msa_sc2901_scm2351-0087 ©Maryland State Archives

best of my knowledge, it was in his left pantaloons pocket; when I got to my gate, I saw Burrows for the first time standing near my railing; as soon as I demanded what was the matter, he moved off in the direction of his farm, down the road. Burrows was standing when I first saw him, between five and six feet from the body of Bishop; I could not estimate the time from the firing of the pistol to my getting to the gate, it was almost in the twinkling of an eye; I ran, the door was open I threw down the razor, and bounded out immediately. I saw Burrows the day before; he borrowed a pistol of me; (the pistol was here produced in Court) Burrow came to my house on the 22d

A contest here arose between Mr. Wise and Mr. Franklin, as to the admissibility of this testimony; &c.

Judge Tingle delivered the opinion of the Court - declining to decide upon any questions not directly before the Court, "The question is whether ma ice may be proved, in response to a plea of *se defendendo*, on an indictment for manslaughter." The Court are of opinion that the evidence is admissible, for the purpose of rebutting the plea of self-defence, by enabling the jury to judge of the cause and intent of the prisoner, in arming himself.

Testimony resumed—Dr. Savage went on to say that Burrows borrowed the pistol present in court from me. Dr. S. examined the pistol and said that there were five barrels now loaded; Burrows came to my yard gate, between 12 and 1 o'clock; went out shook hands with him in the house; he told me he hardly had time to come in, and asked 'have you a pistol?' I replied that I had. He then asked me 'if I were her often?' I told him that sometimes I did. Said he, 'I am going down to Easter's (his negro quarter,) will you loan her to me a day or two?' or 'a short time,' I am not positive which. I told him 'certainly I will with pleasure.' He then came into the yard through the gate; I took him around the corner of the house, (there being ladies in the room, and but one room,) and presented her to him; I had her in my pocket at the time. He then remarked to me that he had never used one; I told him the must use a hair spring finger.' He then went into the house and I gave him the rammer belonging to her and some caps; there was no caps on her; there was at the time I let him have the pistol three barrels charged, without caps; and gave him three balls, to the best of my recollection, more; to load the other three barrels with. This was all that transpired in relation to the borrowing of the pistol; he did not say at my house more than two or three minutes; I did not see him again until the next morning; I have very little doubt as to the number of bullets I gave to him: am positive as to the number of barrels loaded; had shot off three barrels the evening before, and not reloaded them; had worn the pistol in my pocket from the time I shot them off till I gave it to Burrows; he did not ask for balls or rammer, or inquire whether she was loaded; I do not recollect whether I told him there were three barrels loaded or not, but it is probable I did; told him if he would come in I would get him these articles: did not give him any powder; told him he would need fine powder; he was off his horse when I saw him; he started off toward Easter's riding on horseback; Mr. Burrows said nothing to me about the difficulty between him and Bishop or any one else, and I knew nothing of it when I let him have the pistol.

Cross examined by Mr. Wise.—He was wounded in five, if not six fatal spots; the angle at which the ball decended, from its entrance to its diversion, by the spiral column, I could not certainly say; probably it was forty-five degrees; when I presented the pistol to *B*urrows he seemed very awkward with it; I showed him how to use it; observed no difference in his general appearance; I don't know whether he met *B*ishop after he went away; didn't see *B*ishop or *B*urrows afterwards during that evening.

