

Man

No. 6,

Knapp, murder of White.

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1830
TRIAL
OF
JOHN FRANCIS KNAPP

AS PRINCIPAL IN THE SECOND DEGREE

FOR THE

MURDER

OF

CAPT. JOSEPH WHITE,

BEFORE THE

Supreme Judicial Court

OF THE

COMMONWEALTH OF MASSACHUSETTS,

AT A SPECIAL SESSION,

COMMENCED AT SALEM, JULY 20, 1830.

REPORTED FOR THE PUBLISHERS.

Boston:

PUBLISHED BY DUTTON AND WENTWORTH,

No. 4 Exchange Street.

1830.

PLATE I.

Plan of the Streets in the Vicinity of Capt. White's House, Salem.

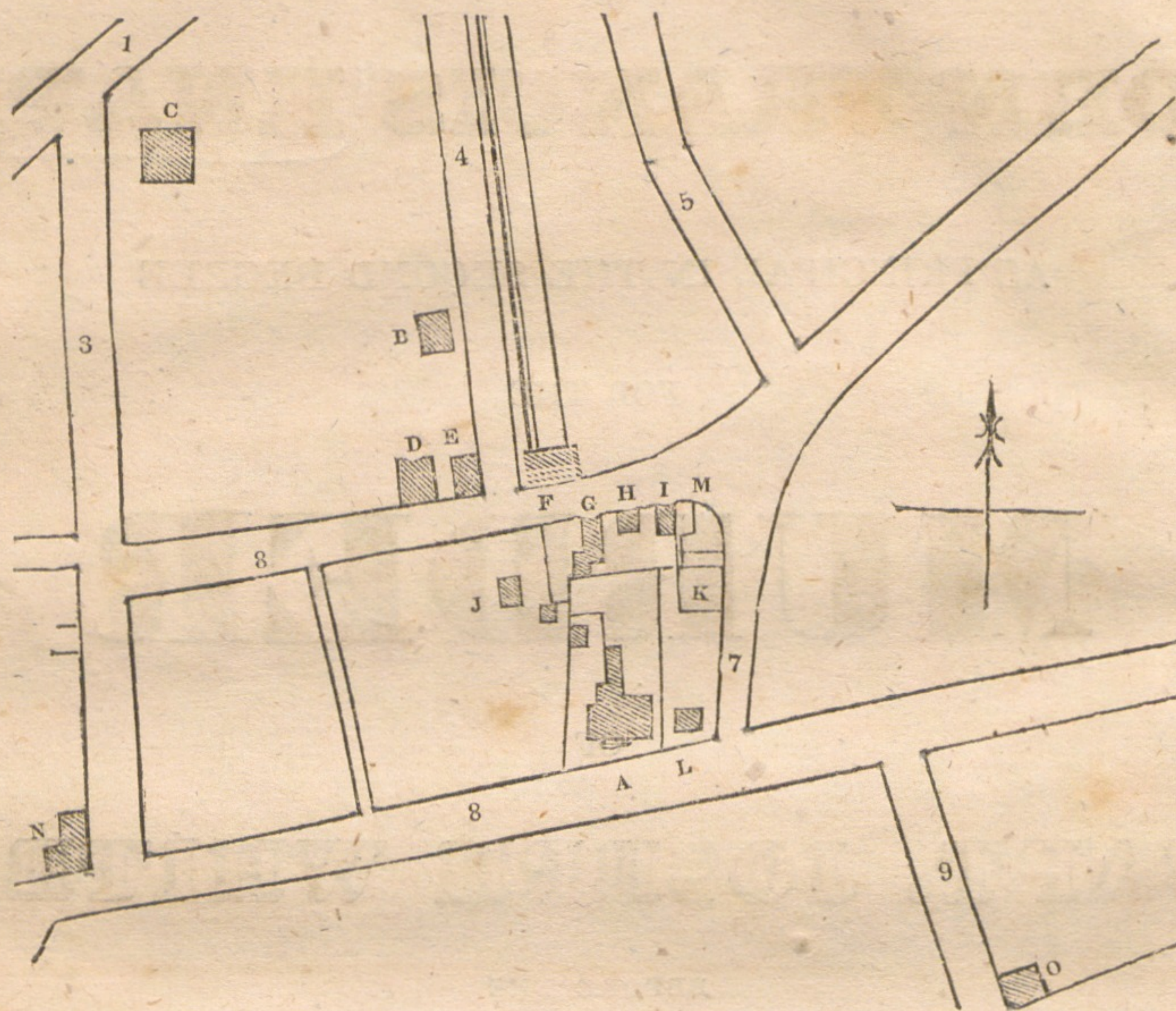
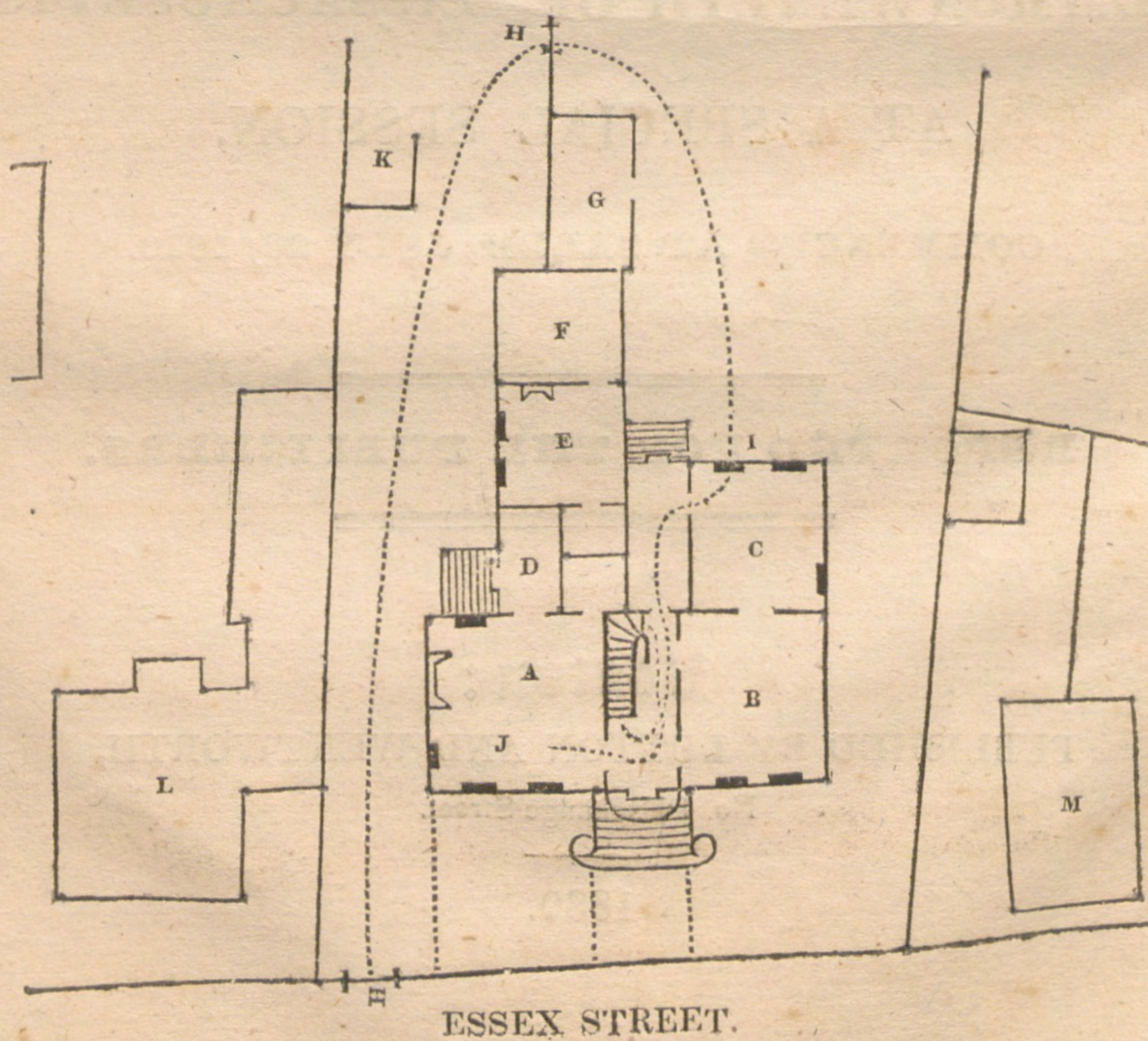


PLATE II.

Plan of the House of Capt. Joseph White, Essex Street, Salem.



KEY TO PLATE I.

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|---|--|---|---------------------|
| A | The residence of the late Joseph White, Esq. | 1 | North River Road. |
| B | Howard street Church. | 2 | Church Street. |
| C | Jail. | 3 | St. Peter's Street. |
| D | Mr. Southwick's House. | 4 | Howard Street. |
| E | Mr. Downing's House. | 5 | William Street. |
| F | Ropewalk Steps. | 6 | Brown Street. |
| G | J. Potter's House. | 7 | Newbury Street. |
| H | B. Henderson's House. | 8 | Essex Street. |
| I | D. Bray's House. | 9 | Union Street. |
| J | Green House. | | |
| K | Mr. Andrews' House. | | |
| L | T. Deland's House. | | |
| M | The Post. | | |
| N | Essex Coffee House. | | |
| O | M. Newport's House. | | |

KEY TO PLATE II.

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|----|---|---|---|
| A | Dining Room. | J | Represents the Chamber occupied by Mr. White, over the dining room; and the dotted lines show the track of the Murderer, who had to pass up one pair of stairs to arrive at the room. |
| B | Front Parlor. | K | Mr. White's Stable. |
| C | Back Parlor. | L | Mr. Gardiner's House. |
| D | Entry Steps. | M | Mr. Deland's House. |
| E | Kitchen. | | |
| F | Wash Room. | | |
| G | Wood House. | | |
| HH | Gate through which the murderer is supposed to have passed to gain access to the house. | | |
| I | The window at which he entered. | | |

BLUDGEON

FOUND UNDER THE STEPS OF HOWARD STREET CHURCH.



† Loaded with Lead,

REPORT OF THE

1. The first part of the report deals with the general situation of the country and the progress of the work during the year. It is divided into two main sections, the first of which deals with the general situation and the second with the progress of the work.

REPORT OF THE

2. The second part of the report deals with the progress of the work during the year. It is divided into two main sections, the first of which deals with the progress of the work and the second with the results of the work.

REPORT OF THE

TRIAL FOR MURDER.

