothes were left, and the body was put into the gig. I refused to assist them in settling the body in the gig. They went away. I, next morning, burnt some of the clothes, and threw the rest away in different places. I was taken into custody on the Tuesday evening after they went away.

Cross-examined by Mr. Andrews. I do not know who apprehended me. When I was taken, I did not express any desire to become witness; I cannot say when I first expressed a desire to become a witness. It was after Hunt had made a confession. I can't say whether I was asked to become a witness before or after Hunt's confession. I heard that Hunt had made a confession, but I don't recollect from whom. The first I heard of my becoming a witness was when I was taken before the Grand Jury by Mr. Williams, to the best of my recollection. Before that, I expected that we were all to be tried; I did not know what was to become of us; I did not know what was to be done to me. I took no pains to become a witness before being taken before the Grand Jury; I have never seen Mrs. Probert since I left my own house when I was arrested; I don't know of my own knowledge that Mrs. Probert is now here; I was told so by Mr. Williams, my solicitor; I have had no other solicitor in this transaction.

Has not a Mr. Noel been your solicitor? I am sorry to say that he has.

How long did he act in that capacity? For a few months, in the year 1819.

Has he not acted as your solicitor since that period? Not that I recollect.

Had you no communication with him in 1823? Not that I recollect, but I cannot swear that I have not.

You say you heard that some injury was intended to certain persons, and yet you gave no alarm? I did hear that at my cottage, but I did not believe it.

You must have believed it when you heard of the murder; and, when you saw the dead body brought to your house, did not you give any alarm then? I did not.

You received the parties into your house after the transaction? I did.

You supped with them and breakfasted with them in company with your wife on the following morning? I did.

Were you sober then? I was.

And yet you did not spurn them, and kick them from your house? I did not.

Did you tell Mrs. Probert what had happened? I did not.

Did not Mrs. Probert appear disturbed at what was going on? She did.

Did she not ask you any questions as to what was passing? She did.

Did you not tell her? I am not certain.

By the virtue of your oath, Sir, did you not tell her what occurred on Friday night? I can't swear positively, but I might have told her something.

Did not Mrs. Probert express uneasiness on the Saturday? She did.

Did she not inquire who Hunt was? No; she had heard of him often, though she had not seen him.

At what time did you come down on Saturday morning? Between eight and nine.

Will you swear, upon your oath, that you did not come down at six o'clock on that morning? Certainly, I can swear that I did not.

Will you swear it was after eight when you came down? I will not; but, to the best of my recollection, it was between eight and nine.

What did you do when you came down? I went to the stable, or perhaps into the garden.

Did you go down the lane? I did not.



What sort of hat did you wear on that occasion? I think a black hat, such as I generally wear.

Did you not wear a white hat? I can't say. I have two or three hats, and I sometimes wear a white one when at home.

Did you see your wife receive a gold chain from J. Thurtell? I did.

Did she wear it on the Saturday? I did not see her wear it on the Saturday.

Did she, when she received it, put it on herself, or did Thurtell put it on? I can't state that, but I think she put it on herself; I saw Thurtell rise when he presented it to her.

Did Mrs. Probert express any uneasiness on the Sunday? I think she did.

When Thurtell produced the sack and cord on Friday night, where was the boy? I think in the kitchen.

Where was the sack before Thurtell produced it? I don't know; I never saw it before.

Will you swear you had not seen it before J. Thurtell said, "I'll go and fetch the cord and sack?" I will.

Did not the boy tell you where it was? No.

Who was in the stable when the horse was taken out to fetch the body? I don't recollect.

Where was the boy then? I think in bed; he slept in the room over mine.

Were you ever in difficulties before this? I have.

Were you ever in such a scrape as this before? Never.

Had you never a charge of felony preferred against you before this? I had.

Where was that? In the King's Bench prison.

What was the nature of that charge? I was accused of taking some silver from the till of the man who kept the coffee-house, and who owed me 100l. at the time.

What was the consequence of that charge? I was sent for six months to the house of correction.

Was that the only charge of felony ever made against you? Yes; the only one.

Were you never in Hereford? Yes; I was born there.

Were you never charged with sheep-stealing there? Never.

Well, perhaps it was lamb-stealing? No, I was never charged with either.

Come, Sir, you know what I mean by charged; were you never accused of such a crime there? Never.

Then the accusation is quite new to you? It is.

Then what was the charge against you? I had bought some skins, which were afterwards owned.

Oh, then you were accused as a receiver of stolen goods? I was not.

Were you not taken before a magistrate? No.

Were the goods not taken away? They were not.

I understand you have passed much of your time in prison? I have been in the King's Bench prison, and in the Rules, between two and three years.

Mr. Justice Park. Were you imprisoned in the King's Bench on civil suits? Yes, my Lord.

Mr. Andrews. Well; you have been in the House of Correction and in the King's Bench prison; are these all? Yes.

Do you know Mr. Framstone? I do.

Now, sir, having given you that name, I ask you, on your oath, were you not committed by that gentleman for refusing to answer certain questions before the commissioners of bankrupts? Yes; I was committed to the King's Bench prison.

Mr. Justice Park. I thought you were going to establish a new imprisonment: he has already told us he has been in the King's Bench prison.

In answer to other questions, he said, I never was a bankrupt but once. My debts then amounted to 14,000l. No dividend has been paid under it. Money has been received, but I cannot help it if they spend it. I was brought up before the commissioners six or seven times, and at the last time I was discharged. I have not been living at Gill's-hill cottage ever since; I have lived in the Strand, near Charing-cross, where I have carried on business with my brother-in-law. We have no partnership. I never saw Thurtell's horse before that night. It was a dark gray horse. It was in my stable two nights. I had an opportunity then of seeing and knowing it. I am almost sure that Hunt had a black hat on the Friday night. I have no doubt of this in my own mind. I was often told by Thurtell that Mr. Woods and Mr. B. Beaumont were marked out for destruction; he told me this at the Cock, in the Haymarket. I never thought it necessary to remonstrate with Thurtell, for I thought he would not do it. I was obliged to introduce Hunt to Mrs. Probert. When Thurtell brought him to my house, Thurtell was making love to Mrs. Probert's sister; but as it was never likely to come to any thing, I did not think it necessary to interfere. I never mentioned his threats either to



Mr. Woods or Mr. B. Beaumont; for John Thurtell was in the habit of talking upon such subjects, and I thought it was only his idle bravado. Even after the Friday, I did not think it necessary to say any thing to him or to any one else, for then all my anxiety was to get rid of the body. I never gave any other account on oath than that I have now given of the 5*l.* received from Thurtell. If I ever gave any other account, it was by mistake. No person was present when the money taken from the body was distributed but we three, Thurtell, Hunt, and myself. I cannot tell the name of any person who was present on the Friday, Saturday, or Sunday, because no one was present. There was a cook in the house, but she did not come into the parlour. There was no playing at cards that I recollect; there were cards. I do not know nor believe that my wife called for cards on the Sunday night. I never knew her play at cards in my life. No person played at cards on Sunday that I know of. I do not recollect any one saying that it was a bad example for the children. I have lived in London eleven years, and have been down in the country several times during that period. I cannot tell when was the last time that Mr. Noel transacted business for me as my attorney. I will not swear that it was on the 24th of October, because I cannot recollect.

Cross-examined by Mr. Thessiger.—I met the parties at Tet-sall's more than a week; had no particular conversation with Hunt, until the Friday night. I had dined with him in company several times, and had known him more than twelve months. It was I who introduced Hunt to Thurtell; perhaps about six or seven months ago, at the Cock, in the Haymarket. I never recollect inviting Hunt to Gill's-hill-cottage; but if I did, he never came. He never was there before Friday, the 24th of October. The invitation did not then proceed from me. Before Thurtell applied to me to drive Hunt down, I had not, to my knowledge, given him any invitation. I did not at that time say there was no spare bed. When Thurtell asked me to give Hunt the 20*s.* in case of my not going, I was not surprised. Hunt paid for the pork purchased in Oxford-street, at my request; I believe I never re-paid him; I think it only came to about 1*s.* 6*d.*; I did not apply for the remainder of my 20*s.* back again. I had borrowed 5*l.* from Tet-sall, and had also some money in my pocket, it was therefore of no consequence, I could have had 50*l.* of Tetsall if I had wanted it. I said nothing more when Hunt told me to pass on, and not to take any notice of who was in the other gig; I don't recollect that I did. The night was star-light; there was no moon. Hunt had never been to Gill's-hill cottage before, but had been to St. Albans. Mr. Phillimore's lodge is about one mile and a half beyond Elstree, in the high-road. Hunt, I believe, paid for the brandy and water we had on the road. I paid for one glass, and Hunt the other four or five. I paid for the corn bought at Edgeware. I recollect there were two or three handkerchiefs, but I don't know where they are now. I burnt the W. out of one of them. I did not tell this before, because I was not asked. I did say to Mr. Franklin, the clergyman, and up to the day I went before the grand jury, that Hunt and I were innocent of the murder. I might have said neither of us were guilty: it is very likely I did; I cannot say. I did, perhaps, say to the minister, Mr. Franklin, that neither Hunt nor I knew any thing of the murder until after it was committed. I was convicted of felony, but the public was satisfied of my innocence.

Re-examined by Mr. Gurney. When I went to Mr. Nicholls's house on Sunday evening, I was out perhaps two hours, I cannot say exactly. When the conversation which has been alluded to between Mr. Franklin and myself took place, I was a prisoner, and Hunt also.

The Judge: You say when you went up stairs, Mrs. Probert asked you about what she had seen, and you told her it was netting. What led you to say so?

When I went up stairs she was in a passion, and ready to cry. She said, "What have you been doing? you have been counting money, burning paper, and dragging something very heavy across the grounds." I then told her it was netting which John Thurtell had brought down. I said this for the purpose of pacifying her. When I went up stairs I did not observe whether the windows were open or shut. Mrs. Probert was dressed at this time.

Mrs. Probert was then called. She was genteelly dressed. She had a blue pelisse, a Leghorn straw bonnet and green veil. By the desire of his Lordship,



she was accommodated with a seat. She spoke in a low tone, but Mr. Gurney kindly repeated her answers aloud. Her testimony was as follows:—I remember the night of the 24th of October, when Mr. John Thurtell and Mr. Hunt came to Gill's-hill Cottage, to have heard the sound of a gig passing my cottage. It was about eight o'clock, I think. The bell of our cottage was rung nearly an hour after. After that ring nobody came in to our house. My husband came home that night nearly at ten. I came down stairs, found Mr. Probert, John Thurtell, and a stranger, in the parlour. My husband introduced that stranger as Mr. Hunt to me. I saw John Thurtell take out a gold chain, which he showed to me. It was a gold watch chain with a great deal of work about it; it was such a chain as this, I think [the chain was shown her]. He offered to make it a present to me; I refused it for some time, and at last he gave it to me [she was shown the box and chain produced by the constable at Watford]. I recollect giving that box and the chain to the constable, in the presence of the magistrates. When I and Miss Noyes went up stairs, we left John Thurtell, Hunt, and Mr. Probert in the room. I did not go to bed immediately; I went from my room to the stairs to listen; I leaned over the banisters. What I heard in leaning over the banisters, was all in a whisper. What I heard at first was, I thought, about trying on clothes. The first I heard was, "This, I think, will fit you very well." I heard a noise like a rustling of papers on the table; I heard also something like the noise of papers thrown in the fire. I afterwards went up to my own chamber. Out of doors I saw something; I looked from my window, and saw two gentlemen go from the parlour to the stable; they led a horse out of the stable, and opened the yard gate and let the horse out. Some time after that I heard something in the garden; I heard something dragged, as it seemed, very heavily; it appeared to me to come from the stable to the garden; the garden is near the back gate; it was dragged along the dark walk; I had a view of it, when they dragged it out of the dark walk; it seemed very large and heavy; it was in a sack. It was after this I heard the rustling of papers, and the conversation I have described. After the sack was dragged out of the dark walk, I had a view of it until it was half way down the walk to the pond. I had a good view of it so far. After this I heard a noise like a heap of stones thrown into a pit, I can't describe it any other way; it was a hollow sound. I heard, besides what I have before mentioned, some further conversation. The first I heard was, I think, Hunt's voice; he said "let us take a 5l. note each." I did not hear Thurtell say any thing; then—I am trying to recollect—I heard another voice say, "we must say there was a hare thrown up in the gig on the cushion—we must tell the boy so in the morning." I next heard a voice, I can't exactly say whose, "we had better be off to town by four or five o'clock in the morning;" and then I think John Thurtell it was, who said "we had better not go before eight or nine o'clock;" and the parlour door then shut. I heard John Thurtell say also (I think it was his voice), "Holding shall be next." I rather think it was Hunt who next spoke; he asked, "has he (Holding) got money?" John Thurtell replied, "it is not money I want, it is revenge; it is," said John Thurtell, "Holding who has ruined my friend here." I did not at first understand who this friend was; I believe it meant Mr. Probert, my husband. I cannot say whether Holding had any thing to do in the transactions of my husband's bankruptcy. "It was Holding," said J. Thurtell, "who ruined my friend here, and destroyed my peace of mind." My husband came to bed about half-past one or two o'clock; I believe it was; I did not know exactly the hour.

A short conversation then took place in a low tone, which was not heard in the reporter's box, between the Counsel for the prisoners, and the learned Judge, and Mr. Gurney, as to whether it was proper to ask Mrs. Probert concerning any conversation that passed between her and her husband.

Mr. Justice Park said to Mr. Gurney, "All that you can ask, is, whether a conversation took place, in which witness communicated to her husband what she had seen and heard. You cannot ask what her husband said."

Mr. Gurney then asked the witness—"When your husband came to bed, did you mention to him what you had seen and heard, according to the evidence you have given?"

The witness, Mrs. Probert, became apparently excessively agitated, and faintly articulated, "Must I answer?"







THE POND IN THE GARDEN, into which Mr. Weare was first thrown.





Mr. Gurney. I do not want you to tell us what was said.

Mr. Justice Park. Pray compose yourself, good woman; you need not be alarmed.

Mrs. Probert. Must I answer questions concerning my husband? These were, we believe, her words; but the low and faltering and hysterical manner in which they were pronounced, rendered it difficult to catch them.

Mr. Gurney. No evidence you now give can prejudice your husband. He has been this day put before a jury of his countrymen, and acquitted of this murder.

Mrs. Probert, in a sobbing, hysterical shriek, "Oh, has he! has he!"

Mr. Gurney repeated his question.

Mrs. Probert. Oh, I'll answer anything! but has he been acquitted? [The agitation of the witness for some time was so excessive, that she was unable to attend to the questions. She ejaculated at times a few unconnected words, in a low sobbing tone.]

Mr. Justice Park. Pray compose yourself, pray, good woman. Don't be alarmed; we are not wanting you to say any thing against your husband. Nothing will be drawn from you against your husband. Pray compose yourself; pray do not be alarmed.

During this scene, Hunt turned round to the persons standing by him in the dock, and smiled, as if in incredulity of Mrs. Probert's appearance of feeling.

Thurtell did not change his countenance, but bent down a little, and took snuff, drawing up his brows, and closing his lips firmly, with the expression of face habitual to him.

Mr. Gurney then repeated his question, and Mrs. Probert answered—Yes, I did mention to him (my husband) what I had seen and heard.

The next morning Hunt and Thurtell came and dined with us, and on the Sunday, Thomas Noyes and T. Thurtell then also came. On the Monday night J. Thurtell and Hunt came again; it was past nine, I think, when they came. They stayed to supper, and went away soon after.

Cross-examined by Mr. Platt. You affected surprise to hear that your husband was acquitted. Now, did you not know that he was to be acquitted previously to his giving evidence? No [in a low tone].

Did you not hear that he was to be acquitted of the charge, provided he gave his testimony here truly? I don't recollect that I was told so.

Can you say on your oath that you were not told so? I don't know that I was.

There were two garden gates on the left-hand side of the road, going along the lane; one as you passed out of the lane into the stable-yard; another gate, leading to the garden, forms part of a high fence; my bed-room window looked towards the fence. I could look over the fence, so as to see the horse come out of the door, and I think I could see the door-way of the stable itself; it was a fine moon-light night. There was but one sitting-room in the cottage over the parlour, the window of which looks to the garden; I rather think the short man whom I saw dragging something heavy was Hunt; it was at the landing-place of the floor where I slept that I listened; all the conversation was carried on in whispers; there was a great deal of whispering which I did not hear; I could not distinctly hear the whole of the conversation; I thought I could discover the different voices, but cannot be positive; my husband whispered so low that I could not hear him; cannot take upon myself to say positively that he did whisper; my husband gave me no money just before he was apprehended; he did not give me 23*l.*; did not tell me what to say, if any body should come; never saw Holding in John Thurtell's company; it was my husband who was acquainted with Holding; I and Miss Noyes retired to bed about twelve; I was in my room a little time before I went to the window; a few minutes after I got up stairs, I saw the horse coming from the stable; I heard the parlour door opened a few minutes after; I saw a short man with a light, and another go out from the parlour to the stable; heard no noise in the stable; cannot say whether the light continued in the stable till I saw the horse; I heard no one go out before that, but I think I heard some one go into the kitchen before; we kept a store of potatoes in the garden; there was a hole made for them, and they were covered over. I went out into the garden on Saturday; I did not go near the pond; cannot say whether the pond is so shallow that you may see the bottom;



seldom went to look at the fish in the pond; did not go out on Sunday or Monday; the walk on entering the garden is what I called the dark walk, and is surrounded by shrubs. I heard the noise first in the dark walk; it seemed as if something heavy was being dragged along the dark part of the path. After I heard this noise in the dark walk, I saw something dragged along the path leading to the pond: I know the part where the apple-tree stands, and I know the part opposite to it; this is the part of the pond farthest removed from the cottage; I think it is a continuation of the path where I saw something heavy dragged along; I did not see my husband in the garden when I looked out of the window.

By Mr. Thessiger. I did not expect my husband home on the 24th October; was not prepared to receive the persons he brought. My husband went away on the preceding Monday morning; I never saw Hunt before; he was introduced by my husband; my husband did not say he was the gentleman of whom I had often heard him speak; there was singing on the Friday night; Hunt sung two songs; nobody else sung; it was not by my husband's desire or request that Hunt sung; John Thurtell asked him to sing once, and I asked him myself the second time; I pressed him to sing; we did not play cards on that night; Thurtell gave me the chain after supper, before the singing; I did not attempt to return the chain to him on Sunday, after I had seen all that passed from the window; there were cards on Sunday night; I did not introduce them; cannot exactly say who played; Probert was gone at the time; I did not play; do not know whose cards they were; I will swear my husband did not join in the play; it is possible he might have come in before the play was over: I did not hear either of the Thurtells remonstrate against it, and say it was a bad example for the children; Mr. Noyes came down on Sunday, and stayed till Monday morning; I did not communicate to him what I had seen and heard; did not show him the gold chain at that time.

### THOMAS THURTELL'S EXAMINATION.

Thomas Thurtell was next called. [The moment he appeared in the witness box, every eye was turned towards his brother in the dock. The prisoner Thurtell looked upon him with the same apparent indifference with which he had viewed the other witnesses. He took up his pen, and began to make arrangements for continuing to take notes as before. The witness at first seemed somewhat agitated, but after a few minutes he regained his composure.]

Examined by Mr. Gurney.—I was at Tetsall's on Friday, the 24th of October. Hunt and my brother John dined there. I remember that some time after dinner Hunt was away for a time. I rather think he brought a sack with him, and I think a gig to the door. He did not say any thing to my knowledge. The witness was desired to recollect himself, but he persisted in the same answer. The horse in the gig was a grey horse. My brother went away in the gig.

Here the witness begged the court to think of the distressing situation in which stood.

Mr. Justice Park said the court felt every thing for the situation of the witness, but justice required that he should answer the questions put to him. No doubt they would be put with every feeling for his situation.

The examination was then continued.

My brother went away in Probert's gig.

By Mr. Gurney. Upon your oath did you not hear Hunt make some observations to Probert before dinner?

There were some made, but I can't now recollect what they were. I saw some pistols, two large pistols, in the room. I think I heard Hunt say to Probert, "Bill, will you be in it?" or something to that effect. On the next day I saw Hunt. He asked me if I wanted money? I think he named 20*l.* or something thereabout. He did not say how he came by such money. I saw some considerable sum with him, and I was surprised to see it with him. He said they had been drawing game, or netting game.

Did he say what he meant?—Did he explain?

The witness hesitated to answer.

Mr. Justice Park (to the witness.) I now feel it my duty, Sir, to caution you as to your answers. I have before me the statements you made in your examination before the magistrates, and I caution you to answer strictly to the questions proposed. The court considers your situation, but justice must be



done. After this, I trust I shall not have occasion to say more or to exercise the power with which I am invested.