Emeline Anderson sworn.—On the morning of the 23d I was at Dr. Savage's, up stairs; I do not know the time; I had not been up more than 15 minutes, nor been down stairs that morning; I heard some one say, "I want the money;" the bed was just across the window and I had to get up on the bed to look out of the window; I hoisted the curtain and saw *B*urrows and *B*ishop standing within about 3 or 4 feet from each other After I hoisted the curtain, Mr. Bishop said, "That's not the thing, Mr. Burrows, you promised to pay me this morning, and the money I want." As soon as that was said, *B*urrows stepped back and looked around; I dropped the curtain immediately, and before I got off the bed on the floor when the pistol went off; I jumped on the floor and went into the passage; looked out the passage window, saw *B*ishop lying, calling the doctor; on his left side I think, resting with his left hand under his head, his other hand in his pocket; I thought his face was turned toward me, because I saw the blood coming out of his mouth, which I did not see until Mrs. Savage drew my attention to it; I met Mrs. Savage in the passage coming into my room, and went to the window with me.—Dr. Savage had got nearly to the gate before I went down stairs, and *B*urrows walked off as I turned from the window Dr. Savage being nearly to the gate; they took him into the house. I did not hear Dr. Savage speak to Mr. Burrows as he ran to the gate. I heard *B*urrows say nothing in reply to Bishop's remarks.—From the first words to the latter, an interval occurred in which I walked across the room from the toilet and got upon the bed; the latter appeared to be in answer to something said by *B*urrows, but which I could not hear. I do not know that a reply had been made by Burrows to the first words of Bishop; there had been a sufficient interval for a reply, but I heard none, I did not hear Burrows speak at all. When I saw them standing together Bishop had both his hands in his pockets—I think in his pataloons pockets. I was at Dr. S's when Burrows called the day before; he was in the house; did not state his business and remained from 3 to 5 minutes. Dr. Savage went to a medicine case, just behind me, took out something wrapped up in paper—I knew not what—gave it to Burrows, saying "this is all you'll need, sir." I can hardly tell the appearance of the bundle; it seemed to be 4 or 6 inches long; nothing said that about contents of the bundle while Burrows was in there. He immediately took his leave. I did not see Bishop's hands out of his pockets while I was standing at the window; I did not see him move.

Cross-examined by Mr. Wise.—Mr. Bishop was my mother's half brother.

[The court here, 20 minutes after 12 o'clock, took a recess, without adjourning, until half past 1 o'clock; jury under the care of four bailiffs. Half past 1 court met]

James Pruit called and sworn, testified as follows, viz.—On the morning of the 23d of March, I saw Burrows and Bishop standing together. I was standing on Allen's store porch. I had seen Mr. Burrows before, on that morning, in Allen's store porch. They were standing near Capt. Jones' gate; it was not long after I saw Burrows in the porch, before I saw them both together I saw Burrows before he reached the porch, between it and Jones' store. As they were standing together, I could not see Bishop well, because Burrows was between me and Bishop; they stood together about five minutes. Bishop advanced on towards Burrows; I thought he was coming on to Sandy *Hill*; Burrows stepped back right quick, to the right, towards Dr. Savage's yard gate; I thought he was going on wherever he had started; then *I* saw the smoke; it seemed close to Burrows. When I saw the smoke I could see Bishop distinctly; Bishop was standing still, I think, when *I* saw the smoke; I don't know anything about his hands at that time; I did not notice them; *I* did not see him advance after Burrows began to retreat. *I* did not see Bishop's hands at all; *I* don't know that *I* saw his elbow. *I* went to the body after it was shot, and *I* had shut up the store; there was several there when *I* got there; the body was laying on its right side, on the side of the road; the feet were near the wheel track; the head towards the gate; *I* don't know whether any one was holding the head of Bishop or not. *I* merely went up, glanced at it, saw the blood and went back immediately; my recollection of what *I* saw there was not distinct; *I* saw the smoke, then heard the report and the body fell, as you would count one, two, three. The body fell on the right side, the right hand under his head. Mr. Burrows stood until Bishop's head seemed to sink to his hand, or to the ground; I thought he fell right where he was standing; I did not see him stagger; he fell out his full length; fell from Burrows; he fell nearly straight; when he first fell, he sort of held his head up but it soon sank to his hand on the ground; I can't say which.—Examination in chief closed.