A Special Session of the Supreme Judicial Court, commenced at SALEM on Tuesday, July 20, 1830. Present—*Chief Justice Parker, Judges Putnam, Wilde and Morton; Attorney General Morton, and Solicitor General Davis* appeared for the Commonwealth. After the usual proclamation, the Grand Jurors were called. The *Hon. Nathaniel Silsbee* was excused from serving, on account of a family connexion with one of the persons accused with the murder of *Mr. White*. The Grand Jurors being then empanelled and sworn, the Chief Justice pronounced his charge. He referred to the occasion which called them together, instructed them as to some points of law affecting the Trial upon which the Court was about to enter, and most urgently besought them and all interested to divest themselves of prejudice and preconceived opinions.

The Grand Jury then retired and made choice of *Eben. Shillaber, Esq., of Danvers*, as Foreman. The *Rev. Mr. Cleaveland* officiated as Chaplain.

FRIDAY, JULY 23d.—Present, Chief Justice Parker, and Judges Putnam and Wilde. The Chief Justice remarked that the “Court were decidedly of opinion that the proceedings ought not to be published from day to day, as they would give only imperfect information. What passes one day may be essentially modified by the doings of a subsequent day. There may be no objection to publishing the state of the case as it advances;—but there must be no publication of *evidence* before the trials are concluded.

The Grand Jury came into court with several Bills they had found. *John Francis Knapp, George Crowninshield and Joseph Jenkins Knapp, jr.* were placed at the Bar, and the first indictment was read to them by *John Prince, Jr. Esq.*, Clerk of the court. By the first count of this indictment, John F. Knapp was charged with having committed the murder of Capt. Joseph White with a bludgeon, and Joseph J. Knapp, jr and Geo. Crowninshield were charged with being accessories before the fact, and with having counselled, hired and procured the said J. F. Knapp to commit the said felony and murder.

The second count is similar to the first, except that it charges the murder to have been committed with a dirk.

The third count, charges the murder to have been committed by Richard Crowninshield, Jr., late of Danvers, machinist, and

that said Richard afterwards, before any conviction, feloniously committed suicide, and so can be no farther prosecuted. It then further alleges that at the time of said murder, John F. Knapp was present aiding and abetting, and that Geo. Crowninshield and Joseph J. Knapp, Jr., by counselling, hiring and procuring, were accessories before the fact, to both Richard Crowninshield and John F. Knapp.

To this indictment they severally pleaded "NOT GUILTY." And at the request of John Francis Knapp and Joseph Jenkins Knapp, Jr., *Franklin Dexter* and *William H. Gardiner, Esquires, of Boston*, were assigned to them as Counsel; and *Samuel Hoar, Esq., of Concord*, and *Ebenezer Shillaber, Esq., of Salem*, were assigned to Geo. Crowninshield as Counsel, at his request.

Tuesday, July 27, was assigned for the Trial.

The prisoners desired separate trials, and if any other indictment had been found, requested that it might be read to them.

Another indictment was then read, charging that the murder was committed by Richard Crowninshield, Jr., with a bludgeon, and that Joseph J. Knapp, Jr., John F. Knapp, and Geo. Crowninshield, before the fact, did incite, counsel and hire the said Richard, to commit the said murder. It then goes on to allege, that afterwards and before any trial or conviction, the said Richard, as a felon of himself, committed suicide, so that no prosecution or conviction of said Richard, can ever take place. A second count, charges the same facts, except that it alleges the mortal wounds to have been inflicted with a different weapon.

Benjamin Selman and *Daniel Chase* were then set to the Bar, and it appearing that the indictments heretofore found against them, had been *nol. pross'd* by the Attorney General, and there being no new indictment against them, on motion of their counsel, *Mr. Shaw*, they were ordered to be discharged, and were immediately liberated.

TUESDAY, JULY 27—Court adjourned until Tuesday, Aug. 3d, on account of the sudden death of *Chief Justice Parker*.

TUESDAY, AUG. 3.—*Mr. Webster* appeared on the part of the Government.

The Grand Jury presented two new Bills, the Attorney General having entered a *nol. pros.* upon the indictments previously found. J. F. Knapp, J. J. Knapp, Jr., and George Crowninshield were arraigned, and the first indictment read. The first count charged John Francis Knapp with having committed the murder with a *bludgeon*, and Joseph Jenkins Knapp, jr. and Geo. Crowninshield with being accessories before the fact. John F. Knapp is also charged with having committed the murder with a *dirk*, and J. J. Knapp, jr. and Geo. Crowninshield with being accessories as before. In another count, Richard Crowninshield, Jr., is charged as Principal, J. F. Knapp with being present, aiding and abetting, and J. J. Knapp, jr. and Geo. Crowninshield

with having hired and counselled. Another count charges the murder to have been committed by a person unknown to the Jurors, and that J. F. Knapp was present, and that J. J. Knapp, jr. and George Crowninshield did hire and counsel. To this indictment John F. Knapp pleaded not guilty. J. J. Knapp, jr. and George Crowninshield were then remanded, his counsel holding that they could not be held to plead until conviction of some principal.

Mr. Dexter.—Is there not another indictment against the prisoner at the Bar, as accessory?

Judge Putnam.—There are two Bills before the Court; the prisoner has plead to one; he has not been arraigned upon the other.

Mr. Gardiner.—The prisoners counsel had moved for a list of the witnesses used before the Grand Jury. The Solicitor General had promised the counsel a copy, but it had not been furnished.

Judge Putnam, enquired the object of counsel in making this observation.

Mr. Gardiner, apprehended that the prisoner had a right to be informed who were the witnesses that would confront him.

Judge Putnam.—Do you demand a list of witnesses?

Mr. Gardiner.—Yes, Sir.

Attorney General.—This has not been customary.

Judge Putnam.—The Court sees no objection. The demand is reasonable. As a matter of rigid practice the prisoner should have the list.

Attorney General. The list will be furnished if the Court orders it.

Judge Putnam. The Court does so order.

The following Jurors were then sworn. SOLOMON NELSON, (foreman), *Ephraim Annibal, John Ayer, 3d, Joseph Bartlett, Nathaniel Brown, Samuel Foster, Charles Foster, Joshua Howard, John Morrill, William Micklefield, Ichabod B. Sargeant, and Asa Todd.*

The indictment against JOHN FRANCIS KNAPP, was then read to the Jury, and the trial proceeded.

The *Attorney General* had commenced opening the cause, when the Court adjourned.

AFTERNOON. The *Attorney General* concluded his opening of the case. The facts which the Government intended to prove—the points it meant to establish, and the law upon which it relied were fully stated.

Plans and surveys of the premises where the murder was committed, had been prepared for the use of the Court; the Jury did not visit Capt. White's house, as moved by the prisoner's counsel, it being ruled that it was unnecessary and inexpedient.

Witnesses on the part of the Government then called.

J. P. Saunders, surveyor, swears to the truth and accuracy of the plans of Mr. White's house, and neighbourhood, exhibited to the Court and Jury.

Benjamin White. Was servant to the deceased—entered Mr. White's chamber on the morning of the 7th of April—found him in his bed, dead—called some of the neighbours—gave an alarm—stated particulars of the situation of the house, &c.

(See annexed plan of the premises.)

Miss Lydia Kimball. Was a domestic in Mr. White's family—corroborates Benjamin White's testimony.

(Here it was ruled by the Court, that no witness should be present in the Court House, during the examination of another.)

Dr. Johnson. Was called on the morning that the murder was discovered—stated the situation in which he found the body—found ten wounds—examined the body about 36 hours afterwards and discovered three more wounds.

(The *Attorney General* here said, that having proved the murder, he should endeavour to prove that there was a combination formed to commit the murder—called Joseph Jenkins Knapp, jr.

Joseph Jenkins Knapp, jr. was placed on the stand.

Attorney General. Are you willing to testify?

Witness did not answer audibly, but shook his head in refusal.

Attorney General. What reason do you give?

Dexter, counsel for the prisoner objected to the question, and appealed to the Court.

The Court. The witness was not bound to assign a reason—he might testify if he chose.

Attorney General. The witness should be informed that the pledge made to him by the Government was redeemed, unless he made full confession. You still refuse to testify, do you?

Witness nodded assent.

Attorney General. The peril remain on your own head.

(The witness made no answer. He was not heard to speak while in Court. His council declared that his refusal to testify was his own act and was not of their advising or counselling.—Witness was remanded to prison.)

Attorney General. The Government will prove the conspiracy by other witnesses. In a case like this, the act of one is the act of the whole.

Benj. Leighton, lived at Wenham, with Mr. Davis—has lived there since the 6th of October. Joseph J. Knapp, jr. and his family came there soon after he lived there—heard a conversation between Joseph J. Knapp, jr. and Francis Knapp about a week before Captain White was murdered—he went down the avenue and sat down—sat there a few minutes—heard men talking—saw F. and J. J. Knapp, jr.—they came close to the gate—he sat behind the wall, near the gate. J. J. asked, 'When did you see Dick?' F. answered, 'this morning.' J. J. then asked, 'When is he going to kill the old man?' F. said, 'I don't know,' and J. J. replied, 'If he dont kill him soon I wont pay him.'

Then they turned back—it was about 3 o'clock—had been to dinner—he thought it was on a Friday—the next Friday before—certainly within a week. They were not aware of his being within hearing—was waiting for Mr. Davis to go to work—soon after this he heard of the murder—will be 18 years old the 30th of December—cannot be under any mistake as to the import of the conversation—nor as to the persons. Capt. Knapp lived in the house. F. Knapp came there frequently—did not know Richard Crowninshield—never has seen him to his knowledge—does not remember F. Knapp's coming to the house but once since the murder—it was in the evening after 9 o'clock, and before he came there to live—cannot tell exactly when—believes Mrs. Beckford was living there at the time—came in a chaise, a gentleman with him—a slim man, about as stout as Francis Knapp—F. got out and went into the house—he went to the door with Joseph Beckford—Capt. Knapp was at home—he asked for him, and Joseph Beckford told him he was at home—when F. K. was going in, Capt. K. met him at the inner door—they went in and shut the door—nobody else in the room—they staid together about an hour—the other person did not get out—sat in the chaise all the time F. K. was in the house—they went off together—could not tell which way they took, for the house stands at the end of a lane—they staid about an hour—did not give their horse any food or water.

