

[Reported for the Advocate.]

TRIAL OF WILLIAM F. MCKEE.

On Thursday, April 13th, the prisoner, who stood indicted for the murder of Edward P. Scott, was brought into court—having been arraigned upon the indictment at a previous term of the court. The indictment contains two counts—one charging Alexander McKee as principal in the first, and William F. McKee in the second degree—and the other vice versa. Counsel, for the State, **TEVALL, Pros. Atty., FOWLER, SCOTT, and PIKE**—for the prisoner, **HALL, TAYLOR, and PEW**. After a jury had been empanelled and sworn, the case was opened by **Tevall**, for the State, followed by **Hall**, for the prisoner—and the following witnesses were examined on behalf of the State:

Abner G. Bell, sworn—states, that on the day of the election for members of the convention, (Dec., 1835,) he was riding in company with the prisoner, deceased, and others, on the road from Little Rock to the settlement where they lived. Heard dec'd say something, and pris. rejoined, "You are an infamous liar." Deceased said he would not stand that, and got off his horse. Was persuaded to get up again. Prisoner said to deceased, "I'll have your life. I'll have the little end of your lights." Prisoner afterwards told witness that he was sorry it had come to this—that he was sure it would end just that sorrowful between them.

Cross-examined—The first thing wit. heard was the dec'd saying, "there's no mule in me." In answer to a question, whether dec'd used any aggravating or harsh expressions towards prisoner—said he thought there was nothing out of the way with dec'd. Says he knew of no previous quarrel between deceased and prisoner.

Conway Scott—states, that on the same occasion dec'd and pris. came riding up behind wit. talking together. Dec'd told pris. if he wished to be friendly, to say no more. Dec'd then asked pris. what he had against him. Pris. said he (dec'd) looked *unpleasant* at him. Dec'd asked if he had ever done him any harm. Pris. said no. Dec'd asked if he (pris.) had ever heard any body say that he had said any harm of him. Said no. Some words passed which wit. did not hear, and then pris. called dec'd an infamous liar. Dec'd said he would not take that, and got off his horse.—Wit. persuaded him to get on his horse again, and he did so. Pris. then said that he would not fight him a fist fight, but intended to have his life. Dec'd asked if he said he intended to have his life. Pris. said he intended to have the little end of his lights, and repeated it two or three times. Soon after, as pris. was about starting away, he told dec'd that he had staid back on purpose to have a round with him; and further remarked, "mind, all of you!—you'll have to look up to me some day." Overtook pris. again at Sevier's place. Pris. halloed and told dec'd to pack up on his old dun mare the next morning and leave the country. Shortly after this, pris. shook a cowhide over the head of dec'd. This was while the convention was in session.

On day of murder, (Dec. 24th, 1836,) dec'd passed Mr. Sampson's house with a load of board timber, about 12 o'clock, or a few minutes after. Sampson's house is about a mile and a half from McKee's. The house of dec'd is about three-fourths of a mile above McKee's. Wit. never saw dec'd after he had passed Sampson's till after his death. The settlement is in Pulaski county. The quarrel between pris. and dec'd arose from the opposition of dec'd to the marriage of Alexander McKee with his sister.

Cross-ex'd—Dec'd always declined quarrelling with pris.—never struck, attempted to strike or cursed him.

Arthur Spence—In Dec., 1835, pris. and wit. overtook dec'd. Pris. rode up to the side of dec'd, turned round and spit at or on him. Dec'd did not let on that he observed it. Rode on to where the road forked—and pris. then asked wit. if he saw him spit on dec'd. Wit. replied he saw him spit at him, and asked pris. what he had said to dec'd. Pris. told wit. that they had had a falling out—he (pris.) had given him a certain time to leave the country in, and he had just stopped to let him know that his time was out. Said they could not both live in one country. Wit. believes he heard him say the same thing afterwards.

Cross-ex'd—Never heard dec'd say a word about the quarrel.

