room, left side going in; did not strike him after he was down; did not get down upon him; suppose I hit him four or five times on the face and head. His precise word as he was going down was "enough!" Believe he went down backward on his knees; he attempted to strike me; heard him say "if there is any men among you come one at a time!" there were several persons standing around; could not recognize one person; had no knowledge of who they were at the time; saw three or four when he went down; I went immediately into the North room; no one took hold of me till I got to the door; Margaret Newton took hold of me then; did not see Cunningham after he struck at me with the chair; could not say what became of Cunningham after that; I was three or four steps into the room when struck; I fell with my head to the door of the North room; he struck with the chair immediately; I knocked off the blow with my foot; I saw the chair coming and warded off the blow; I looked for Cunningham but did not see him; I was about three feet from the door when I got up; I saw no one in the room that I could recognize but Teeple, and kept my eye on him. He was standing on the North side of the fire and within three feet of me; saw no one strike Teeple nor Cunningham; did not see him strike any one else; did not see the Defendant in the room; I then went into the kitchen; Mrs. Adlington and Mr. Adlington and Jones were in the kitchen washing the blood off me; think I heard Adlington talk about sending for the doctor for me; I was taken up stairs by Mr. Adlington, wife, and several others; I was washed and a dry shirt put on me. It was on the suggestion made in the kitchen by Adlington, that the doctor was sent for; my wounds were dressed; I was not down stairs until the next Wednesday; I was not at any time engaged with Teeple while he was on the floor; it was after I was knocked down that I am told I was hit with the chair.

By the Court.—I think I was struck with the chair just before, or at the time Teeple was on the floor. The back part of my head was cut back of the ear.

Cross-examination continued.—The other hurt was on my face; that was done by Sidney B. Cunningham. Those are the only two hurts I had in the fight. I saw no weapons in the hands of any one during the fight. I had a revolver myself. I struck Teeple with it. There is a hole in the but of the pistol to fix it on the hand. I had it on when I first struck Teeple. I had it all in my hand but did not strike him. I saw no weapons in either Teeple or Cunningham's hands; nothing but the chair in Cunningham's hand; the defendant said nothing while up stairs about any body else being hurt; don't know whether the doctor dressed my wound first or not; Mrs. Adlington came about 9 or 10 o'clock; don't know who came with her; don't know of his leaving the house at any time after he entered it with me.

Cross-examined.—Saw no marks upon the knife; it was an ordinary butcher knife; don't know there are others just like it in the stores, he (Adlington) was in the dining room while supper was preparing; I think my wife was there also; I went into the room to quell the disturbance when Cunningham knocked me down; I put up my hand and asked what the disturbance was about, and was instantly knocked down; I was stunned but conscious; it was an armed chair he strck with, he raised it with both hands above his head; I did not hear him say anything; I thought Teeple was in a position to strike; but he did not advance upon me; I forestalled him by attacking him; hit him with the but of the pistol; the room was full, but I could not name them; Teeple was facing me when he made use of the language quoted; I think Fred Bowder was taken out about the time I fell; I lay where he had lain; I went out by myself; Margaret Newton went with me to the kitchen. there was an artery severed on the back part of my head; it was taken up or compressed with a cent; Mrs. Adlington washed my face; Adlington assisted me up strirs; think Jones did not; I told the Doctor to go down stairs as there were men worse hurt there than I was; I meant Teeple and Cunningham; the doctor did go; I looked at the clock, it was between 30 and 35 minutes past 11 o'clock p. m. when the fight commenced; there were some 12 or 14 ladies present, family included; there was some noise; there was a great deal of noise and confusion during the fight; Sidney did not warn me to be on the lookout; I heard Cunningham swear "by God he could whip any man in Portersville, or Butler county." I saw him take out a pint bottle and Cunningham, Teeple and Jones drank; I told them I wanted no such toasts, or I wanted that stopped; I would have no such vulgar blackguardism in my house; I went out of the house when he three off his coat; no person interfered to prevent an attack on me had they desired to do so; Cunningham swore that he would not take that off any one; that is when he threw off his coat; I backed up to the door and went out; I said when he came back that he did not appear to be drunk, further than the effects of it. Cunningham was intoxicated slightly when he first came. He was a large man; would weigh about 200 pounds. Teeple was also a large man. Teeple, when Cunningham first rose up, was near enough to have prevented Cunningham from striking; Henry Bowder and George Pringle were managers of the Ball; They issued the tickets; on my own responsibility, I told these men if they would behave themselves they could take part in the Ball; they had not been invited; this was after they had apolozized; they came in a buggy from New Castle; Mr. and Mrs. Adlington were invited guests.