Cross examined. The house is about fifty rods from the road. It was by the gate that he heard the conversation. Mr. Davis was in the house at that time. The two Knapps were standing at the gate by the house, when he left them—sat down to take a *nooning* as usual before he went to work, and to wait for Mr. Davis—he had just done dinner—they had dined—they stopped at the gate by the house, and he passed by them—they saw which way he went—instead of going on to work he sat down. Mr. Davis staid in the house and afterwards came along—did not tell Mr. Davis what he heard—has been called upon to testify by Mr. Waters and another—they sent for him to Mr. Waters' office in Salem—told them he could not recollect himself—was carried to Mr. Waters' office twice—left the Knapps standing in front of the house—did not go into the room. The avenue was in another direction towards the pasture—the gate where the Knapps stood is in the fence which parts the avenue from the field—it is about forty feet from the house to the gate, and about fifty rods to the place where he got over the wall by the gate in the avenue; the place where he got over could not be seen from the gate where the Knapps stood—has tried—because he was afraid, if they saw him, they would kill him—if they had known that he was there and heard the conversation, he was afraid they would kill him—thought they must have known that he sat down there—if they saw him get over the wall, they might think he heard the conversation—if they could have seen him at the wall they could have seen whether he sat down or went on. He first saw Mr. Waters a week ago last Thursday, believes it was that day—was carried to Mr. Waters' office—did not say that he knew nothing about it, as he remembers—did not say he had never told Mr. Sterrat that he knew—said he could not have his recollection about him—told them he did not know any thing about Francis Knapp, and that he did not know, that Richard Crowninshield had been up there—they told him that Mr. Sterrat said he had told him something about the matter—he replied,

that he did not recollect it—could not then remember, that he had told Sterrat any thing about it—he did not remember any thing then, for he was taken suddenly and frightened—told Mr. Waters to come the next day and he would tell all he could recollect—did then remember, but told them he had not his recollection about him—said so because he did not calculate to tell any thing about it—they told him that Doctor Kilham and Mr. Sterrat were in the shop, and knew what he said, and that he must recollect—was in the office an hour or more—they told him he would be brought to court, but did not say any thing would be done with him—he said what he did to Mr. Sterrat before he thought, and checked himself, without telling what he knew—saw Mr. Waters at Mr. Lummus' tavern last Saturday---they wanted him to tell what he knew; and he did tell them immediately, all he knew---they did not tell him they had a warrant for him. He was going to pick rocks, when he heard the men talking, and looked round to see who they were—did not look over the wall but round the end, between the wall and the gate post—the wall is about four feet high—they were half way from the house when he heard the talking, but could not tell what they said—they came down within three or four feet of the wall, then he heard what he had stated, and that was all that he could hear to understand—never told it to any body till after the murder of Mr. White—did not know what it was about till after that—did not think it very strange, till after the murder.

Examined again by Mr. Webster. Mr. Sterrat keeps a shop in the neighbourhood—he went in there, and Dr. Kilham was present, and when Sterrat asked him about the murder, he replied, they think I don't know any thing about it, but I guess I know more than they think for—then he checked himself, because he was afraid if he told of them, and they got clear, they would kill him. Francis Knapp after the murder used to play round him with a dirk and prick him with it—first told the conversation to Thomas Hart, a boy, when they were at work together—afterwards told Mr. Davis that he heard something but did not say what—told it next to Mr. Waters—nobody had attempted to frighten him that he knows of—was taken away suddenly by a sheriff, who read him a regular summons—never saw F. Knapp have a dirk before the murder, or any thing but a sword cane—is afraid now, that if they get clear they will kill him—had told Sterrat before he knew there was a reward offered—did not know how much was offered, but heard there was a reward.

It being near night, the Court adjourned till the next morning.

WEDNESDAY MORNING, AUG. 4.

Rev. Mr. Colman, has had no particular personal acquaintance with the prisoner, not having known him even by sight till the 28th of May last—had occasionally visited a prisoner in an adjoining cell, and was at that time called to visit Francis Knapp—went into the cell with his brother Phippen, who said, Joseph has determined to make confession, and we want your consent—he was not able to give the reply in the precise words, but the import was, that the prisoner thought it hard that Joseph should have the benefit of making the confession, since the thing was done for his benefit, or advantage.—F. said, 'I told Jo, when he proposed it, that it was a silly business and would only get us into difficulty.'—Phippen, as I understood, to reconcile Frank to Joseph's making

a confession, told him that if Jo. were convicted, there would be no chance for him, (i. e. for Jo.) but if *he* were convicted there would be some chance for procuring a pardon.—Phippen then appealed to me and asked me if I did not think so—I told him I did not know, and was unwilling to hold out any improper encouragement.

(Here the counsel for the prisoner interposed and said, that they could not consent to have any confession, made by the prisoner, introduced; and after considerable argument and consultation by the Court it was decided that the confessions of Knapp, if he made any, after the hope above expressed, were made under such inducement as would render them inadmissible. The witness was not allowed to state whether Frank consented to Joseph's confessions, or admissions of his own knowledge.)

Mr. Colman however, testified afterwards, that no promise or encouragement, or threats were made to the prisoner, except such as was in the words above related. Knapp asked him if he would use his influence to procure a pardon. He replied, that he could promise nothing, but said he thought that his youth, &c. would be in his favor—no intimation of favor if he would confess facts within his own knowledge, was made in his hearing. He found a club after the interview with the prisoner, (and produced it,) he found it under the steps of the Howard street meeting house, (of which a plan was shewn,) on the 29th of May, about 1 o'clock. Dr. Barstow and Wm. Fettyplace went with him at his request—found it under the steps nearest the burying ground. They are of wood. There is a rat-hole large enough to admit his hand—on the first trial he did not reach it, but thrusting his hand an inch or two further, he brought it out.

When he was asked who directed him to look there for it, the council for the prisoner objected if it was a part of his confession, the whole of which was excluded by the order of the Court. The Court finally overruled the objection, and on being asked again, he answered, "the prisoner at the bar—he gave precise directions—went at once, and found it, as above stated."

John C. Palmer, called. Gardiner objected to have this prisoner testify on oath, because he did not believe in a future state. He was then sworn to answer such questions as might be asked, and said, he believed in a Divine Providence, and in a future state of rewards and punishments. He was then sworn and testified :

Knows the prisoner—was intimate with George and Richard Crowninshield—has been in company with them and F. Knapp, at the Crowninshield's house at Danvers, twice. The first time on the afternoon of the 2d of April last, about 2 o'clock. Frank came out with a young man named Allen, on two white horses—saw him in company with George C.—Allen was in company with Richard—they walked away—didn't see them in the house—was in a chamber of the house himself—saw them from the window—George and F. Knapp walked away together—did not see them again, till after 4 o'clock—came between 1 and 2—after 4 he saw them all four—Allen and Knapp got on horseback, and rode off—don't know where—the two Crowninshields came immediately into the chamber where he was—there was something said at that time about the proposed murder—both George and Richard spoke of it. George in the presence of Richard proposed to him to be concerned in the murder of Capt. Joseph White—can't say what

the object of the murder was without referring to the statement of what F. Knapp had said. (He had been directed not to state what the Crowninshield's told him Knapp had said, except when Knapp was present.) They offered him one third of the money George C. would receive, which was \$1000 to be paid by J. J. Knapp, jr. George said it would be easy to meet him that night and overset his carriage---no, it was Richard said so. George said he had gone out to his farm. Joseph's object was to have a will destroyed. George gave him reasons for engaging in it, and said he was poor, had no funds, and that would be a good opportunity for him to obtain money---no other time than that was mentioned for committing the murder---nothing was mentioned about entering the house---they said the house-keeper would be absent from home at the time he would be murdered. Francis came again that day between 7 and 8 in the evening---came alone in a chaise---thinks he staid over a half an hour---went in company with Richard in the same chaise---said he was going to the mineral spring---didn't see Frank Knapp afterwards,---never has seen him from that time till now. Richard came home between 11 and 12---don't know how he came---left Danvers the next afternoon, Saturday. The will was to be destroyed at the time of the murder. Joseph Knapp was to get it---he could have the keys of the trunk from Mrs. Beckford the house-keeper---he was to get the will, and at the same time the man was to be murdered---said the will gave the estate to Mr. Stephen White, who lived at the Tremont House, Boston---left the place on the next day after this interview. Saw the Crowninshields next on the 9th of April---went to their house somewhere between 11 and 12 at night---went under the window and spoke to George---he opened the chamber window and asked who it was---I told him, and asked him to come down---he asked if any one was with me, I said no, and he came---he then asked if I had heard the news, I said, yes---left there the next night and went to Lynnfield and put up, and went the next afternoon to Providence, staid in P. two days. On the 27th had another interview with the two Crowninshields at their house---staid there till the 29th---had four 5 franc pieces on the 29th from Richard---asked him for it, and promised to return it---went to Lowell, from there to Boston and afterwards to Roxbury and to Belfast, by water, the master's name, he believes was John Boyles---wrote from Belfast to Joseph J. Knapp.

The Court here adjourned to half past two.

IN THE AFTERNOON.

Palmer's examination continued. A letter was shewn to him, which he said was the one he wrote.

Before reading this letter to the Jury, the prisoner's counsel objected and the Court ordered, that two letters written by J. J. Knapp, jr. in consequence of receiving this, should be introduced first; in consequence of which

William H. Allen was called. Two letters were handed to him---has seen them before---put them into the Salem Post office, on Sunday afternoon, between 5 and 6 o'clock, the 16th of May, at the request of Joseph J. Knapp, Jr.---he gave them to the witness for that purpose, and said that his father and Nat. (Phippen,) came up to see him yesterday, at Wenham, and brought with them an anonymous letter, from a fellow somewhere down East, containing, as he thinks he said, a devilish

lot of trash—the fellow wrote, I know all your plans and your brother's, and will expose you, if you don't send me money—they had a good laugh at it, and requested his father to give it to the Committee of Vigilance—they had made fun of it—what I want of you, is, to put these letters into the Post office, and nip this silly affair in the bud. I think these are the words he used—he said several other things—but witness could not recollect them—said his mother Beckford was getting old, and spoke in a frivolous manner.

The letters were read by Webster—one was addressed to Hon. Stephen White, Salem, Mass. and run as follows—Lynn, May 30th, Mr. White will send the \$5,000 before tomorrow night, or suffer the painful consequences. N. CLAXTONPORT. The other was addressed to Dr. Gideon Barstow, Salem, and begun in this manner:—May 30th, 1830, Gentlemen of the Committee of Vigilance. Gentlemen, Having heard that you have taken up four young men on suspicion of having committed the murder of Capt. White, I think proper to inform you that the Hon. Stephen White, came to me one night and offered to give me \$5,000 if I would do it. The letter then detailed a plan according to which it was to be done and also the circumstances of the murder, pretty much as they were supposed to have taken place, accusing Mr. Stephen White of participation, and was signed "GRANT." The letter to Joseph J. Knapp, was addressed without the designation of Junior and fell into the hands of the father; it threatened Joseph the son with exposure if he did not send money to a certain town, and was also signed, "GRANT."