Thomas Thurtell said he could not remember every thing.

Examination continued. Hunt said, we Turpin lads can do the trick, or something of that sort. There was something said about a bag. Hunt said he had been killing game, and Probert held the bag. (The witness showed considerable reluctance in giving this testimony.) Hunt used the word murder in joke. Hunt said we have been committing murder, or something of that sort in joke. He said, "we have been committing murder to be sure." This was in answer to a question from me; of course I asked them what they had been doing. I went to Probert's cottage on Sunday. I walked as far as Maida Hill; Hunt and my brother then took me up in a gig; I saw a spade in the gig; when I came to Probert's, Hunt asked me to throw the spade over the garden gate; my brother had got down and was walking with Noyes, whom we overtook. I said, with regard to the spade, "had you not better take it as far as the stable?" and he said, No; I know what I am about; and by his desire I threw it over. He said, he did not wish Probert's wife to know it, or something of that kind.

Cross-examined by Mr. Thessiger. This conversation about Turpin-like lads was after dinner. They had not been drinking much wine. I was present at Gill's-hill cottage on Sunday night; I recollect cards being introduced; we were all present, I believe; I will not be certain.—Witness stood down.

Thomas Noyes, sworn, and examined by Mr. Bolland. I am a wine-merchant; I know Mr. Tetsall, Thomas Thurtell, and the prisoners. On Friday the 24th of October, I dined with them at Tetsall's; Mr. Probert borrowed some money of Mr. Tetsall, for the purpose of paying it over to John Thurtell. John Thurtell went away in a gig; it was an iron-grey horse; he was alone; Hunt and Mr. Probert also went away in Probert's gig; I saw some of them again on the Saturday morning at Tetsall's; I saw John Thurtell, Hunt, and Thomas Thurtell; I went down to my brother-in-law's cottage on Sunday; I walked, and the two Thurtells and Hunt overtook me in a gig; John Thurtell alighted, and walked with me; Thomas Thurtell went on with Hunt. I was afterwards met by Thomas Thurtell in a gig at Brockley Hill. He came to meet us in a gig. On the Sunday evening in question, at Gill's-hill, cards were introduced. John Thurtell, Thomas Thurtell, Hunt, and myself, played at whist. Probert went out. We did not play the game out. Probert was absent a quarter of an hour. On that night Thurtell and Hunt sat up. I left the cottage on Monday, at past two; my sister and John Thurtell were of the party. The others went away in the morning.

Cross-examined by Mr. Chitty. When they played cards on the Sunday, John Thurtell threw the cards up, and said he could not play such cards, they ran cross. There was nothing said about the children.

Miss Anne Noyes sworn, and examined by Mr. Broderick. She was at first a good deal agitated, and was accommodated with a chair. I was at Mr. Probert's cottage on Friday, the 24th of October. About eight o'clock I heard a gig passing. I heard a ring at the bell about half-past nine; during the evening Mr. John Thurtell, Hunt, and Mr. Probert, came into the room; Thurtell had a black coat on.—[Here there was a tremendous outcry outside the Court. Mr. Justice Park, observing that no person moved to stop this noise, said he would fine Mr. Hawkins 50*l.* if he heard the noise repeated.]—I knew that Mr. Probert had a white hat, which was kept in the hall. None of the three had a white hat that evening. They had a little brandy, and I rather think that John Thurtell proposed to go to Mr. Nicholls's to ask for a day's shooting. They all went, and returned about eleven; when they came back, they mentioned that Mr. Nicholls was not at home. They had supper; I did not sup with them. I saw a gold watch that Mr. Thurtell had; he took it out of his pocket; it had a chain. It was a hunting watch. Mr. Thurtell took the chain off, and gave it to Mrs. Probert; he proposed that Mr. Probert should give it to her first; but on Mr. Probert declining, he put it round her neck himself. The chain produced she believed to be the same; there was some singing that night; Mr. Hunt sung; soon after I went to bed. I did not come down the next morning till after breakfast. I saw Hunt and Thurtell go out at half-past nine. On the Sunday morning, Mr. John Thurtell, Thomas Thurtell, and Hunt, came down. I believe Hunt's dress was changed after he came to our house. When the dress was changed he had on a black coat and waistcoat, and, I rather think, a



white handkerchief. Mr. John Thurtell said, "How smart Mr. Hunt is dressed, to-day." Hunt had rather large whiskers. During the day the word "Turpin" was used. John Thurtell said that Probert would not do for a Turpin. There were cards played that evening. I saw Mr. Heward on Sunday. Mr. Probert went out on the Sunday evening. I went up with Mr. Thurtell the next day. I saw a knife in John Thurtell's possession. [The knife produced by the constable was handed to the witness: it was the same found in the lane.] The knife she saw with John Thurtell was very like this.

Cross-examined by Mr. Andrews. I slept in a room very near where Probert slept; I did not hear him get up that morning; I have seen Mr. Probert in a white hat and a black hat; the hall was the passage leading into the parlour from the kitchen; I did not see Probert go out on the Saturday; John Thurtell had been often at the cottage before; he slept there several times, and did not always sleep on the sofa; I can swear he once slept nearly a week at the cottage; he slept alone.

Cross-examined by Mr. Thessiger. I was present when Mr. Hunt was introduced to Mrs. Probert; Mr. Probert did not say he was the singer he had often talked about; Mr. Probert did say that Mr. Hunt was a good singer; this was before he sung after supper.

Re-examined by Mr. Broderick. The passage which I described as the hall leads to the staircase.

Charles Tetsall, examined by Mr. Bolland. I keep the Coach and Horses, in Conduit-street. Since the 21st of October, Probert, Hunt, and Thurtell have frequented my house. I recollect that on the 24th of October, the two Thurtells, Hunt, and Probert, dined at my house. Probert then asked me to lend him five pounds. I don't know what he did with it. I did not see them go away, and don't know when they did go.

Cross-examined by Mr. Thessiger. The two Thurtells were introduced to me by Probert, who told me that they were anxious to keep out of the way.

Re-examined. Hunt's whiskers, about the 21st, were very large. I observed that on the Monday after the 24th, they were shaved off. On the Sunday after the Friday of the murder, I observed Hunt and Thurtell at my house. Mr. John Thurtell was dressed in leather breeches, long gaiters, and drab waistcoat. He went, with his shirt open, across the street to get shaved. I never saw him in those clothes before. At that time Hunt was with him; he was dressed in black, and very indifferently. They went away about half-past ten. I put into the gig in which they went, a piece of beef. I saw a shovel in the gig.

By Mr. Thessiger. If Probert swore that he did not introduce the Thurtells to me, he swore falsely; for he wanted me to be a bondsman for them.

Mr. Justice Park observed, that Probert had not sworn as the learned counsel seemed to suppose.

William Rexworthy again called. I have known William Weare for upwards of sixteen years. He had the reputation of being a person of property. I always considered him such. He generally carried it next his skin. He told me so, and I have seen him put his hand to his left side, and take large sums from his flannel waistcoat. I have seen him and the Thurtells together. I saw them three times together before the murder. The last time I saw them was the Friday. The first time I saw them, there were three or four of them together. John Thurtell came to my house, and asked if Weare was there. I said not, but showed them into another room, and was showing them a new billiard table, when a knock came to the door, and Weare came in. This was about nine o'clock. I saw John Thurtell alone with him the evening before the murder. I did not hear any thing pass between them. When they began to talk I left the room. On Friday morning Weare called upon me at No. 6, Spring Gardens, between one and two o'clock. Weare left me, and I saw him no more that day.

Cross-examined. I have two billiard rooms. They are much frequented. Persons come so early as eleven o'clock. I see the same faces there often, as well those who play as those who look on. I saw the body when first it was taken out of the water. I also saw it in the coffin. I did not go to see it re-interred. I saw it before it was interred.

Re-examined by Mr. Bolland. I know this knife well. It belonged to the man no more. (It was found in the lane.)

Cross-examined. There was a particular mark on it. It was clipped by



another knife. I once had it for fourteen days in my possession. I know the knife by the mark, and its being worn. If you open it you would see it is a remarkable knife.

Mr. Andrew. I should say not, perhaps.

Witness. It is remarkably worn. I have no doubt whatever of it.

The knife was here-handed to the Jury.

Examined by the Court. I saw the legs when the body was taken out of the water. They were naked. When I saw it at the Artichoke laid out, the body was naked. This was after it was taken out of the water.

Mary Maloney, examined by Mr. Broderick. I was laundress to the late Mr. Weare, of No. 2, Lyon's-inn. I remember Friday, 24th October, I went into his room on that day, and saw his clothes and linen laid on the drawers. Mr. Weare put them into his carpet bag. That (pointing to a bag) was his bag. He put into it five linen shirts, six pair of stockings, a shooting jacket, leggings, breeches, a pair of laced boots, and a pair of Wellingtons. He had also a backgammon-board, which he put in. That backgammon-board (looking at one produced) was Mr. Weare's. He dined at his chambers between one and two o'clock. I did not expect him to sleep in chambers that night, because he said he was going out of town till Tuesday. I went to the Spotted Dog, Strand, about three o'clock, to get him a coach. It came by Clement's-church, along Holywell-street, to Lyon's-inn. The horses' heads were turned to Charing-cross. He started a little after three o'clock. A double-barrel gun, a little box, a carpet bag, and a three caped box coat were put into the coach. Mr. Weare put in the gun himself. He had on a new olive-coloured coat. He had a gold watch with him. That watch had a chain to it. I know the chain. It was exactly like the one produced to me. Mr. Weare had a knife. That is it. Mr. Weare's watch was a lady's watch, and was double cased with a gold face. Mr. Weare wore a steel chain round his neck to secure it. I saw the coach drive off towards Charing-cross. The witness then identified several articles of Mr. Weare's linen which were produced to her.

During the examination of this witness, a whistle was heard in the gallery reserved for the magistrates. Mr. Justice Park looked up to it, and said "Can those be magistrates acting in that way?"

Thomas Carr, examined by Mr. Bolland. I drove a hackney chariot for Mr. Beckett, in October last, for three weeks. I recollect taking up a gentleman at Lyon's-inn in that month. I did not take up more than one gentleman there in that month. I was called from the Spotted Dog by a young woman. I drove by her desire to Lyon's-inn. A shortish gentleman got in there. A carpet bag and a gun were put into the carriage. The gentleman put in the gun, and the girl the bag. I remember the week when this murder was committed. I cannot say whether it was in that week, but it was about that time. I drove to Charing-cross, and from that place to Maddox-street, where the gentleman got out. He got in again, and he then ordered me to drive up Welbeck-street, to the New-road, and along it to Cumberland-street. He then got out again. He came back to me with a tall gentleman in a rough coat. He paid me the fare, and took out his things. The two gentlemen went down Cumberland-street. It was then about half past four. Some of the lamps were lighted, some not, for it was still day-light.

Thomas Wilson, examined by Mr. Broderick. I am a horse patrol. I was on the Egdeware-road on the 24th of October. I do not know John Thurtell. I met two persons in a gig drawn by a roan gray, between the 5th and 6th milestone from Tyburn. They were driving at a very furious rate. I should know the horse again, though not the men. I pointed out the horse in Mr. Prohatt's stable: it had a very white face.

By Mr. Andrews. The gig passed me quickly. It was about half-past six or seven, but I had an opportunity of seeing it well. I described the horse as a roan gray to Mr. Clutterbuck, Mr. Stafford, the clerk at Bow-street, and the gentlemen in the secretary of state's office. I observed the gig; it was of a dark colour, but I cannot say what colour. I knew that the horse which I saw was one which I was going to identify. I always said it was a roan horse, and not an iron gray.

James Shephard, examined by Mr. Broderick. I am hostler at Mr. Cross's stables, Whitcombe-street, where Hunt came to hire a gig on a Friday, the week before I heard of Mr. Weare's murder. He said the gig, which was



dark green one, was going to Dartford. It was a roan horse, with rather a whiter head than the body. The horse belonged to Probatt, the livery-stable-keeper. Hunt asked me for a sack. On the Sunday he hired a bay horse and a yellow gig, which he brought back on the middle of the Monday. He said he should want the same horse at three o'clock that he had on the Friday. He had it at half-past three o'clock (the roan horse), and returned with it at three o'clock on the following morning. I looked at the gig then; both the horse and gig were very dirty, and there was a little blood at the bottom of the gig, and the whip was much used; the thong was three parts unravelled.

Cross-examined. I cannot say that it was Hunt who brought home the gigs.

Benjamin Coxwell, examined by Mr. Bolland. I am shopman to Benjamin Hall, High-street, Marylebone. The pistols shown to me now are the same, I believe, which I sold to two men at three o'clock in the afternoon of the 24th of October, for 1*l.* 15*s.*; they were marked 1*l.* 17*s.* One of the men was a short one, and the other taller; but I cannot identify their persons.

No cross-examination of this witness.

John Butler, examined by Mr. Broderick. I am hostler at the Bald-faced Stag, half a mile from Edgeware, and was there on the 24th of October. I know Mr. Probert, and saw him there between 6 and 7 o'clock on that evening, in a one-horse chaise, drawn by a bony horse. He stopped and baited his horse for a very few minutes, and went on towards Edgeware.

William Clarke, examined by Mr. Bolland. I was landlord of the White Lion, at Edgeware, and know John Thurtell, whom I saw about twenty or thirty yards beyond the nine mile stone on the Edgeware-road; he was then driving very hard at the wrong side of the road, and he called out—(Here the witness used the ejaculation of whip-men who want to avoid contact on the road.) I heard his voice in this manner; and his horse was light faced: a man of short "statue" was in the gig with him. On my return to my own house, I met Probert and Hunt, with a gig and a brown horse, at my own door. They had some brandy and water, and we began to talk of Thurtell's private business.

Mr. Bolland. That's enough, don't say what that business was.

Witness resumed. Hunt alighted at that time, and took some brandy at my bar: he also took out a newspaper, and, talking of Thurtell, said, "Look at that." They then went away. On the Sunday after, I met Mr. John Thurtell walking with Mr. Noyes. He looked ill; I remarked it, and he hinted that it was owing to the want of bail in the bankruptcy business. Hunt had large whiskers on when I met him on the 24th of October, but he had shaved them off before he was taken.

Cross-examined by Mr. Andrews. It was nearly dark at the time. I only saw one coach with the lamps lighted. I observed the chaise in which Thurtell was, merely because of its being on the wrong side of the road. It was between the quarter and 20 minutes past seven o'clock when I met Probert's gig, and they stopped for a quarter of an hour.

David White, the son of a corn-chandler at Edgeware, examined by Mr. Broderick, said—I remember Probert coming to my father's house at seven o'clock, on the evening of the 24th of October, and purchasing some beans and oats.

Cross-examined. He did not seem to be in a hurry to get away.

Stephen Probatt, examined by Mr. Broderick. I keep the White Lion Inn at Charing-cross. The prisoner Hunt borrowed a horse from my son on the 24th of October, and had a bay horse on the Sunday; but the horse which he borrowed on the Friday was a roan horse, and he had it again on Monday. On the Monday I changed a 5*l.* note for Hunt, for the hire of the horse and gig, for which he paid 1*l.* 5*s.* A Mr. Reece was in my coffee-room; he remarked that he was a snug sort of a man, and ought to get a knock in the head. Hunt afterwards pulled out a pistol, and said, "This is a good fellow to do business." (Here a pistol was produced.) I cannot say that that was the pistol. The roan horse was now in Hertford, and had conspicuously a white face.

Cross-examined by Mr. Thessiger. I cannot say whether he seriously meant that I should knock Mr. Reece on the head when he made the remark.

Robert Field recalled and examined by Mr. Bolland. I knew Mr. Probert before October last. He came to my house with another person on the 24th



October, in a one-horse chaise. I did not know that person then, but do now. At my house they had five glasses of brandy and water in the gig. Probert asked his friend to sing, saying "Give us a song." He said he could not; "Give us a verse then," said he. Hunt said he could not. They stopped half an hour or more. My house is about 200 yards from Elstree, on the St. Albans side. I saw the singing man on Monday with another man, John Thurtell. I saw them at my house about half-past five o'clock; they remained a quarter of an hour walking about and conversing together. In about half an hour, or three quarters, the horse was again put to, and they went away. I saw Hunt again on the Tuesday following, at half-past three, in a one-horse chaise. He came in the direction of London. I gave him a sack and shirt. They have been in my possession from the time of the inquest.

Cross-examined by Mr. Platt.—It wanted eleven minutes to nine, when they were going, by my watch, and I saw they were breaking up early. Coaches pass my house frequently.

Richard Bingham was next called, but first—

Mary Maloney was recalled, and requested to stand by and attend to this witness.

Richard Bingham examined by Mr. Broderick. I am hostler at the White Lion; about twelve o'clock in the day, two gentlemen came to the White Lion. One had whiskers that came down to his mouth—was of a sallow complexion, and of short stature. He had also high cheek bones. They did not stop long. The short man was about five or six and thirty.

Mary Maloney examined by Mr. Broderick. This description corresponds with that of Mr. Weare.

Richard Bingham's examination resumed. It was a bald-faced horse they had. I have not seen it since to my knowledge. I do live with Mr. Clarke, my master. He came home soon after the gig came up. Another gig afterwards came up.

Cross-examined by Mr. Andrews. The first gig could not have gone more than a mile before the other. It was not a dark night.

By his Lordship. At what time did the moon get up that evening?—I can't say, my Lord.

Cross-examination resumed. The men in the first gig did not get out.

James Freeman examined by Mr. Broderick: I am a labourer, living at a place called "The Folly," near Gill's-hill-cottage. I had occasion to go out on the 28th of October, into the Gill's-hill-lane, about eight o'clock, to meet my wife and take her home; I had a gate to go through from my house; the gate was about thirty poles from Probert's cottage; when I got into the lane, I saw two gentlemen in a gig, going from Probert's cottage towards Batler's-green. I heard the gig before I saw it, coming in a direction from Radlett, which would be past Probert's cottage. It stopped at an elbow of the lane, and one of the gentlemen got out. I spoke to one of them. The horse had a very white face. I have seen the horse in this town; it was shown to me by Mr. Probert. I am sure that is the very same horse I saw in the lane last night. When I left my cottage, the moon was not up, but it was a star-light night. The moon rose afterwards, between eight and nine. I did not see enough of either of the men to be able to identify them. The one who jumped out had a light long great coat on. I afterwards met my wife, and we went home together.

Cross-examined by Mr. Platt: I should not know the gig again. I could not tell the colour of it. It was not a yellow gig.

Philip Smith, examined by Mr. Broderick: I am a farmer, living at Aldenham. On the 24th of October I was on a visit at Mr. Charles Nicholls's, at Batler's-green; I left Mr. Nicholls's about ten minutes before eight o'clock; I had my wife and child with me; my wife and child were in a donkey chaise, and I was walking; I was going to a place called High-cross; I passed the corner of a lane leading to Gill's-hill; I know the spot where a person was supposed to be killed; in crossing the road that night, the nearest part I went to the spot was about two hundred and fifty yards; in going along I heard the wheels of some sort of a carriage, and then the report of a pistol or a gun. This attracted my attention, and I remarked upon it to my



wife. In about a minute or two afterwards I heard groaning. I then stopped the donkey chaise. The groaning lasted about a minute or two. I did not go up to the spot whence the sound proceeded, as my wife was alarmed.

Cross-examined. I was about two hundred and fifty yards from the spot where the supposed murder took place, at the time I heard the report. I was behind the chaise.

Mrs. Smith, wife of the last witness, and the nurse, were then tendered, but not called, as their evidence went to the same facts.