Cross-examined, by Mr. Wise.—I did not see Bishop and Burrows meet the day before; I was in Sandy Hill all day; I saw Bishop ride through the town on the evening of previous day; I never heard any thing about persons expecting a fight between Burrows and Bishop; I don't know of any one standing, watching for such a thing; I heard Wm. Payden say he was afraid *B*ishop would strike *B*urrows, or hoped he would not strike *B*urrows; I saw nobody near them when I was looking down the road; I did not see *B*urrows look around behind; don't think he did turn around; after *B*urrows began to step back, *B*ishop did not advance upon him as I thought; they were both standing still; Bishop was standing straight, not leaning forward; they were standing eight or ten feet apart; *B*urrows near the cart track; Bishop's feet near the (east) cart track; Bishop's left side was rather turned toward me; was looking at them both at the same time; Burrows was rather nearer to me; I heard of no fuss that had been or was expected to be between them; I had not seen Bishop before that morning; heard Burrows talking with Mr Payden on Allen's porch; when I first saw Burrows and *B*ishop they were together, about three or four feet apart; when I first saw them they had met; were standing together; didn't see his hands; heard some mention of hands; don't know what. After it occurred I was excited, not before; at Payden's remark I was standing near the door; couldn't say whether I looked out then or not; don't know the time which *B*urrows stood taking aim; don't know where Burrows drew the pistol from; stood probably a quarter of a minute after; *B*urrows crossed the road backwards; I thought he was going about his business; don't know whether men generally go about their business backwards or not; I some times have to step back.

James M. Holland, sworn.—I saw prisoner the evening before Bayard Bishop was killed, at my house, he stayed all night there; the first conversation that took place with regard to deceased, was that he [Burrows] had been attacked by a fellow that day; my wife asked him who it was; he told her it was Bayard *B*ishop; he then stated if he was attacked again he should certainly defend himself; I stated to him that he need not be afraid of *B*ayard, that I was acquainted with him [Bayard] from a boy, and that I had never known him to strike a man; he persisted, and stated that he should certainly defend himself if he came afoul of him again; my wife stated to him that she didn't believe Bayard ever intended to injure him any way; Burrows said he did not wish to get into any kind of fracus; that he had promised his wife before he left home, that he would keep clear of any kind of disturbance; not on his own account, but for the promises he had made to his wife. This ended that part of the conversation, and all conversation about deceased; it occurred at night, before we went to bed, between 8 and 9 o'clock; before this Burrows said that he expected it was my bed time, [a little after 8;] he picked up his hat and went out the front door of my house, at the northeast side.

In one or two minutes I went out the back door, (the S. W. side) on the opposite side of the house, and as I stepped my foot on a pair of steps to go over the railing out of the yard, I heard a cap burst—a gun cap; quick as thought afterward, I heard a clicking sound and then the report of a pistol; the same clicking again immediately followed, and another cap burst; the some clicking followed again, and another pistol went off after making a long fire, what we call blowing. I waited for a momant, reflecting what to make of it, as I had never seen any gun or anything to make that kind of clicking in pattating the cock back. Directly, in a short time, I heard the latch of my out-gate lift; *I* saw a person then come into the gate; I remained in that situation until he opened the door of my house, when the light shone upon him and I saw it was Burrows. This was before the conversation I have related took place. Witness here commenced to relate a conversation previous to this, on self defence, between Burrows and himself.

Mr. Wise wished to know the object of introducing this conversation, and unless it was directly connected with the subject matter he objected to it.

Witness in reply to State's attorney, said that Mr. Bishop's name was not connected with it—only a general conversation—so it was not admitted.