Palmer called again and cross examined. Frank and Allen came to Danvers as before stated—they hitched their horses to a tree near the house—saw no one else there at the time—he went from there to Lynn and Lynnfield—expected to meet John Dearborn—staid at the half way house from 6 or 7 in the evening till 9 in the morning—believes Dearborn belongs to Chester N. H.—agreed to meet them with him—wished to see him there—did not write to him—calculated to go to N. Y. with him to go to work—the kind of work would have been agreed upon if he had met him—could not tell what kind of business they would do—it would have been settled when they met—had been for the first time in Salem nearly 3 years before the murder—went to Crowninshields—was acquainted with them—went to see them—had an invitation from George in New York—left Salem a little time after—did not come again till last March or February—cant tell every place he was at during that interval—was in N. Y.—was at home, at Belfast—has been to sea—has no particular occupation—lived in Thomastown two years—declined telling what he did there.

Webster objected to this examination, but the court thought it was proper, and told the witness that if he could not answer any question without criminating himself he might say so, and be silent.

On being asked again what was his employment while at Thomastown he replied—cutting stone—did it for the State—dont know that he can tell who employed him for the State—because he dont know—became acquainted with Dearborn there—he also worked in the employment of the State—came to Salem last February—lived at the Coffee House a fortnight—was a part of the time at Danvers—went by the name of Carr, a part of his name—he preferred it at that time—was in no business—lived at the Crowninshields—with George and

Richard—they kept one room in the house to themselves—he lived in that—had no intercourse with the rest of the family—it was immaterial to him, whether it was known that he was there or not—has seen the family out of the house, but not in the room—dont know whether they knew he was there or not—came from jail to day to testify—has been there since last June—did not come from Belfast of his own accord—has not been able to find out on what process he was kept in Jail—has been in close confinement—has seen half a dozen persons—has seen Mr. Coleman, Mr. White, Mr. Waters—dont know that he has seen Mr. Waters—has seen his father—saw him first 8 or 10 days ago—did not get an answer to the letter to Knapp—was taken at Prospect, Maine, at the Post Office and taken to Belfast by Mr. Jones—examined and committed to Belfast Jail—was not chained at that time, was there more than a week—Mr. Jones took him out of Jail and brought him up by land—was in chains during his journey—was put into a cell on the first floor, had two windows—two small slits in the wall instead of windows.

Webster objected to the course of the examination.

Dexter expected to show that the witness had been used harshly—

Webster thought that would induce him to testify against the Government.

Dexter said, a little kindness after severity will work wonders.

The court ordered the examination to be continued.

Was in jail nearly a month—visited by those he had named—first stated what he knew concerning the murder at Providence—afterwards at Belfast—--at Salem to the Committee of Vigilance—--made it in writing of his own will and sent it to them—--was not compelled—--has not been told he was in danger of being sent to the State Prison—--was not told that he was in danger of prosecution—--read in one of the prints about stealing some flannels in Danvers—(declined answering a question concerning them)—dont know that he declines because it would criminate himself—has not heard any one speak of the flannels—has not had any promises of any sort—--was offered the protection of the State from this crime, if he testified—--had declined it—--supposed he should be discharged because they had no claims to hold him—--has not said he preferred remaining in jail—--did not want council—--has refused it—--did not like to tell by what name he passed at the half way house. [Mr Dexter submitted to the court—--the court said he would be obliged to tell unless he thought it would criminate himself.] He then said, "George Crowninshield"—--did not call himself by that name when he went, but as he was coming away—--owed the Landlord, who asked his name—--told him he would call and pay him in a few days—--dont know that he gave or offered a note in payment—--dont know whether he did or not—--cant tell, if he did cant recollect it, [he was told that if he could not answer without criminating himself he should say so—--] said he had answered the only way that he could—--he didn't know—--left a silk handkerchief in pledge—--belonged to himself—--never in trade in Boston—--dont recollect what time his father came to see him—--came to the door of the cell—--was told by the jailer not to talk concerning the trial—--his father said he understood he was committed for trial—--and was then told by the jailor, &c.—--knew of the reward offered—--knew it on the 9th of April—--dont know that he took any means to receive it—--was not actuated by that motive—--dont remember that he has consulted with any one as to ob-

taining the reward---dont recollect that he has asked any one for it---his object in writing the letter was to know whether J. J. Knapp jr had any hand in committing the murder---he would have made it known---that was his motive, because he thought it ought not to be concealed--knew of the Committee of Vigilance---did not state to them because he was not then prepared---wanted to advise with a friend to tell him how he should proceed---not with reference to obtaining the reward---not alone to bring it out, perhaps he expected a part of the reward---dont know that he should have refused it, probably it would not have been his duty if he deserved it---should leave the public to say whether he deserved it or not---did not expect it---because he understood that others were before him---advised with his father before writing to Knapp---his father gave him no advice, probably had not made up his mind before he wrote---did not tell what he heard before the murder, because he did not believe the scheme to be true---thought they were joking---did not believe they were serious till after he heard of the murder.

By Webster. Has not complained of ill treatment---no one that he wanted to see has been refused---has refused any pledge from the Government of indemnification or protection.

By Dexter. Had his food in the chamber, it was brought by the Crowninshields---gave him nothing but the handkerchief which he had of George C.---gave him no money at that time.

Mr. Allen. He said F. Knapp went to Danvers on the 2d of April, and stopped at Dustin's Hotel---had two white horses---a visit to the Crowninshields was proposed by Frank, went and fastened their horses to a tree---went into the house with Richard---George came in, in a few minutes, took a piece of cloth from the side board and carried it off---soon came back---asked Richard to show him through the Factory and went accordingly---parted from Frank and George---does not know which came from the house first---after going through one Factory went to that back of the house---Frank and George came in and all came to the house together---returned home with Frank on horseback---went once before with Frank to see the Crowninshields, dont remember at whose expense---saw Richard and Frank together about 3 weeks after the murder, by the Franklin building in Bath Street, Salem---F. was walking with the witness, the band playing at that time---Frank crossed the street to speak with Richard, had two or three minutes private conversation with him, rejoined witness and went on.

Cross examined. Cannot tell how long they were in the Factory---should think from half to three quarters of an hour---saw nobody but the workmen---came away about 5 or 6 o'clock.

By Webster. Frank usually wore a dark frock coat---and glazed cap---like frock coats in general---coat had a velvet collar---sometimes he wore a camblet cloak.

By Dexter. Glazed cap and cloaks now commonly worn by young fellows in general---he had a glazed cap himself---Pierce wore a plaid cloak.

Mr. Osborne---keeps a livery stable---F. Knapp has hired horses of him frequently---has charges against him since the first of April---(several charges were mentioned and referred to in the books)---on the 2d of April, Knapp had a saddle horse to go to Dustin's in Danvers---Allen had one the same afternoon---Frank had a horse and gig the evening of the same day---knows it was after he had the saddle horse---Frank

often went to his books and altered charges—was allowed to do so—the charge was made originally to Lynn Mineral Springs, but had been altered to ‘ride’—‘Springs’ is erased, and ‘ride’ inserted—he did not do it—thinks it is in the writing of Frank. 5th, saddle horse to Wenham—6th, horse and gig to ——— did not know where nor was any price put down—left it for Knapp to fill up or inform about—19th, horse and gig to Wenham—21st, horse and gig to Wenham—over the name of Frank, is put that of Joseph J. Knapp—F. said it was to be charged to his brother—23d, horse and gig to Wenham—the last charge in the day—has eleven entries—supposes it to be in the evening—25th, half of a horse and gig, he went in company with Mr. Balch—27th, horse and gig to Wenham.

Cross Examined. Makes his charges when the horses go out as a general practice, and puts down the place if they tell beforehand—always considered F. K. honorable, and allowed him to make any alterations in charges to him—willing to trust to him—there were a considerable number of charges in March against him—always hired frequently—don’t know as more so in April than before—understood that Knapp’s father fail’d on the 6th of April—the charge on the 5th, he should think was in the afternoon—has a horse called nip-cat—a remarkable horse, very small, sorrel, a smart trotter, gaunt, a lively horse—generally goes with her mouth open, as though she was going to devour all before her—would be likely to be noticed.

Thomas Hart—is a hired man with Mrs. Beckford, at Wenham—was hired by Capt. Joseph J. Knapp jr.—went to live there about the 15th of April last—Frank K. came there to live some time after the murder, about the 28th—saw F. Knapp on a Saturday night about the 28th of April—a dark night—is confident it was Saturday. Capt. Jos. Knapp jr. and Mr. Davis had been to Salem—came about 7 in the evening—can’t say who was with him—did’nt see any body—he came in a chaise—knocked at the door—Joseph Beckford opened the door—he asked for Capt. Joseph Knapp, and they both went out and stood at the chaise, about a quarter of an hour—could see the chaise, and thought he heard their voices—they came into the house, went into a room by themselves, staid about ten minutes, and then came out and Frank went away—Benjamin Leighton and Mr. Davis were there—it was dull, cloudy, rainy weather—Frank had on a camblet wrapper or great coat and a cap—Jos. Beckford went to the door—they went through the kitchen, by him—saw no light at the door—Capt. Jos. Knapp gave him three 5 franc pieces to buy some meal with—had been dark three quarters of an hour when Frank came. Frank Knapp has worn a dagger—has seen him use it; has seen him a great many times take it out and play round B. Leighton. One evening in particular, he came in while they were in bed and pricked Ben. through the clothes. Ben. said, ‘don’t prick too hard Frank, you hurt me;’ ‘oh!’ said he ‘lay still you wont feel it but two or three minutes.’

Ezra Lummis—keeps a tavern in Wenham—knows Richard Crowninshield—came to his house about ten days or a fortnight after the murder, in company with a young man who he did not know—the young man wore dark clothes and a glazed cap—thinks it was Saturday—was not at home when they came first—offered a 5 franc piece to pay for their bill—his wife brought it to him, while he was eating his supper—made the change himself and gave it to Richard Crowninshield as he

thinks—had been away—it was between 9 and 10 when he came home—they did not stay long after—has since seen Frank Knapp—sure the man there that night was stouter—knew the 5 franc piece, has seen them and taken them before.

Mrs. Lummis—recollects the occurrence of the 5 franc piece ; it was about the 24th of the month ; thinks about the latter part of the week ; misty evening ; cool ; wood brought in to make a fire ; thinks it was before Mrs. Beckford went to live at Wenham, and before a certain robbery that was talked of.

Josiah Dewing, returned from Point Petre, Guadaloupe, in the month of April ; brought from 3 to 4000 5 franc pieces ; 500 for Jos. Knapp, and the rest for the owners. Was master and owner himself ; Knapp's portion was paid to him, the rest was deposited in the bank, and remained there now, as he understood from the cashier ; saw them put into a wheelbarrow to go to the bank.