Richard Addis, examined by Mr. Bolland. I lived as servant to Mr. Probert, at Gill's-hill in October last; I looked after his horse and gig; he had the horse about two months before the 24th of October last; it was a powerful horse; I remember the evening of the 24th of October; about a quarter before eight I heard the wheels of a gig; it was going by my master's house; I thought it was my master's gig; I went out, but I found it had passed on in a direction, very fast, towards Batler's-green. About nine o'clock there was a ring at the gate bell; I went to answer it, and found Mr. J. Thurtell there; he was standing by the side of the horse, and desired me to take the horse and gig in. I have seen the horse since in London; Mr. Probatt showed it to me; the colour was a kind of iron grey, or strawberry; I took the horse in and rubbed him down; the horse and gig seemed as if it had come from Batler's-green, in a direction further from London. Mr. J. Thurtell said he was going down to see if he could meet Mr. Probert. I put the horse in, took the harness off, and did what was necessary. Mr. J. Thurtell returned soon afterwards alone to the stable door, and asked me if I had rubbed the horse down? I told him I had. When I saw the gig, it was very heavy; there was a kind of a gun in a case poking out at each end, between the folds of the leather apron. I did not observe any thing else in the gig that night, but next morning I saw a carpet bag in the gig, and a backgammon-box. (Box produced.) That is the box. Either Mr. Probert or Mr. Thurtell told me to fetch the box and the bag out of the gig. Mr. Thurtell had a light great coat on that night. My master came home in about three quarters of an hour afterwards. His gig came in the direction from Radlett. Mr. Probert and Mr. Hunt were in the gig, and Mr. Thurtell was hanging behind. Mr. Thurtell had gone out again to look for my master. I took my master's horse and gig in and cleaned it. I observed some spots of blood on Mr. Thurtell's great coat on that night. I saw Mr. Thurtell sponging his coat; I am most confident he had a sponge; he seemed to be sponging the collar of his coat. This was about three quarters of an hour after my master came home; I saw a pail of water in the stable; Mr. Thurtell asked for some water; he was grabbing about in the water with the sponge; I afterwards saw my master; he came to the stable door and asked for a candle and lantern; I gave it to him, and he and Mr. Thurtell and Mr. Hunt went out together at the gate; they were going in a direction towards Batler's-green; my master said he was going as far as Mr. Nicholls's house; they were gone about three quarters of an hour; I was then in the kitchen. Mr. Probert told Susan to put the pork chops on. I stopped in the kitchen a little while, and then went into the stable to do the horses. Whilst I was there, Thurtell and Hunt came to the stable. I think that was the time when Thurtell sponged his coat; Hunt remained outside. They were there only a few minutes, and went away in a direction towards the house. When I had rubbed the horses down I went into the kitchen. Mr. Probert came out for a bottle of rum, I believe, from the pantry, in the kitchen. He then sent me to ask Mr. Thurtell what o'clock it was? I went and asked him; he pulled his watch out of his pocket; it had no chain. Mrs. Probert observed that it was awkward to have a watch without a chain; he said it was. I went to bed at twelve o'clock; the clock struck twelve as I went to bed. I saw no more of them that night. I rose at seven to clean the horses and fetch the cow up. As soon as I had done my work I went into the kitchen. I saw Thurtell and



Hunt at the gate, going into the garden. This was a little while after I got up. After I got the cow up I saw Thurtell and Hunt in the kitchen. Hunt was sponging Thurtell's coat all over. Thurtell asked me if I had time to clean his boots? I said I had. The soles of the boots were damp. I cleaned them; the dirt was very hard on; they went away next morning; the gun, the bag, and the box were put into the gig; they asked for a sponge and went away, and turned as if they were going towards Batler's-green. My master seemed in rather low spirits that day, walking about the garden; he went out with a double barrell'd gun, about the middle of the day, shooting. On Sunday morning I saw Hunt coming into my master's garden; he was dressed in dark-coloured clothes; he went up stairs to dress himself, and he came down very decent; in the afternoon of that day I was sent to Mr. Nicholls's; I went down Gill's-hill lane, in consequence of something that Harrington said. When I went down I saw some blood in the rut of a wheel. On the Monday morning I went to town along with Mr. Thomas Thurtell and Mr. Hunt. Mr. Thomas Thurtell was put down, and I was dropt at the Angel Inn, St. Clement's. I had no business in London.

Cross-examined by Mr. Andrews. The lane where I saw the blood is so narrow, that a gig cannot turn in it. I had been often up and down Gill's-hill-lane when I lived at Mr. Probert's; it is impossible for a carriage to turn in it, or a gig either, except in a corner where there is a heap of mud, and there it would be likely to be overturned.

If, then, a gig passed your master's house when you heard the noise, it must have gone on to Lechmoor Heath before it turned? No, it might have turned before it came to Batler's-green. It could have turned before it came to Mr. Nicholls's house; two or three hundred yards before that there is a place where a gig might turn. He had been asked half-a-dozen times about the sponging by different persons. He had always said that he was not very certain about it, whether Mr. Thurtell had sponged his coat or no. He saw his master on Saturday morning, about seven o'clock, before breakfast; he was sure it was before breakfast, and thought it was seven; they had a clock in the house; he did not know that his master had gone down the lane in the morning; he had remembered Mr. Thurtell sleeping before at the cottage; he slept on the sofa before the fire.

By Mr. Thessiger. It was Mr. Probert who told him to go to town; he told me he had no more occasion for me, and that he would look out for a situation for me.

By Mr. Justice Park. I knew where the persons slept who were at my master's house, and who slept on the sofa, and who in the bed; Mr. J. Thurtell once slept there for a fortnight; he then slept on the sofa, and not on a bed.

Susannah Woodruff having been called and sworn,

Mr. Broderick was proceeding to examine her, when it now being about nine o'clock,

Mr. Justice Park interposed and addressed the jury. In the suggestion he was to make, he considered, not his own convenience, but that of the gentlemen of the jury. By the law of England, he was not allowed to discharge the jury in criminal cases, and he was not enabled to allow them to return to their families until the case was finished. He was obliged to keep them together, though, no doubt, proper accommodation would be afforded them. But he was, for himself, perfectly willing to go on to finish the case before they separated. If, however, it was more convenient and agreeable to the jury to retire, to what he hoped would be their night's rest, he had no doubt they would be furnished with proper accommodation. He (the judge) had no personal wish on the subject. He had been accustomed to bear fatigue of this kind, and he was willing to bear it. The foreman would consult with his brethren, and collect their wishes before they proceeded to the examination of another witness.

After a short consultation,



The Foreman said, the jury thought that if they could be allowed to retire for an hour, to take refreshment, they could proceed with the trial.

Mr. Justice Park. I have made up my mind never to agree to the practice of retiring. Within my experience, when I was a young man, I have seen so many examples of fatal results from this practice to the prisoners, and to the cause of justice, that I must resist the proposition.

A jurymen suggested, that if they had some refreshment in the box they might proceed.

Mr. Justice Park. To that I have not the least objection. The sheriff will, no doubt, attend to your wants.

The Sheriff. It shall be done immediately.

Mr. Justice Park. In the meantime we'll proceed with the witness.

Susan Woodruff was then examined by Mr. Broderick. In October last I lived as servant with Mr. Probert, at Gill's-hill cottage. On the evening of the 24th of October, I recollect a gig going by about half past eight. I did on that evening see my master come in, accompanied by Hunt and Thurtell. I cannot say whether Thurtell had a black or a dark blue coat. Thurtell afterwards came into the kitchen. He laid down a watch on the table, and took off a chain. What sort of chain it was I did not know, though he held it up in his hand. Soon after that I went to stir the parlour fire: I saw something in it rolled up like a bit of wire. I could not tell whether it was a chain or not. I received orders to dress a supper.

Was the order postponed? I don't know. It was pork. I received orders not to dress the supper so soon. They then went out, and after being an hour and more, came home and ate their supper. Thurtell and Hunt came home and stayed up. To my knowledge I had not seen Thurtell before this time. I had then lived six weeks with Probert. About six o'clock on Saturday morning I got up, and met Hunt and Thurtell coming up the steps out of the garden. They went into the parlour. I observed their shoes and boots to be very dirty. After that, I went to fetch some water, and soon after that, I went into the parlour to fetch water, and on the sofa I saw Thurtell lying down with my master's white hat on. In the parlour I observed a bag, but it was not like that. (Showing a carpet-bag.) There were besides bundles tied up. I did not see them set off on Saturday morning about three o'clock. Thurtell and Hunt had each a black hat on. I remember them coming down on Sunday. They went away next morning, and on Monday night I saw them again. On the Monday morning I went to the chaise-house, and there I saw a sack, hanging on a nail, cut open and very wet. This was on Tuesday morning.

John Harrington called and sworn—examined by Mr. Bolland. I am a labourer, living at Aldenham; I was at work with a man named Richard Hunt, in Gill's-hill-lane, on the day after the murder. Two gentlemen came past ten minutes after six; one of them I should know; that gentleman there is one of them (pointing to the prisoner Thurtell); the other was a shorter man with black whiskers; the tall gentleman had a white hat on at the time; they passed me about ten poles, and seemed to be gabbling about, and looking for something in the hedge; they returned and passed us again; the tall man spoke to my comrade Hunt, and told him he was capsized out of a gig last night, and had lost his pen-knife and a handkerchief; I don't know what my partner said to him; did not pay attention to what further passed; I went on with my work. At eight o'clock, when I went to breakfast, I went to the place where I saw them gabbling; I there found a penknife. The place was in the road, and a gig towards Butler's Green. I gave the knife to Mr. C. Nicholls. (The knife produced by the constable was shown to witness.) That is it. It was then covered with blood. I found a pistol after, about ten o'clock. I found the knife in the cart-rut, and the pistol in the brambles of the bushes; that too is covered with blood. I observed nothing else in it. It was a two-bladed knife; one blade is broken. I think the pistol had been fired off; the pan



was down, as it is now. (Pistol shown him.) Mr. Nicholls was with me when I found that pistol; when I went to Mr. Nicholls I saw much blood, and the marks in the lane as if of two men stumbling about. There was a large hole in the hedge, and much blood. A gig could not have turned at the place where the blood was; it could not have turned without going to the end of the lane, fifty poles (about) further on. On the same day, about eleven o'clock, the same two persons passed me in a gig. The horse was to the best of my knowledge an iron grey. I am certain they were the same persons. I did not then know Probert; I do now. He came through the lane about twelve o'clock. He had a large dog.

Cross-examined by Mr. Andrews. The gig might have been turned before it came to Mr. Nicholls's house, but it must be near it. I had never seen either of the two persons before.

Richard Hunt was then called, when

The prisoner Thurtell said,—I wish, my Lord, that you would again speak to the jury, in order that this trial may go off for the present, in order that it may come on to-morrow. I am really so much fatigued and exhausted, that I particularly wish it may be postponed. I have been up since six o'clock this morning, and unless such a delay be granted, I shall really be unable to enter into my defence. It may be two o'clock in the morning before the case against me may be concluded. There is still a great number of witnesses to be examined, and under these circumstances, I trust that your Lordship will take my application into consideration.

Mr. Justice Park. By the law of the land, a case of this sort must go on to its close; and I must do every thing in my power to conclude it, if the jury are disposed to proceed. That is a matter within their own breast. If they wish to proceed, they have faculties to go on, and are, of course, the best judges on the subject. I shall adopt either the one course or the other, with a view to their accommodation.

The prisoner Thurtell. Yes, my lord, I am aware of that, I did not address myself to your lordship at this time.

Mr. Justice Park. No, prisoner, so I understand. But the law of the land supposes that we must go on to a conclusion, and in my own experience, I have sat 16 and 17 hours in the day.

Thurtell. Gentlemen of the jury, I trust you will take what I have said into your consideration.

The Judge. The gentlemen who are of counsel for the crown state to me, that for the prosecution very little remains to be done.

Thurtell. I beg to say that it will take two hours for Mr. Hunt and myself to go through our defence.

The Court. We had better go on at all events with the case for the prosecution. There are many reasons, I find, why we should do so. That case will now last only an hour or two: and after that, if we cannot conveniently go on, I will take an opportunity of again recommending your prayer to the jury. The prisoner Thurtell, in the whole of his conversation with the learned judge, was perfectly firm, temperate, and respectful. He seemed at the same time persevering in his request, and rational and attentive to the objections urged.

Richard Hunt, labourer, sworn and examined by Mr. Broderick. I was with Harrington in Gill's-hill-lane on Saturday, Oct. 25; I know no more than he does; I saw the two men passing through the lane; I should know them [Mr. Broderick "Look round";] the two gentlemen sitting there are they, I think (pointing to the two prisoners). One of them entered into conversation, and said he was capsized out of a gig. One of them had a white hat, the side bulged in; another a black one.

William Bulmer was next called and examined by Mr. Bolland: I am a labourer; I was walking in Probert's garden in October last; on the morning after the murder, about six o'clock, I saw two persons in that garden; the tallest of the two had a white hat; they went towards the house.

George Nichols examined; I know Mr. Probert; neither Probert nor any



of his friends came to me on the night of the murder; on Monday a labourer delivered a knife and a pistol to me, which I afterwards handed over to Simmonds, the officer; it was bloody; on Monday evening I observed what appeared like brains about the barrel of the pistol. Mr. Probert came to my house on Monday; something passed between us respecting what happened in the lane.

John Pidlock examined. I am a surgeon; I was at the Artichoke at Elstree, when the body of Mr. Weare was there; I took the shawl from off the neck; saw a sack over the shawl: I saw the body first at the Artichoke; when the sack was taken from the body I found a handkerchief, which I delivered to Simmonds the officer; the body was quite naked.

John Fleet next examined. I am assistant to Mr. Johnson, the messenger. On the 24th of October I was at the Cock public-house, in the Haymarket, acting officially under a commission; Hunt came in a gig there, about half-past four in the afternoon; he delivered a note to me, which I have destroyed; John Thurtell lived at the Cock; I have seen him living there. I knew the room he occupied; it was No. 10. The contents of the note were, "Have the goodness to give Mr. Hunt my great coat and red shawl, which you will find in a closet at No. 10." I went to the room, took the things out, and brought them down, and gave them to Hunt. The shawl produced is something like the shawl I gave to Hunt. I do not know the hand-writing of the note.

Caroline Williams. I was servant at the Cock, which was kept by Thomas Thurtell; his brother, John Thurtell, lodged there: he had a shawl like the one produced.

Lucy Slater examined. I was a servant at the Cock; John Thurtell lodged there; I have seen him use a shawl similar to the shawl produced.

John Marshall examined. I am a gunsmith in London; I know the gun produced; I saw it last, a twelvemonth ago; I saw it at Mr. Weare's chambers in Lyon's Inn.

Cross-examined by Mr. Andrews. It is at least a twelvemonth ago since I saw it.

W. Blakesley examined: In October I lodged at No. 9, King-street, Golden-square, the residence of the prisoner Hunt and his wife; remembered Hunt coming home on the 27th of October in a single-horse chaise; I saw him take a carpet bag, filled with things, a gun with a dark case, similar to that produced; a dressing-case, similar to that on the table; they were carried into his apartments; there were also some coats.

John Upson examined: I am an officer. I took the prisoners from London to Watford; we came in two gigs; at Watford, the next morning, a conversation took place between me and Thurtell, about Hunt's confession; I made use of no previous promise or threat; in the course of the conversation about Hunt's confession, I asked Thurtell what he did with the watch, and he told me that he threw it away in a place among some trees where there were some palings. This is the account he gave me.

By Mr. Thessiger: When we were at Watford, Hunt gave me an order the things to be given up, and told me where they were to be found.

J. Foster examined: I am a constable at Rickmansworth; on the 30th October I had Thurtell in my custody at the Plough; he made a communication to me; I made use of no previous promise or threat; he said that Hunt was a rascal for nosing him so; that he (Thurtell) would not do so to him (Hunt), particularly after he (Thurtell) had offered the watch for sale in his (H.'s) name, and as his property. He said he was offered no more than 25*l.* for it, though it was worth 60*l.*

T. Thurtell was again called, but he did not answer.

Mr. Justice Park. Gentlemen of the Jury, you have relieved me from a great difficulty; I should not have acceded to the wish of the prisoners, had not you also expressed your concurrence in that course; one advantage arising from which will be, that we shall have given the case the fullest and most patient attention. I shall now adjourn the court till to-morrow morning. Let two of the most steady constables be sworn according to the form which I shall direct.



Two constables were then sworn "To keep the jurors in some safe and convenient place until the sitting of the court to-morrow; to furnish them with every proper and convenient accommodation, and not to speak to them themselves, or to allow others to speak to them, touching the matter in issue, without the leave of the court."

The court was then adjourned to nine o'clock the next morning.

The prisoners remained at the bar for a considerable time, talking to some persons about them. Mr. Harmer was in conversation with the prisoner Hunt, and such was the interest excited by their appearance, that almost the whole of the persons who had crowded the court during the day, still continued looking towards the dock.

At length Mr. Justice Park, who had left the bench, and stood talking to some gentlemen near him, asked why the prisoners were not removed?

Mr. Wilson answered that they were engaged talking with their professional advisers.

Mr. Justice Park. They must talk to them elsewhere; you must remove them; you run a great risk by keeping them here.

The prisoners were then re-conducted to the gaol in the same order in which they were brought in the morning. They appeared to be considerably exhausted. The crowd continued in the court and in its avenues to the last moment, and many of them followed the prisoners back to the door of the gaol. On the return of the men to their cells they were furnished with every necessary refreshment, for which they expressed becoming gratitude.

The learned judge, and almost every person in court, appeared to be equally exhausted with the prisoners; and although the court sat nearly fifteen hours, there were many persons in the gallery who were unable to move from their seats.

Mrs. Sutton, the wife of the High Sheriff, and a female friend remained in court till eight o'clock. Such was the influx of strangers, that scarce a bed in the town remained without an occupant, at the moderate charge of one guinea for the night.

## SECOND DAY'S PROCEEDINGS.

Precisely at nine o'clock Mr. Justice Park entered the court, and took his seat, and the prisoners were placed at the bar. Whilst the names of the jury were calling over, Thurtell and Hunt spoke to each other in a friendly manner. They conversed together last night after the adjournment of the court. Both the prisoners were dressed in the same manner as on the preceding day. Thurtell carried a large bundle of papers and several books. He appeared to be in high spirits. Hunt was rather depressed.

George Ruthven, the Bow-street officer, was recalled, and stated he had no doubt that Conduit-street and Whitcombe-street were in the county of Middlesex.

Examined by Mr. Andrews. I did not apprehend Probert, but I had him in custody on the Tuesday after the supposed murder. Probert told me that he wished to say something to the coroner. I informed the coroner of what Probert had said, and the coroner desired me to ask Probert whether he wished to communicate any thing to him. I asked Probert, and he replied that he had no objection. I said that I must have an answer—yes or no. He then said that he did wish to speak to the coroner, and he was then taken before that officer.

Examined by Mr. Thessiger. This was after Hunt had disclosed something to the magistrates, and after Probert had denied all knowledge of the murder to me.

Thomas Thurtell was recalled and examined by Mr. Platt. I saw Hunt on the 25th of October. I had also seen him on the 24th. On the 24th he wore a suit of black clothes. He wore the same on the 25th. I do not know whose clothes they were. I know that Hunt has worn my brother's clothes. Hunt was very badly off in the world. He has occasionally borrowed money of me. On the 26th (Sunday) he wore the same clothes which he had on on the Saturday; but I think that he was better dressed after dinner than before.

Mr. Justice Park now addressed Thurtell, and told him that the time had arrived when he might make his defence, if he had any.

Mr. Wilson, the gaoler, after having spoken with Thurtell, stated to the court that the prisoner wished to call witnesses before he made his defence.



Mr. Justice Park said that he could not depart from the usual course of proceeding, which was, that the prisoner should make his defence before evidence was received in his behalf.

Thurtell then delivered the following defence.

