

a presumption of fact and not of law, & if the evidence leads to a reasonable doubt whether the presumption be well founded, that doubt should avail in favor of the prisoner.

4. That the question of Matin is to be decided by the Jury on all the facts and circumstances attending the homicide and not on any presumption of law, & if on the whole evidence they have a reasonable doubt whether the prisoner is guilty of the crime charged in the indictment they are bound to acquit him of that crime.

5. The case of Peter York 9th Michael is expressly limited to the case of a voluntary killing with a deadly weapon when the facts attending the homicide are expressly proved. — and does not extend to a case when the homicide was secret — but the facts of the homicide is established by circumstances which do not show the manner in which it occurred —

In such case, the presumption of law being in favor of the def. the Gov^t cannot entitle itself to a verdict without proving the matter essential a unplurid — as well as the homicide itself. —

In applying these principles to this case, the Dfs counsel will now appear for the purpose of the argument that all the facts are established which the Gov^t claims to be