

Red Book
No. 29

peared to them pretty much intoxicated he walked up to Joel Higginbottom and spoke to him, but the Witnesses did not hear what he said. One of the witnesses swore Joel Higginbottom pushed him from him and told him to go about his Business, he had nothing to say to him. Another Witness also mentioned that Higginbottom stepped a little back from him. presently after Dunn walked up to Higginbottom Again. And Higginbottom instantly struck him with his fist upon the head by which Blow Dunn fell backward on the ground, and was carried into the House by his friends where he complained of his head and appeared much disordered in his senses. Dun received the blow on the Monday if I recollect right and languished till the Sunday following when he died. The Doctor examined the Head at the Inquisition, he found the Scull fractured in the back part of the head which fracture penetrated to the Brain. he trepanned the Skull and found a considerable Quantity of clotted blood between the Bone and the Brains and opening the Membrane enclosing the Brains found a Quantity of Pus . . .

There was no Testimony that Dunn . . . towards the Prisoner with "extended Arms . . . The Prisoner struck the Blow in "defense . . . of himself" I should in that Case instructed the Jury that he was entitled to their Verdict. On the contrary I particularly examined the Witness as to that point. They did not hear the Expressions he uttered to the Prisoner but they declared there was nothing in his Gestures appearance or manner which induced them to believe he had the least Intent to assault or injure the Prisoner And I must here mention a Circumstance which weighed with myself and I believe with the Jury to satisfy us that the Prisoner himself did not consider the blow that he struck to have been justifiable or done in his own defence. For after the fray was over at Home when the Death of Dunn was not apprehended the prisoner was uneasy for what he had done telling Joyce that he had brought him into a scrape, for he had been the means of bringing him there where he had struck Dunn, who he expected would bring an action ag^t him to recover Damages, and desired Joyce to go to Dunn and endeavour to make up the matter for him. Joyce promised him he would pay him any Damages or Expence he might be put to. as he had been the occasion of it.

There was not a Circumstance to induce a belief of any ill will subsisting between the Prisoner & deceased, on the contrary they appeared to have but very little if any Acquaintance with each other. The Prisoner appears to have had no Quarrel with any person but on Joyce's account, and Blackstone not Dunn was the Object of his Resentment. As the fracture was in the Back part of head, it reduces it to nearly a certainty that it must have been occasioned by his falling backwards with his head against the frozen Earth or something else which might be placed there and not immediately from the Blow Struck