"My Lord, and Gentlemen of the Jury,—Under greater difficulties than ever man encountered, I now rise to vindicate my character and defend my life. I have been supported in this hour of trial, by the knowledge that my cause is heard before an enlightened tribunal, and that the free institutions of my country have placed my destiny in the hands of twelve men, who are uninfluenced by prejudice, and unawed by power. I have been represented by the press, which carries its benefits or curses on rapid wings from one extremity of the kingdom to the other, as a man more depraved, more gratuitously and habitually profligate and cruel, than has ever appeared in modern times. I have been held up to the world as the perpetrator of a murder, under circumstances of greater aggravation, of more cruel and premeditated atrocity, than it ever before fell to the lot of man to have seen or heard of. I have been held forth to the world as a depraved, heartless, remorseless, prayerless villain, who had seduced my friend into a sequestered path, merely in order to despatch him with the greater security—as a snake who had crept into his bosom only to strike a sure blow—as a monster, who, after the perpetration of a deed from which the hardest heart recoils with horror, and at which humanity stands aghast, washed away the remembrance of my guilt in the midst of riot and debauchery. You, gentlemen, must have read the details which have been daily, I may say hourly, published regarding me. It would be requiring more than the usual virtue of our nature to expect that you should entirely divest your minds of those feelings, I may say those creditable feelings, which such relations must have excited; but I am satisfied, that as far as it is possible for men to enter into a grave investigation with minds unbiassed, and judgments unimpaired, after the calumnies with which the public mind has been deluged—I say, I am satisfied, that with such minds and such judgments, you have this day assumed your sacred office. The horrible guilt which has been attributed to me, is such as could not have resulted from custom, but must have been the innate principle of my infant mind, and have "grown with my growth, and strengthened with my strength." But I will call before you gentlemen whose characters are unimpeachable, and whose testimony must be above suspicion, who will tell you, that the time was when my bosom overflowed with all the kindly feelings; and even my failings were those of an improvident generosity and unsuspecting friendship. Beware, then, gentlemen, of an anticipated verdict. Do not suffer the reports which you have heard to influence your determination. Do not believe that a few short years can have reversed the course of nature, and converted the good feelings which I possessed into the spirit of malignant cruelty to which only demons can attain. A kind, affectionate, and religious mother, directed the tender steps of my infancy, in the paths of piety and virtue. My rising youth was guided in the way that it should go by a father whose piety was universally known and believed—whose kindness and charity extended to all who came within the sphere of its influence. After leaving my paternal roof, I entered into the service of our late revered monarch, who was justly entitled the "father of his people." You will learn from some of my honourable companions, that while I served under his colours, I never tarnished their lustre. The country which is dear to me I have served. I have fought for her. I have shed my blood for her. I feared not in the open field to shed the blood of her declared foes. But oh! to suppose that on that account I was ready to raise the assassin's arm against my friend, and with that view to draw him into secret places for his destruction—it is monstrous, horrible, incredible. I have been represented to you as a man who was given to gambling, and the constant companion of gamblers. To this accusation, in some part, my heart with feeling penitence pleads guilty. I have gambled. I have been a gambler, but not for the last three years. During that time I have not attended or betted upon a horse-race, or a fight, or any public exhibition of that nature. If I have erred in these things, half of the nobility of the land have been my examples; some of the most enlightened statesmen of the country have been my companions in them. I have indeed been a gambler—I have been an unfortunate one. But whose fortune, or whose family, suffered from it? My own family were the only sufferers—my own fortune was the only sacrifice. At this moment I feel the distress of my situation. But, gentlemen, let not this misfortune entice your verdict against me. Beware of your own feelings, when you are told by the highest authority, that the heart of man is deceitful above all things. Beware, gentlemen, of an anticipated verdict. It is the remark, of a very sage and experienced writer, that no man becomes wicked all at once. And with this, which I earnestly request you to bear in mind, I proceed to lay before you the whole career of my life. I will not tire you with tedious repetitions, but I will disclose enough of my past life to inform your judgments; leaving it to your clemency to supply whatever little defects you may observe. You will consider my misfortunes, and the situation in which I stand—the deep anxiety that I must feel—the object for which I have to strive. You may suppose something of all this; but oh! no lines,



no pen, "though dipped in hues of heaven," can portray my feelings at this crisis. Recollect, I again entreat you, my situation, and allow something for the workings of a mind little at ease; and pity and forgive the faults of my address. The conclusion of the late war, which threw its lustre upon the fortunes of the nation generally, threw a gloomy shadow over mine. I entered into a mercantile life with feelings as kind, and with a heart as warm, as I had carried with me in the service. I took the commercial world as if it had been governed by the same regulations as the army. I looked upon the merchants as if they had been my mess-companions. In my transactions I had with them my purse was open, my heart as warm, to answer their demands, as they had been to my former associates. I need not say that any fortune, however ample, would have been insufficient to meet such a course of conduct. I, of course, became the subject of a commission of bankruptcy. My solicitor, in whom I had foolishly confided as my most particular friend, I discovered, too late, to have been a traitor—a man who was foremost in the ranks of my bitterest enemies. But for that man, I should still have been enabled to regain a station in society, and I should have yet preserved the esteem of my friends, and, above all, my own self-respect. But how often is it seen that the avarice of one creditor destroys the clemency of all the rest, and for ever dissipates the fair prospects of the unfortunate debtor. With the kind assistance of Mr. Thomas Oliver Hingfield, I obtained the signature of all my creditors to a petition for superseding my bankruptcy. But just then, when I flattered myself that my ill fortune was about to close—that my blossoms were ripening—there came "a frost—a nipping frost." My chief creditor refused to sign unless he was paid a bonus of 300% upon his debt beyond all the other creditors. This demand was backed by the man who was at the time his and my solicitor. I spurned the offer—I awakened his resentment. I was cast upon the world—my all disposed of—in the deepest distress. My brother afterwards availed himself of my misfortune, and entered into business. His warehouses were destroyed by the accident of a fire, as has been proved by the verdict of a jury on a trial at which the venerable Judge now present presided. But that accident, unfortunate as it was, has been taken advantage of in order to insinuate that he was guilty of crime, because his property was destroyed by it, as will be proved by the verdict of an honest and upright jury in an action for conspiracy, which will be tried ere long before the Chief Justice of the King's Bench. A conspiracy there was—but where? Why, in the acts of the prosecutor himself, Mr. Barber Beaumont, who was guilty of suborning witnesses, and will be proved to have paid for false testimony. Yes; this professed friend of the aggrieved—this pretended prosecutor of public abuses—this self-appointed supporter of the laws, who panders to rebellion, and had the audacity to raise its standard in the front of the royal palace—this man, who has just head enough to contrive crime, but not heart enough to risk its consequences—this is the real author of the conspiracy which will shortly undergo legal investigation. To these particulars I have thought it necessary to call your attention, in language which you may think perhaps too warm—in terms not so measured, but that they may incur your reproof. But

"The flesh will quiver where the pincers tear,

"The blood will follow where the knife is driven."

You have been told that I intended to decoy Woods to his destruction; and he has said that he saw me in the passage of the house. I can prove, by honest witnesses, fellow-citizens of my native city of Norwich, that I was there at that time; but, for the sake of an amiable and innocent female, who might be injured, I grant to Mr. Woods the mercy of my silence. When, before this, did it ever fall to the lot of any subject to be borne down by the weight of calumny and obloquy which now oppresses me? The press, which ought to be the shield of public liberty, the avenger of public wrongs—which, above all, should have exerted itself to preserve the purity of its favourite institution, the trial by jury—has directed its whole force to my injury and prejudice; it has heaped slander upon slander, and whetted the public appetite for slanders more atrocious: nay more, what in other men would serve to refute and repel the shaft of calumny, is made to stain with a deeper die the villanies ascribed to me. One would have thought, that some time spent in the service of my country would have entitled me to some favour from the public under a charge of this nature. But no; in my case the order of things is changed—nature is reversed. The acts of times long since past have been made to cast a deeper shadow over the acts attributed to me within the last few days; and the pursuit of a profession, hitherto held honourable among honourable men, has been turned to the advantage of the accusation against me. You have been told that after the battle, I boasted of my inhumanity to a vanquished, yielding, wounded enemy—that I made a wanton sacrifice of my bleeding and supplicating foe, by striking him to the earth with my cowardly steel; and that, after this deed of blood, I coldly sat down to plunder my unhappy victim. Nay, more—that with folly indescribable and incredible, I boasted of my barbarity as of a victory. Is there an English officer, is there an English soldier, or an English man, whose heart would not have revolted with hatred against such



baseness and folly? Far better, gentlemen, would it have been for me, rather than have seen this day, to have fallen with my honourable companions, stemming and opposing the tide of battle upon the field of my country's glory. Then my father and my family, though they would have mourned my loss, would have blessed my memory, and shame would never have darkened me with a suspicion. Before I recur to the evidence brought against my life, I wish to return my most sincere thanks to the High Sheriff and the Magistrates, for their kindness shown to me. I cannot but express my unfeigned regret at a slight misunderstanding which has occurred between the Rev. Mr. Lloyd, the visiting magistrate, and my solicitor. As it was nothing more than a misunderstanding, I trust the bonds of friendship are again ratified between us all. My most particular gratitude is due to the Rev. Mr. Franklin, whose kind visits and pious consolations have inspired me with a deeper sense of the awful truths of religion, and have trebly armed my breast with fortitude to serve me on this day. Though last, not least—let me not forget Mr. Wilson, the governor of the prison, and the fatherly treatment which he has shown me throughout. My memory must perish ere I can forget his kindness. My heart must be cold ere it can cease to beat with gratitude to him, and wishes for the prosperity of his family." (This effusion of gratitude and acknowledgment moved the prisoner to tears; the emotion to which it gave rise spread its influence round the Court in a manner totally indescribable.) "I will now proceed to make a few observations on the evidence brought against me in this case, which is so far like other cases which I shall have to cite, that it is full of caution, and subject to manifold doubts, and that it is derived principally from persons who come forward anxious to save their own lives, which are in jeopardy from this charge. In the first place, however, Beeson says that there are several roads leading out of Gill's-hill lane; the inference drawn from this circumstance, and that of my horse's head being turned towards Batler's-green, is futile, because, in fact, that is the nearer road. But what consistency was there in the testimony? The whole party admit that they were ignorant of the body and the place where it lay, until pointed out by Hunt. How did Hunt get at this particular knowledge? The inference must be, that he put it there himself. The constable said, that one man could not have thrown it there. What proof is there that they did not throw it there? What proof is there that the body was at any time thrown into Probert's pond? None, but what is furnished by Probert himself. Men would have thought, indeed, that the pond being deep, would have been the most convenient place for it. You have learnt that it was much deeper than the ditch in which it was found. Who but Probert could have known that the large pond was dry at times, and that the shallower ditch was never so. Then, again, as to the cord and sack. You learn that they were brought by Hunt. Was he ignorant of the purpose for which they were designed? I pass by Field and Upson, and come to Rexworthy. This witness admitted that he was connected with gamblers, and the supporter of gamblers. Now I will proceed to a remark or two upon Ruthven's evidence. He speaks of the dress worn by me. What must have been your surprise, gentlemen, that the dress had been worn by Hunt two days previously? On the search which took place afterwards, the knife and pistol were found in the pockets. When Ruthven came to me, he admits that there was no concealment—that he found me with unclosed doors; with drawers unlocked. Was this the conduct of a person fearing conviction? What did he find on searching the premises? A shirt and cravat marked with blood, just as Hunt left them. I forgot, my lord, and gentlemen of the jury, to call the attention of my brother to that circumstance. The cravat was a white one—a thing which, up to that time, and since my confinement, I never wore. It was proved that another person was in the room with me. Was it prudence, was it common caution in me to allow this person to be with me, who might disclose my guilt? Ruthven admits that he found nothing of that openness on going to apprehend Hunt. Simmons says, that he took a red shawl and handkerchief, which are proved to have been given to Hunt on the evening previous to the murder. The sack and cord were given to Hunt on the evening of the murder. I come now to the only man whose evidence tends, in any way, to convict me. What is the worth of his testimony? who is he? The answer to either question is, that he is a murderer. He did not refuse, even by his own account, to admit a man to his house hot from slaughter, and to introduce him as a companion for his wife. Where was the murder done? Within a quarter of a mile of his own house. Where was the body taken? To his own pond. Who took it there? He himself. His family, at this time, consisted of eight persons, and yet he invited us down, knowing that he had no accommodation for us. You will learn from respectable witnesses what was the real cause of my going down to Mr. Tetsall's. Probert gave a true account of the affair of the money which was borrowed at the first examination; but he gave a totally different one yesterday. Are you to doom me to ignominy and death upon the evidence of such a man? Forget not, I beseech you, the difference which appears in the evidence of the two men who are engaged in running a race, as it were, to determine which shall best deserve the character of approver, with a bridle upon their tongues which is only in the propor-



tion of the length of their consciences. This is the evidence to prove that I am the murderer of Mr. Weare. Probert tells you that I was going to kill him, because he had robbed me of some hundreds. Can you believe me to be so egregiously foolish? He says that I told the man to stop for me at a certain place. He admits that the man was a stranger both to him and his wife, and that he had never stopped at the cottage before. Yet he put him down at a proposed place, where it was intended to commit the murder. Would Probert have allowed Hunt to get out of his gig to meet a man without asking whom? Is it credible that Probert would receive a stranger, unless he knew how and when he was to receive him? You learn that Probert desired that twenty shillings might be given to Hunt, in case he went down in his own gig. You also learn that he gave him money to procure a loin of pork on his way down. Is this not the conduct of men engaged in a joint business? I believe, though I cannot speak with certainty, that Weare was designed to be the sacrifice of the fatal spirit which then possessed them, and that I also was to become their victim. They had well prepared themselves for the deed by the quantity of brandy and water which they had taken. Probert tells you that I and Hunt slept on the sofa, at Gill's-hill-lane. Be it so. Probert has admitted that he invited us down without having sufficient accommodation to receive us. Why we put up with the sofa is clear. Miss Noyes was sleeping in the only spare bed. What else could we have done, under the circumstances? As to the evidence of what was taken out of the bag, I have no observations to make upon it, because, if true, it is perfectly consistent with my innocence. The evidence of the conversation spoken to by Probert carries its own refutation. Was it likely that I should trust matters of such great and awful danger to Probert, who says he had no knowledge of my design? Probert adds, that I confessed to him my intention to murder Mr. Barber Beaumont and Mr. Woods, the latter being on the verge of marriage with Mrs. Probert's sister. Is it credible that I should entrust such a secret to Probert, above all men on earth? Observe, too, the contradiction in their testimony. He says that Wardle's field was the place where the body was first deposited. Mrs. Probert says that it was first taken to the stable, and then dragged to the pond. He says that there was a lantern. Mrs. Probert says that it was fine moon-light, which is contrary to the evidence of all the other witnesses. What will be your surprise when you learn that the garden-gate is on one side of the house, the stable on the other, and that the walk from the stable to the pond is not to be seen from any part of the house. Probert says that he did not get up next morning till nine o'clock. What truth is there in this? Probert says, that on telling me what he had heard at Mr. Nicholls's, I said "Then I am baked." And yet it appears that I returned to town and lived where I did the preceding week, with doors and drawers unlocked; actually posting the marks of my guilt. Probert says that Hunt came down in dirty clothes; and it is proved that he was afterwards seen in clothes belonging to my brother. Probert tells you that the boy was sent away, which is the truth, and that it was because he might not be in the way to answer questions. What truth is there in this? You learn that Probert was going next day to quit the cottage, and that regular notice had been given. I have no more remarks to offer on this cold-blooded witness. You will receive with caution the evidence of such a man, when in his cross-examination he confesses that he did not think of giving evidence until Hunt had confessed. Then commenced the strife between them which should make out the strongest case to deserve and obtain the mercy of the Crown. After much prevarication, Probert said that he did not come down till nine o'clock the next morning. He then refused to swear that it was so late as eight o'clock: his boy swears that it was not seven. You will not fail to remark the character of this witness, as it was wrung from him by the cross-examination of Mr. Andrews—that he had been committed to gaol six or seven times, and that he had been frequently remanded by the commissioners in his bankruptcy. He proved himself that he had introduced Hunt to me: for what purpose is now only too plain. The evidence of Mrs. Probert, gentlemen, is no less open to discredit. You cannot have forgotten the account she gave of seeing the horse come from the stable, when, from the subsequent part of her examination, she admitted that she could not see the stable-door. That witness has also detailed a long conversation, which she says she heard, although it was conducted in whispers, and although the door which intervened was shut. Now, gentlemen, I entreat you to mark what follows: in answer to a question put to her by the learned Judge, she said, that the conversation, which she heard in whispers, was after she had seen her husband dragging something across the water; in this she is directly contradicted by her husband, who says, that immediately after leaving the pond, he went up stairs to bed. Is it not plain, then, gentlemen, from this remarkable discrepancy, if from no other circumstance, that the pretended whispering is a scheme which has been arranged between Probert and his wife, and which has broken down in their attempt to execute it? I know not—I cannot know: but I most firmly believe that the body was never in Probert's pond at all. Mrs. Probert's account of the situation of the garden proves nothing that should contravene this presumption. The appearance of



the ground is accounted for, because she has said that potatoes were grown there; and they would of course be dug up before she left the premises, as she was about to do when the circumstances to which she speaks are supposed to have taken place. It has been stated, too, that the body was stripped, and taken out at the side of the pond. I could not learn from the evidence at which side; but an engraving in the *Observer* newspaper of the 9th of November last, represents it as being on that side opposite to which Mrs. Probert said she heard the body dragging. The evidence given by Probert, the horse-keeper, seems to me, gentlemen, to deserve your most serious consideration. From his testimony, you will perceive it is beyond all doubt that Hunt hired the horse and gig; it is proved no less clearly that he provided every thing which was necessary for the occasion on which he was to employ himself. The witness Fleet has proved, too, that Hunt took the shawl; and Probert has himself told you that he supplied him with the sovereign which was to pay his expenses. I now call your attention to the evidence of Clark, the person keeping the White Lion at Edgware; and this I beg you to examine most scrupulously. You well remember he stated, that as he was returning home at night, he met a gig on the wrong side of the road; that a coach was at the same moment passing along, by the lamps of which he was enabled to distinguish my person. Now, gentlemen, I ask you whether your own experience does not convince you that this is altogether false? I know, and every other man who will take the trouble of reflecting for a moment on the statement, must also know, that it must be false. On a wide road as this is stated to have been, in a dark night, it would be impossible for a person passing between a coach's lamps and a gig on the wrong side of the road, to distinguish the features of the man in the gig. You know very well, that under such circumstances the lamps would rather have been a hindrance than otherwise. And yet, in the face of this absolute impossibility, the witness Clark has sworn that he was able to discern my person, and to see that a gentleman was sitting upon my left hand. This is in my humble opinion quite conclusive as to the credit which you are to give to this witness's testimony. It is, you know, commonly said, that witnesses who endeavour to prove too much, commonly fail in every particular; and the observation was never more strikingly illustrated than in the case of this Clark, whose demeanour alone is sufficient to show that no reliance can be placed upon him, and whose character is such, that no individual who knows him would believe him on his oath. The testimony of the hackney coachman, to which I must now call your attention, proves that he set down Mr. Weare at half-past four o'clock. This he has sworn to most positively; he said also that a man in a light shaggy coat met the deceased when he set him down, and assisted in carrying away the luggage. All the witnesses agree that I did not leave Tetsall's until five o'clock. I therefore could not have been the person here alluded to. That the evidence of the coachman has been such as it is, I am indebted, I believe, to the caution of my solicitor; for if the witness had been allowed to see me alone, and as others were introduced to me, I have no doubt that he, as well as they, would have identified me, and would thus have been the means of strengthening the conspiracy of which I am the victim. Upon the evidence, I have to observe, to you, gentlemen, that although he says now he never stated the gig he saw to have been a yellow gig, my recollection is quite clear that he did so state it before the magistrates. Clark's hostler proves that the night was so dark, it was impossible to distinguish colours.

The Judge here said—Prisoner, I have no wish to interrupt you, nor to prevent you from stating to the jury whatever you think may be serviceable to you; but I must tell you that it will be my duty hereafter to contradict what you have now said, and to inform the jury, that the deposition of the witness you have alluded to does not contain any such statement: he swears he never said *it* was a yellow gig.