Witness then resumed.—Immediately after the conversation first stated, *B*urrows went to bed; I was not in his room next day; I saw the flashes at each burst of the cap and report of the pistol supposed they were about 60 or 70 yards distant from where I stood—about 25 steps, I suppose outside the out gate. I have examined the trees, and saw a hickory tree near the spot, having the appearance of a ball having been cut out; and another place on the tree which seemed like where a ball had glanced. I examined the tree next day—late in the evening. The same day Bishop was killed. After he returned, my wife asked if *I* knew who it was firing a pistol about the premises. *I* gave her some evasive answer; I felt a delicacy in telling her my opinion *B*urrows was sitting present at the time, but made no answer. He said nothing to me about it at any time; he had to my wife. From the last report of the pistol to hearing my gate-latch lifted, was about as long as it would take a man to walk 25 quick steps He breakfasted with me next morning about sunrise; he picked up his hat in a moment after he got up from the breakfast table, and said he must go; he started went out the door, returned again to the house went up stairs, and stayed about one minute up there. When he came down he went out of the house again, *I* don't know how far, and returned to me in the back yard, in about a minute; he asked me if, in case he should be compelled to leave next morning, *I* would attend to the delivering his corn. *I* told him I or Mr Reed would attend to it for him. He said he would be very much obliged to me; and that was the last word then. When he returned again, after the homicide, *I* was not at the house. I met with him when the officer had him in custody, along the road, 2 or 300 yards from the house. *I* do not know that his horse was prepared for him to ride when he returned. While *I* was standing talking with him and the officer, his horse and gig came up to us; he went from my house that morning on foot; his horse and carriage was at my house. When I met him in custody of the officer, I saw a little difference in his countenance; he looked like a man took up under a writ for debt, which I thought at first was the case. I think there was very little difference in the weight of Burrows and Bishop; Burrows, I think, was rather tallest. I do not know his (Bishop's) weight, although I weighed him a few days before; *I* think it was about 160 or 165; he was not as heavy as *I* thought he was. *I* never heard *B*ishop called a bully, he was quite a peaceable man; *I* knew him well; had known him from a boy; he was raised near me; a very industrious young man; sober and study. Examination in chief closed

Cross-examined by Mr. Wise—The conversation in which Burrows said "he had been attacked by a fellow," &c., was caused by my wife saying that I had been attacked once. After the report of the pistols at my house, and the return of myself and Burrows [witness interrupted.]—I was standing when pistols fired, on the top of the step; outer gate of my yard about 45 yards N. N. E. of the front door; I did not see where Burrows went; I never had in my hand a revolver; I have known percussion guns to hang fire or blow; it was a clear night—star light; I saw stars that night; it was quite calm; I can hear the cocking of a pistol 60 or 70 yards; no noise around the neighborhood. I did not see Burrows at that spot; *I* saw the man enter the gate and kept my eyes on him till he got to the door; I saw no one go in or out the pound gate. After he went I probably remianed two or three minutes; my wife asked me who it was fired, *I* gave her some evasive answer—probably, "*I* don't know who,' Burrows was setting there, looking very innocent, perfectly still. *I* did not say, "oh it's some one firing at the hill." my wife said to me, "*I* had liked to have taken the candle and gone out, to see if it was not some of the fellows with whom *I* had a difficulty;" she suspected rome one else, *I* suspected Burrows. My attention was first called to the hickory next morning, it was very near the road. *I* could not distinguish that it was Burrows until he opened the door and the light shone on him, *I* was about 25 feet from the front door, and 30 feet from the yard gate, *I* could not say who it was, with certainty till he got to the door, *I* thought after he got through the yard gate, *I* could see the bulk of a man at the outer gate, but could not tell who it was, looked at the hickory because *I* felt confident that was the place where the pistol shot. Passing by the tree during the day *I* saw nothing like a ball, did not examine the tree, but in the evening, after somebody had cut something out of the tree, *I* saw the impression. Just before dinner I passed the tree, after Burrows was arrested, saw now marks of a ball, looking at the tree within a few feet, *I* didn't examine it particularly, afterwards, in the evening, *I* saw that somebody had been cutting the tree, and the mark of a ball. The conversation of my wife commenced in consequence of my difficulties, she said if I had been in Sandy Hill she should been frightened at the pistols, fearing they were fired by some person with whom *I* had had a difficulty Burrows told me no particulars of *B*ishop's attack, he repeated several times his intention to defend himself if again attacked, but he never said he would attack Bishop, he uttered no threat, but merely said he would defend himself, he said, "not on my own account," &c., and not the words "not only on my own account," it was uttered in a very mild manner; he expressed himself that he didn't wish any disturbance, don't reccollect whether he said any thing about not becoming him to be embroiled. *I* am a cousin to Burrows' wife, have been friendly with Burrows invited him to my house; treated him as a relation—Burrows went to my house in a gig; his horse was in the stable when Burrows went from my house in the morning; heard him giving no orders of having his horse ready at a minute's warning; horse and carriage were carried by while we were standing, by two little boys of Sandy Hill, to the place where I met Burrows and officer. He told me he was going to beating out corn; I presumed it was for beating out corn that he went to Reid's. He asked me the day before where he could get hands—I named several. I understand Burrows took a ground rent.—The farm made about 300 bushels corn; they generally beat out the corn with a cradle; it would take as many hands as he had about half a day. Before Burrows came down from the upper counties, and after, I had not heard any rumors or threats that Byard Bishop was to whip Burrows; was never applied to to write to Burrows that Bishop was to whip him; Bishop was not esteemed a very strong man; he was a well proportioned man; never noticed his complexion; he had black hair; black or grey eyes; rather a down look; black whiskers; rather a red camplexion, fresh. He usually spoke quietly and gentlemanly; no further regard than as a neighbor; never knew of his being in a scrape; saw him once in a pet; Burrows in my presence was always a quiet and peaceable man; a subdued and and gentle manner; a soft voice; nothing obtrusive; never heard him preach; never asked him to offer prayers at my house, *I* have asked him to return grace at table, and he did it. Cross-examination closed.

