AMERICAN CITIZEN.

"Let us have Faith that Right makes Might; and in that Faith let us, to the end, dare to do our duty as we understand it"—A. Lincoln.

VOLUME 4. BUTLER, BUTLER COUNTY, PA., WEDNESDAY, MARCH 20, 1867. NUMBER 15.

Original Poetry.

For the Citizen.

THE SABBATH.

I am utterly astonished
At what now seems to be
A sort of style, or custom,
That reigns extensively:

Among professing Christians,
As well as the profane;
Of calling Sabbath, Sunday,—
A *base* and *heathenish* name.

A name so far from proper,
That it cannot be found
Upon the sacred pages
Of God's own Truth profound.

It's not within the Bible,
Nor did God ever mean
That such should be the practice;—
Then, is it not a sin?

God never called it Sunday,
But, in His blessed word
The precious name of "Sabbath,"
Is seventy-four times heard.

Says He, it is the Sabbath,
The day that I have blessed;
A Sabbath for my people,
A day of holy rest.

And Christ our blest Redeemer,
While he was here on earth,
Did heap upon the Sabbath,
Sweet blessings double worth.

He acted with a reverence
At all times, and, said He,
I'm Lord, too, of the Sabbath;
To work thereon I'm free.

And then to crown it victor,
Upon that blessed day,
He burst from death triumphant
And justice price did pay.

The origin of Sunday,
That *vain* and *hateful* name,
Is found among the Heathen;
And there it should remain.

It's not at all intended
For Christians, anyhow,
It's only for the ignorant,
That to the planets bow.

Then Christians should be careful,
And even all who live
Within a land of knowledge;
All should due honor give.

Whene'er I hear a stranger
Pronounce this sacred name
With reverence on his accent,
And sweetness in his tone,

I mark him in an instant,
And feel that he's a friend
Of him who made the Sabbath,
Whose Sabbath has no end.

Then, ministers and teachers,
I humbly you entreat,
To let the name of Sabbath
Be to your own ears sweet.

Let it be named with reverence
Whenever named at all,
That you may teach the children
It's right name, it to call.

And now, my dear young classmates,
You little girls and boys
Who love the holy Sabbath,
And the Sabbath School's employs;

I urge you to be careful,
How you do name this name,
Lest you by thoughtless manner
Its sacredness profane.

But, most of all, dear children,
Be careful how you use
The precious time of sabbath,
And not one moment lose,

For its the time appointed
By God, our Mighty King,
And Jesus Christ our Savior,
That will us blessings bring.

God's nearer to his people,
And far more easily found,
U on the blessed Sabbath
His grace doth more abound.

His love does flow more freely,
His pardon then is seen;
His mercy is more fluent.
His promise then's supreme.

Then hail! thou holy Sabbath!
Let Christians all accord!
To shout the name of gladness
And praise thy mighty Lord;

Thou sweet foretaste of Heaven!
It is by thy fair aid
That Christians are enabled
To bear their heavy load

This world would be a desert.
A wilderness most drear,
If thou, by thine own brightness,
Didst not their pathway cheer.

Then come, thou blessed Sabbath!
And cheer us on our way,
Till we arrive in Heaven
To that Eternal day.

There we shall see our Savior,
Upon his throne of white,
Surrounded by the angels,
In garbs of shining light.

There we shall join a Sabbath,
As spoken of before,
Where there shall be no Sunday,
But Sabbath evermore.

A. M. English.

Mountville, Pa.

For the Citizen.

A SPIRITOUS APPEAL.

Now all goot frous and shintlemens,
And all you poobilc peeples,
Cry out mine Gott, like every dings—
From side walks where dere kreeket sings,
And from der high church steeples.

Shake your fousht, und schnap your teeth,
Und shware, und show your shpunk;
Your klorious rites hash been assailed—
Your freedom it hash peen plack mailt—
Der say you shan't git drunk.

Py tam I thinks I shticks mit "Shon"
Who rite sich funny pieces,
Apout tobacker, shnuff und durt—
Who take Miss Emma by der shkirt,
And shake her all mit pieces.

Now what could beebles do, I'll guess,
Mitout a little licker;
So pooty soon der shtrongest man
Would come so sick und pale as wan—
Der sick ones would ge' sicker.

Der whiskey has swi elements,
Und all der beebles knows it,
Its goot to cool der man dats hot,
Its goot to warm der man dats not—
So maby I'll suppose it.