Thurtell bowed and proceeded.—“Mr. Field, the landlord of the Artichoke, at Elstree, has proved that Probert and Hunt did not reach his house until past nine o'clock. Clark says they left his house at seven; thus you see, gentlemen, there was ample time for Hunt and Probert to have gone to Gill's-hill-lane and to have perpetrated this atrocious deed, and to have returned to the Artichoke in time to be seen by Mr. Field. That they did so, I have no doubt; and it is also most consistent with that desire which they have manifested throughout, to shift the blame from their own shoulders to those of any other person. Can you believe, gentlemen, the story which has been told you, of Hunt's leaving his companion in the dark, within a mile and a half of Probert's cottage? Can you believe the evidence which has been given you by Probert? I am sure you cannot; and if you disbelieve that man, there is no testimony whatever tending to fix upon me the horrible crime with which I am charged. Clark's hostler has stated, that he saw two gentlemen in the gig at half-past seven, and that it was then so dark, that he could not discern the countenances of either; and yet, notwithstanding this assertion, the laundry-maid has been brought to swear, that she believed Mr. Weare to have been one of the persons; but you are still uninformed, gentlemen, in spite of all this effort in swearing, who was the other person. Why, I ask, and I am sure you will ask too, why did not this hostler, when the business was first



under investigation, go before the magistrates on the coroner's jury, and state there what he has now been induced to depose before you? His evidence, and that of his master, so far as it can be at all credited, go distinctly to prove that it was impossible for me to have been seen by either of them. Upon the evidence of the man who sold the pistols, I do not think it necessary to say any thing, because I am satisfied, gentlemen, that you cannot suppose that any thing can be collected from that by which I can be convicted. With respect to the conversation of which you have heard, and which is said to have taken place between me and an officer at St. Alban's, all I have to observe is, that although some such conversation did occur, the nature of it has been much mistaken. I said nothing more than that even if I were as guilty as Hunt had represented me to be, he must nevertheless be a great scoundrel; for that if I had been in his place, I would have died rather than have betrayed my companion. Enough has been said to you about the watch; it has been most minutely and circumstantially described, and yet it is not forthcoming. Have you not a right, and have I not a still greater right to ask, "Where is it? what is become of it? why do they not produce it?" I ought to rejoice, gentlemen, that these circumstances, upon which my prosecutors have relied, to prove my guilt, will, when fairly and dispassionately considered, furnish evidence of my innocence. Gentlemen, your verdict must be formed entirely upon circumstances. Those circumstances, I think, I have satisfactorily shown do not point at me as the perpetrator of this dreadful deed; but circumstantial evidence, gentlemen, is at the best a fearful guide for human judgment, as the annals of our own and of foreign jurisprudence too frequently show. The imperfection of human judgment, aided only by circumstantial evidence, devoted a father to death for the supposed murder of his son, and a servant for a crime of which she was afterwards proved to be innocent. The names of Calas and of the maid of Palaiseau present an awful lesson to judges and to jurors who have to decide upon the lives of their fellow-creatures. In our own happy country, instances of incorrect judgments have been less frequent, but still they have occurred often enough to inspire jurors with the utmost caution. Mr. Justice Hale, in his *Pleas of the Crown*, vol. 2, p. 290, declares in the most impressive manner, that he would never sanction a verdict against a prisoner charged with murder, unless evidence of the most satisfactory nature respecting the body of the deceased, and the nature of the wounds which had caused his death, should be produced in aid of the circumstances by which the accusation was to be supported. The same learned Judge quotes a case showing the necessity of such a resolution, which he states to have happened in Staffordshire, within his own recollection. A was missing, and there being a strong presumption that he had been despatched by B, who was suspected of having consumed his body to ashes in his own oven, B was indicted for the murder, convicted and executed. About a year afterwards, A returned home from beyond seas, whither he had been sent by B against his will; so that, although perhaps B really deserved death, he was clearly innocent of that crime for which he suffered. Another case was that of a nobleman, who had the care of bringing up his niece, to whom he was the next in succession to certain property. The child, it seems, had committed some offence, for which her uncle had found it necessary to correct her, and she had been overheard saying, "Good uncle, don't kill me." The child was afterwards not to be found; the uncle was committed for the murder, and the Judge, before whom he was tried, admonished him to find the child against the next assizes. When that period arrived, the uncle could not find the child, but produced another, like his niece, in years and in figure. On examination, it was discovered that this child was not the one which had disappeared, and the uncle was found guilty and executed. It appeared afterwards that the child had been terrified, had run away, and had been received by a stranger who maintained her; and when she became of age she claimed her land, and was put in possession of it, having satisfactorily proved herself to be the true child.

The prisoner read these cases with a firm voice, and in a most distinct tone. At their conclusion he said, "I shall not trouble you, gentlemen of the jury, with any more cases. (Here Thurtell's solicitor said something to him in a low tone), and he then cited one more case from the *Newgate Calendar*. As the case is long, I shall not detain you by reading it all. I shall give only the heads of it. It is the trial of a man named Holman, in 1748, at Kingston, for the murder of a young woman. The young woman lived for ten weeks after receiving the wounds which eventually caused her death. She stated, before her death, that she had been attacked by a man named Holman. Holman was taken up; and a strong case of circumstances being made out against him, he was executed, protesting his innocence to the last moment. In about three years after this, two persons were tried for another murder, and found guilty: they then confessed that Holman had suffered undeservedly; that he was wholly innocent of the crime. They acknowledged that it was committed by one of them, who assumed the name of Holman, in order that he (Holman) might afterwards be charged with it. Thurtell then resumed this paper and read—"And now, gentlemen, having read those cases to you, am I not justified in saying, that unless you are thoroughly convinced that the circum-



stances before you are absolutely inconsistent with my innocence, I have a claim to your verdict of acquittal? Am I not justified in saying, that you might come to the conclusion that all the circumstances stated might be true, and yet I be innocent? I am sure, gentlemen, you will banish from your minds any prejudice which may have been excited against me, and act upon the principle that every man is to be deemed innocent until he is proved guilty. Judge of my case, gentlemen, with mature consideration, and remember that my existence depends upon your breath. If you bring in a verdict of guilty, the law afterwards allows no mercy. If upon a due consideration of all the circumstances you shall have a doubt, the law orders, and your own consciences will teach you to give me the benefit of it. Cut me not off in the midst of my days. I implore you, gentlemen, to give my case your utmost attention. I ask not so much for myself as for those respectable parents whose name I bear, and who must suffer in my fate. I ask it for the sake of that home which will be rendered cheerless and desolate by my death. Gentlemen, I am incapable of any dishonourable action. Those who know me best know that I am utterly incapable of an unjust and dishonourable action, much less of the horrid crime with which I am now charged. *There is not, I think, one in this Court who does not think me innocent of the charge. If there be—to him or them, I say in the language of the Apostle, "Would to God ye were altogether such as I am, save these bonds." Gentlemen, I have now done. I look with confidence to your decision. I hope your verdict this day will be such as you may ever after be able to think upon with a composed conscience; and that you will also reflect upon the solemn declaration which I now make—So help me God I am innocent.*"

Thurtell pronounced this last sentence in the most emphatic manner. He raised his eyes to Heaven, and extended his arms a little, then drew them back and pressed his hands closely to his heart. He then bowed to the Judge and Jury, and resumed his seat. His whole demeanour seemed to have created a strong feeling in his favour.

The Judge then addressing himself to the prisoner Hunt said, "Joseph Hunt, it is now your time, as your counsel cannot address the Jury on your behalf, to say what you think proper in your defence; but before you begin, the purposes of justice require that the witnesses for the other prisoner should be heard first.

Mr. Samuel Wadson was then called, and examined by Mr. Andrews.—In the course of my profession, I became acquainted with Probert. It was when he became a bankrupt. I was the solicitor for the creditors. There were several meetings and examinations. From what I then saw and knew of Probert, I would not believe him on his oath, unless his testimony was supported by other and credible evidence.

Mr. Haydon, examined by Mr. Platt.—I have known John Thurtell. The impression on my mind, from my knowledge of him, is, that he is humane and kind-hearted.

By the Court.—When was your last intercourse with him?—Witness answered that he had not ceased to know and see him. He met him frequently.

Captain M'Kinlay, examined by Mr. Andrews.—I am a Captain in the royal navy. (We think the witness added, that he held some situation at Greenwich, but we could not distinctly hear.) I have known John Thurtell. He served under me. He was under my command from 1812 to 1814. I was then Captain of the *Bellona*. He always acted with correctness as an officer. I found him correct, humane, and liberal. I have not known him since 1814.

Mr. W. Walmsley, who was examined by Mr. Chitty, stated, that he had known John Thurtell for the last 13 or 14 years, and that he had during that time always considered him a humane, well-disposed man.

This was the last witness called on behalf of Thurtell.

Mr. Justice Park. Joseph Hunt, I will now hear your defence if you have got any to offer.

Hunt. I have a defence, which, from the extreme anxiety of mind under which I labour, I think I shall not be able to read through myself.

Mr. Justice Park. You had better hand it to the officer of the court, and allow him to read it.

Hunt accordingly gave a paper to one of the sheriff's officers, who put it into the hands of Mr. Knapp, the clerk of the arraigns. That gentleman proceeded immediately to read it. It was as follows:—

"My Lord,—Having, under a positive assurance that I should be admitted a witness for the crown, made a full and true confession of all the facts within my knowledge respecting this horrible and melancholy event, and having implicitly relied on the good faith of the magistrates for the due performance of their so-



lemn promises, made previously and subsequent to my disclosure, I forbore to make the slightest preparation for my defence; and after your lordship shall be made acquainted with all the circumstances under which that confession was drawn from me, your lordship's feeling and compassionate heart will be able to appreciate, although I am unable to describe, the painful emotions of surprise and disappointment by which I was overwhelmed, when, only a few days before the assizes, it was notified to me, for the first time, that I was to be placed in my present perilous and awful situation.

Mr. Justice Park. I suppose you mean the assizes which commenced on the 3d of December, not the postponed assizes which we are now holding?

Mr. Thessiger said a few words to his lordship—we could not hear them.

Mr. Justice Park. I merely mentioned the circumstance, that there may be no mistake regarding it.

“Your lordship will perceive that the very circumstance which I was told would procure me forgiveness, and ensure my safety, has alone rendered me amenable to the laws—namely, my own disclosure and declarations; for, although the prosecutors may not offer my confession in evidence, yet, as that confession has been published in every newspaper in the kingdom, and has been circulated in many thousand pamphlets, and been the subject of universal conversation, is it probable, or even possible, that any of the gentlemen who are now sitting in judgment on my case can be ignorant that such a confession has been made? How futile, then, and unavailing would be any observations or arguments to raise a presumption or the innocence of a man, who already, to a certain extent, stands self-condemned. Feeling myself in this dilemma, I shall abstain from troubling your lordship with any detail of facts or observations upon the main question involved in the indictment, but merely assert, that I was not present when the unfortunate deceased lost his life, and that I was ignorant of any premeditated plan or intention to destroy him; I never knew of the murder until after it was committed; my crime consists solely in concealment; and my discovery could not bring the dead to life: my error arises, not from any guilt of my own, but from my concealment of the guilt of others. I am now on my trial for having been privy to the previous design—I never was; I certainly concealed it afterwards, sooner than betray the misfortune which had been confided to me. Your lordship, however, will, I am sure, tell the gentlemen of the jury that no concealment or conduct of mine after the death will make out the present charge; and I hope both your lordship and these gentlemen are too just and merciful to convict me from prejudice, and not from proof.

“I now, my lord, most respectfully solicit your humane attention to the following statement:—

“On the morning of Wednesday, the 29th of October, I was apprehended in London, and directly conveyed to Watford, where an investigation was going on respecting the then supposed murder of Mr. Weare. On my arrival I found several magistrates assembled, and Mr. Noel, who was apparently conducting the prosecution, addressed me as follows:—‘Mr. Hunt, for God’s sake, tell the magistrates whatever you know of this murder, and in all probability you will be admitted as an evidence. It is clear that Mr. Weare has been murdered, and we only want to find where the body is, and if you know, for God’s sake tell us.’ I repeatedly denied all knowledge of the circumstance, and Mr. Noel as frequently importuned and urged me to confess. At last the magistrates said, ‘Mr. Hunt, you had better retire and consider the offer made to you, and recollect your perilous situation.’ I was then conveyed into another room, and was presently followed by Mr. Noel, who, in the presence of Ruthven and Upsom, repeatedly told me that if I would tell where the body was (provided I did not actually commit the murder,) that I should be admitted as an evidence, and my life would be spared; and added, that the magistrates had authorized him to make a pledge to this effect. Still, however, I was firm in my denial, and continued so until Upon the officer tortured my feelings by the mention of my family. He said to me, ‘Hunt, you have a mother?’ I answered ‘Yes, I have.’ ‘And a wife also?’ I said ‘Yes.’ ‘And you love them dearly?’ I answered ‘Yes, very dearly.’ Then said he, ‘For their sakes do not risk suffering an ignominious death, but tell where the body is, and give your evidence immediately, or you may be too late; for Probert or the other will disclose, and then nothing can save you.’

“This address had a great effect upon me, and Noel perceiving it, again pressed me, saying, ‘Do not hesitate, for you have now a chance: consider the situation you are in, and avail yourself of the offer now made to you, for I am



authorized by the magistrates to say, that you will be admitted as an evidence for the crown, and not treated as the others. You will merely be confined until the trial, to give your evidence, and then be discharged.' On receiving this assurance, I consented to become a witness, and Mr. Noel then asked me if I knew where the body was? I told him yes, that I could not describe the place by name, but I could point it out: on which Mr. Noel struck his hand on the table, and exclaimed, 'That's all we want,' and shaking me by the hand said, 'Hunt, I am very glad you have saved your own life.'

"We now returned into the room where the magistrates were, and Mr. Noel told them I was ready to make a disclosure, and said, I have made known to him, by your orders, that if he discovers where the body is, he is to be admitted as an evidence; but before he says any thing, I wish him to have that assurance in your presence, that he may be satisfied from yourselves that I was authorized to make the promise. The magistrates, Mr. Clutterbuck and Mr. Mason, replied, that Mr. Noel had their authority for what he had done; and then Mr. Noel said, 'Now, Mr. Hunt, having heard the magistrates' decision as to your being a witness, I hope you are satisfied, and I beg you will take a seat, and tell us all you know.' I then detailed every thing that occurred to my recollection, but having been apprehended early on the preceding day, conveyed into the country, and harassed and importuned throughout the night, it could hardly be expected that I should, at four or five o'clock in the morning, in making a very long statement, recollect every circumstance; indeed, the magistrates were aware that such could not be the case, and they told me, that as in the hurry and confusion of the moment, I had no doubt omitted many facts that I should afterwards on reflection recollect, and if such should be the case, I had only to address a letter to the magistrates, and they would immediately attend to it. Shortly after quitting the room, several particulars came to my recollection which I had not named, and I directly sent for Mr. Noel and mentioned them to him. At nine o'clock the same morning, I went with the officers and pointed out the spot where the body had been deposited; I was then taken back to the magistrates to sign my statement, and previous to my being taken to prison, Mr. Clutterbuck desired that I should be treated with kindness, and not put under any unnecessary restraint. I was accordingly conveyed to St. Albans without being ironed or handcuffed, and was there treated with every possible indulgence.

"On being taken before the coroner, I experienced very different treatment; but still I had no intimation given me that I was not to be admitted as a witness for the crown, until just before the present indictment was found.

"It is perfectly true, that when before the coroner, I was admonished to make no farther confession; but the admonition was a mockery. I had already, under a solemn promise, confessed every thing material; and the coroner himself, when he thus affected to forewarn me, well knew that he and his jury were that instant sitting in inquest on the body solely in consequence of my disclosure: no jury could have sat—no death could have been proved—no body could have been found—no trial could have been had, but for my instrumentality. I was trepanned into a confession by the plighted faith of the magistracy of this county. If they break it now, they will not merely make me the victim of its violation, but they will be answerable to society for every future crime against the discovery of which their conduct will be an eternal admonition. Who can confide in promises hereafter? Who can rest his life on magisterial assurances? To no human being can they ever pledge themselves more sacredly than to me, yet here I stand to-day a proof of their sincerity; nay, more than this—not only have they broken faith and violated honour, but while the press was unceasing in the excitement of prejudice—while the theatre and the painter were employed in poisoning the public mind—while every engine was at work to diminish the chances of an impartial trial, these very men, who had thus ensnared me by perfidious declarations, closed their prison door against friends and legal advisers, and opened them only to the mandate of the King's Bench. Thus was I first ensnared, and afterwards sought to be sacrificed. Seduced into a confession which was trumpeted through the world, and then cruelly secluded until the time arrived when I was to suffer—not for my crime, but by credulity; not because I erred, but because I trusted; not because I violated the law, but because I confided in the conscience of its ministers. It is in vain to say that my confession was not complete; it was as ample as could have been expected at the moment, from an exhausted frame and an agitated mind. It was subsequently amended, where it was at first deficient; and no



sophistry can evade the fact, that through that confession alone the body was discovered. Thus, then, the main circumstance—that on which every thing turned, was disclosed at once; and it is absurd to attribute to aught but momentary confusion, any minor concealment, when the great, essential, and indispensable development had taken place.

“As a proof that even the coroner himself considered my confession so ample as to ensure my pardon, and that in his mind, notwithstanding his admonition, the promise of the magistracy ought to be held inviolate, hear his own words to Mr. Nicholls, one of the witnesses—‘The consequence of your delay has been the escape of Hunt from justice; for he has been admitted a witness for the crown, by the magistrates, as they were afraid the body was disposed of.’ Now, what did these words mean, if the coroner was not fully convinced that I had merited and ensured my pardon?

“The prosecutors, my Lord, may affect to say, that as they refuse to grant the boon promised for the disclosure, they will decline using, or taking any advantage of the confession, and I humbly submit that such a line of conduct would be alone consistent with justice and fair dealing; for if they retract their engagement, they ought not to place me in a worse situation than I was in at the moment when, confiding in their integrity, I unbosomed the secret. If the prosecutors act with liberality and forbear to offer a tittle of evidence respecting the body, and, in conducting the case, consider it as still undiscovered, I can have no cause to complain of plighted faith and broken promises, because your lordship need not be reminded that it has been laid down as a principle, that no death can be considered as proved unless the body be found, and consequently in this case no conviction can take place. But if witnesses are produced to prove the finding of the body, can it be said that my confession is not taken advantage of? and will not the prosecutors be taunting me by an affectation of candour, if they take credit for not giving in evidence any declaration made by me, while they avail themselves of the very essence and substance of the communication?

“In confirmation of the promises made to me by the magistrates and Mr. Noel, I beg to refer to a statement which the latter gentleman has published in the newspapers: wherein he says—‘It is now incumbent on me to state the reasons for the offer of mercy held out to Hunt;’ and then he thus proceeds:—‘Notwithstanding the most diligent searches for the body, no discovery had been made of it as late as four o’clock past midnight of Thursday morning, the 30th of October, the sixth day after the murder, and at that hour the informations and investigations had terminated with no clue whatever to the real person murdered.’ Mr. Noel next describes his invitations to me to make a disclosure, with a view to my being admitted as an approver; his desiring me to retire to consider of his proposal; and after I had left the room, he says he addressed the magistrates as follows:—‘Gentlemen, if you do not approve of the offer of mercy now held out to Hunt, say so, and I will go to him. Recollect, without the body is found, notwithstanding the strong evidence against one of the parties, we shall do nothing; and Mr. Clutterbuck and Mr. Mason both gave unqualified approbation to my mode of examination, and of the offer of mercy held out to Hunt.’

“And in another part of Mr. Noel’s statement he says, ‘Not only at Watford, but at the inquest, it was the general opinion of Mr. Mason and the magistrates, that the body might have remained concealed in Hill’s Slough, the place where it was found (a distance of three miles and a half from the spot where the murder was committed,) until it had been decomposed, and beyond the possibility of identifying; and such was the insignificance of the slough, that persons employed to drag all pits, ponds, &c., would have passed by it, and therefore they were confirmed in their opinion as to the policy and propriety of sanctioning my offer of mercy to Hunt; and previous to the offer being made, it was our united opinion that the corpse had been removed to London, and probably thrown into the Thames either entire or piecemeal.’

“In addition to this statement, Mr. Noel inserts a letter from Mr. Clutterbuck to himself, in which the magistrate observes, that as my case was then gone out of the hands of the magistrates, all that could be done for me was to ask of the court whether they would allow me to be evidence for the Crown.

“Having now, my Lord, faithfully stated the inducements by which I was led to make that disclosure which alone rendered myself and my fellow-prisoners



amenable to justice, I respectfully submit to your Lordship, whether, in being now put upon my trial, and made the victim of my own credulity, I have been fairly and candidly dealt with? I will not, my Lord, attempt to point out or discuss the mischiefs likely to arise if such engagements as were entered into with me are to be cancelled at pleasure, because they will occur much more forcibly to your Lordship's enlightened mind: indeed, so far as I am individually concerned, my fate is a subject of trifling importance. I have no desire to prolong a wretched existence, unless it be to afford the opportunity of endeavouring, by prayer and penitence, to obtain mercy and forgiveness of the Almighty, for the sins and transgressions I have committed. But in pity to the feelings of an aged and respectable mother, a virtuous and amiable wife, and my dearly beloved brother and sister, I do feel most anxious to avoid an ignominious death; and it is therefore for their sakes, more than for my own, that I fervently and earnestly entreat the performance of the solemn pledge made to me of sparing my life.

"I have nothing further to add, but most humbly repose my fate in the justice and humanity of your Lordship."

When Mr. Knapp had concluded the reading of this document, Hunt rose and said, that he had another paper which he wished to have read. He was proceeding to read it himself, when

Mr. Justice Park asked him whether he had not better allow that paper also to be read by the officer of the court.

Hunt replied, that as the paper was very short, he would proceed to read it himself. He merely wished to add, that the greater part of Probert's evidence was false, and especially that part of it in which it was stated, that he (Hunt) was acquainted with all the circumstances which occurred previously to the murder. In order to save his own life, Probert had found it necessary to sacrifice his. One fact which Probert had stated, every body must see must be false. Probert had said, that he (Hunt) had pointed out the place where he was to be set down on the road. Now it was in evidence that he had never before been in that part of the country. How, then, could he know any thing about the places on the road?

Mr. Justice Park, finding that Hunt had concluded, desired one of the Hertfordshire constables to be placed in the witness-box. One of them was accordingly placed there. The learned Judge then asked him whether he knew where Gill's-hill-lane was? He replied that he did not. He was in consequence dismissed.

Mr. Justice Park said, that his reason for examining the constable was, to have legal proof that Gill's-hill-lane was in the county of Hertford. Perhaps there was some person in court who could prove it.

It was stated that the coroner was in court, and could prove the point in question. He was accordingly put into the witness-box, and proved that not only Gill's-hill lane, but also the place where Mr. Weare's body was found, were in the county of Hertford.