Richard F. Dunn—On the day of the White meeting in Little Rock, (June, 1836,) wit. and pris. were riding in company towards Little Rock, together with Alex'r McKee. Dec'd and his mother were ahead.—Pris. asked wit. if they should not pass them. Pris. then rode ahead, and in passing dec'd shook his whip at him or in his face. Dec'd struck him with his riding whip. Pris. then struck dec'd. Dec'd then struck back at pris.—and then pris. drew a pistol and snapped it at dec'd. The cap did not explode. Pris. reined in his horse, told dec'd to stop a minute, put a fresh cap on his pistol, then rode up by side of dec'd and told him to cut him again, if he dared. Wit. does not know as dec'd made any reply. Pris. said if he cut him again he intended to shoot him, and dared him again to cut at him. Pris. afterwards told wit. that if his pistol had gone off, he would have shot dec'd—that dec'd was a damned rascal, and he intended to shoot him.

Cross-ex'd—When dec'd struck pris., he struck him on the shoulder,—with a small whip. As pris. rode up he shook his whip in face of dec'd. It might be possible that it was an unintentional flourish of the whip. Dec'd was keeping along the road all the time. Within half an hour afterwards, pris. said dec'd was a damned rascal, and ought to have been dead long ago.—Dec'd said pris. always insulted him when he was where he could not defend himself.

John C. Julian—On same day, in the afternoon, wit. was walking with Mr. Barkeloo from Maj. Peay's by De Baun's. Heard some affray there. Wit. stepped into De Baun's store, and saw pris. have a pistol in his pocket. Pris. said he would shoot dec'd. Wit. put his hand upon the pocket that held the pistol, and told pris. he could not do it there. Pris. then stepped out at the door and said if his damned pistol had fired "it would have been finished to-day." Pris. then went over to Gibson's store, and in a few minutes wit. saw him at Dr. Tucker's. Pris. said after he went out of De Baun's store, that he would be prepared—or something to that amount.

Cross-ex'd—Dec'd had no weapons that wit. saw. Five or six men had hold of the spade. Does not know that dec'd had hold of it—thinks pris. showed was bloody.

Julian Imbeau—Saw the commencement of the same affray. Saw pris. job dec'd with the spade, just above the eye. Dec'd then pushed pris. against the door and struck him once or twice on the face. Wit. then parted them—pushed pris. out at the door, and dec'd into the store. Dec'd was walking out of the store when pris. struck him.

Cross-ex'd—Does not know any cause for the blow with the spade. Saw no weapon but the spade.

William Barkeloo—Testifies to the same. Saw pris. punch dec'd with the spade above the eye. The blow made a gash an inch or an inch and a half long. Dec'd struck the spade down with his hand—pushed pris. against the wall, and struck him in the face. Mr. Imbeau then parted them. After pris. was pushed out at the door, he said, "if the damned pistol had not snapped to day, this would have been finished"—and afterwards swore that he'd be damned if he didn't intend to finish it yet.

Witness had known deceased all his lifetime. He was very inoffensive—one of the most peaceable, quiet, orderly, and steady men he ever knew. Appeared to be very calm and peaceable on that occasion.

Jesse B. Badgett—Saw pris. strike dec'd with the spade. Dec'd was in the store, coming towards wit. As dec'd spoke to wit., pris. struck. Heard pris. make some threat while washing at Gibson's, but does not know what. Dec'd was going out at one door, as pris. came in at the other and struck. Dec'd showed no disposition to get at pris. after the affray. The character of both pris. and dec'd was good.

Ellen Scott—Speaks of the same occurrence as Mr. Dunn. States that she and her son (dec'd) were coming to town—that pris. rode up to her—laughed, and said he would shoot her son—that he should blow a ball through him. Pris. had his pistol in his hand and was fixing it. The difference had arisen from the objection dec'd had to pris.'s marriage with his sister.

U. B. Baldwin—Some time last summer, while riding with pris. round a little field belonging to dec'd, pris. told wit. that he (pris.) had spit in dec'd's face, and shaken a cowskin over him—that he had insulted and would insult him in every company he caught him in, and if he resisted, he would cut the villain's throat.