Its goot to make der monish come,
Und pooty goot to shpend it;
I know der monish hart to get,
Yet while ders whiskey, dere is yet
Big fools enough to shpend it.

I much admire dere teuton shpunk
Of "Shake" und sich fellers,
Who shut der shops on Court veek, too,
As tity as any mouse could do—
Dey opened der pack sellers

It yoost will pring der poobilc round
In shortest kind of fashion,
Den every man can get his drink,
Und each one can't, at every wink,
Git mad, und shwear, und trashen.

Und den we'll have der goot ole time,
Like hunert year ago,
Lots of fun, and lots of frolic,
No sick mit kipes or cholic,
But every tings so, so.

Shake Shneider.

By Schneider Gass, March 11, 1867.

TRIAL OF
JOHN B. ADLINGTON,
FOR THE MURDER OF
Sidney B. Cunningham

COMMONWEATH vs. J. B. ADLINGTON, } Indicted for Homicide.

(*Continued.*)

AFTERNOON SESSION.

Court met pursuant to adjournment. The prisoner was brought into Court by the Sheriff. The jury were called over by the Clerk, and all answered to their names.

Gen. John N. Purviance on part of defense, and with the concurrence of his colleagues, moved that the witnesses on part of the commonwealth, as well as those on part of the defense, should retire from the Court House, and be kept in a room by themselves untill called upon to testify.

The Court observed that the witnesses could not hear one-half of what was testified by witnesses from their position in the audience. Unless the Court had evidence that there was a combination, they would not make an order for that purpose.

Mr. M'Carthy and Mr. M'Candless urged that it was discretionary with the Court, and they appealed to that discretion.

The Court overruled the motion.

Sidney Oliver called, but it was stated by the counsel that he was sick at the Hotel.

Dr. Cowden re called.—Mr. Oliver told me that he was attacked this morning expectorating blood; he feels unable to come at present. Passed over.

Calvin Weller *sworn.*—I live in Lawrence county, 1½ miles from Portersville; was at the house of John Oliver on the night of the 24th of December last; saw Bowder and Marshall standing together; there was a dancing party there; Sidney B. Cunningham and James H. Teeple were there; I was not acquainted with them; saw Frederick Bowder and Dunwiddie Marshall; they were in the middle room; don't remember who all were present; half a dozen—Teeple, Cunningham, Bowder, Marshall and William Pringle; I was in the north room by the door looking in at the door of the parlor; this was about 11½ p. m.; there were no ladies nor others there; the north room is where the dancing was; saw Bowder and Marshall talking; Cunningham jumped up and asked them what they had against New Castle; Fred Bowder turned round and said he was not talking to him; with that, Cunningham knocked him down partially, then hit him again and knocked him down, and hit him three or four times after he was down; then John Oliver went into the room out of the dancing room; also, Henry Bowder went in; Cunningham then knocked Oliver down. I did not notice Oliver do anything; he went up toward Cunningham. I did not see Cunningham afterwards until I saw him sitting in the hall. I was taking care of Frederick Bowder; I picked him up, and he hit Wm. Kirker. I took Frederick Bowder out of the room; Marshall and I took him into the North room; into the dancing room; I saw Adlington stand in the door that lead from the parlor to the North room, with a knife in his hand; think it was while I was taking Bowder out of the room that I saw this; think it was in the door that I saw it; I think Adlington went on out to the dancing room when I took Fred Bowder out; he was looking into the room when I saw him with the knife; could not say which way he went; I judge he went into the north room, I don't know which way he went; he held it (the knife) up this way, (showing the manner he held the knife) He said, "now I have warned you.", I don't know which. He held the knife out and shook it, don't know who he was looking at; he was looking into the parlor where the fuss occurred.

Here the Court interrupted counsel and urged that they hold themselves strictly to the rules of evidence; there was too much time occupied in repeating what the witnesses said, if counsel did not hear they could ask the Court to have the testimony repeated, side bar remarks would not be allowed.

Mr. Weller resumed.—Adlington appeared to be ongry while shaking his knife; I think it was a double-edged knife; I would suppose the blade to be five or six inches long; suppose it to be an inch or more broad; just cast my eye up at it; it appeard to be a pointed knife.

Mr. M'Carthy objected to the question as leading. Court said it was too leading.