Henry Janes called and sworn.—I examined the hickory tree standing along the fence, late in the evening, about half an hour by sun; I found a ball in the tree and cut it out; I have not got the ball, I lost it out of my waistcoat pocket; the ball was about the centre of the tree, about 4 feet and a half from the ground, a small ball, about half mashed; when *I* cut it out of the tree it was about the size of a wild bunch grape, early in the morning, as I was going down the road from John Allens to my work I saw Burrows examining the tree, and *I* thought I would look and see what *I* could see; when Burrows was looking at the tree I was about 100 yards from him; my work was about half between me and him, and we met there and spoke; I did not go at once and examine the tree, Burrows did not stop a half minute, just stepped out of the path and looked at the tree and went on almost right straight; I worked there all day; saw no body examine the tree during the day; I heard Capt. Holland say that somebody had been shooting out there, and on that account went to look at it; this was after the homicide had been committed Mr. Reed, Mr. Jas. Allen and Mr. Shockly, were all at work with me, they did not examine the tree, *I* saw another place on the tree where a little piece of bark had been knocked off, don't know that it was done by a ball it was close to the ground, did not pay much attention to them, showed it to Mr. Reed, Allen, and Snockley, dont know how deep it was, it was past the bark, I cut it out with an axe, cut out a small chip the ball was in the chip but left a small print on the tree, *I* pulled it out of the chip with my fingers. As soon as I went to the tree, I saw the place where the ball was, don't think you would have noticed it without looking at the tree pretty close; the whole was barely large enough to ran in the blade of my knife, it was just under the bark. Three men were at work where I had been when I went to the tree, about 50 yards from my work, I told them in the morning *I* was going to examine it, but forgot it till evening; Mr. Reed and Mr. Allen were with me when *I* saw Burrows stop and look at the tree.

Cross-ex. by Mr. Wise—Don't know how many bullets it would take to make a pound; don't think it weighed an once; saw the pistol as Burrows gave it to Mr. Selby; didn't notice it when I saw *B*urrows looking at it, don't know the time, it was not until Bishop had been shot and Capt. Holland told me that somebody had been shooting out there the night before; did not see Capt. Holland examine the tree was building a boat on the right hand side of the road; dont know who I showed the ball to; don't know whether I showed it to captain Holland; I never wrapped it up in paper; I did not know it would do any harm or any good to keep it; some persons told me after I lost it "that if they had it they would not have lost it for $5;" didn't know it was important that it should be brought into court; I never heard anything about Bishop's intending to whip Burrows. Examination closed.