Direct.—The bad conduct was before the apology was made; I had liquor in the house; I know that some of it was drank in the house; there was not much liquor drank; it was in the cellar in a jug; Henry Bowder, Calvin Weller, Uriah M'Clarran and John L. Jones drank; I took them down and treated; they were not treated more than once; I took one drink in the kitchen; there was no one present; I had it in a glass in the cupboard; it was about 6 p. m.; it was after this that I treated them in the cellar.

Sarah Campbell sworn.—I was at John Oliver's, in Portersville, on the 24th of December last; there was a difficulty at that house at that time, in the evening about 7½ o'clock, Mr. Oliver came to the kitchen and said two men were there wanting oysters; I cooked them; Oliver came in about the time they were ready, and said the men were making a fuss; they came in and Cunningham was swearing; I believe he said he would whip that landlord, or any other lord, and would do so before morning; Teeple told him to eat his oysters and not swear about Oliver so much. "I can't help it," said Cunningham, "you know he has insulted me." Cunninham told Teeple not to talk so much as there were ladies there; they went out of the ding room; about half past 9 o'clock, or between 8 and 10 o'clock they came back again; Teeple was sitting by the fire in the parlor. About 15 minutes before 12, I heard Mrs. Adlington hallooing to Mr. Adlington, saying, "stop, John, for Godsake stop, John." Adlington was going into the sitting room; I don't know why she made these remarks; she was in the north room; he was running from the north room to the sitting room; she was about the middle of the North room; Adlington had his back to me and his face toward the sitting room; he was running; I did not observe his hands; he appeared to be very much excited; I did not see anything going on in the parlor; I heard a noise; but could not tell what was said; I heard a cry of "oh!" and some one fall, just after Adlington went into the room; could not see into the room from where I stood; I was standing in the door between the ball-room and the kitchen; saw Adlington coming toward me and I asked him for Godsake to tell me what was the matter, and he said where is that knife? Mrs. Oliver was in the kitchen; Adlington rushed me aside and said, "Damn you, where are the knives." I started into the dining room and got one of the carving knives; Mrs. Oliver got the other; I concealed the knife in my dress; I passed Adlington in the kitchen door; I saw no more of Adlington; it was my going into the pantry that prevented me from seeing any more of Adlington; it was about 20 minutes to 12 o'clock when I went to the pantry; the fight was over about that time; I think Miss Newton was in the North room, there were others there also, at the time I speak of. I saw Mrs. Adlington in the kitchen, but don't know where she went; I left the carving knife hid in the pantry, and returned to the North room. John Oliver was coming from the sitting room all covered with blood, I think some one was with him; I went and looked into the sitting room but did not see any one; the light was not bright; think there was a lantern there. I got a lamp and came back into the parlor. Saw Teeple sitting on the oil cloth by the right side of the door as you go into the room. He was sitting leaning against the wall, with his head leaning forward, his hands hanging down, and his face and hands bloody. There was blood on the wall beside him; I think he called for Kirker. He groaned. He called for Kirker just as I was passing out of the room. I saw Cunningham lying in the hall, with his head up against the wall. I just looked at him as I passed through the Hall. He was groaning. He said nothing. I saw Oliver and some other persons with him at the head of the steps of the stairs going up. I think I fainted and knew nothing more until I found myself sitting in a chair in the North room. Mrs. Weller and Miss Newton were present. I went to the sitting room. Dr. Cowden was there leaning over Cunningham. Jones, Weller and others were present. He told Weller to examine Cunningham's pockets and take out the contents. There was a small pocket Photographic Album, a pocket book, and several other little things. I think he was conscious. The Doctor asked him if he knew if he was agoing to die?—He nodded his head and said, "O, God?" or "My God! is it so?" He asked for water, and it was given him. He asked where Teeple was, or the man that came with him; or he made me understand that was what he wanted to say. He appeared to suffer; after that he called for some young lady. I could not understand her name distinctly. I first understood him to say "Sarena," or "Arena." He reported it several times.—Before this I asked him if he had any word to send to his mother, He said something but I could not understand him. Kirker told me he had a mother. I did not say anything to Cunningham before the Doctor came; there were others in the room at this time, but I dont know that they heard it.—Don't know that Adlington was in the room—he might have been. I went up to the room where Oliver was lying on the bed. He was surrounded by his friends. Did not see Adlington there; after the fight saw Adlington coming up from the cellar to the porch. I did not notice which way he went after he came out of the cellar. I went back into the sitting room. He had nothing in his hand when he came out of the cellar. The cellar door usually stands open. Think helped two gentlemen in taking the coat off Teeple and rendering him comfortable. Cunningham died a few minutes before one o'clock. I looked at the clock. I was in the room all the time, except when I went for water. Saw defendant about half an hour after Cunningham died. I next saw him up stairs in Oliver's room; shortly after this Defendant and his wife came down stairs. This was seven or eight o'clock in the morning. I was washing Teeple's face when they came down. During the fight I saw some one run into the kitchen and pick up a poker. Saw James Amberson, but was not acquainted with him.