Witness resumed.—The blade I think was about 5 inches long; inch and a quarter broad; had a point; would call it a double-edged butcher knife.

Mr. M'Carthy objected to this mode of examination. He felt his responsity, and he implored the Court to enforce the rule against leading questions.

The Court said they should endeavor to keep within the rules.

Mr. Weller resumed.—After I took Fred. Bowder out of the room, I kept him there as long as I could; then gave him in charge of his brother and went back into the room; was out of the room not more than two minutes; returned by the same door; and John Oliver and Shaffer were fighting this man Teeple; Teeple was partly down; I ran and caught Shaffer and took him back into the north room; saw Adlington hit Oliver on the back of the head with a chair; Teeple was kind of sitting on the floor and Oliver was on him; John Oliver was hitting him with his fist, about the head I believe; he caught the chair with both hands and struck him on the back of the head; I then saw Adlington kick at this man Teeple; at his head he kicked, I judge, think he had not the chair at this time; think the blow on Oliver had little effect; he was either took off or got off himself; don't know that I did anything after I went into the north room with Shaffer; was there about 5 minutes; fuss was then over; first I saw of Cunningham after that was when he was sitting in the hall; I think I went up stairs then with John Oliver; don't know who brought him out of the parlor; I think Adlington took Oliver up stairs; I don't know who said we had better get the doctor; don't know that anybody told me to go for the doctor; they were talking, that he had better be got for all of them. Mrs. Adlington, John Adlington and some others were in the room up stairs; heard several talking that the men were cut, and the doctor should be sent for; don't know whether it was up stairs that this conversation occurred; believe I started from below; think I remained up stairs not more than a minute or two; don't know that I conversed with any one particularly; the first place I saw Cunningham he was sitting in the hall handy to the door, with his head on his breast, sitting flat upon the floor against the wall; think his legs were stretched out; on the right hand side as you go in at the door; about three feet from the front door; saw people in the hall and the bar room; think it was in the kitchen that some one said the doctor should be sent for; the defendant assisted to take Oliver up stairs; I went up behind them; did not go into the room again before going for the doctor; went after him and came back with him; I went up stairs with him and came down with him; saw him when he looked at Teeple; I was at the Hotel till half-past 3 o'clock; John Oliver said he was not badly hurt; the doctor knew there were others badly hurt; I remember of the doctor examining Teeple; Teeple said he was hurt down here (on left side); think Cunningham was brought into the room; did not see the doctor examining Cunningham.

Mr. Thompson, for defendant, objected to the testimony in relation to Teeple

The Commonwealth having proved by the Doctor the nature and character of the wound of Teeple, now proposed to ask the witness who was prevent at the examination—(the body of Cunningham lying in the room)—what took place at that examination, as part of the *res gestæ* of the whole transaction.

The court asked the witness how long it was between the time the doctor was called in and the time he examined Teeple.

Mr. Thompson objected that evidence of the character of the wound of Teeple was no part of the *res gestæ* of this case. The defndant was on trial for the murder of Sidney B. Cunningham, and not for that of Teeple; hence, this evidence was irrelevant and had nothing to do with the case.

Court overrulod the objection, and noted an exception.

Witness resumed.—The doctor probed the wound and said he guessed the rib stopped the instrument; there were very few in the room at the time; the doctor asked Teeple if he was hurt; he pointed with his hand where he was hurt, we took the things out of Cunningham's pocket after he died; he had no weapons; a pass book, pocket book and some other little things; I was there when he died; I think it was about one o'clock in the morning. I never saw the knife before nor since; never saw it but once; didn't see at what time Adlington entered the sitting room; I believe I heard him say that if those men had not been killed there might have been more men killed than there was; this was in the bar room, about two o'clock, a. m., after Cunningham had died; there were a number present, James Gibson, William Gibson, James Marshall, were present; can't tell how long we had been in the barroom; did not notice that he addressed himself to any one particularly; noticed nothing out of the way in his manner; don't know what led him to make the remark; I believe they were talking about the fight; believe I have stated all that I saw him do.

The Commonwealth offered to ask the witness if he saw any other person present with arms on that night.

Mr. Thompson objected, and the proposition was reduced to writing The objection was that it had no connection with the case on trial.

The Court admitted the evidence, and noted an exception.

Witness resumed.—I saw no other person with weapons that night.

By the Court—had none myself.