Jno. W. Jones called and sworn.—I was in Sandy *Hill* on the morning of the 23d March last. Saw J. *B*. Bishop after he had been shot. When I got there, there were two or three there I think.—Wm. Paydon got there just behind me, and Dr. Sovage was coming out of his gate whilst I was running down. Bishop was lying on his right side, just opposite the two large gates; his right hand was under his head, his left hand was, I will not say postively where, but *I* think it was in his pocket. He lay there but a short time before he was taken in to the house. I remained but a very short time. I saw his pockets examined, they contained a purse, with $17.62 in silver. He had no weapons in his pockets at that time. I saw him stripped after he was carried to Geo. Bishop's. I saw no cowhide about him; if there had been one I would have seen it. I saw nothing on the ground, where Bishop fell, like a weapon of any kind. I saw the vestments opened to see the wound. No weapons. I was not in the house when the physician stripped the body, (before the coroner came.) *I* did not see the body stripped, nor did I see any weapons. On the evening of the 22d March, the sun being an hour and a half or two hours high, just above Mr. Allen's tavern, I saw Bishop and Burrows in conversation, *I* saw Burrows go to the rack and get his horse; he went a few paces and stopped until Bishop (who had just ridden up) unhitched his horse from the carriage, after unhitching his horse, Bishop went to *B*urrows and entered into a conversation, *I* saw gestures but heard no words; the air of he interview seemed to be amicable; *I* cant say that I heard a word distinctly; they talked two or three minutes; *I* cant say whether *B*ishop stopped *B*urrows or Burrows stopped Bishop, to procure the interview; Major Holland was talking with Burrows when Bishop arrived. Examination in chief closed.

Cross-examined by Mr. Wise.—*I* was in my store opposite Allen's store that morning, before the firing of the pistol; had no expectation of a fight or quarrel about to happen that morning; Bishop came into my store immediately after the controversy in Payden's shop; told me he had had a dispute with Burrows; that Burrows was a strange man; he would make no acknowledgements; if he had, he (Bishop) would have given him his hand; he said that he (Bishop) ought to have given him a thrashing; that he had told Burrows he had a great mind to cowhide him; and he ought to have done it, or ought to go back to the shop and do it then; asked me if *I* would walk down to the shop with him; on the Tuesday night before he slept with me, he told me that if he had caught him immediately after the letter was written, he had no doubt he should have given him a cowhiding; he said he had reflected on it, and did not intend to touch him, that wrangling was disreputable, he did not wish to go where Burrows was; that he had a character to sustain, a living to obtain—it was important to preserve his character, and that he did not intend to go where Burrows was; *I* did not tell him nor hear any one else tell him where Burrows would be on the morning of the 23d; I knew of no intention of Burrows being on the highway at that time; I don't reccollect that Bishop ever told me that he had a note against Burrows for his wife. When examined, there was not to my knowledge any paper or obligation in his pockets from Elizabeth S. Holland to Geo. Bishop, *I* did not see his waistcoat pockets searched; if there was a watch-fob I did not see it searched; I saw but one coat pocket examined; I did not see any examination at Savage's of the wound; he remained at Savage's two hours; I was not there all the time, it was more than half an hour before the pockets were searched, there was no particular guard over the body at Savage's; don't know who received the body from Savage's, or who carried it. When I first saw the body examined at Bishop's the Doctors were present; I am not certain that they took off the coat I think they just laid open the clothes; very soon after he was stripped and shrouded; when I was present, I was not conscious of seeing the coat and waistcoat taken off; I helped to take off the shirt and pants; *I* assisted in shrouding him; don't know whether he had on shoes or boots. My examination at Savage's was very partial, and I saw no weapon and no bond from Eliza Holland; no person lived in the house of Bishop at Sandy Hill; in the cook room a colored man and woman lived; he was placed in the room with no particular guard; don't know of any rumor, &c., that Bishop was going to attack or thrash Burrows. When the interview occurred between Burrrows and Bishop, there were persons at the tavern as near as I was; don't reccollect any one person; I was about twenty yards from the parties; they were not more than six feet apart; when Bishop was unhitching, probably fifteen apart; I dont reccollect a solitary word spoken between them. As I went up to the body, I saw Burrows moving off, didn't look at him particularly. After we had taken the body into Dr. Savage's, I saw him pass by the house going down towards Capt. Holland's; I went with the officer to take him; his conduct was very gentlemanly; he did not attempt to escape; he was sitting in Captain Holland's house when we got there; I saw no tears in his eyes; he had not the appearance of a bravado. Mr Selby told him he must submit himself to the laws; that Bishop was dead; Burrows submitted himself quietly; I saw his horse hitching to the carriage as I went to the house; Burrows was not near or assisting. When Mr. Selby arrested him he told Burrows that he was sorry for the occurrence on account of his (Burrows') wife; Burrows said he was also sorry.—[These were objected to by the State but admitted as being part of his conduct on arrest.] Burrows submitted himself quietly to the officer, saying "I yield myself to your authority." The officer demanded his weapons, if he had any; Burrows said "I have a pistol," and drawing it out, presented it to the officer; he had no other weapons. Examination closed.