Daniel Marston—knows George Crowninshield ; received a \$3 bill and 5 5 franc pieces from him the Saturday night before his arrest ; received such pieces often, but not so frequently as other currency.

George Smith—tends a grocery ; received a 5 franc piece of a man in company with George Felton, about 9 o'clock the Saturday evening before his arrest ; did not know the man, but was told it was George Crowninshield.

George Felton—saw George C. pay for something, to Geo. Smith, on the Saturday evening before his arrest ; went with C. into the store ; could not say, whether it was a 5 franc piece or a dollar.

Joseph Shatswell, corroborated Capt. Dewing concerning the 5 franc pieces, and said he received them frequently ; perhaps one in every three silver dollars ; had them come home frequently as an importation for his returns in trade.

Stephen C. Phillips, was one of the Committee of Vigilance ; Frank and Joseph Knapp came before the Committee at their request, on account of the reported robbery, said to have been committed on them at Wenham.

(Here the Court adjourned.)

THURSDAY MORNING, AUG. 5.

Stephen C. Phillips called again. Knows Frank and Joseph Knapp, has known Joseph long—they came before the committee, at a suggestion that it would be agreeable to the committee, and made a statement (similar to that published in Essex Register, of which we have a copy*) after having made the statement as given by the witness, and assented to the minutes made by the committee, they were advised to take care of themselves, to which they said, they were prepared to give them cold lead if they attacked them (the Knapps) again.

The descriptions of the persons corresponded with the description of persons heard of in Brown st. and suspected ; but the Knapps did not know what description the committee had received, nor that any persons were suspected by the committee—it was a matter of common rumor—the statement was given mostly by Joseph, but Frank was present, and assented to it, under some statements and corrections.

Mr. Palfray, is Editor of the Essex Register ; published an account of the supposed robbery ; applied to the Knapps for it ; Joseph commenced relating ; Frank occasionally joined ; (it was the account given in the note) did not show it to the Knapps ; did not then doubt the truth of the statement.

* See note A.

Nehemiah Brown. Richard Crowninshield was a prisoner under his custody. On the 15th of June, had occasion to go to his cell, and found him hanging to the grate by two silk handkerchiefs, and dead; called a number of physicians, who attempted to restore life, without effect; then summoned a coroner, who held an inquest. Mr. Colman visited the Knapps; thinks he visited Joseph first; cannot be certain. Richard's counsel had constant access to him; came frequently; he had newspapers to read at different times.

Mr. Palfrey again. Made a publication concerning the finding of flannels stolen in Danvers three or four days before the death of Richard C.; did not name Richard; (this was objected to by counsel for the government, because the paper was not produced.)

John Burnham. Saw George C. about 8 o'clock on the evening of the 6th, in Essex st. going down along, eastward; two persons with him; thought one looked like Chase; did not know the other.

Jonathan McGlue. Knows George and Richard C.; saw Richard the night before the murder, Monday night, standing in the street near Capt. White's house; stood on the edge stone with his face turned up; stood a little above the window where Capt. White was murdered; tipped him on the shoulder and said, 'How are you?' then walked up the street together; parted at the Post Office; Richard went on; it was half past 8 o'clock.

Benjamin S. Newhall. Knows George C.; saw him the evening of the murder, the 6th of April, Tuesday; saw him in Williams' street, passing down, a little before ten in the evening; a man with him; don't know who. Had on a glazed cap; was shorter than George, who was the nearest to witness; knows it was between half past 9 and 10.

Thos. W. Taylor. Knows George Crowninshield; about 15 or 20 minutes past 9 on the night of the murder, saw him south of his door in Newbury st.; leads from Essex to Brown street; some one with him; didn't know who; some one said 'Hallo, George, where are you going?' he answered, 'You know, all the way down town;' did not see where he went; the expression is a common one.

Joseph Antony. Knows George C. by sight; saw him on the night of the 6th of April, going from Essex st. to Central st. just before 9; two with him, knew one, it was Chase; did not know the other; had on short jacket and fur cap; knew Richard; saw the two C's with Chase at Lynn Mineral Springs about a year ago, playing props and cards; saw Richard have a dirk; R. told him 'It was his nurse child.' Took it out and looked at it. He said it was an article he commonly carried. It was 5 or 6 inches long; handle of bone or ivory; saw Richard afterwards, a few days after the murder, at C's house; went there to see if he could learn any thing from the C's about the murder of Capt. White; from curiosity; both came together and inquired about Portland, and the best way to go there; asked if game was to be had there; showed a set of false props, they had made; agreed to meet at the Salem Hotel, on the next Tuesday or Thursday; went on Thursday, saw them there then; appeared himself to have been an object of suspicion to many people assembled, and retired; the C's and two or three others were whispering in a corner; he told Stephen White he would go; don't remember which suggested

the propriety of going ; his object was to see what they would say ; Richard appeared to be dull ; afterwards had a letter, he being in Boston, from his wife, who was in Salem, saying that he was suspected of the murder ; wrote to the committee that he was ready to answer if they desired ; received of Stephen White a check of \$50 which he borrowed and returned ; got the money from the bank after bank hours ; this was two or three months before the murder ; knew that a reward was offered ; but had no promise of any portion, nor any expectation of any reward or remuneration.

Stephen Myrick. Knows Frank Knapp---lives last house in Brown Street---before you go into Newbury Street, on the north side---about 15 minutes before 9 saw a person standing at the post, at the corner, directly opposite his shop, on the evening of the 6th of April, with his arms on the post, facing the common---did not know the man---noticed him because he thought it singular that a man should be there apparently watching for some one---the bell rung 9---he closed his shop windows, but kept a part of the door open---he stood there some time ; walking now and then a few steps one way or the other, and back to the post---if any one was coming either way he walked the contrary way and turned so as to meet the person at the corner ; went and shut his back gate ; saw the person standing there then ; he went away and left him standing there and saw him no more ; did not see the face ; had not known F. Knapp before ; has seen him since his arrest ; thinks the person he saw was Francis Knapp ; but cannot swear positively ; saw him when he was brought up from jail before the grand jury, the first time ; cannot say that he thought Knapp was the person from his own observation alone, but from what he had heard also ; was about the size and height ; Knapp wore a different dress ; the person was dressed in a dark frock coat, very full in the bottom, does not recollect what he had on his head ; the person who he supposed to be F. Knapp at the Court House, was pointed out to him by some one else.

Mr. Webster. Lives in Bridge Street ; went down Brown Street from half past 9 to 10 on the evening of the 6th of April, from thence down Howard Street and home ; got a quarter of the way, overtook two persons about the bottom of Howard Street ; first saw them about the middle of the Street ; took one of them to be Francis Knapp ; the two were walking arm in arm ; did not think much about it at the time ; has always known F. Knapp ; usually has seen him every day, when he was at home from sea ; then took the person to be Knapp ; has since altered his mind ; he walked faster ; turned to the right ; they turned the same way ; but don't know where they went.

Cross examined. Did not see the faces of the men ; knows F. Knapp well ; sometimes speaks and sometimes does not ; both had on dark wrappers and glazed caps ; dark, misty night ; did not know the other ; thought they were waiting for somebody ; knows it was that night ; cannot swear positively to a man without seeing his face, or speaking to him ; supposed it to be Frank from his air and general appearance.

John A. Southwick. Lives next door but one above the Rope Walk, to the west, left his father's house in Essex Street, on the Evening of the murder about half past 10 to go to his own---passed up by the Rope Walk and saw a man setting there---stopped in front of Downing's door and saw a man setting who dropt his head as he went by---went up again and passed by him---returned again---is satisfied that it was the

same person—seemed to be doing nothing—dropt his head every time he passed—had on a camblet coat—glazed cap—took him to be Frank Knapp—had known him before—brought up along side of him from his boyhood—went into the house—wife up—told her who it was—(Court adjourned.)

THURSDAY AFTERNOON.

Mr. Southwick called again.—The person he saw was in his mind all the Evening—walked out as far as the corner of Downing's house—was looking for the person down Howard Street—Capt. Bray came up—he (Capt. B.) asked what are you looking for so late? answered, that he had seen a person setting on the Rope Walk-Steps, or thereabouts, who look'd suspicious; Capt. B. then observed he had seen one also, and pointed up to Mrs. Shepherd's and said, there he is now; looked that way and saw a person standing there; that person came down the St. and passed them whilst they were talking, and leaned over a post in front of Mr. Bray's house, on the opposite side, nearly in front of Downing's House, next to the post near Downing's house. They went into the back part of Bray's house, up the back stairs; into the front chamber; when they went into the chamber, one half of the window shutter was open; Bray looked down; he kept back; Bray observed, he is still standing at the post, another one has come up; and they have gone to the western corner of the house; he then saw one of the persons running across the street and turned round the Rope Walk corner down Howard Street; immediately went out of the chamber; went down Howard Street; did not see any body after that; parted from Mr. Bray about his house; returned to his wife; talked about what he had seen; a person whom he supposed was Frank Knapp, without commenting upon it.

Cross examined. About half past 10; sure that was the time he left his father's house; walked home in two or three minutes; thinks he looked at his watch; thought it was time to be walking up; is willing to swear that it was about half past 10; was within 2 or 3 feet of the man; has not been accustomed to speak to Frank Knapp more than a quarter of the time; his manners have *evaded* speaking; he wore a camblet cloak; cap; did not see his face; swears he had a camblet cloak; was sitting down; could see that he was cross legged; cloudy and full moon; did not rain then; misty at times; a damp evening; light enough to see the house from Southwick's corner; did not see the man on the steps get up; did not see him move, only dropping his head; his dropping his head made him suspicious; could not tell what to suspect; had a glazed cap; it was his opinion at the time and has always been his opinion it was a *glazed* cap; swears positively he did not see any fur about it; took his coat off; was told in the house that he had better go out again and look; went without his coat; has not known Howard Street as a place where young men were accustomed to go to meet women; could not say what his suspicions were; met Capt. Bray about Downing's house; cant say what his suspicions were; told Bray he had seen a man, &c. he, (Bray) had seen one too; he pointed out the man standing at the post and said there he is; the other man passed down the street whilst they were in the street; about Downing's house; passed down on the opposite side of the way; cannot describe his dress; had seen nobody else in the street; had then the same suspicions about the person, that walked down, that he had about the person leaning against

the post; took him to be Frank Knapp, from nothing but his dress; took his impression from general appearances; went into Bray's House; Bray looked out of the window; post within 7 feet of Bray's door; 6 or 8 feet to the East of the window; saw two men; cannot describe their dresses; has an impression that one was dressed in a light coat; has not told any person that he did not suppose it was Frank Knapp; has not distinguished the two persons; compared him to Pierce on account of size; does not recollect that he told Bray he supposed it to be Knapp; never told him he looked like Pierce; looked out of a window; saw one of the men running down the street; did not know his dress; supposed the man on the steps was one of the two, or concerned with them; knows it was Frank Knapp sitting on the steps; supposes he was the person that went down to the post; Bray was looking out of the window 5 to 8 minutes; it is a common dress; glazed caps are not so common; dont know that there are many young men who wear glazed caps, and camblet coats; cant say when he was first examined by Committee of Vigilance; was questioned at Mr. White's House; never was examined; has been asked questions; has been questioned; (Dexter said to be questioned by any authority he considered to be examined) cant say when first; cant tell how soon after the murder; does not remember that he was examined before the Knapps were arrested; looked out of the front window; saw one run towards the Eastward; did not say he turned the corner; did not know; saw them separate, one going to the East, the other to the West; never said that he thought it was either Selman or Chase; presumes he was sworn before the Grand Jury; might have said there, about the size of Selman; did not intimate it was Selman; dont remember that he ever said it was Knapp; went to Downing's corner, the first time about half past 10; it might have been 20 minutes before he saw Bray; was in Bray's house, from 6 to 8 minutes; went quick at first; looked over the burying ground; dont know that he gave any reasons for his suspicions; went afterwards rather quicker than usual; talked; supposes about the men; dont recollect; did not hear the clock strike 11; it was 10 minutes after 11 when he went into his house; has not said he heard the clock strike 11 that night.