David Royster, Coroner of the county—Went, on the 25th of December to arrest the prisoner and his brothers. Pris. came to the door, appeared much confused, and after fixing for some time came out. Wit. discovered that they were armed, and after they had mounted their horses, wit. caught the reins, called the guard and took away their arms. They had two or three pistols. They were reluctant to give them up, but said they had not armed themselves to resist, but were afraid they would have to use them in self defence. Pris. said he ought to have killed dec'd thirty weeks (or months) ago—but that he was glad the perjured villain had come to his death by other hands.—Expressed pleasure at death of dec'd.

Witness held the inquest over the body of dec'd.—Wound was in the back. The ball entered a little to the left side of the back bone, and came out under the left nipple. The wound appeared to have been made with a large ball—say from 40 to 60 to the pound.—Inquest held in Pulaski county.

William Wilson—In June last, overtook pris. In conversation, pris. said he did not care about making up his quarrel with dec'd. Alleged no insult from dec'd, but that he had opposed his marriage.

Was with the officer who arrested pris. Pris. appeared somewhat confused.

Robert Reed—Was living with the McKee's. Was at mill on the day of the murder, about 2 miles from pris.'s house—started to go there about 8 o'clock, and got back about dark. Heard of the murder at McKee's, about 7 o'clock in the evening. A negro girl came over and told it. Pris. was in the room, and seemed surprised at it. Pris. said he reckoned dec'd had shot himself with a pistol or something, it being Christmas eve.

Cross-ex'd—Pris. manifested much surprise. Never heard pris. swear an oath. Heard pris. once tell dec'd that he wanted to make peace with him, which dec'd refused. This was in August last.

R. B. Rush—Was at work on the 24th Dec., on the house dec'd was building. Heard two guns fire in the forenoon, and after some hours heard another gun in a different direction—and immediately heard some one exclaim, "Lord, have mercy upon me!"—Last gun was not more than a quarter of a mile from wit., in the direction of the house of pris., and the exclamation was in the same direction. Wit. supposed this to have been between one and two o'clock. Late in the evening wit. was halloed to by old Mr. Scott, and went to where dec'd was lying. The body was found between a half-quarter and a quarter of a mile from McKee's house—lying on his back across the road, with his head upon the wagon rut and his hands also across the same wagon rut. The bullet en-

tered the back a little to the left of the back bone, and passed out under the left nipple, ranging a little up.—Wit. thinks it was made with a ball of 45 to 60 to the pound. The wagon was standing a few yards from the body, in or near the road. No arms were found with dec'd, except a pocket knife. Pris.'s house is directly on the road. The house of dec'd is between old Mr. Scott's and pris.'s. Dec'd would pass pris.'s house on his way to his own.

Wit. went to McKee's that night with the girl who was sent to get Mrs. McKee to go to her father's.—Wit. sent girl to the house and stopped at the corner of the fence. Soon after, the girl came running out crying, and some one in the house halloed "Stop her! God damn her! blow a ball through her!" No person went from McKee's to Scott's that night. It was three or four hundred yards from where wit. was at work to where the body was found. All the persons mentioned live in this county.

Joseph Hancock—In Feb. last, when dec'd would not let pris. and his brother drive their team through his field, pris. told his brother that he would have gone through any how—that they would go thro' any how.

William Scott, Sr.—Dec'd had started on the morning of the 24th of Dec., to haul a load of board timber from Mr. Sampson's, about a mile and a half below. In doing so, he had to pass the house of pris., both going and coming. Dec'd not having returned as expected, wit. became afraid some accident had happened, and with his sons set out to look for him. His son Wm. Scott found the body, and inloed to wit., who called upon Mr. Rush. Dec'd was found in a muddy place in the road, where a little drain ran down to a lake, and just where the road made a short bend, about six or seven hundred yards from the house of pris.—The wagon was about 75 yards further towards the house of dec'd—having run against a tree. Dec'd lay on his back, his head on the rut—his arms and legs stretched apart. There was a place cut on the forehead, as if made by a fall. The mortal wound passed in a direct line through the body, ranging up a little. Wagon had a body on and four horses. There was no money and nothing but a pocket knife with dec'd. Dec'd had gone to Missouri in October, and returned on the 16th of December, in the evening.