Cross-examined—I looked at the clock and saw that it was some 20 minutes to twelve o'clock when the fight commenced. My attention was called to the fight by Mrs. Adlington calling out as related; saw John Oliver brought out of the room; think Miss Newton had hold of Oliver, or was at his side—could'nt say it was a minute after I heard the cry "Oh!" when I heard the fall of a body; saw Fred Bowder after Jno. Oliver came out; did'nt notice any one holding Fred Bowder; was excited; it was a little before Oliver came out that I went to secure the knives; soon after Adlington disappeared in the sitting room I heard the cry and the falling; think it was before that we went to secure the knives. A very short time after the falling, Adlington came inquiring for the knives; I was very much excited and can't tell the time that elapsed between the time I heard the falling and that of the inquiry for the knives; saw some one go out at the street door of the north room just after the fight began—it was not Adlington that went out, am not mistaken about Adlington's inquiry for the knives; he pushed me aside and said, "Damn you, where are the knives?" He got neither of the knives. I met Kirker; he said some one had struck him over the eye, or in the eye, and he wished he had stayed at home; was not in the room when Dr. Cowden made the first examination of Cunningham—he told me he had made an examination; Sidney Oliver passed me in the hall going for the Doctor; a short time after saw Adlington come out of the cellar, I saw John L. Jones come up. There were some other persons came out of the cellar—J. L. Jones had a light—Adlington came first. There was a stranger came up with a bucket of coal. There was apple-jack in the south-east corner of the cellar; think they were after that; there was a lantern sat at the head of the stairway, which reflected light upon the coal in the cellar; was in Mr. Oliver's employ at the time of this occurrence.

John L. Jones, *sworn*.—I was at John Oliver's house on the 24th of December last about dark; left at half-past eight and came back at 10 o'clock, and remained until about 3 in the morning. When I was first there in the evening, Kirker and myself were talking together; Teeple and Cunningham came there about 7½ o'clock; I knew them; we shook hands and talked sociably. Cunningham was funny—he danced about; he said he was taking a little spree—he was about to get married—then he would quit off; he said he could whip anything in Portersville or Butler county; sat on my knee and asked if I knew a girl by the name of Elizabeth Roberts, and wanted to know if she would be at the party; told him I knew her, but did not know that she would be at the party. He said he had no gal. Kirker said if he had no gal, a gallon would do; Teeple pulled a flask out of his pocket, and it passed around among several and came around to me, and Cunningham gave me a drink and then gave it to Teeple; he then asked to play a tune, but said he was too drunk to play; I should play him his favorite tune; he danced around and talked some; Oliver told him there were ladies in the house and he could not allow such language. There was some difficulty, and they, at the suggestion of Bowder, took a walk, found them when I came back; they were in the dancing room; Cunningham was calling figures; we had a talk in the bar-room about the party; we went into the sitting room; I looked in at the dance. After the cotillion was over they danced a polka; they had some talk about the tune; as I turned round, Cunningham was striking Fred Bowder; saw him knock him down at the second stroke; I said "hold on boys, this will not do;" this quieted it for the moment; some others crowded up and I gave way; Mr. Oliver came in and threw up his hand, and said something, I could not hear what; Sidney Cunningham hit him and knocked him down, as I supposed, on the top of Bowder. The rush still came in; saw some one get a chair, and thought Oliver was knocked down the second time; Wm. Kirker was hit by Bowder; Adlington said "yonder, yonder!" and threw out his hand toward Mr. Teeple. I supposed Cunningham to be in the crowd fighting; Adlington was crouched in a corner; asked him if something could not be done to stop this; he then rushed into the crowd where they were fighting; my attention was called to Teeple by the remark.—I said "hold on men, do stop this." Wm. Kirker came in and told me that my little daughter was very much scared, likely to faint; went out and quieted her; she was in the north room looking into the sitting room; some one hallowed out "oh!" Then I saw Teeple go down; at that Mr. Adlington came out of the room, rushed past me into the north room, and went toward the kitchen; in a short time he came out of the parlor again with Oliver; don't know how he got back there. He said, "help to take care of John, he is very bad hurt." I saw John; the blood was over his head and face; I said, "why John, John, are you bad hurt?" He said he thought he was; went to the kitchen, got water and washed it off; Adlington said twice, "send for the Doctor." I found we could stop the blood ourselves; Adlington said, "send for the Doctor, for the other men." Adlington said, "we had better take Oliver up stairs, he was worse hurt than we thought he was." Adlington, his lady and myself helped him up stairs. Adlington said again to send for the Doctor. I told him he had been sent for. He soon came, and said we had better look to the other men. I did not hear any one say to Oliver, or to Adlington, or to any other person that any one was hurt; saw Teeple by the door; I said "get up;" he said "let me lie awhile." The Doctor called me to Cunningham; he was sitting with his head bent forward, his chin on his chest, his hands by his side; I raised his head and said, "why, Doctor he is cold." The Doctor said we must move him to where he can be examined. James Marshall, John Kennedy and myself, with some others—I think Kirker—carried him into the room..