Mr. Bray called; lives near the corner of Brown St; met Mr. Southwick on the evening of the 6th of April, as witness was going down Brown St. from westward; as he past the 4th house at the 4th post, he saw a man; dark frock coat, very full at the bottom; cant say whether it was buttoned; on the north side of the Street; witness was on the south side; continued until he met another man looking down Howard Street, or as we call it, *peeping* down; before he got very near, found it was Mr. Southwick; asked him what he was out so late for; Southwick answered, he had seen a man on the Rope Walks Steps that looked suspicious; witness turned around and observed, 'there stands the man now'—could see him distinctly then; so light he could see him perfectly well; Southwick said he had seen a man before he went into his house, where he put off his coat, and came out to see if he could find him; went close to the Rope Walks to get out of the wind; the man who stood at the post, passed by them, and stood near a post just by witness's door; did not go out of Brown Street; asked Mr. Southwick to go into his house; and see what they were about; went in at the gate; sliding shutters in the parlour below; closed; did not wish to

make a noise; went up into the chamber; saw the man standing at the post; did not lose sight of him until they went away; was in the chamber about 10 or 15 minutes; a man came up; when they first saw him he was 150 or 200 feet from the post; came up directly; no bowing; remained 2 or 3 minutes; went round to the corner of the house 10 or 15 feet from it into the street; not so plain in sight as the man at the first window; could see by pressing hard against the glass; stood close to the post facing each other; second position one and a half feet apart; remained not more than 1 minute; the man that came up from the East, had on light clothes; the man that came up ran as hard as he could run down Howard Street; the other man went out of sight; passed to the Eastward; came down as quick as he could; the man was out of sight; saw nothing; knows he did not go to the westward; went down Branch St, (*Howard Street*) came to the burying ground; looked over; saw nobody then; walked the whole length of the Street; saw a carriage or light waggon pass by, going to the Eastward on the new road towards Beverly; about a common pace; lane not wide; could not tell certainly what kind of a carriage was passing; continued to Williams Street; came up Williams Street and home; did not know the person of the prisoner; knew him when a boy; saw him in the prison and at the house; cant tell whether he is the person whom they saw; the same size; heard the clock strike 10; 30 to 40 minutes after when he saw Mr. Southwick; knows the locality; did not take much notice until after the murder; can see the windows of the west end of Mr. White's house; all are visible from Mr. Downing's steps and thereabouts; went there whilst Mr. White lay dead; could see lights in the house; in the western side; could see all the windows; could see light in the windows over Mr. White's chamber; could see the windows on the same floor and the windows over that; does not remember about the lower floor.

Cross examined. The only view the witness had was from the steps of Downing's House; cannot see from Rope Walk, or the post, near his house; on walking down from Shepherd's saw him before he came up with Southwick; thought it strange; Southwick did not state who the person was; has stated since that he thought it was Frank Knapp; could not say whether it was before the arrest of the Knapps; could not say that he (*Southwick*) had said it was Mr. Peirce; attended an examination before Mr. Savage; had heard it said Mr. Southwick had said it was Mr. Peirce; did not know that he had heard from his lips; witness had on brown frock coat, dark pantaloons and hat; Southwick had on light redish pantaloons, blue coat, and hat.

Mrs. Southwick. Recollects her husband was out on the night of the murder; came in about 10; cannot say how much after 10; went out again; cannot say whether it was just before or after 11; it was near; had looked at the time piece just before.

Miss Potter. Lives in Brown Street; the evening of the murder, about half past 10, saw a man standing at the corner of Howard Street; turned and looked at our house down the Street; the door was open and he turned and looked into the house; house is nearly opposite Rope Walk; was in the house; his dress was light pantaloons; cinnamon drab; dark coat; dont recollect what he wore on his head; knows Mr. Southwick; dont know whether he was the man.

Mr. Frothingham. Was in Brown Street on the evening of the 6th

of April ; left Mr. Potter's house about half past 10 ; house nearly opposite the Rope Walk ; saw a person walking up at a slow pace, who turned and looked into the door ; was within a few paces of the corner of the Rope Walk ; he was standing, when he (witness) passed by, on the side walk ; stopped within a few paces of the western corner of the Rope Walk he walked up as far as Capt. White's house, when he noticed him standing there ; and he thought with another person ; the first had on light Pantaloon, dark coat and hat ; did not see any one in the Street ; must have come up Howard Street, or Brown Street below ; second person had on dark dress ; thought at first it was Mr. Southwick, but came to a different conclusion before he reached home on account of his intimacy with Mr. Southwick and the person not speaking to him ; his pantaloons were cinnamon brown ; he was taller than Mr. Southwick.

Joseph Burns. Born in old Spain—has lived in Salem 25 years—keeps horses to let in St. Peter's street—south of the end of Brown st.—knows Frank Knapp—had a conversation with him in the stable after the committee was appointed, (Dexter wanted to know if the witness was a Catholic, if he had been sworn in such a manner as he considered binding,) oh yes—I've been in this Court before—F. came over after the Wenham robbery—asked if any body was in the stable besides witness—I said, no sir—he asked if I had a loft up stairs—told him yes—he said it was the best way to go up, I want to say something in particular to you—both went up—asked if witness had heard any thing about Capt. White's murder—told him no, wished to the Lord I should because I would make it known pretty quick—Frank said the committee had heard he (witness) was out till about 10 o'clock that night—and if you see any body don't you let them know any think about it, because the committee will try to pump something out of you—F. said Joseph was a friend of mine, and set a good deal by me, and he (F.) too—Frank said, the committee would try to pump you and see if they could catch you in one thing or another—he said he knew all the members of the committee and if they wanted to see him he was ready to tell all he knew—he asked Frank, what he thought of the two Crowninshields who were in jail—F. said they are as innocent as you and I are—he asked who the murderer could be—F. said Capt. Stephen White must be the one—I said, darn it, don't you go to tell me any such thing—don't you tell me about Capt. White, I know him too well, I have known him ever since he was 18 years old—Frank put his hand under his waistcoat, where he had a dirk—I said damn your dirk, I don't care for you and your dirk and 20 more—Frank said he came as a friend, that I might be on my guard, and not get into trouble—knows Joseph J. Knapp, jr.—has been in the habit of going to his place and changing his outside dress, was there the week before the murder, sometimes wore a cap—sometimes a hat—sometimes a cloak—sometimes a surtout—sometimes took one and left the other.

Capt. Nathaniel Kinsman. Lives in Brown street—knows about the places there—a few days after the murder went over to Brown street to see from what part of the street he could see the windows of Capt. Knapp's chamber—could see them from the south-east corner of Downing's house—could see the northern window and those of the chamber above—did not observe the lower range—nothing to interfere with the range of the 2d story—could see then 18 or 20 paces farther west and up, and in the intermediate space—two lanes with gates leading from Essex to Brown st.

Phillip Chase. Went to look at the windows—could not see them from the rope-walk steps, could see them from the opening of the street a little to the west—went at the time merely from curiosity—on the steps of Downing's house could see very plain—could see the range above—did not pay particular attention to any but the windows of Capt. White's chamber—had not then heard of any arrest—did not suspect any one—did not suspect the Knapps till they told of the robbery.

Mary J. Weller. Acquainted with George Crowninshield—at her house, one morning went into the room where he had slept with Mary—found a dirk—found it under the pillow—George and Mary slept in the bed—he usually slept with her—nobody else slept there—don't know which pillow he slept on; Mary and she both showed it—George told her, that he carried it because it had saved his life once, and some Salem fellows were going to flog some Danvers fellows. The night of the murder he came between 10 and 11—she went to the door with Mary, both let him in—the clock struck 11 soon after—about 10 or 15 minutes—he went in with Mary and slept with her as she supposes—on the next morning witness went out for water and met James Stearns, who told her of the murder—she went to the door and knocked—George got up and opened it—she went in and told George and Mary—he seemed to be alarmed—Mary was alarmed—wanted to go that day, and see the body—asked Mary to go, but she said George was not willing she should go—there was a reason for it—George desired witness not to say any thing about the dirk, or about his staying there—said if there was a scrape in Salem it was always laid to the Crowninshields—he staid there the next day—said he had the headache—talked about the murder as the rest did—did not come that night at his usual hour—was accustomed to come about dark, and to go away and return again about 12, or from that to 4—once before staid all day—staid and listed the door—this time laid a bed almost all day—said he had the headache—went away about dark. (In reply to a question from Mr. Dexter what kind of a day, the day following was, she said) you know as well as I do—what do you ask such a silly question for?—that has nothing to do with this trial and I wont tell you—I did not come here to be bothered by lawyers. (On a sug-

gestion from the Court, the prisoner's counsel desisted from a cross-examination.) The dirk was about as large as a common case knife, and had a bone or horn handle.

Mr. S. C. Phillips. Five franc pieces are frequently imported—has never seen one in circulation that he can recollect—has received them as imported and deposited in the bank or with brokers—are received and rated as merchandize—go by tale—is a merchant—wholesale dealer—not in the habit of selling goods here, at least in a small way ;—usually receives his money in bank notes or checks.