Mr. Justice Park then commenced, at a few minutes before 12 o'clock, to sum up the evidence to the jury. The present case was one of great importance, and had already occupied a very great portion of their time and labour. It was a case which was of vast importance to the prisoners, and scarcely of less importance to the public. The prisoners were indicted in this manner---one of them, John Thurtell, as the principal felon, and the other, Joseph Hunt, as the party who had stirred up, moved, abetted, procured, commanded, hired, counselled, and directed John Thurtell to perpetrate the murder, or, in legal language, as an accessory before the fact. If he had only been guilty of concealing the murder after it had been committed, he was only, as he said in his defence, an accessory after the fact, and therefore could not be convicted upon this indictment. The question which they had to decide was, like all other examinations into the death of a man, of great importance; for the law of England placed, and very properly placed, so high a value on the life of a citizen, as to deem every killing a murder; and it therefore threw upon the person accused, the burden of showing the circumstances of extenuation, which reduced the killing from murder to manslaughter, or which made it no killing, but that which the law excused or justified. The present question did not, however, depend upon any point of that nature. The only question before the jury was, who committed the murder of Mr. Weare; for it was not pretended by either of the prisoners, that, if they committed it, there were any circumstances which justified them in doing so. The defence of the principal in this indictment was, that he did not commit the fact charged against him; and if he did not commit that fact, all inquiry regarding the accessory was useless and



unnecessary. There was this distinction between the two prisoners at the bar, a distinction which, though it made no legal difference in their situation, for accessories before the fact stood exactly on the same ground as principals, was still worth their notice---there was this distinction between the two prisoners, that if they thought that there was no testimony to affect John Thurtell, then they needed not to inquire as to the guilt of Joseph Hunt; for Hunt being only indicted for counselling and abetting John Thurtell in the commission of this murder, it was clear that if they thought that John Thurtell did not commit it, Hunt could not have counselled or abetted him in the commission. There was likewise another difference between them, viz. that though they might think John Thurtell guilty, it did not follow that they must necessarily find Joseph Hunt guilty of aiding, counselling, and abetting him. He trusted that he had thus explained to their satisfaction, the distinction which existed in the cases of the two prisoners. The jury had heard as well as he had, the topics which had been offered by Thurtell in his defence; and before he went into the evidence, which he should detail to them very minutely, and should examine with all the discrimination which his mind could bring to it, he would beg leave to call their attention to them. He should not be doing justice to that defence, if he did not fully admit that the beginning and end of it were eminently manly, energetic and powerful, and were highly creditable to the party who had drawn it up. He could not, however, help saying, though he was not one of those who took pleasure in saying any thing harsh, that he could not admire the judgment of those who had advised the prisoner to disfigure and deform that defence by putting so foolish a middle between so able a commencement and conclusion. If it had been the wish of the parties to have weakened the defence as much as possible, they could not have effected their purpose better than by quoting cases from the Newgate Calendar, the Percy Anecdotes, and other volumes, of which no lawyer knew any thing, and which, for any thing he knew, might even be mere volumes of romance. By such a proceeding the defence had lost all the effect of the opinion of that eminent man Lord Hale—an opinion which was so sound, that no man in his senses would presume to question it—an opinion on which he had recently acted in a case in Sussex—namely, that in order to prove the crime of murder, it should be shown that the man said to be murdered was absolutely dead. That opinion was founded in common sense; it required no authority, save that of Lord Hale, and it certainly acquired no weight from the farrago of romance and nonsense which somebody had put into the hands of the prisoner; for he did not suppose that the prisoner was the person who had himself collected it. The principal, Thurtell, had chiefly rested his defence on the danger of giving too implicit credence to circumstantial evidence. If the doctrine which he had that day advanced were to be carried to the extent to which he contended, there would be an end at once to the judicature of man. As long as man was the infirm and imperfect creature which he now was—as long as his knowledge remained of the confined and limited nature that it now was—how could he arrive at any certainty in matters of this description, except by a concatenation of circumstances, all leading to one and the same result? It would be absurd to deny the value, the great and important value, of circumstantial evidence; for though, in the lapse of some hundred years, some cases might be cited in which it had led to unfortunate conclusions, yet circumstantial evidence, in the testimony of all persons who were accustomed to attend to judicial proceedings, not only of those who had sat on the bench to which he had been raised, but also of those who were most eminent as practitioners at the bar, was considered as more satisfactory in producing conviction in the human mind, than the direct testimony of any single individual who saw the crime in question committed. He would endeavour to exemplify the doctrine which he had been laying down on this point by a particular instance. This man Probert—than whom a more infamous character could not easily be conceived—a man, who by the very fact of his being admitted as evidence for the Crown, was placed before them as an accomplice in murder—who had not been rendered a whit blacker than he was before by the very respectable testimony of Mr. Wadeson, who being asked whether he would believe Probert upon oath? replied, with a caution which was not more than he (Mr. Justice Park) had expected from a long acquaintance with his (Mr. Wadeson's) character—"I would not believe him upon his oath, unless he were corroborated by other witnesses,"—for how could that man who had committed perjury on his examination before the commissioners regarding his bankruptcy, be considered blacker than the man who had concealed the murder of his friend?—this man Probert—for he formed an example well calculated to illustrate the difference between direct and circumstantial evidence) might be influenced by bad motives against the prisoner Thurtell, and, therefore, might frame his evidence in such a manner as to ensure his conviction. He would assume that such bad motives did exist, and that Probert and one or two others had conspired against him. Then in what situation were the jury and himself placed—acting as they would have to act on the oath of a man who was declared not to be a credible witness on his oath? Were they to conclude that the 53 other witnesses who had



been examined on this trial, who had corroborated the statement of Probert and others, and of whom some did not even know the person of the prisoner Thurtell, were likewise conspirators against him? Or were they to conclude that the corroboration of Probert and others by so many indifferent witnesses, was a decisive proof of the truth of their statements? For his own part, he would say, that there never was a case in which circumstantial evidence was more useful. Circumstantial evidence, however, was said to be doubtful. He allowed that it was, and so, indeed, was all evidence. If not, why were they and he in that court together? They were well aware that they were met to exercise their judgment in sifting all the evidence, direct as well as indirect, that might be submitted to their notice. They were not to sift the circumstantial evidence merely, they were to sift the direct evidence also; and if upon a review of both, they entertained any strong doubts as to the guilt of the prisoners, such as rational men who valued the sanctity of their oaths ought to feel, then, as the prisoner Thurtell had observed, they were bound to give the benefit of such doubts to the prisoners, and to acquit them of the charge which had been brought against them. The learned Judge then continued:—"There is another circumstance in this case, which renders it particularly distressing to those who have to look upon it in a judicial point of view. We are met at the very outset of it by an evil which no man can deny, and which I think few will be found to palliate. It is painful for me to reflect upon it, or to consider of the consequences to which it must ultimately lead. It is my practice—and I am sure that those who know me will bear testimony to the truth of my observation—it is my practice never to go out of my way to say any thing harsh of any human being; but I should be unworthy of the situation which I now fill, I should even deserve to meet with impeachment, if I did not fully and fearlessly discharge those duties which my judicial station imposes upon me; and I shall therefore proceed to make those observations which I conceive justice demands from me, even though I may be attacked for them by all the artillery of libel. It is peculiarly distressing to me to find that both the prisoners are obliged in the very outset of their defence to beseech, entreat, implore, and conjure you, if you have ever heard or read of any thing to their prejudice or disadvantage in the last few months, to dismiss it entirely from your thoughts, and to avoid it as you would the breath of a pestilence. Much, too much, has unfortunately been published upon this subject; and I cannot but say, that such statements of evidence, as I am informed have appeared regarding this case, are calculated to corrupt justice in its very source. If they are not checked immediately, by authority, I, for one, shall tremble for the constitution of my country. We have long boasted, and I think justly boasted, of the purity with which justice is administered amongst us; but if the practices which have recently grown up are allowed to continue, that boast must, before long, become a mere idle boast. You are called into that box, gentlemen of the jury, to decide, by the help of that judgment which God has given you, fairly, impartially, and without prejudice, upon the evidence which is submitted to you in this court. But how can you do this, if you are allowed to have your minds previously poisoned with that which is no evidence at all in the case? How can you come to an unprejudiced consideration of the guilt or innocence of the prisoners, if you are permitted to read a confession like that of Mr. Hunt, published in every newspaper? That confession has been printed in all the papers, and has been read by the public, and has, perhaps, been considered by some of you, gentlemen, as evidence in this trial—a confession which the learned counsel of the crown never ventured to tender to me as evidence, and which, if he had tendered it, I should, under the circumstances which have come to my knowledge since this trial commenced, have rejected at once, as no evidence at all. Therefore it is that I say, that the public mind is poisoned by the publication of these statements; and it was upon that consideration that I took upon myself, at our last meeting, the responsibility of postponing this trial, and also the additional labour, which I by no means regard, of meeting you here a second time. At that time I did not think it fair, nor have I altered that opinion since, to put the prisoners on their trial before the prejudice had had some time to subside, which must have been occasioned by the libels which the affidavit which on that occasion was read to me stated, had been generally propagated concerning them. I have the satisfaction of my own consciousness that I acted right upon that occasion, and I believe that I may say that I have the approbation of those whose approbation is most valuable, for the proceeding which I then adopted. I must again repeat, that every circumstance connected with this case renders the publication of the statements which have appeared regarding it particularly painful to all who are concerned in it. Why they are so to the prisoners, every one of you will clearly perceive. To me they are productive of the greatest pain and anxiety, lest by some unintentional lapse of mine you should be impressed by certain evidence which has been, but ought not to have been, brought before you, and which ought not to produce any effect upon your mind. I am sure, however, that no newspaper publications—no pamphlets—no libels of any description will make the slightest impression upon your minds; but that you will do your duty to the prisoners and to your country, as you will answer it hereafter.



to God and to your own consciences. These are the principal observations which suggest themselves to my mind regarding the nature of circumstantial evidence, and the prejudice which may exist in consequence of the improper publications in the daily newspapers." The learned Judge then proceeded to observe, that the point which the other prisoner, Joseph Hunt, had made, was a point rather to be considered by him than by the jury. A motion had been yesterday made before him, which the greater part of them had perhaps heard, and in which the same arguments had been used by the learned counsel who then argued the case, as had been that day advanced by the prisoner himself, tending to show that he was bound to put off this trial, in order to afford Hunt an opportunity of appealing to the Crown to be admitted evidence. The form in which that argument was put by the learned counsel, who argued it with considerable power and ability, showed him that he could not properly postpone the trial. Supposing that Hunt had ever had any reason to make an appeal to the Crown of the nature which his counsel recommended, and he did not know whether Hunt might not already have made such an appeal, it was clear that Hunt had already had time enough to make it, owing to the former postponement of the assizes. If he had put off the trial, as the learned counsel had requested him to do, he should only have given the prisoner an opportunity of doing that at present, which he was at full liberty to have done a month ago. Therefore, powerful as the argument urged by the prisoner might be, it was one upon which neither he nor the jury could act at present. Thus far, however, he should have acted upon it,—that if the learned counsel for the prosecution had offered Hunt's confession to him as evidence, he should have rejected it as inadmissible. Much had been said regarding the effect of this confession, and of the manner in which it had been obtained. He was however sure that the professional advisers of this young man were well aware, that even if a confession were extorted from a criminal by any promise of pardon or pledge, that it would be better for him to make it; yet if, in the case of stolen goods, the goods were found, or in the case of murder, the body of the murdered person were produced, the finding of the goods in one case, and the production of the body in the other, would show, that though the confession might have been extracted from him unworthily, still he had spoken truth, and had not from fear or any other motive accused himself or others of a crime which had no existence. Therefore he said there was no peculiar hardship in the case of this young man, and that he was only suffering that which every other criminal had previously suffered in his situation. He was stating these points for their consideration, and he had now finished all the preliminary observations he had to make upon the topics which had been presented to his mind by the defence of the prisoners. He should now proceed to the investigation of the evidence, which he should go through with the utmost minuteness, stating to them the impressions which it had made upon his mind, and leaving them to be adopted or not by the jury, as they might think proper. The first observation he should make on the evidence was, that the great body of this crime depended on the evidence which Probert and his wife had given regarding these dreadful transactions. As Probert was an accomplice in this crime, he would state to them what the law of England was regarding the evidence of an accomplice. It ought never to be forgotten that, when an accomplice came into the witness-box to be examined, he came into it loaded with all the guilt of the parties against whom he gave his testimony; and that it was therefore impossible to make him a blacker character than he already was by his own confession. If he came to accuse his accomplices of house-breaking or robbery, he placed himself before the jury as a house-breaker and a robber. If he came to accuse them of murder, he was, in point of moral guilt, equally a murderer with those whom he came to accuse, though he was not, in point of law, liable to the same heavy consequences. The law of England was, that an accomplice might be set up to be examined in the first instance; he was a perfectly competent witness, and the only question was, whether he was a credible one. It was the province of the Judge to decide as to his competency, and of the jury to decide as to his credibility. He now, therefore, told them that Probert was a competent witness; but, having set him up as such, he was next bound to advise them not to attend to one syllable that he uttered, unless they found him corroborated in the main points of his evidence by other witnesses of unimpeachable integrity. He did not say corroborated in all points, because if he were corroborated in all, there would be no need of his testimony, and he ought to be placed at the bar to be tried along with his associates. He was placed in the witness-box, not to be corroborated in all points, for his evidence was only wanted on a few points, on which full light could not otherwise be thrown; but if he were corroborated in the main points of his statements, by other witnesses, who had no connexion with him, then they were bound, in his opinion, to give him credit upon those in which he remained unsupported. A great many sensible observations had been made upon the value of Probert's testimony by the prisoner Thurtell. He would not weary the jury by recapitulating them, but would tell them in one word, that with all that Thurtell had said upon that subject, he fully and cordially agreed. He would say with Mr. Wadson, that he would not believe that individual upon oath, unless he found him corroborated from some other quarter. The



learned Judge then adverted to the observations which had been made regarding the impolicy of admitting accomplices as evidence. In reply to them he would only state, that it was a practice of daily occurrence and absolute necessity, seeing that without it many criminal acts must go entirely unpunished. He conceived that it was very important that the evidence of accomplices should not only be received, but should also be credited; for it was important that men of low degree, who confederated together for the commission of crime, should know that all friendships which rested upon such a foundation were hollow, treacherous, and perfidious, and that the first appearance of danger was certain to make the members of such a confederation disclose such circumstances regarding their fellows, as would rescue themselves from the perilous situation in which they might happen to be involved. In the very case which they were now trying, it appeared from Hunt's own words, that he had asked Mr. Noel, (who, by the bye, appeared to have acted a most unwarrantable part in these transactions, with which he had no more to do than any by-stander,) to run to the magistrates and inform them that he was willing, upon certain terms, to confess what he knew, evidently showing by such conduct that he was afraid lest some person should be beforehand with him in making a disclosure. It was important to the well-being of society, that such a feeling should exist amongst those who were confederated against it, and as there could be little difference of opinion upon that point, he would proceed to another subject, on which he thought it necessary to make a few observations. That subject was the power of magistrates to promise pardon to accomplices for giving evidence against their fellows. He wished it to be generally understood that magistrates had no such power. Indeed, Mr. Noel must be ignorant of the duties of his profession if he did know that circumstance, and neglectful of them if he did not communicate it to the prisoner Hunt. All the power which the magistrates had upon that point was to inform the party that they would instruct the counsel for the prosecution to recommend to the Court that he should be admitted as evidence. Whatever might be said or sworn upon this subject, there was one fact which proved most decisively that the magistrates had never accepted Hunt as evidence for the Crown. If they had accepted him as such, they would have sworn him and taken down his deposition upon oath. It was not even pretended by the other side that this had ever been done; and among the number of depositions which had been transmitted to him, he did not find one which bore the signature of Hunt. Thus the matter stood at present with regard to that individual. The learned Judge then proceeded to read the evidence to the jury. After reading the testimony of Beeson, Field, and Upson, who found a body of a murdered man in the pond near the Elstree-road, he came to the testimony of Rexworthy, who positively swore to the body so found being the body of Mr. Weare. That evidence showed that Mr. Weare had been killed, and gave him an opportunity of making some observations on the cases mentioned by Lord Hale, and quoted by the prisoner Thurtell. Those cases made it necessary that those who had known Mr. Weare living, should speak to his identity when dead. It was some time since he had read Lord Hale's admirable book, but he believed that the tenor of his Lordship's observation was this, "I never will allow a person to be convicted of murder before me, unless I have the direct testimony of some person who saw the fatal blow struck, or unless the body of the murdered person be found." The observation was worthy of Lord Hale, and was marked by that good sense and sound feeling which had rendered his name illustrious with all posterity. For in an indictment against C D for the murder of A B it was certainly necessary to prove that A B was absolutely dead. The learned judge declared, that he had himself recently acted upon that principle, in a case which came before him in the county of Sussex. A woman had been there indicted for the murder of her bastard child. A mass of matter was produced as the body of that child, which, from having been undiscovered for two months after it was alleged to have been born, was nothing but an ugly mass of corruption—there were no lineaments of the human face to be traced in it, and it was impossible even to ascertain to which sex it belonged. Under such circumstances, he had felt it his duty to stop the prosecution; but whether he was right or wrong in so doing it was not for him to determine. Acting upon the same principle, he must here declare, that it was necessary that the body found in the pond should be identified as the body of Mr. Weare. The learned judge then read over the evidence, until he came to that of Mr. Ward, the surgeon of Watford, merely remarking that there could not be a doubt that they were now sitting to inquire upon the death of Mr. Weare. Before he entered into an examination of that gentleman's evidence, he was bound to say that he had never in the whole course of his experience heard a surgeon give his evidence in a more plain, simple, unaffected, and sensible manner. He did not know any thing of Mr. Ward, but common justice impelled him to make that remark upon his evidence. The learned judge then read the indictment: he observed that the first count of it charged John Thurtell with having, with a certain pistol, in and upon the left side of the head of William Weare, struck, forced, and penetrated, and with having, by such striking, forcing, and penetrating, given him one mortal fracture of which he died; and that the second count of it charged him with having



inflicted on the left side of Mr. Weare's neck, with a knife, a mortal wound, of which he had subsequently died. Now the evidence of Mr. Ward completely supported this indictment; for it was clear from it that Mr. Weare might have died either by the wound occasioned by the cutting of the jugular vein, or by that occasioned by the fracture in the skull. Two points were therefore clearly settled—first, that the person murdered was Mr. Weare; and, secondly, that he was murdered in the manner described in the indictment. They now came to the great question in the case, Was John Thurtell the principal in this murder, or was he not; and was he aided, assisted, and abetted in it by Joseph Hunt? It was not necessary to decide this point on the present trial; but he should think that if a party came in before a murder was fully completed, and stood by without preventing it, and afterwards assisted in concealing it, he made himself as liable as the principal, and became an accessory before the fact. That question, however, he repeated, it was not necessary to decide now; but he thought it requisite for public utility and public safety, to make some remarks upon it. It appeared manifest in various cases which had recently been decided, that it was very common for men of low degree to flatter themselves, that if theirs was not the hand which committed the fatal deed, they were perfectly safe from all consequences, even though they were present at the murder. Nothing could be more fallacious than such an idea. In point of morals, it was wrong; and in point of law, it was equally so: for if two persons went to commit a robbery, or to break open a house, and one party committed the felony with his hand, and the other stood idly by, both were equally guilty in the eye of the law; and it was laying a false and dangerous unction to their souls, to suppose that both would not be equally liable to punishment. He made this observation for the sake of public morals, and hoped it would have due effect. The learned Judge then read the evidence of George Ruthven, the officer who apprehended Thurtell; and called the jury's attention to the facts of his having found a pocket-pistol on the person of Thurtell—a fact which he only wished them to notice as confirmatory of Probert's evidence in part. One would naturally expect that the prisoner (Thurtell) would have given some account of that pistol, and also of its being the fellow to the pistol which another witness found in Gill's-hill-lane, all covered with blood. This witness also described Thurtell's sleeve, his coat, and his hat, as having marks of blood on them. It was unfortunate that he should have on his person, at the very time of his apprehension, some of those stains which had been described by others. The witness, the first time he searched Hunt's lodgings, did not take away any thing; but, on his second search, he found a double-barrelled gun, a carpet-bag, a shooting-jacket, a whistle, a backgammon-board, several shirts, one of which was marked "W. W." (the initials of "William Weare," ) and another marked "W." alone. This was a very strong point of the evidence in bringing Hunt and Thurtell together. It here appeared that Hunt had in his possession, when he was taken up, an enormous quantity of articles which were distinctly proved to have belonged to this unfortunate person. The carpet-bag, the double-barrelled gun, and the backgammon-board, were proved to have been in his possession on the 24th of October, when he set out to the country; and on the 30th, only six days afterwards, they are found in the lodgings of Hunt. All this might be true of an accessory *before* the fact, as well as *after* it; and it was argued by the counsel for the Crown, that Hunt must have had a guilty knowledge of what was intended to be done, before it was actually effected, and that he received those articles as a reward or douceur for the part he had taken in this transaction. The next witness was Henry Simmons, constable of Watford, who produced the pistol and knife which were found on the spot where the murder was committed, and also a box and gold chain, which he had received from Mrs. Probert. The former was the fellow to the pistol found on Thurtell. William Probert was the next evidence, and certainly it was, in every point of view, most important. He came forward in the character of an accomplice, and certainly his conduct had been most base, in being privy to the commission of a murder, and concealing it. He spoke of Thurtell as being a very intimate acquaintance—as a person who was in the habit of coming down to sport, and who was well acquainted with all the roads in the neighbourhood. This was an important point in answer to that part of the defence which rested on Thurtell's alleged ignorance of the country, from which it was assumed that he might have missed his way in proceeding to the cottage. Some stress had been laid on the suddenness of Thurtell's visit at the cottage; but looking to the intimacy between Thurtell and Probert, it was not surprising that he should go down, without an invitation, and even that he should take a friend with him. The singularity of the case was his having said, without hesitation, as was stated in evidence, "If Weare comes down, I will do *him*, for he has done *me* out of several hundred pounds." Thurtell, it appeared in evidence, when he proceeded for the cottage, left the Coach and Horses public-house in a gig alone. The gig, it was stated, was drawn by an iron-grey or roan horse, with a white face. This circumstance was very important, as it was most clearly proved that such a horse was hired