The court now, (20 minutes after 7 P. M.,) adjourned till to-morrow morning 8 o'clock.

THURSDAY, May 17, 1849.

John W. Jones re-called—[Clothes of Bishop were brought into court.] Witness said he thought these were the clothes he had on; knew Bishop well; was very intimate with him; he was about 5 feet 10 inches high; and weighed about 160 lbs.; thought Bishop was a pretty strong man to his size; never knew him to be relied on as a bully man; never heard him spoken of a man upon whom they could particularly rely in case of difficulty; saw him raise a bag of shot at arms' length, he remarked that he thought he could raise two (50 lbs.); think his arm was moderately short, muscular; he was broad shouldered, full breast, stood wide, was not corpulent, but full in flesh; he was constitutionally a healthy man; he appeared to be a little excited on the day after he came from the shop; dont recollect that I ever saw him want to figut before.

George Bishop recalled.—I suppose in about an hour after the examination commenced I went into the room and saw his clothes; took up the coat and looked in the pocket, there found a pocket-book and asked two or three persons to come with me to examine it; found in it a note drawn by Eliz. S. Holland, payable to me, it was the same I had given him the day before, and another; it was about 3 o'clock, after the coroner had got them; there were in it some bills and receipts.

John W. Selby, sworn—I saw nothing of the homicide; seen Burrows on that morning; am the officer that arrested him; that morning I stepped down towards Payden's shop, before the shooting took place; about 7 1-2 o'clock met Burrows, talking with him &c. about some business; he then bid me good morning, and said, "I shall have to leave for Chestertown in the morning;" he said he had to go to James Aydilotte's near Holmes' mill on some business and then home to Capt. H.; I went Mr. Richardson's house, and suppose, stayed about minutes; left there in company with Richardson upon the hill; when I got to the east end of Jones' heard Mrs. Kelpin say that Bishop had killed Burr this she re-called and said Burrows had killed Bish I then started to go to the scene; as I turned the of Jones' store I met Burrows, he spoke to me as he before, I asked him if anything had happened betwe him and Bishop; he said "there is, we've had a fr this was a very short time after the first conversati said I is there anything resulting from it serious; he "I expect there has;' said I, 'have you shot Bishop? said-I have, I could do no better, I backed until I had shoot;' said I would go to see about it; met Major Holland who told me Bishop was dead; went down Capt. Holland's and found Burrows sitting in a chair elbow resting on the chair, his left hand under his he told him I came to arrest him; am not certain what said in reply; think it was 'what for?' I said, 'for kill Bishop, he is dead;" Burrows then said he yielded my authority; got up from his seat and asked me wh I wanted him to go—I said to Sandy Hill before magistrate; he said he would go with me; I asked if he had any weapon—he replied he had a pistol, took it from his bosom; said that was the only we took it from his coat lappell, which was buttoned, delivered it to me; said he had not even a penknife; looked to me to be penitent; saw tears in his eyes wh I got to Capt. Holland's; after leaving the house wi Mr. Burrows I proceeded to Sandy Hill; saw Capt. Holland in the field; he came across to us in the road; Burrows asked Capt. Holland to go his bail; Capt. H. ed him, what he wanted with bail; Burrows didn't speak right quick and I spoke myself, saying, 'the boy killed Byard Bishop;" Capt. H. said, Mr. Burrows, how can you to do such a thing; Burrows said that Bishop his fist in his face, backed him several steps, and could do no better; the Capt. said he didn't think case was bailable; I took him to Snow Hill because there was no magistrate in Sandy Hill; one was gone fishing, the other oystering; I preferred coming to Snow Hill, where I could get the law in the matter; I took him to Broadwater's tavern; took him to a room and at his request for counsel; he was committed to the jail but jailer did not receive him; about 7 o'clock sheriff arrived and received him from my hands; Burrows countenance changed several times; he looked sorrowful at times and at others not so much so, his expression and went.