Catharine McKee—A motion was made to exclude the testimony of this witness, on the ground that as her husband and the prisoner were jointly indicted, though separately tried, she could not be allowed to give evidence which might tend to criminate her husband.—After an elaborate argument, the motion was overruled by the court, and the witness sworn.

She states, that she was at home when dec'd was killed. He passed the house about 1 o'clock, on his return home. Pris. was in the room at the time dec'd passed. After dec'd passed, pris. got up from table, went into wit.'s private room, returned and stepped out at the door. The next time wit. saw him after he went out, he was hitching up his oxen. The gun had been wiped out before dinner, and immediately after dec'd passed, Alexander McKee took the gun from the rack and took it out of doors. Pris. and Alexander were both standing in the front door when the gun was taken down. About half an hour after pris. went out of the room, wit. saw him standing by the yard fence. He stepped over the fence, and wit. thought he was going to the kitchen. Pris. and Alex. were then at the end of the house, standing up by the fence, on the inside. Pris. started from the fence with the gun in his hand, and set it down at the kitchen, just as he met wit., and then went and unhitched his oxen. The rifle carries a large ball. It was always kept on the rack in the front room, but that night it was brought into wit.'s bed-room by pris., and kept there all night.

Green McKee had never been out of the house until the gun was put down by the kitchen. He was lame, and could not walk without crutches or by pushing a chair before him. The rifle never was put in wit.'s room before.

When the negro girl was sent in the evening from Mr. Scott's, she came to the door and halloed. Pris. went out—and wit. heard him ask her what she wanted, and afterwards tell her to go into the kitchen, and he came into the house. Pris. said he asked the girl what she wanted, and she said "nothing much." The girl followed him right in. He was no sooner in the house than she was. She inquired for wit. Wit. did not know her at first. She would not at first tell what was the matter. Wit. pulled her out of doors, and then learned that dec'd was dead. Wit. did not go to her mother's that night. "Pris. signified that he knew as much as who would be suspected." Wit. told him she did not know who else had any enmity against deceased.

Cross-ex'd—Pris. saw dec'd as he passed the house, and said that he had not seen his face before since he came from Missouri. After hitching up the oxen, they were never moved till they were unhitched. Did not see pris. at work on the house after dinner. Did not see him after he left the house, until she saw him hitching up his oxen. Does not know whether he left the place or not.

Albert Haynie—Has heard pris. say that dec'd had said that if he (pris.) was to kill him, he had money enough to have him caught in any part of the world. Saw pris. act insultingly towards dec'd going to meeting.

Smith Kellum—Was present when pris. was arrested. He seemed something excited—but did not appear to resist—except that he objected to having his arms taken away, and rather made some resistance.—Pris. said he ought to have killed the rascal 30 months ago—but that he did not do it.

S. M. Rutherford—Saw pris. returning to jail after he had escaped in Feb. Heard him say, that he and his brother thought they would leave jail until court, but intended to stand their trial.

Mr. Munson—Pris. got the chains off his legs and broke jail in February.

The counsel for the State also offered, in evidence, an affidavit sworn to by the prisoner, in evidence, in which he set forth that he could prove an alibi by Robert Reed and Littleberry Robinson. This motion was strenuously opposed by the prisoner's counsel, but sustained by the court, and the affidavit suffered to go to the jury.

Evidence for the Prisoner.

Hardy Robinson—Was at McKee's house the day of the murder. It was a few minutes after 12 when he left there, because he inquired the time at the house. Pris. was there. Both were there at work on the house.

Littleberry Robinson—Was there after 12 o'clock.—Met dec'd after leaving the house.