Witness resumed.—Saw no one strike the defendant; heard no one use an insulting nor improper word to the defendant.

Cross-examined.—Had no previous acquaintance with Teeple or Cunningham; there were ten or twelve ladies and more gentlemen at the party; I came to the party about ten o'clock; came from Mr. James M. Marshalls to the party; came to Portersville about 5 p. m.; was at Oliver's directly afterwards; saw Teeple and Cunningham when they came; between seven and eight o'clock; I went down to Marshall's to get my wife when the party commenced; was there when they—Teeple and Cunningham—came; first saw them in the bar-room; they were warming themselves at the fire; the next place I saw them was in the hall, they were going for oysters between 8 and 9 o'clock; heard these men talk about Oliver, and swore they could whip that man (the landlord); I heard Cunningham speak of this after eating his oysters, and returned into the sitting room; he swore he could whip that landlord; he said "by God he didn't care a damn for that landlord nor any other damned Lord;" Jones, Kirker, M'Claran and others, were present; I believe he made no threat what he would do—only what he could do; he made no threat that he would kill the landlord before he left the house; think he said he would whip him before he left the house; think he did not swear that he would kill him; he said he had insulted him; Mr. Oliver was not present; they started away shortly after they had eaten their oysters and I did not see them again until the party commenced; about 15 minutes after they had their oysters, they said they would go and take a walk; think Cunningham was drunk; don't know whether they had a bottle; the dance had not yet commenced; they were gone, I do not know how long; half an hour afterwards I went for my wife; probably about 15 minutes afterwards they came; they were in the sitting room; next saw them in the dancing room; think they were back before 11 p. m.; saw Cunningham dance once; don't know where I next saw him, about an hour after he danced he had the trouble with Fred. Bowder; think it was 10 o'clock when I left Marshall's; there was a clock there, and one at Oliver's; believe I saw Sidney Oliver in the room of the fight; he was holding the light; he held a lamp; stood by the fireplace; don't mind of the light going out; saw Sidney moving as though going out; know James Amberson; did not see him in the fight; did not see Henry Bowder in the fight; went back into the parlor after the fight; John Oliver and Lafayette Shaffer were there fighting Teeple; saw nothing of Cunningham after he was knocked down till I saw him sitting in the Hotel; think it was not more than five minutes afterwards that I went for the Doctor; think I did not see Cunningham before I went up stairs with Oliver; I was not out in the barroom before going up stairs with Oliver; there was no light in the hall; it was moonlight, and you could distinguish objects in the hall; it was light in front end of hall; the front door was open; there was nothing to prevent seeing an object where Cunningham sat; do not recollect whether I saw him then on going up stairs; saw Teeple before going up; he was lying to the left of the door going into the room from the hall; he was lying at full length, head toward the door; Teeple was sitting in a chair in front of the fire in the parlor, when the words in reference to New Castle were uttered; Cunningham jumped up at the mention of New Castle; Bowder and Marshall were at my right hand in the parlor; Bowder was two or three feet from the door; I was doing nothing at the time Cunningham struck Bowder; saw him knock John Oliver down before I took Bowder out; think I called to Henry Bowder to come to me; Cunningham had his back to the hall door, when he struck Oliver but once and knocked him down; don't know whether he retreated; Oliver fell with his head toward the North room; Henry came and took charge of Fred Bowder; think the fight did not last over five minutes; the fight had ceased when we took Oliver up stairs; saw Oliver and Shaffer strike Teeple; he was partly on the floor, facing