Adjourned till 9 A. M., to-morrow.

WEDNESDAY, March 13.

The prisoner was brought into Court by the Sheriff. The jury was called and answered to their names.

By consent of the counsel of both parties, the trial of Adlington on the indictment for the murder of J. H. Teeple, was continued till next term, and the balance of the Traverse jurors were discharged. This was done because there was no probability that the present trial would terminate this week, and there was no *venire* for a jury for next week. The Court, nor the Attorneys wished to impanel a jury and keep them waiting in the charge of Constables.

John L. Jones, continued.—We carried Cunningham into the room; I spoke to him; he did not answer; Teeple was moaning; I went to Teeple and asked if he could'nt get up; he said "no;" he complained that his head was very cold—the door of the hall opened on it; I got an overcoat and put over him; I gave him a drink of water; I turned to the Doctor, saw Cunningham lying with his jowels out as large as my fist. I said, "why, Doctor, is it possible?" He said he would have to try and put them back.—Cunningham took a drink of water; said he wanted water and I gave him a drink; I put a pillow under his head. He then threw out his arms and I placed them on his breast; Teeple still complained of being cold; I got a mattrass and placed him on it; I went into the bar-room; there were two or three there; Adlington was standing before the fire, meditating; I told him, "John, the Doctor says one of them men will die." He said, "*I* don't give a damn how soon;" that was his precise answer.—"Why," says I. "John, John, how can you say so?" He said, "why, let them die—they got what they come for." Did not see Adlington at that examination. I walked out of the bar-room to the pavement; saw J. R. Pringle, Cunningham was dead when I again went to the room; then the Doctor said there would have to be an examination. I went for Esquire Humphrey. When I came back they were taking off Teeple's clothing. I helped, and laid him on the sofa. I went home about three o'clock.—When I was washing Oliver's head, I was going to say, "Adlington, you didn't get hurt." He said "stop! dont say what you know. I am sworn so secresy—I tell nothing, I belong to the Odd Fellows." This was while Oliver was in the kitchen, before he was taken up stairs. Adlington had no marks of hurt. I did not see him struck or hurt. Did not hear any one insult him during the evening. Saw no knife in his hand or any other persons. Saw Sidney Oliver with a tumbler. Saw a knife in the defendant's hand on the 7th of September.

Objected to by Mr. M'Carthy. Commonwealth ordered to put the question in writing.

The Commonwealth proposed to prove that witness saw the knife with the defendant prior to the affray, to be followed up by a description of it, and show that it corresponded to the one the wounds were made with.

Defendant objects that it was no part of this objection, and should not be received.

Court overruled the objection and noted an exception.

Witness resumed.—We were laying a fence for Pringle; Adlington was excited; I don't know for what. He was gone half an hour, and returned with a knife. It was a two edged butcher-knife, about six inches long in the blade, and about three inch handle. Looked as though it had been used for sometime. He had it in his breast when he came to me. He took it out and showed it to me; then put it into his boot. We were building a fence between Mr. Akin's and Mr. Pringle's town lots. This was in the afternoon. Adlington then went on with his work.

By the Court.—Adlington made no threats at that time against the deceased. He carried it, he said, to defend his rights, and his family rights.

The Defendant objects to the last declaration of the witness because he has said Adlington made no threats, at the time, against either of the deceased persons—therefore the declarations would not be evidence.—They are no part of the *res gestæ*.

The Court overruled the objections, and noted an exception.

Witness resumed—in chief—Adlington did not show me how he could use this knife. Saw some one. I think it was Calvin Weller, strike Teeple, in the room during the fight—struck him back of the ear. Did not see any one strike Cunningham.