otherwise they would never contemplate—whether this had really been the motive of the fatal crime that had been committed? If it had been, the learned Judge sincerely hoped that the event of this day, whatever way the business might terminate, would operate as an awful lesson. If what the prisoner had stated was indeed true, that the nobility and gentry of this country commonly indulged in the destructive vice of gaming, the court trusted that this would have a salutary effect upon them. As to Probert's testimony to Thurtell's declaration, that he began to cut the deceased's throat, as he thought, about the jugular vein, and finding he still could not prevent his singing out, jammed the pistol in his head, and gave it a turn round,—it was testimony that of course could have no direct confirmation: but the evidence of the surgeon showed very strongly that such must have been the fact. The observation said to have been made by the same prisoner on presenting Mrs. Probert with the chain, was confirmed by the evidence of Mrs. Probert herself. Miss Noyes spoke to the same matters, and to Hunt's singing after supper. It was proved by other witnesses that he did sing two or three songs. As to Probert's account, that Thurtell gave him and Hunt 6l. a-piece, saying that was their share of the "*blunt*"—*blunt* was a cant phrase which, happily, the court did not understand. The evidence of Probert, as to the taking out of the gig the carpet bag, and the other articles which Thurtell said had belonged to the murdered man, and as to the latter's saying he meant to have Barber Beaumont and Mr. Woods next, was very strong. For that there were a carpet bag, a gun, and other articles, so taken out, did not depend on this witness alone; the fact was proved by a boy and a woman servant; and that the things were the property of the deceased, was proved by other witnesses. How came they, then, into this cottage, and into the prisoner's possession? If the jury believed Probert, it was very clear that the murdered man had brought them down in the gig with him; but the boy and the woman differed as to whether Thurtell or Probert brought them into the cottage. A gun was seen in the gig by Probert's boy, and in that gig to the cottage Thurtell came alone. Probert and Hunt, the other prisoner at the bar, came in Probert's gig, and these, consequently, were circumstances all of them requiring to be accounted for.

Thurtell. I beg to say, my Lord, that that gun of mine was sold by public auction, at a sale of Probert's effects.

The Court. That fact does not appear in evidence.

Thurtell. No, my Lord; I overlooked it.

The Court. If, prisoner, you have overlooked it in evidence, and can supply it properly now, I will do so for you. The jury will observe, that what the prisoner may observe to the court merely, is no evidence in itself. In adverting to Thurtell's saying "he was bagged," on Probert's informing him that cries of murder were heard near the lane on the Friday, and to Probert's observation that he was afraid the business would ruin him, the learned Judge expressed a wish that Probert had acted up to this his impression, and had sent for some magistrate, whose interference might have prevented some of the acts that subsequently took place. Unfortunately, all this conduct of Probert's had been, undoubtedly, most infamous, and was not to be defended. The story about going to Probert's pond, taking out the body, disposing of it for the time naked on the greensward, returning for the gig, and putting it in there enveloped in the sack, Hunt in the mean time remaining in the parlour—this was confirmed by the evidence of Mrs. Probert, who saw Hunt, as she thought, and Thurtell dragging something weighty through the garden, and afterwards overheard them and her husband in the parlour, whispering. She also thought she heard them trying on clothes. Now the jury would hear by-and-by, whether any person was afterwards seen in the deceased's clothes. Mrs. Probert also overheard them tell her husband, "that they must say to the boy, that a hare had been laid on the gig-seat, and that they had had a hare made them a present of." This looked as if some blood had been spilt in the chaise, and that it was thought necessary, by a false story, to delude the boy's mind as to the manner in which it had been occasioned. All this occurred at an early hour of the morning, and Thurtell said he had had his revenge. At this part of the evidence there seemed some slight degree of confusion; for one or two facts were spoken to by others, whereas it did not appear that, excepting Hunt, Probert, and Thurtell themselves, any body but Mrs. Probert was up at this time.

Thurtell. Will you allow me, my Lord, to call the sheriff now, in order to prove that my gun was sold previously at a sale of Probert's goods?

The Court. You don't mean the high sheriff, prisoner, of course

Thurtell. No, my Lord: the under-sheriff.

Mr. W. Nicholson, the under-sheriff was then called.



Examined by Thurtell.—I ask you, sir, whether my gun was not sold among Mr. Probert's effects?

The Under-Sheriff.—Certainly there was a double-barrelled gun sold under an execution levied on Mr. Probert's goods. Whether that gun belonged to you or not, I cannot say. We supposed it to be the property of Mr. Probert.

The Judge. "Of course you did, Mr. Under-Sheriff, otherwise you would not have sold it." The court then observed, that it hoped that it had not proceeded wrongly, in allowing the prisoner to mend his defence: but what he had offered had, as the court at first feared, turned out to be nothing at all. The boy, Addis, who saw the gun in the chaise on the night of the Friday, met Probert walking down Gill's-hill-lane, with a double-barrelled gun, on Saturday afternoon; and Probert was proved to have been seen on that afternoon walking with a double-barrelled gun, as if he were out shooting. Now the identity of the gun which the boy saw, with that which Probert had, was not proved in evidence; but the identity of the gun that came and went away again with John Thurtell, in his gig, was clearly proved; and therefore could not be the gun of Probert's which was sold. Still, looking at Probert's evidence, the jury would observe, that Thurtell said he had been down the lane, to look for the pistol and knife which had been lost in the leaves and the grass. Was this true? Did it depend upon the testimony of Probert alone? Certainly not, for the jury had had the evidence of two labouring men, who saw the prisoner Thurtell, thus occupied; and of which two men, one had sworn to the person of Thurtell, and the other to both Hunt and Thurtell. Again, the evidence as to the spade, which had been given by Probert, was strongly corroborated. A new spade purchased, it was said, to bury the deceased, and which was brought down in the carriage that conveyed Hunt and Thomas Thurtell to Probert's house on the Sunday, had been produced. Thomas Thurtell swore, that when they arrived there, it was thrown over the garden-wall. Then as to Hunt's wearing clothes which had belonged to the deceased, it was not likely that Hunt or the prisoner Thurtell should say any thing about that fact in the hearing of indifferent persons. But that Hunt went up on the Sunday, dressed in such clothes, there could be, surely, scarce any doubt whatever. And this received some degree of confirmation from the circumstances under which he went down with the two Thurtells to the cottage, and from the throwing of the spade. The learned Judge then observed upon this observation of Hunt's—"Probert, they can do nothing with you or me either, because neither of us was at the murder." The court availed itself of this opportunity to observe again, that such was the erroneous doctrine which the minds of men, such as Hunt appeared to be, were apt to entertain. He seemed erroneously to suppose, that if he did not actually perpetrate the murder, he was not liable to the punishment of the law. The mischievous consequences of such a misconception, the court was most anxious to guard against. Miss Noyes proved, that on the night of Friday, the 24th of October, Hunt, Thurtell, and Probert, soon after their arrival at the cottage, went out together, with the alleged intention of asking Mr. Nicholls, who lived in the neighbourhood, for a day's shooting. She also spoke to their return—the expression of their disappointment—the manner in which the evening was passed, and their incidents, which received strong confirmation from the testimony of Mr. Nicholls himself. That witness deposed, that on the night of Sunday Probert did call upon him, and that some conversation passed between them with respect to something that had happened in the lane; but the same witness added, that although on Friday he was at home all the evening, he saw neither Probert nor any of Probert's friends. Probert's account was, that after his return from Nicholls's on Sunday evening, and his conversation with Thurtell as to what Nicholls had said, Hunt and Thurtell sate up all night: the witness went to bed, as did Noyes, Thomas Thurtell, and his children; and that on the next morning, John Thurtell and Hunt said to him, that they had gone out last night to dig a grave to bury the body in; but the dogs barked so, all the time, that they were obliged to desist. On the Monday morning, J. Thurtell, T. Noyes, and Miss Noyes went to London in one chaise, following another which contained T. Thurtell, Hunt, and the witness's boy Addis. They went all together, therefore; and took the boy, in order to be out of the way of being



asked questions. This part of the story was supported by the evidence of Addis; for it was sworn by him that the parties did go together, in the manner deposed to. The learned Judge then recapitulated Probert's evidence as to the return of John Thurtell and Hunt, on that evening, to the cottage, leaving Hunt with Mrs. Probert, the manner of effecting this purpose, the taking the body out of that sack in which it had been put, the cutting the clothes off, and the putting the corpse in a new sack. The court, at first, could not quite make out this part of the case, inasmuch as it had been sworn that the body was put into a sack (after the murder) with the clothes on; and yet the body, which was dragged out of the pond at Elstree, was naked. But it had not been proved (a matter that possibly the counsel had overlooked) whether that body was dressed or not. This man (Probert) swore that it was not, when he and Thurtell removed it from Probert's pond, which was a matter that required some proof; and proof, indeed, it had received. The very respectable surgeon of Watford, Mr. Ward, and the witness Pidcock, had both agreed in deposing that the body found at Elstree was naked when taken out of the sack. But did Probert receive further confirmation on this subject? The servant, Susan Woodruff, had given strong evidence on this point; for she proved that upon going into the chaise-house on Tuesday morning, she saw a sack cut open and very wet, hanging up upon a nail. Now this was on the morning after the body was taken out of Probert's pond and put into the new sack. The evident presumption was, that that into which it had been first thrust was the sack Woodruff saw in this wet condition, hanging up in the stable. Probert having stated in his cross-examination, that on the night of the murder he had conversed with Mrs. Probert, but could not swear whether he had told her what had passed, was asked by the counsel for the prisoner (for the counsel for the crown could not put the question), what it was that had passed between himself and Mrs. Probert on that occasion? and he had answered, that he thought he told her, when she asked him about the dragging; that it was some netting which John Thurtell had brought down, and they had gone out with to snare game. The court did not exactly remember whether this was confirmed or not; but it had itself put a question to Mrs. Probert, not as to the whole of the conversation between her and her husband on the occasion, but as to whether she had then said any thing about this matter to Probert, and the answers of the wife went to confirm the statement of the husband. As to the account which Probert had given of himself, his transactions, and his conduct, the court could do no more than repeat, in the strongest manner, its utter reprobation of his conduct, which had been most disgraceful. It appeared that he had been brought up before the Commissioners of Bankrupts six or seven times; and the very highly respectable witness, Mr. Wadson, being called, proved this fact, and his committal; but the same gentleman's evidence showed that the commissioners must have been satisfied at least, because Probert ultimately passed his examination. The jury were not quite aware, perhaps, of the nature of those proceedings; but it was sufficient for the court to observe, that the presumption must be, that the commissioners had been finally satisfied by Probert, or else they would not have passed him. He deposed that he could recollect no playing at cards in the cottage on the Sunday. Now the fact, though differently stated by another witness, might be so, although the jury could not give credit to any decorous or conscientious feeling in Probert's mind, as having deterred him or his friends from an action which was, on Sundays, highly improper, without doubt. On his farther cross-examination by another counsel, Probert stated, that he had met the prisoners at Tetsall's, more than a week before the night of Friday; and had known Hunt more than twelve months, having himself introduced him to Thurtell. The pork which was purchased in Oxford-street, Probert swore to have been paid for by Hunt, and the sum he does not remember to have ever repaid him; neither had he, on the other hand, ever applied to Hunt for the remainder of the 20s. he had given him at Thurtell's request. Now, neither of these circumstances could create any surprise in the minds of the jury; for all the parties appeared to have since engaged in transactions, of which the history is too full of bloodshed and atrocity to allow of any calm recollection of such pecuniary matters. Probert admitted that he said to Mr.



Franklin, the clergyman, and up to the day of his going before the grand jury, that Hunt and himself were innocent of the murder. And very like it was, the court thought, that he did say so. Such an assertion (especially under the sort of unfounded notions that these men might be supposed to entertain about legal guilt) was natural enough to a person in such a situation. The witness might have said he was innocent, and probably that Hunt was too. All this looked consistent enough; for, as the court had remarked before, it was a common subterfuge with such men to suppose, that if they did not commit the particular crime, they were innocent altogether. Hunt, again, might have said to Mr. Franklin, whom the court believed to be a most respectable officer of the county of Hertford, that he was or was not guilty. The court, however, could not too much reprobate such confidences, if they were not shown to be entirely necessary and justified, especially between clergymen and accused or suspected parties. There was nothing of such confidences recognized in the doctrine of the church of England, whatever might be case in the Romish communion; although, in these criminal cases, his lordship apprehended, even that communion did not exactly encourage them. With us, however, they ought by no means to prevail. The court then proceeded to observe on the evidence of Mrs. Probert; and on the fact of Thurtell's producing a watch, and presenting her with the chain, it remarked that the jury would undoubtedly remember, that the boy Addis had deposed that a gold watch was on that evening put down in the kitchen on the table by John Thurtell. The learned Judge considered that Mrs. Probert's account of the proceedings at the cottage, and the departure of Hunt and Thurtell on the Monday, was much confirmed by her husband's evidence, and by the fact in proof of Hunt's arrival at his own lodgings in town, the next morning, at a very late and unreasonable hour. What the fact of the hole dug for potatoes in the garden—a very usual mode of deposit for that vegetable—was examined into for, as in Mrs. Probert's case, the court did not rightly understand. The evidence of Thomas Thurtell was excessively important; for he swore, to his recollection, that on the 24th of October, his brother John (the prisoner) and Hunt dined at Tetsall's; and he remembered, he thought, that after dinner Hunt brought a sack with him and a gig to the door. The jury would particularly mark this fact as applicable to Hunt's case. The learned Judge next remarked, that the fact of Hunt having shaved off his whiskers after the 25th of October, as mentioned by the witness Rexworthy, merited the attention of the jury. He might observe, however, that Rexworthy was not a man whose character was of the best description. He was the keeper of a house appropriated to billiard-playing, and he (Mr. Justice Park) considered persons who kept such places to be panders to the bad passions of men. He would show no favour to men who kept houses of that nature, and if it were necessary, he would feel it his duty to make some severe observations respecting his character; but that was not the case, because the evidence of Rexworthy was confirmed by many witnesses. He now came to a most material witness—namely, Mrs. Malony, the laundress of Mr. Weare. She deposed that she saw the carpet bag and other articles, which were seen in the possession of the prisoners at nine o'clock on the evening of the 25th of October, in the hands of their owner, Mr. Weare, at three o'clock on the afternoon of the same day. It was an every-day observation of judges, that if stolen property was found shortly after the robbery had been committed in the possession of an individual who could give no account of it, it was a strong ground of suspicion against him. It was not sufficient for prisoners under such circumstances to indulge in general declarations of innocence; they were bound to show by evidence in what manner they became possessed of the property. The next witness, upon whose evidence he felt it necessary to remark, was John Shepherd, the servant of Mr. Probert. Shepherd swore, that when Hunt came to his master's yard to hire the gig, he stated that he was going to take it to Dartford. If Hunt had known nothing of what was to be done, on that night, why did he not say that he wanted the chaise to go to the neighbourhood of Elstree, instead of putting the stable-keeper on a wrong scent, by saying that he was going to Dartford? The evidence of Mr. Probert showed that Hunt had a most depraved mind. His language was coarse and brutal, and he talked of murder as a matter of indifference. Mr. Probert's evidence did not merely prove that Hunt indulged in declamation, for if it had gone no further than that, he would have felt it his duty to prevent it from being laid before the jury; but Mr. Pro-



batt stated that Hunt on one occasion took a pistol from his pocket and said, "This is the boy to do business." He would leave to the jury to form their own judgment of such a proceeding.

Thurtell here interrupted his lordship, and begged him to read the evidence of Mr. Field, the landlord of the Artichoke public-house, at Elstree.

Mr. Justice Park said that he would not, because he had already read every word of it.

Thurtell.—I beg pardon, my Lord; but I think you omitted that part in which Mr. Field stated that Hunt was alone at his house on the Tuesday.

Mr. Justice Park.—I do not see what reason you have for wishing the fact to be stated, if it were so.

Thurtell said something which was not very intelligible, about Probert having confessed to five men in the gaol that he had planned the whole affair in conjunction with Hunt.

Mr. Justice Park observed that he could not understand what the prisoner meant.

Thurtell.—There is another thing, my Lord,—

Mr. Justice Park said that he could not permit the prisoner to comment on the evidence.

Thurtell said that he did not wish to make any comments, but merely to offer an observation.

Mr. Justice Park told him to communicate what he wished to say to his counsel.

Thurtell accordingly spoke to his counsel, who afterwards addressed Mr Justice Park in an under tone.

Mr. Justice Park, addressing the jury, said, he had asked the prisoner's counsel to enable him to know what Thurtell meant. From what he could understand, Thurtell wished it to be inferred, that because Hunt was at the Artichoke on Tuesday, he must have been there for the purpose of throwing the body into the pond. It rested with the jury to say whether that inference could be fairly deduced from the fact.

His Lordship was here addressed by the prisoner's counsel; after which his Lordship stated, that he was informed Thurtell wished to call new evidence, which he (Mr. Justice Park) was willing to receive.

A person named Isaac Pye was then placed in the witness box. He stated something about a double-barrelled gun having been sold at the auction which took place at Probert's cottage. [We could not perceive what bearing this evidence had on the case.]

Mr. Justice Park desired the witness to stand down, observing, that his testimony was of no importance. His Lordship then proceeded with his view of the evidence. He observed, that James Freeman had deposed, that on the evening of the 25th, he saw two gentlemen going from Probert's cottage in a gig, drawn by a white-faced horse.

Thurtell again interrupted his Lordship with an observation, the purport of which was, that Freeman, in his deposition before the magistrates, had sworn that the horse was of a different colour.

Mr. Justice Park referred to the deposition which Freeman had made before the magistrates; and then observed that the prisoner's assertion was quite unfounded. He had described the horse on that occasion precisely as he had done before the court.

Thurtell said he alluded to the deposition of Mrs. Freeman.