the North room, when they were striking him; about half way between the door and the corner of the room; Teeple was not doing anything; don't know whether he hallooed or not; it was some two or three minutes after I took Bowder out when this occurred; this was after I hallooed to Henry to come; I went in just after Oliver and Shaffer went into the room, probably ¼ or ½ minute afterwards; dod't know where Henry Bowder went; about the time I was taking Fred out I saw Teeple on his feet; the lamp, I believe, was on the mantle piece; I think the light was not out; I passed through the door where Adlington had been standing; I did not see which way he went; think he stood about the middle of the door; think it was Dunwiddie Marshall who helped me take Fred Bowder into the dancing room; John Oliver was in; so was Fred Bowder, Wm. Kirker and Marshall; Amberson I did not see; think William Pringle was in the room; the room is about 25 feet long; didn't see Cunningham go out of the hall door; don't think I had a better opportunity of seeing than others; did not fiive exact length of knife; only supposed it to be of the dimensions I havd described; I only glanced casually at it; think it was a knife, because it looked like a knife; did not see the handle; could not tell what kind of a point it had; saw the edge; blade was the color of other knives; the broad side of it was towards me when I saw the edge; it looked as much of an edge on one side as on the other; it was a straight knife; think it was a sharp point; think it run to a point; think Marshall was in the same room with me—the parlor; had hold of Bowder at the time I saw Adlington in the door; that is my best recollection; pushed through this door to the dancing room; next time I saw him he was hitting Oliver with a chair; it was an arm chair; he took hold of it with both hands; don't know what portion of the chair hit Oliver; saw nothing in Adlington's hand but the chair, at that time; it was three or four minutes after I saw him with the knife, that I saw him with the chair; if he had had a knife at that time, I know of nothing to prevent my seeing it; Oliver was on Teeple when he was hit; Teeple was making no resistance; believe his legs were partly stretched out on the floor; saw three or four strokes—Shaffer struck Teeple once; saw Oliver strike him two or three times; no iron knuckles were used; took off my coat for a fight; I might have said "Here is one little man that has not been whipped yet;" I bo't this knife (exhibited) in New Castle, in January; carried no knife previously; there were snow drifts when I bought it; I had heard the threats of these men, and determined that I would defend myself; they swore they could whip any man there; he (Cunningham) swore by God he could whip any man there, or in Butler county; this was immediately after they had eaten oysters; the banter against the landlord was made just previous to this; I think it was after I came down stairs from John Oliver, that I saw Cunningham in the hall; saw Teeple before I went after the Doctor; I knew Teeple was on the floor, but did not know that he was hurt; think I heard that Cunningham was cut before I went for the Doctor; I think it was pretty near 12 o'clock when we went for the Doctor; think it was about 1½ hours after the fight commenced till Cunningham died; the fight commenced about half past eleven, from the time I first knew he was cut till he died; I had iron knuckles with a pistol connected with them; I did not have them on that night; I gave them to John Oliver some three months ago; I got them a while that day; I gave them back to John Oliver a little after dark; I had them only about 15 minutes; the pistol is a six shooter, and could be used as a knuckler; I got it back for the purpose of keeping it; it was not in my pockets at the time of the fight; it is a revolver; no dagger connected with it; I bought it in New Castle; I got it to shoot dogs; it was small; used metalic cartridges; think there were other pistols where I bought this. Here a diagram of the rooms of the house was exhibited, and the witness thought it correct.