Cross-examined—I live about a mile east of Portersville; saw Cunningham standing by the stairs in the north room, calling a cotillion, when I came back from home; they are winding stairs in the corner of the room; I saw him from the hall; the doors were open. When I came, Teeple was in the bar-room; we went into the parlor together, and Teeple sat before the fire. It was about ten o'clock. The first I saw of Cunningham after he called figures, was his striking Fred Bowder. The room was crammed—crowded up—immediately after the fight. I gave back as far as the hearth before the crowd; during all this time the fight was going on; there was a rush, a noise—such as always attends such a fight—it was a bustle, striking, knocking over chairs, &c. There was a lamp on the table when it commenced; it grew darker, but I did not see the lamp carried out. There was a lantern on the mantle. Oliver was knocked down; do not know how long it was afterwards when I went to quiet my daughter. Cunningham knocked Oliver down. I did not see Teeple and Cunningham speak together nor make signs to one another; they both faced the North room; didn't see Teeple place himself in position to strike. Saw some one pick up a chair at the time Oliver was knocked down; could not say who it was; the crowd was great between me and Oliver;—two deep between me and Oliver. The room to the north end and toward the hall was crowded. I saw John Oliver immediately after he got up. He struck Teeple; I thought, at the time, it was Cunningham he struck, but afterwards ascertained that it was Teeple. They fought on, past the fire-place to the door when I immediately left the room. I was near the centre of the door, between the North room and the sitting room, when Oliver came out. While I was in this position I heard some one cry "Oh!" This was before Oliver came out. I saw some ladies, but could not say who they were. Kirker told me my girl was alarmed; don't know where Kirker went; can't tell how long it was between the time I left the sitting room till Oliver was brought out—it was not five minutes, but more than one minute. The excitement was as great at the time I stood with my daughter, as at any other. I was not so excited as that I could note the flight of time; I could not tell the exact time. A minute is a long time in a fight. The time appeared long while the fight lasted. I think time, under all excitement, seems much longer than it really is. I remained at the house till three o'clock; was not in the cellar at any time after eight o'clock; think I was on the porch after water, with a candle in my hands; was not on the cellar steps. In going for water I should go near the south edge of the cellar door. There were other persons in the car room when Adlington made his remarks about the death of Cunningham.

William M. Kirker sworn.—Was at the house of John Oliver on the 24th of December last, was not in the room at the time the fight commenced; was fiddling in the North room; heard a noise in the sitting room, and the crowd rushed that way; had the violin in my hand and started for the sitting room—but went back and handed the fiddle to the ladies; gave it to Miss Campbell; started, pushed my way, and got through the crowd at the door; Uriah McClarren, Fred Bowder, and several others were standing rather inside the door; saw a man lying on the floor with his head toward me; lying on his left side rather to the left of the door; caught hold of him and lifted him up, as I lifted him he kind of sprung, whirled around, and struck me in the right eye and I staggered back against the north-west corner of the sitting room—believe I should have fell if it had not been for the wall; was Fred Bowder who struck me; I was blind, and could not see anything further after that; knew it was Bowder when I raised him up; saw John Jones by the fire-place in the room, and several other persons at the further side of the hall door; did not recognize them on account of my wound; was acquainted with both Teeple and Cunningham; The fight was going on at the time; Weller and McClarren were standing near Fred Bowder; when I got back, some one said: 'Don't strike that man, Fred, he is not interfering—not touching any one!" It sounded like the voice of Henry Bowder; I thought he referred to me; when I got so as to see a little, I went back into the dancing room and Elizabeth Jones came to me and said: "Oh, Uncle Will, for God's sake go and fetch father out, I am afraid he will be killed!" I went in and found Jones between the door and the fire place; saw him throw up his hand and say, "Oh, for God's sake hold on and don't strike." Noticed there were many in the room; did not recognize them; the fight was still going on; Jones came out at my request; I remained in the North room during the balance of the fight; some lady asked me if I had got hurt. I said yes. They told me to get cold wather for my eye. I went after it to the kitchen. I heard some person hollowing "Oh, oh!" or something like it. It seemed to be in the room where the fight was. From the sound it would indicate that some one was hurt. As I turned to go back a man ran past me in a great hury; he came from the dancing room; he justled me aside, saying, "stand out of the way." He went to the far part of the kitchen, and as he ran around to the table he said, "I must hurry and get this knife away. Didn't see what further he did; I did not understand that he addressed this language to me. It was John Adlington, the defedant. I think there were some women there, Lizzie Jones was there. I had started for the dining room, and was near the centre of the kitchen, at one side. I did not observe any thing in his hand. I thought he held his right hand close to his side. He passed me on the left side, his right hand and side would be from me. He was going rapidly; I did not speak to him; he was going toward the west end of the kitchen. He was in the kitchen when he used those words; he was some eight or ten feet from me when he spoke them. I think I was some two or three feet from the table; I was within a step or two from the door of the north room. The remark attracted my attention; I had not heard of any one being stabbed at this time, but the expression struck me with horror; I was afraid something was not right.

The latter part of the reply which relates to the impression of the witness was ruled out.