Mr. Justice Park said, that Mrs. Freeman had not been examined; and the court could not contrast evidence given by a witness who had not been examined there, with that given by a witness examined elsewhere. He understood, however, that Mrs. Freeman had been called for the purpose of affording the prisoner's counsel an opportunity of propounding some question to her, but she had not appeared before the court. I have now, gentlemen, gone through every fact of the evidence by which your consideration of this case ought to be governed. Among the witnesses called by the prisoner Thurtell, is Mr. Wadeson, a most respectable solicitor, who, upon being examined, has told you that from his knowledge of Probert, he would not believe any thing he should say upon his oath, unless it was confirmed by some other testimony. To the same question, from what I have seen of the witness Probert, I should have returned a similar answer. I would not believe him, unless his evidence was confirmed. You have heard the



respective addresses of the prisoners, and they will have such weight with you as they merit, considering at the same time the depositions of the witnesses for the prosecution. You will remember, gentlemen, that the prisoner Thurtell is in one respect distinguished from the prisoner Hunt, as the former has called three witnesses to his character. Of these, Capt. M'Kinlay, a most respectable officer, was one, but whose knowledge of the prisoner was of ancient date. If that gentleman had known him since 1814, as he knew him before, and if he could have given him the same character for good temper and humanity during the lapse of nine years between that period and the present, then his testimony in the prisoner's behalf would be entitled to much greater weight. The other two witnesses, Mr. Haydon and Mr. Walmsley, spoke to the prisoner's character, and with their testimony you, gentlemen, will deal as you think fit. I must, however, observe to you, that character should only prevail where a rational doubt exists; in other terms, that you must decide this case, not upon the character of the prisoners, but upon the facts. If the facts are sufficient to bring conviction home to your minds, however respectable may be the family of the prisoner (and I give him credit for what he has told you respecting his parents, whose case I feelingly lament, but whom I do not know), then, how much soever you may regret that such a man should be guilty of the crime imputed to him, this regret ought not to influence your verdict. You are not trying his good character, much less his bad character, and God forbid that the laws of the country should be swayed by any such circumstances. If calamities and prejudices have been, as he says they have, raised against him, by imputing to him former bad conduct, such calumnies have been most cruel; and it is astonishing that men of education, and of the smallest pretensions to right feeling, or to the welfare of the people, should lend themselves to practices so injurious to sound religion and good morals. You are not to try whether the prisoners have been bad men, (if bad they have been,) but whether one of them has committed a murder, and the other was his accessory before the fact. If he were otherwise as pure as an angel, and you were satisfied of his guilt in this instance, it would be your duty, in justice to your fellow-creatures, to pronounce your verdict accordingly. But if, in the imperfection of human intelligence, a rational doubt should prevail in your minds, then you must give the prisoner the benefit of that doubt, and let the weight of his character be thrown into the scale. Gentlemen, I can say no more to you. I have put you as fully in possession of the facts as I am able. If you are satisfied, notwithstanding the darkness of the night in which crime is usually perpetrated, and the absence of all witnesses but the perpetrators of the crime, that the finger of God sufficiently points out the prisoners as the guilty persons, you will do your duty to God and to your own feelings by bringing in a verdict according to your conscience."

As the jury were about to retire from the box, the prisoner (Hunt) requested to address a few words to them.

Mr. Justice Park. I am really distressed that applications like these should be made, which the laws and the constitution forbid me to comply with. I will, however, send your counsel to you, to hear what it is you wish to say; and if he tells me that it is advisable, I will communicate it to the jury.

Mr. Thessiger now approached the dock, and having conferred with Hunt for a few moments, returned to the judge, who immediately after said to the jury, "Gentlemen, I have no further observation to make."

The Jury retired at half past three, and remained out of court half an hour. During this time the demeanour of the prisoners was perfectly unchanged. Hunt's appearance was, as before, somewhat dejected. Thurtell was serious, but quite calm. He drank a glass of ale while the jury were absent.

At four o'clock the jury returned, and having taken their seats, their names were called over. As each juror entered, Hunt regarded him with a look of intense anxiety. Thurtell surveyed them with the same calmness as before.

The jury then pronounced their verdict, finding Thurtell guilty of the murder; and Hunt also guilty as an accessory before the fact.

The utmost silence now prevailed throughout the court, and every eye was turned towards the prisoners, upon whom the verdict made no visible impression.

Mr. Chitty then urged some legal points in arrest of judgment, which were overruled by Mr. Justice Park.

The clerk of the arraigns now asked the prisoners if they had any thing to urge why sentence of death should not be pronounced upon them? Thurtell then, leaning over the bar, said, I implore your Lordship to take what I have to say



into your most serious consideration. I now for the last time assert my innocence. I repeat, I hope your Lordship will take my request into your serious consideration, when I beseech you to postpone the execution until Monday next. My reason for asking this is, that my friends are at a considerable distance, and many of them wish to see me. For myself alone I would not ask this delay; for if the sentence were to be executed now, I am ready; but I ask it for the sake of those whose feelings on this occasion are of more interest to me than my own. Between me and some members of my family there are some matters to be arranged which will require the delay for which I ask.

During this short address, the prisoner spoke in a subdued though firm tone of voice, and was evidently labouring under considerable anxiety. Whenever any allusion was made to his family, he seemed to be much affected.

The prisoner Hunt declined to address the court.

Mr. Justice Park, having put on the black coif, addressed the prisoners as follows:—

“John Thurtell and Joseph Hunt, after a very full, a very fair, and, I trust, an impartial trial by a jury of your country, you have been found, I think with great propriety, guilty of the offences with which you have been respectively charged—you, John Thurtell, as a principal in the murder, and you, Joseph Hunt, as his accessory. It cannot but give to every feeling mind deep regret, that a person who has this day shown himself born for better things, and who, I hope, in earlier life, received impressions of virtue from his parents, should have committed so detestable a crime; for, notwithstanding the assertions of innocence which you have over and over again made, I, who can only judge like all other mortals from the evidence before me, am as fully satisfied of your guilt, as if I had seen you commit the crime with my mortal eyes. I beseech you not to lay that flattering unction to your soul, lest that all-seeing eye, which, as you have this day truly said, reads all hearts, should discover that you have entered his presence with a lie in your mouth, and perjury in your right hand. You know, and he knows, whether there is any foundation for the assertion which you have so often repeated. By the evidence before me, it appears that this is one of the most foul and wicked murders that ever was perpetrated. That you should have formed an intimacy with the deceased in those haunts of gaming and vice which are the bane of society; that you should have professed friendship for him; that you should have invited him to the house of your friend; that he should have carried with him clothes for his ornament and for his use; and that in a moment of darkness, and before he reached that house, he should be no more—cut off by your hand, are all circumstances aggravating your crime. If he was a man of such character as has been represented, think how much the criminality of you and your accomplice has been increased, by sending him to his final account before he could once think of his God, or call upon his name. I seek not to aggravate this offence. I wish not to make you more wretched, but I hope that you will not apply some healing falsehood to your souls. Short as your time is for preparation, remember that it is more than twenty times told, that which you gave to this unhappy man. Between the last assizes and the present time, I hope you have not been wanting in providing the defence you have this day made, as well as in a much more important affair, in making your peace with that God with whom alone is mercy. The clergyman of this gaol is, I understand, a most respectable man. I recommend you to converse earnestly with him, and to seek the only means of regaining, through the merits of your Saviour, the pardon of God whom you have offended. I implore you to seek for it earnestly, and I pray most sincerely that the gates of mercy may be still open to you. [The Judge was here much affected; the prisoner Hunt sobbed loudly, and placed his handkerchief before his face. Thurtell's countenance indicated no emotion; he was serious and profoundly attentive.] To that mercy I commit you. The sentence of the law upon you John Thurtell is, that you be taken hence to the place from whence you came, and that on Friday next, the 9th of January, you be taken to a place of execution, there to be hanged by the neck until you are dead; and that your body be afterwards taken down and delivered over to be dissected and anatomized. Upon you, Joseph Hunt, who have been convicted of maliciously aiding and abetting this murder, the sentence is, that you be taken hence to the place whence you came, and thence to a place of execution, there to be hanged by the neck until you are dead; and may the Lord, of his great mercy, have pity on your souls.”

Thurtell continued to display the same firmness to the end of this sentence: Hunt was extremely dejected. When it was finished, Thurtell talked for a few moments to some persons in the court, and then both prisoners quitted the dock with the gaoler and his officers.

The court was excessively crowded; no persons had been allowed to enter for an hour and a half preceding. The judge retired to his lodgings at five o'clock, and the court was cleared.



A few minutes before five o'clock, the prisoners were re-conveyed to gaol, in a post-chaise, strongly guarded by the local police. A great number of persons had previously placed themselves about the prison gates, and the approach of the post-chaise was notified to them, by the post haste speed with which several hundred persons advanced in front of the carriage. We were surprised to see many elegantly-dressed ladies parading the road, near the prison, in the hope, apparently, of having a glimpse of the culprits.

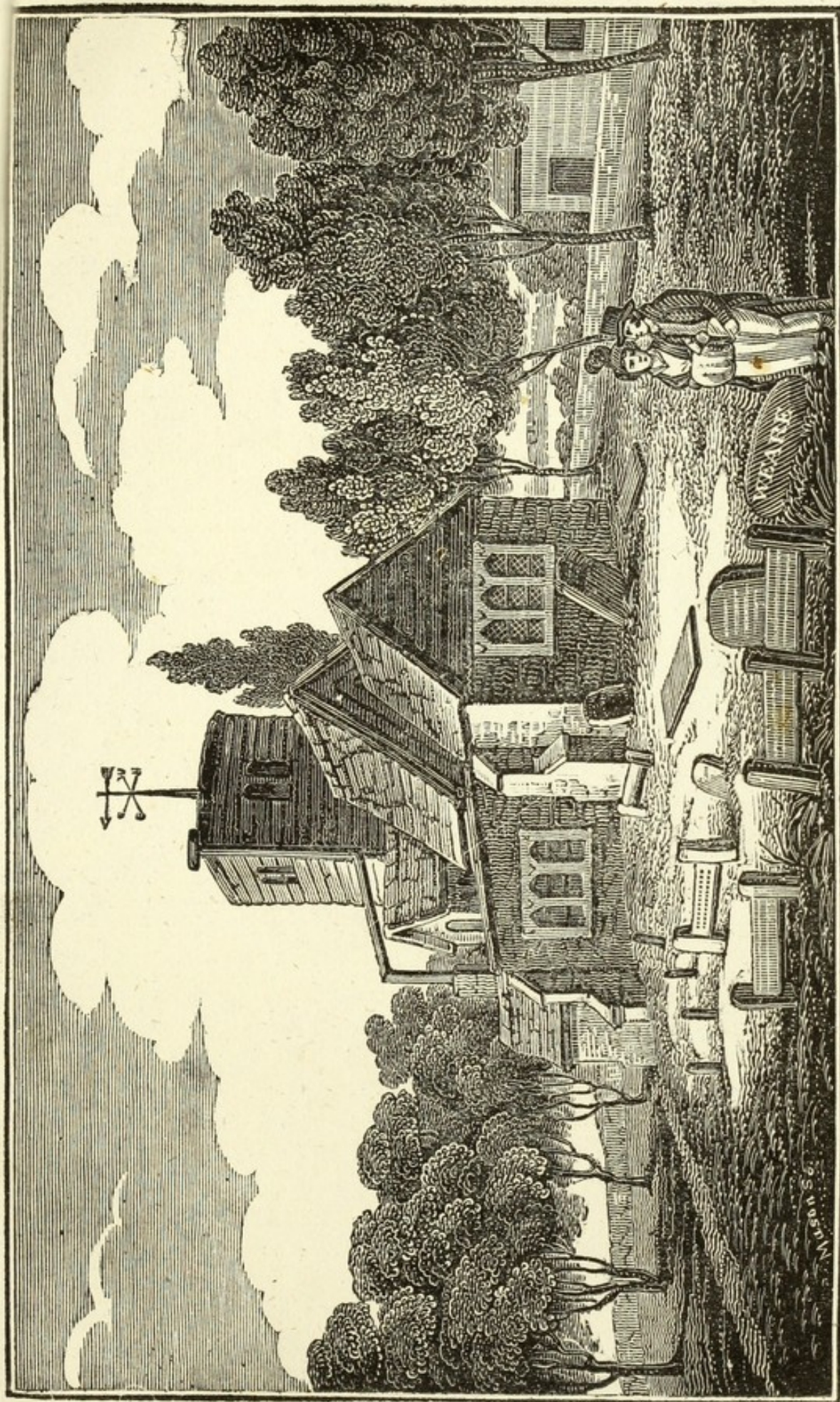
When the prisoners alighted from the carriage, and were removed into the ante-room of the gaol, Mr. Wilson, the gaoler, was under the necessity of ordering their irons to be replaced, and this was done in the presence of Bishop, the Bow-street officer, three of the attendants of the prison, and a gentleman who was accidentally present. The Rev. Mr. Lloyd was in an adjoining room, but did not present himself to the prisoners. When the irons were fixed, Mr. Wilson, according to the usual practice after condemnation, searched the prisoners, but nothing worth particular notice was found upon their persons. On opening Thurtell's snuff-box, which was taken for the moment out of his waistcoat pocket, it was found to be empty; he turned round to Bishop, and said, "Bishop, have you any snuff, you see my box is empty?" Bishop replied that he had none, he never carried a box, and was particularly sorry for it at that moment. A gentleman present immediately took out his box, and after asking permission from Thurtell to take that liberty, emptied its contents into his box. Thurtell took a pinch, handed it to the gentleman, and to Mr. Wilson, and put the box into his pocket with great composure. He was then removed into a cell, where two persons specially appointed are to sit up with him henceforth. It was remarkable, that although he manifested some apparent reconciliation with Hunt on the preceding night, he never yesterday evening spoke to him, until requested to do so by Mr. Wilson.

## FINIS



ETHELBERG CHURCHYARD AND MOUNTAIN SCULPTURE

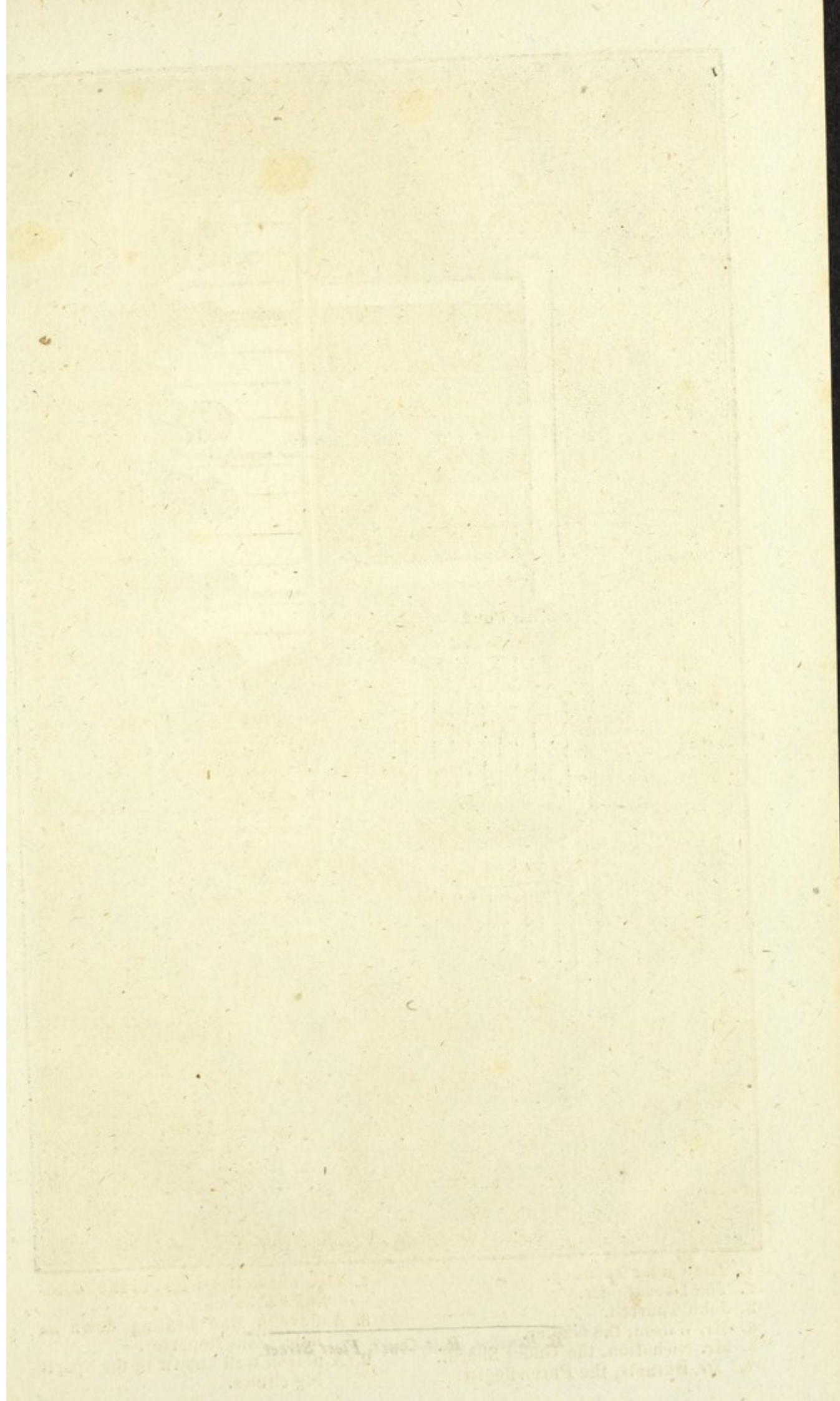




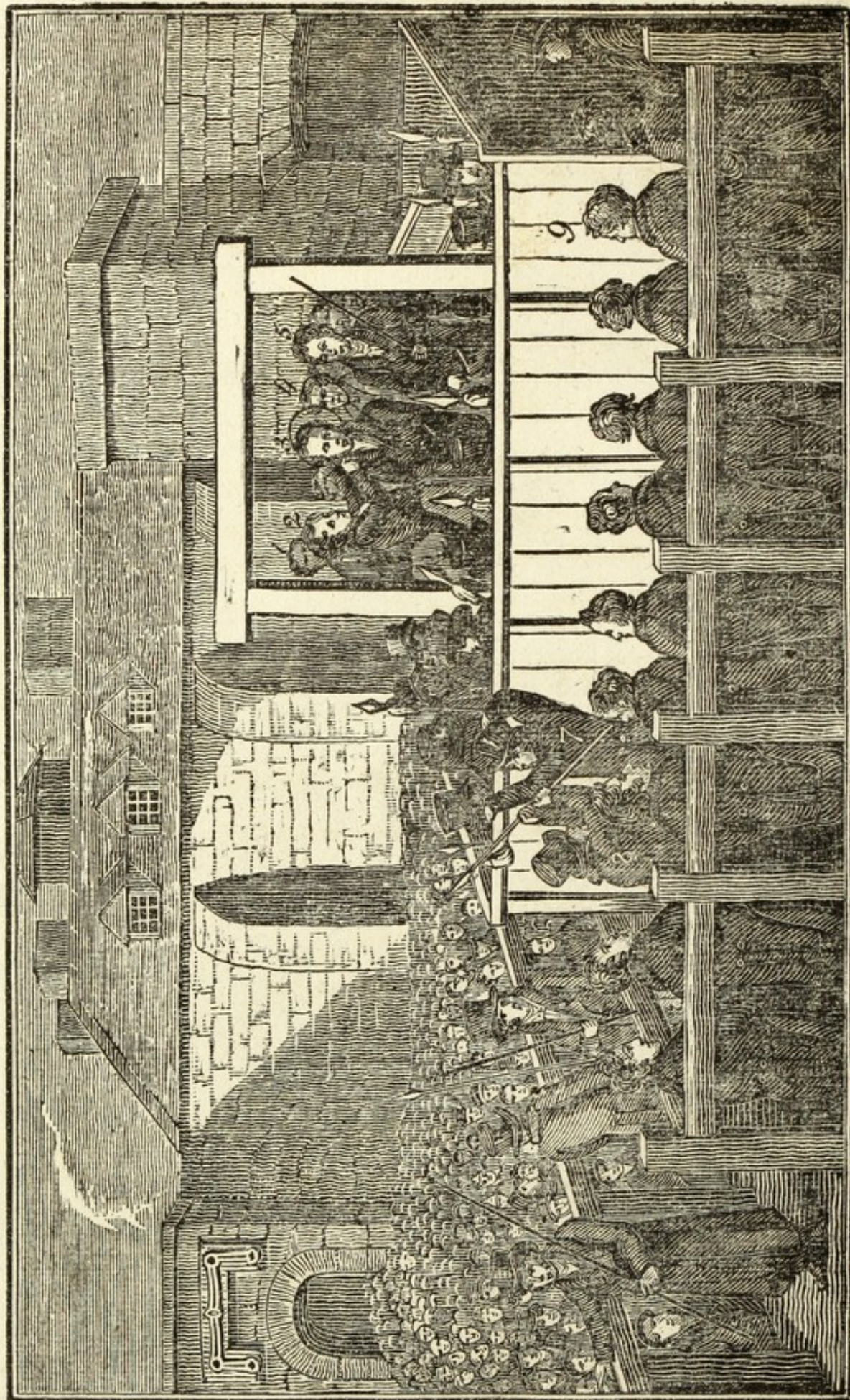


ETALUE CHURCHMAN AND MEIBERCH









1. The Under Turnkey.
2. The Executioner.
3. John Thurtell.
4. Mr. Wilson, the Gaoler.
5. Mr. Nicholson, the Under Sheriff.
6. Dr. Burnett, the Phrenologist.

7. One of the Reporters to the Morning Chronicle.
8. A Javelin Man beating down an indecorous Reporter.
9. A person well known in the Sporting circles.