Direct.—Teeple was lying in the same place where Oliver and Shaffer were striking him; think the door from the hall into the sitting room was open; saw Cunningham knock John Oliver down; that was the last I saw of him; when I came back they were striking Teeple on the floor; saw Adlington kicking at him—at his head; it was after Oliver was hit with the chair that Adlington kicked at Teeple; I think Teeple called out (about the time I took Fred Bowder out) and said: "For God sake, if there are any men among you, come one at a time." Don t know where the defendant was at the time; can't say whether the defendant was one of those who were around Teeple when he cried out; didn't see the defendant in the dancing room at the time the three men were around Teeple; can't call to mind the persons who surrounded Teeple at the time he made the expressions.

Cross-examined.—There were some two or three, or four, or five persons; could not say how many; there were some there; did not recognize who they were; there was great excitement and alarm at the time; great deal of noise and confusion.

Court adjourned till 9 A. M. to morrow.

TUESDAY, March 12, 1867.

The court met pursuant to adjournment. The prisoner, John B. Adlington, was brought into Court by the Sheriff. The Jury were then called by the Clerk and answered to their names.

Sidney Oliver *sworn.*—I live in Portersville, with my mother in the tavern house, kept by my brother, John Oliver. I was present on the night of the 24th of December last, at a ball at that house. Calvin Weller, Henry Bowder, Frederick Bowder, John L. Jones, George Pringle, James Foster, James Marshall, Uriah McClarran, Wm Pringle, James Amberson, Lafayette Shaffer, were present; John B. Adlington was present; Sidney B. Cunningham and J. H. Teeple, were there: William Kirker was there. I was not present at the cammencement of the difficulty; was up stairs: when I came down the fighting was going on; think I saw Fred Bowder get up; saw John Oliver come into the room; he threw up his hand that way, [showing how he did]; did not here him say anything; he came through the north room; saw him fighting with Teeple; had him by the right wrist, and struck him back of the ear with his right hand with his fist; did not see any weapon; I think I went out of the room then, out into the hall; there were some women on the stairs. When John was fighting, Henry Bowder, Fred Bowder, Lafayette Shaffer, John Adlington and others, were in the room, don't know that Cunningham was in the room; don't know that there were any person in the hall; while I was in the hall I saw some one draw a chair in the room; saw fighting going on in the south part of the sitting room; could not see distinctly from my position; don't know who drew the chair. I went into the room when the fight was about over; I saw Fred Bowder in the sitting room, he wanted to fight Teeple who was lying by the door; I think he was intoxicated, do not know what he was doing; said he wanted to know who struck him; Teeple made no reply. I dont remember where Cunningham was at this time; I think I saw Cunningham about 5 or 6 feet from the north room door at the time the fight was going on; Adlington was standing within a few feet of him with some thing in his hand shaking it. I thought at that time it was a knife he had in his hand, he was standing about this way [showing attitude]; didn't hear him say anything; he looked as though he was saying something, but I could not hear him. Cunningham was within four feet of him; Adlington was within 2 feet of the north room door, and Cunningham about six feet from the door; his face was toward Adlington who was facing the hall, in the room fronting Cunningham. Don't think the knife was pointing toward Cunningham; he pointed it straight out, Cunningham was at his left. He was standing perfectly still; didn't hear him say anything; Adlington looked excited, as all in the room did at that time, did not see where Adlington went; I was carrying the lamp out then. I did not see Cunningham after that till I saw him in the hall; think I saw him in the hall when I went for the doctor; I handed the lamp out of the door to Uriah M'Clarran; I did not want them to burn the house, so I took the lamp out as soon as I could get it out. It had remained on the table previous to that time; I got hit just about that time by Frederick Bowder; he came from the east part of the room at that time; I was hit before I got the lamp out of my hand, passed the lamp out to M'Clarran; went back into the room and saw Teeple draw a chair, and James Gibson and myself caught it and would not let him throw it. Don't know who he drew the chair at; John Oliver then caught Teeple by the wrist and struck him. Shortly after that Teeple was down and I went for the doctor; John Adlington sent me for the doctor, that John was hurt. Adlington and Jones were with John Oliver then in the kitchen. He told me to go on for the doctor, he, John, was hurt. I thought he was not much hurt. Teeple was lying on the oil-cloth near the door in the sitting room; he hallowed three times for Kirker: he called "Kirker!" three times. Think Henry Bowder and I raised him up and gave him a drink; can't remember that he said anything at that time about his hurt. I think we next found Cunningham in the hall, in a sitting position in the corner of the hall, his legs stretched out. I asked him if he was hurt, he gasped; I went and told the doctor he was badly hurt, thought I saw Cunningham lying across the hall, and I had to pass over him in going for the doctor. Some one moved him while I was gone for the doctor. It might have been somebody else lying there, but I believed it to be him at the time, and think so yet. After this I went up stairs, think the doctor went up too; John Oliver was bleeding. Adlington was there, think he told the doctor it would be better to put a couple of stitches in John's eyebrow. Mrs. Adlington wanted her husband to go home, he said he could not find his hat. I left the room first; next saw him washing his hands; said he had been helping the doctor probe that man; he had blood on his hands, and on his coat; he said that wouldn't hurt, he had got it in there; it would come off in a moment; think it was Teeple he helped probe; think he said he was going home, and he asked me to come and waken him if anything should happen to John Oliver, or the rest of them; told me what window to wrap upon; showed about how long the knife appeared to be.—Couldn't say what kind of a knife it was.—I formed an opinion, at the time, as to what kind of a knife it was; it looked like a butcher knife; I never saw the knife before or since, I did not hear Adlington say anything about a knife, nor did not see him at any other time with a knife; saw no other person have anything but a penknife; saw no person strike Adlington at any time during the evening. Heard no one use any insulting remark toward Adlington. I went for doctor Cowden; I returned before he came; was present a little while when he was examining Cunningham, saw him putting in his bowels; think John L. Jones was holding the light; there was some one else there but I don't know who it was.

By the Court.—I remained in the room after I was struck, a good little while. This scene was after, and at the time I was taking the lamp out. I went to the back porch after the fight, came out into the hall and from that to the porch and the kitchen. Did not see Adlington strike my brother with a chair; saw some one draw a chair in the South side of the room when I was in the hall; I don't know who it was.