Witness resumed.—Mr. Adlington seemed to be in a hurry, the tone of his voice appeared hurried; he seemed to be bothered. I then went into the dancing room, there appeared to be a crowd coming out of the sitting room: I saw Jno. Oliver coming out with his face and head all bloody; I think there was a lady had hold of him; can't recollect who all came out; there was a crowd; I saw John Jones, Henry Bowder, Mr. M'Clarran, and others in the dancing room; some ladies; I think I saw Adlington take hold of Oliver some place in the dancing room; did not see which way he came; can't remember whether Oliver stopped in the dancing room; I heard some one calling for me three or four times from the sitting room; they hallowed "Kirker, Oh Kirker, come here—this, for the time being, attracted my attention from John Oliver; the tone of voice indicated distress; I saw Oliver near the door coming out of the parlor; there was a lady advancing with him; can't say I saw any other persons hold of him, afterwards I saw Adlington with him, between the fire place and the door of the north room; it was about half way; there was such a crowd and jangling that I could not tell where Adlington came from; did not see him come from the sitting room; did not see him come from the kitchen; I saw him with Oliver; could not say whether he had hold of him or not, didn't see his face; could not tell which way it was turned; did not know which way he went; Oliver went toward the kitchen; I was about ten feet from the sitting room door, opposite the fire; the defendant and Oliver were south of me, between me and the fire; I think they were moving; think they were further from the kitchen door than from the sitting room door; it might have been a minute or two, or three minutes, between the time I first saw Oliver come out of the room, and that when Adlington was with him.

Adjourned till 2 p. m.

AFTERNOON SESSION.

The prisoner was brought into court, and the jury called over, and answered to their names.

Wm. M. Kirker resumed.—I went in to the sitting room and found Teeple lying in the corner of the room; he said "Oh, my good Kirker, I am badly hurt." He asked me if I was hurt; I told him I had been struck in the eye; he asked if I knew where Cunningham was; I told him no; I then hunted for him, and found him in the hall; just as I found him Jno Kennedy came in. I spoke to Cunningham; he was sitting down with his head down on his breast and his legs stretched, I laid my hand on his head and said, Cunningham, what is the matter; he did not answer; Kennedy said that man was dying; Kennedy said I had better go for the Doctor; he looked like a dying man; I went for the doctor; he was just putting on his clothes; I then turned back to the house; Cunningham was still sitting there; the doctor soon came; laid his hand on his head, made some remark and passed on to Teeple, who was in the sitting room, hallowing; the doctor felt his pulse; examined his head, said he was badly hurt. Teeple complained of being cold; got something and put round him; said he felt better, (witness described the manner he was lying), head toward the hall door; on his left side. I asked where he was hurt; I made no examination; saw he was cut on the head; he was on his left side; Cunningham tried to speak but could not. Doctor gave orders to bring Cunningham in from the hall; we did so; John Kennedy, Jno. L. Jones, James Marshall and myself, carried him into the sitting room. Doctor went out then to see Jno. Oliver. Soon came back and commenced to examine Cunningham. There were several men in the room. Don't remember that any one said anything to Cunningham. There were five or six in the room; think I saw Frederick Bowder in the room. He appeared to be very much excited; he seemed to be acting like a man who was crazy; excited; wild. There was some one gave Teeple a drink of water; think it was John L. Jones; I think I saw Miss Campbell in the room; there were several persons present.

Prosecution proposed to ask witness what was said by any one in the room where the bodies of Cunningham and Teeple were lying, just before the doctor came, and at the examination.

Objected to on the part of Defendant as being too general in terms—not specifying whether they applied to Cunningham, Teeple, or both; nor were they dying declarations.

The Court overruled the objections, and noted an exception.

Mr. Kirker resumed.—As I was going out through the hall, I heard Teeple moaning, and I heard some one mocking him, and say "damn you, man, you aint hurt as bad as you ought to be hurt." I do not know who said this; the sound appeared to come from the hall; it might have been from the room; it was behind me; I did not recognize the voice; on my oath, I would not say who it was; there were a number of persons there that night that I was not acquainted with. I would not say positively who it was, who made use of those remarks; I tho't then it sounded like Fred Bowder's voice; I thought Bowder was drunk; under the influence of whiskey; think I saw him in the sitting room as I passed through; I remained there until the jury was empaneled; saw the examination by the doctor; was there when Cunningham died; I saw the defendant in the bar-room after Cunningham died; think he took a coat and laid down on the counter; I heard him say he wished he had stayed at home that night; he gave no reason for saying so; he did not remain there but a short time; don't know where he went afterwards; I saw no one during the fight strike him; did not see him strike any one; I was acquainted with Teepie and Cunningham; they told me they came from New Castle.