Mrs. Catharine Kimball. Was about the house of Capt. White about half past 9 day after the murder—found a key on the sofa, under the copperplate covering—did not try it into any door—Mrs. Stanly with her—common sized key—don't know what became of it, whether she put it down or gave it to any body.

Benjamin White called again. Saw Capt. J. J. Knapp, jr. Sunday night before the murder ; was the last time he saw him at Capt. White's house ; he took tea ; Capt. White took tea at Mrs. Stone's in Chesnut st. that evening. Knapp's wife came there in the afternoon ; Knapp came towards night ; both drank tea there and went home. A plank was resting against the window—it came from before the garden gate ; a man could step on to the end of the plank from the door step ; yard gate not usually fastened ; generally shut ; had been called up and questioned by the committee on suspicion.

Mr. H. R. Dealand. Was in the house after the body was laid out ; saw a key ; it was lying on the sofa, when the cover had been removed ; said there's the key ; had been inquiring for it ; took it up and put it into the door ; it fitted ; called the day before and inquired for Capt. White ; Lydia Kimball came to the door ; don't think she knew him ; did not know there was a party the next night at Mr. Dealand's house next door to Capt. White's.

Dr. Gideon Barstow. Went with Mr. Colman to meeting-house ; Mr. Colman took out a bludgeon and said, " This killed Capt. White." The proportion of five franc pieces is small—never recollects to have received but one—they are articles of merchandize.

Mr. Jedediah Lathrop. Lives on Capt. White's farm ; saw him there last on the day he was murdered ; the young man that lived with him, came with him ; they went away about 5 o'clock ; Capt. White came there the Friday preceding ; no one with him ; came in his little wagon ; usual hour of dining about 1 o'clock ; he started after dinner to come out and returned before sunset ; usual route through Danvers.

Jonathan Varry. Lives with Mr. Osborne ; is hostler ; knew Frank Knapp ; had hired horses and chaises in April as usual. Knapp asked him to fetch a horse and chaise behind or near

the Court House, as soon as he could ; don't remember any reason ; tackled horse and chaise and brought him behind the Court House ; Knapp got in ; gave him the reins ; between 1 and 2 o'clock ; knew the day on account of bringing grain ; it was the last day of drawing grain ; Knapp had usually taken his horse and chaise at the stable ; wanted the NIP-CAT as soon as he could have him.

Mr. Osborne. Bought the grain the 2d of April ; the last load brought on Tuesday ; knows that was the day.—(*Court Adjourned.*)

FRIDAY MORNING—

Mr. Hacker. The entry of the sale of the oats was made before they were taken ; the last were taken on the 6th of April ; according to a book kept by his boy, Osborne commenced taking on the 2d ; cannot say that they removed any grain on that day, but has no question of it ; knows they began to remove on that day.

John W. Treadwell. Is Cashier of the Mercantile Bank ; has been in the habit of observing 5 f. pieces ; they are a coin that does not circulate freely ; not a tender ; are received in trade as a remittance ; are a favorite bank coin, because they are apt to stay in the vaults ; are sold. Mrs. Beckford is a neice of Capt. White ; was his housekeeper ; sister's daughter ; Mrs. B. had two daughters, one married Joseph J. Knapp, Jr., the other married Mr. Davis ; had other nephews and nieces ; they were Henry White's children. Stephen White lived at Boston, at the Tremont House.—*Cross-examined* ; is one of Committee of Vigilance ; the committee was appointed at a public meeting ; had been constantly occupied since ; have not employed the members of the bar in Salem generally ; some had been employed ; the committee have conversed with members of the bar, as well as with other citizens ; the members were sworn to secrecy ; have employed agents ; don't know how the expenses of those general agents are defrayed ; it was stated at the public meeting that Stephen White would pay any one who should make extraordinary exertions, even if no one should be convicted.

[Here Mr. Dexter said that it would be necessary to show some circumstances connected with Stephen White, but the counsel for the prisoner disclaimed entirely all intention to cast an imputation upon his character ; they respected him highly.]

Mr. Webster said the whole character, conduct and motives of Mr. Stephen White were open, and they were ready to meet any charges which could be brought against them.

Gardiner, we do not threaten.

Webster ; then I defy.

Webster called for all the names and all the facts and doings of the Committee of Vigilance ; told the witness to state them.

After hand bills were published (don't know who paid for them) a public meeting was held ; Stephen Phillips was chairman ; a committee of nomination was appointed ; they nominated to the meeting and others were added.

[Putnam, Judge, observed that this mode of examination would occupy too much time.]

Webster said, that if any of the doings of the committee were to be made known, he wanted the whole ; if the council for the prisoner drew forth certain facts, he wanted other facts to explain them. [The witness went on with unimportant statements.]

The committee applied to Mr. Choate professionally, in regard to the letter from Belfast ; not to any other lawyer ; never heard of any private subscription ; money, \$1,000, was put at the disposal of the committee by Stephen White ; don't know that the members of the committee are generally related to Stephen White.

Osborne, again, commenced moving the grain on the day when the contract was made ; finished on Tuesday ; don't know when prisoner returned on that day ; don't know the day when his father failed.

Varry. Don't know what time Frank came back ; he had Nipcat.

Palmer again. Went on the 9th to Crowninshield's house, called up George ; G. asked if any one was with him ; said no ; asked if he had heard of the murder ; G. said they had no hand in it ; went up into the room ; was asked by Dick if he had heard the music down in Salem ; and said that the people supposed they had some hand in it, and they must leave here ; he replied that would be a bad plan, because if they were innocent they would be arrested ; was told by George that he had taken the dirk down to the machine shop and melted it down to the handle ; did it because a committee was appointed, to search in people's houses for such things, and it would be a bad sign ; Dick and he agreed to meet at Lowell the first of May ; wanted to get money first ; gave him a five dollar bill, don't recollect any thing else.

Cross-examined. Has not stated that the murder was committed with a hatchet, nor that he thought so ; he found a hatchet, and hid it away ; named one of two places where he threw it ; did not state this to a magistrate ; did not make any statements to a magistrate at Belfast ; he told Jones and Jones told the magistrate ; he sat still and said nothing ; he did not know but it had been used ; put it away that he might know where to find it ; the handle had been nearly sawed off ; there was clay on the head of it ; it looked as if it had been hammered down in clay ; is confident it was on the 9th of April.

Starret. Lives at Wenham, about a quarter of a mile from the residence of Mrs. Beckford ; has heard of the reported robbery ; has heard of nothing done to detect the robbers ; knows

of nothing done ; saw the two Knapps at his store the afternoon before the evening of the supposed robbery.

Abraham True. Lives in Williams Street, knows the places about Howard Street ; most of the west and north part of the house of Capt. White, can be seen from Brown Street ; one row of windows up and down can be seen perfectly ; knows that the windows can be seen when the leaves are off the trees ; cannot be seen from the Rope Walk ; can be seen 6 or 8 feet from it ; dont remember about the lower story.

Mr. Webster stated, that there were no more witnesses to be offered for the prosecution at the opening, except Mr. Colman, and he moved the court to hear argument upon the propriety of introducing his testimony, to the confession of Frank Knapp.

The court expressed their desire to hear argument, and their willingness to review their former decision ; they refused to let the Solicitor General open the argument for the government, because council had been assigned to the prisoner on the expectation that the two counsel who had commenced the management for the government would manage to the close ; if another should be admitted for the government, it would be impossible for the court to restore the balance by assigning another to the prisoner, and they could not expose the case on the part of the prisoner to such tremendous hazard.

Mr. Webster said he was wholly unprepared to argue the question, having relied upon the Solicitor and requested delay, which was refused ; and he commenced the argument.

He stated the condition of the question ; the government had introduced a witness, Mr. Coleman, to show certain confessions or admissions of the prisoner at the bar ; after stating the preliminary conversation, as above reported, he said, there the examination was arrested. The words supposed to import encouragement to the prisoner, were spoken by Phippen Knapp ; 'if Joseph is convicted, there will be no chance for him, but if you are convicted, you may have some chance for procuring a pardon'—and this was said with a view to get Frank's consent that Joseph might confess.

He made several points. The assent to be obtained was not a confession in the eye of the law, nor did it partake of the nature of a confession. It was a thing not his own, he could not give nor withhold it, with any effect upon the result. His assent that Joseph might make the best bargain he could, for himself, did not imply his own guilt, for it did not involve the supposition that he assented, that Joseph's confession would be true, he might be supposed to say, 'I am innocent, I stand upon my integrity, whatever you may say to my prejudice, I can refute by evidence ; do, therefore, as you please.' This consent that Joseph might confess, could not imply his own guilt, and could not be used in evidence against him. Frank's assent or dissent, that Joseph might confess, the government never thought

of asking, for they know it could not be evidence; it was not, in law, a confession. A confession in law, is an acknowledgment of facts, within a man's own knowledge; and because that knowledge is a secret, tending to his own injury, it is his own property; his own right; it is his to give or withhold; and the humane rule of the law says, shall not be extorted from him by torture, or threats, or promises, or encouragement to hope of favor. But his assent or dissent, was not a fact of his own knowledge; it was not a thing wanted by the government. He could not, by assenting or dissenting, prevent or hasten the disclosure; for he was first told that Joseph had determined to confess. It was not, therefore, whether he assented or dissented, a confession which could be improperly obtained.

The assent was not sought by a threat, or promise, or encouragement to hope of favor, either in terms or by implication. Phippen came to *reconcile* Frank to the consequences of Joseph's confession. To state to him the peril of his condition; to assure him of conviction; to take away all hope this side the tribunal, where he might hope for mercy from God; and to throw him upon the slender chance of clemency in the executive breast. This is no threat, no promise, no encouragement. Frank did not consider it such, for he said, "It is hard, or unfair, that Joseph should have the benefit of turning States' evidence, since it was for his advantage that I have been placed in this peril." The words do not hold out threat, or hope, or promise, dependent upon his assenting that Joseph might confess. It was not, if you assent, you will have some hope of pardon; but, the import was, as the matter now stands, you have some hope of pardon, which Joseph has not; let him have this chance to escape conviction and do you make the best of your chance; there is no encouragement in telling a man to prepare to die. There was no inducement whatever offered to the prisoner, but the entire reverse, and whatever confessions or admission he might afterwards have made, cannot be excluded on the ground that they were extorted; nobody extorted any thing; it was the prisoner's brother, in the exercise of fraternal and filial affection, who held this conversation, and it cannot be supposed, that he would hold out inducements to extort evidence for the government, against his brother.