Cross Examined.—I lived, at that time, on the farm, but have lived at the tavern ever since the fight, did not know Cunningham and Teeple at that time; I came there before dark; I continued there. They came between 7 and 8 o'clock, I judged by the way they talked that they came from New Castle. I don't know what they came for; Cunningham was drunk when he came; saw no whiskey in a bottle; don't know that they had whiskey; think I heard Cunningham ask if Teeple would take a drink, Teeple told Cunningham to get on his overcoat and he would walk him round a square or two; were gone 1½ hours. I mind of their coming back but not what time it was. They got oysters; Cunningham swore he could or would lick that G—d d—d landlord, or any other d—d lord; he could be coaxed, but could not be drove; he considered himself insulted; pushed the oysters back, and said he couldn't eat them with a good conscience; he had been drinking toasts, and John Oliver told him there was enough of that; this is the way the quarrel commenced at that time. The toasts were drank in the sitting room. It was the loud talking that John objected to. *I* know of my own knowledge that John said he would not have vulgarity in conversation when there were ladies present. He said he would not be talked to in that way, if it was the landlord's way of talking. Cunningham was violent, enraged, angry. He repeated his banter frequently—two or three times. *I* think it was before this he asked Teeple to take a drink. They were not in the sitting room more than 15 minutes after they ate their oysters before they took their walk. *He* used these banters often while in the room. *I* went out and told my brother he had better be on his guard on account of the way Cunningham was talking. *I* thought he was going to pitch on him, from the way he was talking. There were some ladies there. They went out and were gone an hour and a half, or two hours. When they came back I heard them apologizing to John Oliver on the pavement. They came into the dancing room, Cunningham danced one sett; was on the floor about fifteen minutes; Teeple was in the parlor with papers on his knee by the fire. Saw Cunningham play the fiddle after he had danced; think it was a waltz, or dance; this was fifteen or twenty minutes after he danced—*I* walked through; heard him playing the fiddle; the next place I saw him was in the fight. Don't know how long afterwards; *I* was up stairs when the fight commenced; *I* was up stairs not more than 15 minutes before the fight commenced; Mrs. Weller, Miss Weimer, Lafayette Shaffer, Miss Piles and myself; when *I* went down *I* saw the rush from the bar-room; the first thing I saw was Federick Bowder getting up, or going down, don't know which; there were a good many in the room, and there was a good deal of noise and excitement, it was not very long after Fred got up when I took the lamp out; I think *I* was out of the room once, and saw Mrs Adlington on the stairs; she inquired if John was in the fight; think this was about the wind up of the fight; Teeple drew the first chair; after this *I* saw, when I was in the hall, a chair drawn by some one. Didn't know who was fighting at that time; it was about half a minute after I saw John Oliver take Teeple by the wrist, that this second chair was raised.—Think there were one or two with Teeple when I went out for water; Henry Bowder was one of them; I had the glass in my hand during the fight; some one took the tumbler from me for fear I would throw it; I must have gone into the bar-room for another tumbler to get water for Teeple. I was in the kitchen when Adlington and Jones had John in there; I was the first one after the doctor; I was examined before the Inquest. Believe Adlington told me to run for the doctor, that John Oliver would die; think I told the doctor John was badly hurt, and others were nearly killed; I went and got a candle to see what was done; found Cunningham sitting in the corner; the doctor was in the room at this time with Teeple; I might be mistaken, but I saw it plain enough to think it a knife; saw a bleeding stick at my father's house; could not mistake the stick for the knife; it is there yet at Oliver's house; it is about the same length of the knife; it is loaded with lead in the end; there was not a drop of liquor in me before the fight; drank some afterwards; my brother's head was bleeding profusely when I saw him in the kitchen; I borrowed a penknife on that evening from George Pringle; had an old one of my own; don't know what I wanted it for; had it before the fight commenced, and before Cunningham and Teeple came there; had it two or three days. Adlington hauled a load of coal with John Oliver's team, and from our bank, the next day, or day after the fight; brought it in about ten o'clock in the morning.