Cross-examined.—I was acquainted with Cunningham about a year, and with Teeple about a year and a-half. I reside in Wurtemburg, Lawrence Co. We all three worked together at oil works one month or more. I was friendly with them; working by the day; did not board at the same house; I have a family. They have been at my house; Mr. Cunningham was there several times during the winter. Wurtemburg is said to be 8 miles from Portersville; I was engaged by John Oliver as a musician; was fiddling when the row commenced; don't know what time of night it was; it was late; gave my fiddle to Miss Campbell; ascertained that was her name since that time; I saw her again that evening; Bowder's blow stunned me for some time—blinded me about a minute. I said at different times, that I had not come to the party; all that I have talked to expressed the same sentiment. I felt the effects of the stroke sensibly, but could see to walk; the effect of the injury might have sensibly effected my mind—confused it. I was in the north room two or three minutes; did not bathe my eye; I was going for water when I hear the cry from the sitting room; and turned to go back; don't know whether Mrs. Oliver was in the kitchen, but think she was, when I went for water; could not state certainly; did not hear the person that passed me, say "damn;" did not hear any one say "get out of the way, damn you, where are the knives?" After he passed me he made use of the words I alluded to in the forenoon; I halted and looked back; then went into the dancing room; I was about the centre of the room when Oliver came out of the sitting room; there was a great crowd, twenty or more, around the door of the sitting room, and John Oliver was among them, they obstructed my passage to the sitting room; I halted when I saw Oliver covered with blood; there was quite a crowd around; seemed to be staring at Oliver; think I saw the defendant in that crowd; believe I saw him there; he was not there as soon as I saw Oliver; did not observe him when Oliver first came out of the door, but was with him when they had advanced into the room about ten feet.

Defendant proposed to ask the witness if the defendant was in the crowd, and moving in it as part of it.

Court permitted the question to be asked.

Witness resumed.—He was not in the crowd at first, but I saw him afterwards with the crowd around Oliver, moving toward the kitchen; I was not in the cellar after the fight; was in the cellar about half past 7 or 8 o'clock in the evening. It has been stated here that I was down after the fight, but that is a mistake.

Direct.—I think I saw defendant at the side of Oliver; don't know that he had hold of him; there might have been twenty persons around Oliver—some of them were ladies; when the defendant jostled me out of his way, I did not look around; did not look when he spoke; he went toward the end of the kitchen.

Mrs. Melissa Oliver sworn.—John P. Oliver is my husband; there was a dance at our house on the night of the 24th of December last; did not hear or see anything of the first fuss; was in the kitchen, working about the stove, and heard a rush for the sitting room. I went to the door of the kitchen and the north room; there were a number of ladies there; the little girl wished to get her father out; James Amberson came out and grabbed up the poker; Kirker came and gave his fiddle to some one; Kirker came back with his eye hurt; heard Mrs. Adlington scream, "Oh John, don't, don't, oh! John, don't let him." She was about two feet off me; she came from toward the north room door, she had both hands thrown up; don't know that she was addressing any one; there was a great crowd; the ladies mostly passed off up stairs; Mrs. Adlington started to go up stairs; I stood there a minute and started back into the kitchen. There was a crowd around the sitting room door. While I stood in the kitchen door, Sally Campbell came to me and said they wanted the knives. I went with her into the dining room and picked up a carving knife; she went toward the other end of the table, as though she would pick up the other knife. I carried the knife and concealed it under the cradle bed; I went out through the porch to the hall door, when Adlington passed me just on the porch outside the hall door; I asked if he could tell what they were fighting about; he said he could not—they were all fighting through other; did not notice him pass back; he could have gone off the porch into the barn-yard. There were steps down into the garden; the porch is 4 or 5 feet from the ground; he appeared to be going toward the end of the porch, leading to the barn-yard; he was walking fast; he did not stop to answer my inquiry. I went back to the door between the kitchen and dancing room. Miss Newton said my husband and that stranger were fighting; I started to go toward the sitting room, and got a step or two into the north room, when my husband came out. I asked him if he was much hurt; he said not. I don't think that any one had hold of him; they walked beside him; did not see the defendant with him at that time; went to the kitchen and got some water; bathed his head; Jones bathed him; Fred Bowder was in the kitchen, and Adlington was trying to pacify him.—Bowder was swearing that he would go back and fight; Adlington was pleading for him to stay where he was; that he, (Adlington) was his friend. This was the first time I saw him after I met him on the porch; it was not more than three or four minutes from the time I saw him on the porch till I saw him with Bowder in the kitchen; did not see where Adlington went. Some one said my husband was not badly hurt; I then said if some one would carry my child, I would go home to my father's. James Amberson carried the baby. I left the baby with mother, and started back. I went out of the house through the north room door into the street; came back through the same door; noticed William Pringle there; there were several around the door; I pushed through the crowd; asked after I came back, where my husband was; they told me he was doing well, up stairs; Calvin Weller went up with me; have no recollection of seeing any person in the hall; found my husband up stairs, and Mrs. Adlington was washing his head and neck, there were others present; Adlington was not there until after my husband had his clean shirt on, and was put to bed; Adlington came in at the door; there is but one door; there are two stairways into the room above that connect with the hall, out of which the door opens into our room. My husband, Mr. Adlington, my sister and a little girl nursing for me, were all that were in the room at the time I went in; there was some one holding the lamp. The first I noticed of Adlington was, that he came over to the bed and said there ought to be a couple of stitches in the wound in Oliver's head; they told me the Doctor had been there; Mr. Adlingson was in and out several times during the night; don't know who Mrs. Adlington meant when she called out "John, John, don't let him;" think she meant my husband; not to let him do something; think the sitting room door was open all the time; don't think Mrs. Adlington could have seen into the room at all from her position; the door was open all the time of the fight; there was a crowd around the door of the sitting room; can't tell whether Mrs. Adlington came from the door of the sitting room, walking very fast; she was very pale, as though she was about ready to cry; up stairs the defendant called Mrs. Adlington and me aside, and asked me if I knew who sent those men here. I told him I did not; don't know why he called us aside; he said it was Fall that sent them; I knew who he had reference to; asked him how he knew, and he said he knew; he said they had got just what they deserved, for coming there and raising a fight; some one said one of the men could not live; he said he didn't care a damn.