Green McKee—On the day of the murder was at home all day. Was mostly in the house the fore part of the day. A little after 12 o'clock, went outside. When he first went out, sat down on the doorstep, remained there about half an hour, and then, about half past 12 went and sat upon the door sill. Was in the house when dec'd passed. After dec'd passed, pris. went to his oxen, yoked them, and then went to work on the house. During the afternoon, pris. was never more than 50 yards from the house. 'Twasn't so late at all after pris. yoked up his oxen before he went to work again—and remained at work all the afternoon without intermission until dusk. Wit. went out to show pris. and Alex. how to put the rafters together, as they did not know how to do so. Wit. heard one gun fired about 1 o'clock, while pris. was at work on the house. The gun was fired about the time dec'd would have got to the place where he was killed.—The gun was taken down in the morning by Alex. and loaded for the purpose of killing a turkey. It was then put up in the rack, and was never taken down again till late in the evening. When the negro girl came to the house in the evening, wit. heard no harsh language used by the prisoner. Pris. did not say "—a hor! blow her through!" Pris. never swears. When the news of the murder came, Mrs. McKee said it was a very fine thing that pris. and Alex. had been there all the evening, or they might have been suspected. She said this because the negro said to pris. in speaking of killing, and who did it—"you know how."

Cross-ex'd—Pris. had no gun in his hand in the middle of the day. The oxen stood an hour before they were unyoked. Wit. was on the doorsill when the gun fired. Went on the doorsill immediately after dinner—and remained there half an hour. Had dinner at 12 o'clock. Does not remember that pris. ever told him his life depended on his testimony, after breaking jail.

Hardy Robinson—Called again by State—Left McKee's at 5 or 7 minutes after 12. No dinner was preparing then, and Green McKee was in the house sitting by the fire.

N. H. Badgett—Was at the jail when the pris. was brought back. Heard pris. tell Green that his life depended on him, to get clear and begged him to be at court.

The evidence being gone through with, argument of counsel commenced about 5 o'clock, Friday evening—and the case was given to the jury at 2 o'clock the next morning. At 9 o'clock, a verdict of guilty was returned into court. A motion for a new trial was afterwards made, and overruled. A motion in arrest of judgment was then made, and on the 25th withdrawn. Sentence pronounced on the 26th.

MADISON MANUSCRIPTS.—The Richmond Enquirer states that the family of the illustrious Madison are preparing for the press five or six volumes of his MSS. One volume is to be devoted to *Constitutional Doctrines*—and the others to his interesting *Correspondence*. These are, of course, exclusive of his Reports of the old Congress, and of the Federal Convention, for the purchase of which the last Congress have appropriated \$30,000. *Balt. Amer.*

The Buffalo Advertiser of the 13th March speaks of the fine skating on Lake Erie which the ice still offers to those fond of the amusement. On the preceding Saturday, two gentlemen of that city achieved a skating trip of 100 miles. *Balt. Amer.*

A bill has passed both branches of the Virginia Legislature, prescribing general regulations for Banking, one of which is the prohibition to issue under \$20, after the year 1840. *Balt. Amer.*

A bill has passed both branches of Virginia Legislature and become a law, increasing the banking capital of that State by the addition of five millions. If the Richmond Banks fail to accept the law, a new bank is to be established at Lynchburg. After the first of October next, the banks are prohibited from issuing five dollar bills. *Balt. Amer.*

The Mobile Mercantile Advertiser of the 15th, mentions a rumor that Oseola has been tried by an Indian Court Martial for cowardice, found guilty, and degraded. There can be no truth in the rumor. The Florida war has brought the U. States Generals to a court Martial, but not the illustrious savage.—*Lou. Jour.*

Texas.—A field battery of six guns—four six pounders, and two twenty-four pound howitzers—with all implements for service, and 1000 balls, shells, and canisters, presented to the Republic of Texas by Gen. T. J. Chambers, arrived in this city under the charge of Major McLeod, on the 27th March. They are splendid pieces of Artillery. They will be in Texas in three or four weeks, and the way their wide mouths will talk to the Mexicans will be a caution to all the foes of liberty. *Lou. Jour.*

For two or three years past, the State revenue of Ohio has been considerably less than the expenditure. The Cincinnati Gazette says, that long sessions of the Legislature, enormous amounts of public printing, and heavy expenditures for investigations, giving employment to favorite partisans, have brought about this discreditable state of things. *Lou. Jour.*

The echoes of Mr. Benton's fame is heard from every vale and hill in the Union. *Dem. Her.*

It is heard from but two "hills"—one is Isaac Hill and other "Chapel-hill." *Lou. Jour.*