Cross-examined—He looked at times penitent, others he *perked* up some. He handed the pistol over quietly; he was submissive; I saw no disposition at time to escape; I hear a great deal; talk with people a great deal.

Mr. Franklin now objected to the evidence &c.

Testimony resumed—Witness had heard it from one person; had not heard it spoken of in a promiscuous crowd; knew Bishop was a school boy with him; he was a pretty strong man; he would weigh, I think, between 160 and 170; never saw him in a passion with a man; have seen him in a rage with his horse; met him the night before was killed just below Thomas Reed's gate between 9 and 10 o'clock; he was *going* towards his home.

Mrs. Dr. Savage called and sworn—On the morning of the 23d March I saw Bishop lying in the road, which was the first I saw of him; saw nothing of the affray; didn't go into the room where the body was while at my house.

Cross-ex. by Mr. Wise.—When I heard the pistol shot I was in the kitchen; do not know where Miss Anderson was; she said she was up stairs; I don't know that I heard her say in what room.

Jno D. Marshall sworn.—*I* weighed *B*yard Bishop *I* think the 1st day of March; to the best of my recollection he weighed 168 pounds; he had in his pocket $135 in specie, *I* had a settlement with him just before weighing him; paid him $135.

Cross-examined by Mr. Wise.—Bishop was my half-brother; I did not say something to Mr Cooper about talking with him about Burrows, about his writing a letter about the *B*ishop's; I dont *know* that Burrows ever wrote such a *letter*, *I* told Mr. Cooper that Byard Bishop said that when Burrows came down here if he didn't satisfy him in some way about the letter, or make some acknowledgements he would whip him; am not certain about the words used, this is the substance; it happened a short time before Bishop was killed; don't know that I ever told any one that Byard had told me he would thrash Burrows, and his uncle George would be at his back; Bishop made the remark to me last Fall; asked me if I had heard anything of this letter which Burrows had written and sent him for publication; I told him I had not, he went on to tell me about the letter being here, and some things in it; he said it was a very slanderous letter, seemed very much irritated at it; after this he said to me if Mr. Burrows came down here he would have to account for it, or else he should whip him; I don't remember what I told to Russell exactly; I remember remarking to Russell that I was rather afraid uncle George was to blame about it; the reason I gave to Mr. Russell I do not remember; I did not say that Byard had told me if he whipped him (Burrows,) his uncle George would stand at his back and pay the cost; I don't recollect saying so to any one; Bishop never told me so; when Byard told me if Burrows came down he should whip him, I did dissuade him from it; I believe I advised him to sue him; I did not advise him to whip him; this occurred last Fall; I don't remember who told me that this note was placed in Byard's hands by uncle George; I don't remember any consultation about holding Burrows to bail here; I received the information about the note from uncle George on tha 23d, after the homicide; uncle George told me he had put this note in Byard's hands with instructions to call on him for payment in a quiet, gentlemanly manner; to have no disturbance with him; if he paid the money to receive it; if he did not, to bring the note to Mr. Franklin, to be sued upon, in order to detain him by bail until Dr. George Bishop should come home, that he might attend to it as he pleased, it being George's own business.

Dr. Farrow, sworn.—I saw the body of Byard Bishop after he was killed—assisted in post-mortem examination. [The witness here proceeded to give a detailed account of the post-mortem examination, the principal point elicited being that the wound could not be probed at first on account of the internal aperture being higher up than the external aperture, indicating that the arm was raised at the time the wound was inflicted.]

Cross-examination by Mr. Wise.—When I examined the body all the muscles were relaxed. If the arm had been hanging down, the apertures external and internal would have been in a direct line; the ball carried with it to the back bone the diffused portions of flesh removed in its passage The road it seems is as level as the floor. From the examination we would say, either Burrows must have been elevated above him—which the ground did not show—must have raised his pistol so