Cross-examined.—Mother was not up when I went there with the baby. My husband was taken up stairs while I was away; think I was not gone more than five minutes. I learned that the Doctor had been there, and was then engaged with the men below; saw one body stretched in the hall, with some one leaning over him, and another holding a light; did not recognize them. I heard no one in the kitchen say, that a Doctor should be sent for; Calvin Weller was in the room at this time; Adlington was there with Fred Bowder; there was quite a crowd following my husband through the dancing room; two men were beside him, but I could not recognize them; I think they were both men; think my sister was behind him; could not name one who was with Oliver. Kirker was inside the kitchen door when he said he had been struck; he had been in the sitting room but a minute or two; I asked him what the trouble was; he said he couldn't tell me; the first thing he knew some one struck him; did not see my husband after the fight commenced until I saw him come out of the room bleeding; Sarah Campbell asked about the knives after I came off the porch the first time; I did not notice Wm. Kirker by the fire place; I did not notice Kirker in the kitchen at the time the knives were spoken of; I did not see Adlington where I was hiding the knife in the cradle. Afterwards I went on the porch toward the hall door and met Adlington. He must have come out of the dining room through the hall to the porch on through the kitchen. I did not stay on the porch more than a minute before I went back; I suppose I was excited; I did not feel so at the time; it is four or five yards from the kitchen door to the hall door on the porch; I don't remember anything that occured from the time I hid the knife till I met Adlington on the porch. It was a very short time; I could not go fast and carry my baby; it was in my arms. My sister was the last person I inquired of as to the disturbance in the sitting room; did not notice Kirker after I inquired of him about the fight. There was a great crowd around the door; I noticed my sister and Miss Shaffer in the crowd; did not recognize the men; did not see Bowder brought out of the room; First time I saw Bowder was after the fight.

By the Court.—James Newton is my father. It is about as far from the Court House as to Jack's Hotel, from my father's house to ours.

James Amberson sworn.—I live in Youngstown, Ohio. I was at John Oliver's on the night this difficulty occurred. Went there about dark. The first I saw of the fight was Fred Bowder on the floor and Cunningham striking him. I was on the right hand side of the dancing room door. Heard loud talk in the sitting room, and looked in. Then I saw Cunningham hit Bowder two or three times. Went to the kitchen to see if I could find Bowder's brother. As I passed the stove I picked up the poker and went through the north room into the sitting room. Saw Kirker lift Bowder up, and Bowder struck him. Next saw Cunningham knock John Oliver down. I drew the poker to strike Cunningham, but James Gibson caught the poker and pulled it out of my hands. The next thing I saw Oliver up fighting a man in the corner of the room. Saw Lafayette Shaffer striking at the man Oliver was fighting; dont know whether he hit him. He came out before the grate—the man they were fighting with—said if they were any men at all to come one at a time; Oliver followed him up; they got the man down on his knees; Oliver was holding him with one hand and hitting him with the other. I saw the defendant pick up a chair and hit Oliver on the head. I thought Teeple was on his knees. Oliver had him by the wrist; he was about half bent over him; he was standing at Teepie's side. Couldn't tell which hand he held. He was hitting him in the face. Adlington was standing at Oliver's back when he picked up the chair with both hands. The corner of the seat of the chair struck Oliver on the head; it was a pretty solid blow. I did not know at whom he aimed; he drew the chair again to strike and I caught it. I told him that he had struck Oliver. He told me to let go the chair. James Marshall caught hold and helped me take the chair from Adlington. Oliver then let go the man he was fighting; he fell on the floor with his head half way along the door of the Hall. Adlington kicked the man twice in the face. I then pushed him away from the man into the Hall; he came up and kicked at the man again, but I don't know whether he hit him or not. He hit him with the heel of his boot the first time he kicked. He said nothing to me, nor I to him. There was a big crowd around. I could not say whether he fell down, or whether Oliver knocked him down. He lay there. I