John P. Oliver *sworn.*—I live in Portersville, and was keeping a public House; had a ball on the night of the 24th of December last; there were a great many there, don't remember all, Henry Bowder, Sidney Oliver, John L. Jones, Wm. Kirker, Mr Teeple, Sidney Cunningham, Fred Bowder, Dunwiddie Marshall, Uriah M'Clarran, John Adlington, and a number of others; there were also a number of ladies there; Cunningham and Teeple came about 7 or 8 o'clock; first saw them in my sitting room; they did not call to stay all night; I had not been acquainted with them before this. Henry Bowder came into the barroom and told me to come in and stop them from blackguarding. I went into the parlor and Cunningham pulled out a bottle and passed it around; they commenced blackguarding, and I stopped them; told them I would not allow anything of the kind in my house. Cunningham said he would not take that, and pulled off his coat and both of them pitched at me, when I retired from the room. On the pavement I met Adlington; told him we had a fuss in there, and that probably they might pitch on to me again.

Mr. Thompson, on part of the defendant, objected to any conversation between witness and defendant at this time as being no part of the *res gestae.*

The Commonwealth was ordered to put the proposition in writing.

The Commonwealth proposed asking the witness—who had related the difficulty that had already occurred in the sitting room, to Adlington—what he replied to it, as showing that it was a part of the entire transaction on investigation—a part of the *res gestae* of the case.

The Court said they would receive the evidence, and note an exception.

Witness resumed.—Adlington lives across the street from my house; *I* met him on the pavement; told him they might pitch on me again; he had better leave his knife at home. He said he had no knife with him.

Mr. M'Carthy, for Defendant, objected to the evidence of whether the defendant had been in the habit of carrying a knife previous to this time, as tending to establish a character of the defendant before a door was opened for that purpose.

The court admitted the testimony.

Witness resumed.—*I* saw him have a knife, in my stable, long about harvest time; think *I* have seen it once since; same knife; I think *I* saw it again some time in December, in the hall of my house; don't know on what occasion, probably not more than a week before this difficulty. *I* think he was showing it to some man from New Castle, who was stopping at my house; don't know his name; these are the only times that *I* have seen the knife; he carried it in his bosom; did not observe how he carried it; he put it back each time where he pulled it from; it was a two edged knife, near a foot long—from ten to twelve inches; blade about 6 inches; about an inch or an inch and a quarter bread in the blade, a wood-handle; it was a common butcher knife.—This was the knife *I* referred to when *I* told him not to bring his knife; we were walking toward the hall door and both of us went in.

Adjourned till 2 o'clock, p. m.

AFTERNOON SESSION.

The prisoner was brought into court by the Sheriff. Jury called and answered to their names.

Mr. Oliver recalled.—From the time we entered the house together—Adlington and myself—*I* was attending to my own business; *I* passed him several times in the house; saw him once in the dining room, and in the dancing room; think *I* did not see him up stairs before the fuss; saw him dancing; don't remember what time it was when *I* saw him dancing; that was about one half an hour before the fuss commenced; *I* saw him more than once in the different apartments of the house; Teeple and Cunningham were eating oysters after Bowder called me in; they called for the landlord; *I* went to the door and showed them the dining room and told them their oysters were ready; they went away and were gone an hour or an hour and a half afterwards; when they came back they said they knew how to act as gentlemen and they would do so from that on; told them as long as they would do so they could take part in the dance, believe Teeple first made the apology, and Cunningham joined in also; this conversation took place in the sitting room; there were other persons present in the room; dont think either of them at this time were under the influence of liquor; Cunningham danced with Miss Pile; he did not dance more than once; Teeple did not join in the dance that I saw; Teeple was sitting by the fire in the sitting room when Cunninham was dancing; saw him dance and play the violin; he played after dancing; don't remember that any person danced when he played; next I saw he hit me above the eye; half past eleven o'clock when he hit me; it was in the parlor, *I* was passing through the room when he played the violin; Fred Bowder was lying in the door of the room; *I* asked Cunningham what was the matter, when he struck me and knocked me down; he then struck at me with a chair when *I* was lying on the floor; when *I* got up *I* looked for him and he was gone; Teeple was standing about three feet from me; he was watching me as though he was prepared to strike.—[He showed the pugilistic position]. *I* went for him, and hit him; he went up, in the corner; we took holts and kept fighting on; *I* repeated the blows; the north-west corner of the sitting room, he did not go down; we fought along past the fire place toward the hall when he went down, and hollowed enough; *I* let go and some one took me out; he was then in the South part of the room, on the right-hand side of the door of the