Whatever the inducement was, if there was any, it was applied, not to get the prisoner's own confession, but to get his consent that Joseph might make confessions; and the subject matter, were entirely distinct. The prisoner was in the first place asked to consent that Joseph might confess things disadvantageous to him and after that whatever might have been the inducement to consent, even if it had been bought with money, it could not exclude any voluntary confessions which he himself might choose to make; it was the consent that Joseph might do an act to his injury, that would be brought, and not

his own acts to his own injury; and even in that strong case, the government were entitled to whatever confessions Frank might make. Suppose Frank had been told that Joseph *had made* full confession, and upon that, had confessed, the confession would have been good in evidence; and would have been so, even if the statement had been false; because he gave up his secret knowledge voluntarily, though under a false impression, and the government were entitled to it.

Gardiner made a few observations for the defence and was followed by

Dexter, who argued, that the assent that Joseph might confess, could be used in evidence, because it would imply, if he assented, that he knew, that Joseph could confess, and it would follow that he knew what he would confess, which might be used as evidence to show that he knew, and probably was concerned in the subject of the confession. If he assented that Joseph might confess, it would, in some measure, criminate himself; that assent, therefore, was a confession, in the meaning of the law, and any confessions following it, would be excluded. That there was inducement used is manifest. He refused to assent, and the words stated by the witness were employed to induce him to assent. Whether he assented or not is unimportant; if any means were used by offering a hope, or promising, the confession could not be received. The inducement evidently used, (and it had its effect,) was, that Joseph, his brother, might be bettered in his chance, and, that he might have a better hope of pardon; that this was so, was proved by the witness, because Frank asked him to use his exertions or influence to obtain a pardon. Besides, it is highly probable, that Joseph's confessions were to be made if he assented, and not otherwise, and then he could save his brother and might hope to place himself on more favorable ground.

Mr. Webster closed the argument for the government by recapitulating with slight variations what he had before stated.

Adjourned.

SATURDAY MORNING.

The Court delivered their opinion, *seriatim*.

Judges Morton and Putnam were of opinion, that the confessions ought to be excluded; because the assent would be a confession against the prisoner, and might be used in evidence, implying knowledge and conspiracy; and because that assent was obtained by what was intended as an inducement, no matter of what kind or how slight, it was sufficient to render all subsequent confessions incompetent.

Judge Putnam thought otherwise. The assent ought not to be admitted as evidence against the prisoner, because the government would have it in their power always to place a prisoner between the horns of a dilemma, if he assented, according to the arguments of the defendants counsel, it would imply that

he knew, and was concerned in the transaction about which the confession was made ; but how much stronger would the presumption be if he refused ? it would then be said, that he knew of what the confession would consist, and was afraid of it, because it must criminate him. He did not think the government ought to have the power thus to endanger the life of a prisoner ; and whether it was assent or dissent, he should feel bound to rule it out. The assent not being a confession to implicate the prisoner, and the influence, if there was any, being offered to obtain that alone, the subsequent confessions must be supposed to be voluntary and not extorted. But he could not see, that any influence was used at all. It seemed to him, that Phippen Knapp went to Frank, to state to him what was the condition in which he was placed by Joseph's determination, and to reconcile him to that circumstance ; and perhaps for the happiness of Joseph, and the family, who would be better pleased by knowing that so important a step met his approbation ; and he could not see in this any evidence sufficient to exclude the confessions which followed.

According to the opinion of the majority of the Court the confessions were declared inadmissible.

Mr. Webster then stated, that the witness, Mr. Colman if they were allowed to ask him, would testify that no consent was given, and that would show that there was no influence exerted, and probably that none was intended.

The Court decided after some consultation that that was a fact important to be known, and might be asked ; Judges Morton and Wilde said, that they had based their opinions on the supposition that assent was given, and if it should be proved that there was no assent, it would entirely change the state of the case.

Mr. Colman was then called ; the Court informed the witness of the purpose of the enquiry, and gave the following direction, "if the prisoner refused assent you will say yes, if he assented you will make no answer ;" and then the question was proposed in the following form ; "did the prisoner refuse to assent to the arrangement made, as proposed by Phippen Knapp, that Joseph Knapp should confess ?"

Answer. There was neither assent nor dissent.

The Court decided that the objection of improper influence was removed and the witness might go on and testify to the whole conversation.

Mr. Colman then stated, that he had heard that the murder took place early in the evening, and believing the fact incredible, asked Frank concerning it ; Frank replied, that it took place between ten and eleven o'clock ; had been incredulous as to the fact of one person alone having been in the house, asked the prisoner, and he told him, that Richard Crowninshield was alone in the house ; asked him if he was at home that night ; he said he went home afterwards.

DEXTER asked what was meant by afterwards.

Witness replied, the Court and jury must put their own construction upon the words; asked him as to the weapon and the place where it was concealed; he described the place as he had stated before; asked him what became of the dagger or daggers; does not recollect which word was used; he replied, it or they had been worked up at the factory.

Cross examined. There was not a great deal of conversation; Phippen Knapp took the lead; went to the cell a little before 7, in the evening; the jailer came and hurried them, saying it was time to close; thinks they were with Frank about half an hour; had never spoken with Frank before that time; had seen him once since at the grate, but had no conversation with him—went to see Frank from the cell of Joseph Knapp, at the request of Phippen Knapp; had been in the cell with Joseph holding a conversation with him; before it was finished, Phippen knocked at the door, and asked to come in; desired him to wait a few minutes; he waited; when the conversation was closed, Phippen came in—went that evening to Boston to get a pledge of pardon—started at 10, arrived in Boston between 12 and 1 o'clock; had been to Joseph's cell three times that day, early in the morning; at 3 o'clock, and at half past 5; immediately after the third time went to Joseph's cell; afterwards to Boston; Frank was told that Joseph had *decided to make* a confession; he was informed nothing more in his hearing; has no knowledge that it was said, that Joseph *had made* a full confession; does not recollect that he stated that the matters stated to him should remain a secret; it was not stated that the matter told previously by Joseph should remain a secret, unless he (Frank) consented; it might have been stated, that they would not be divulged without Joseph's consent: did not state, that there would be no chance for either if Joseph held out; could not have stated that there was evidence enough to hang him, without Joseph's confessions; looked upon him with too much pity to make such a remark; has no recollection that the prisoner said he had no confession to make; had been told the weapon was under the steps of the Branch meeting-house, but the precise place, and the particular steps, the person could not inform him; does not remember that Frank was told, that Palmer was pardoned, nor that application for a pardon for him was made to the Attorney General; it was very fully stated to Joseph and might have been to Frank; does not recollect hearing it said that a pardon was expected for Palmer by the next mail; thinks it not improbable; it was well known to Phippen and himself, that it was expected, and had been told to Joseph; the jailer had called the second time, when Phippen repeated, "if Joseph is convicted, there will be no chance for him, but if he, (Frank) were convicted, he might have some chance for procuring a pardon." Then Phippen appealed to him and asked,

“Don't you think so?” Witness replied, that he did not know and was unwilling to hold out improper encouragement; Frank then said, “I suppose you would use your influence?” witness said, “I can promise nothing, I wish you well, and feel kindly, your youth may be in your favor.” Witness then said, “Mr. Knapp, this is your deliberate consent, is it?” he replied, “I don't see that it is left for me to choose, I must consent”—and then they left the cell—has stated all the conversation that he recollects which he is willing to aver upon oath—is unwilling to state impressions, which he *might* have gained in conversation previously, with another person, however strong his impressions may be; thinks he said to Stephen White, that Frank had confirmed Joseph's statements; did not mean to say all Joseph's statements; since he learned that he was to be summoned as a witness had stated to the counsel for the government and to the grand jury; does not recollect telling that Frank told him where the club was; did not tell any one as he can remember; went with the gentlemen as before stated, and took it out, from under the step; took it out on Friday; saw it on Tuesday; said he would rely upon the honor of Phippen Knapp not to remove it; this was said in going from the jail; thinks it was immediately after they had left the door of the jail; an individual in the presence of Phippen had said it was under the steps; he asked the prisoner in the presence of Phippen and was answered in his presence; cannot say that Phippen knew where it was, because he can judge of no man's knowledge but his own; said to Phippen that he must ask him upon his honor, not to remove the club; he went into the cell for the gratification of Phippen Knapp, and at his request; had no other object in going; Capt. Joseph White was a parishioner and intimate friend of the witness; Stephen White is a parishioner and intimate friend also; Jos. J. Knapp, jr. was a parishioner, and he married him sometime since, and felt towards his wife, as to a daughter; the prisoner was not a parishioner; at the request of Joseph, after 3 o'clock, witness went to tell Joseph J. Knapp, senior, and Phippen, that Joseph wished them to come with him to the cell; he delivered the message; Frank did not tell the witness that it was told to him, where the club was placed, nor that he knew it of his own knowledge, but answered directly to the question.

Here the counsel for the government rested the opening.

The examination of the witnesses on the part of the government being concluded, *Mr. Gardiner* opened the defence.

The jury should be cautious that no prejudice influenced their decision; they had heard much out-of-door conversation about the murder, before they were empanelled; they had formed opinions, hastily perhaps, but naturally. They were now upon their oaths; they were sworn to forget all that they had formerly heard, and well and truly try the issue, according

to the testimony now before them. A great and powerful interest had been excited; he stood there, as counsel for the prisoner, opposed by the committee of vigilance; opposed by the private prosecutor; opposed by public opinion; opposed by the whole bar of Essex; opposed by the learned officers of government; opposed by the distinguished representative from Massachusetts, *sent to Washington*. There was strong private and public prejudice against the arraigned, from which the jury were sworn to purify themselves, or they would load their own souls with the crime now charged against the prisoner. The testimony which the government had brought before the court, and which the jury had heard, was mere hearsay evidence; it weighed nothing. The prisoner, if he is guilty, must be proved guilty; must be proved so by legal and competent witnesses. If you listen to this testimony, you proceed on mere suspicions; upon conjectural evidence, which ought never to be relied upon when it involves the life of a fellow being, who may be innocent, and who has not been proved guilty by any direct, positive, or creditable testimony. Several persons have been suspected of this murder: Mr. Beckford, Mr. Selman, Mr. Chase; even the private prosecutor had not escaped suspicion; each in his turn, as *circumstantial* evidence had been against him, had been publicly and privately pointed at as principal or accessory. All of them had been examined, and some of them imprisoned, until it was found that no accusation could be sustained by the *conjectural* testimony upon which they had been apprehended. The evidence should be conclusive: beyond all doubt; and going directly to prove the facts, in manner and form as set forth and declared in the indictment upon which the prisoner had been arraigned, and to which he had pleaded "not guilty." When the prisoner said he was not guilty, he did not mean to say that he had *never* been guilty of an evil action, but that he was not guilty of the crimes charged against him in the form and manner set forth in the indictment. Authorities which the learned counsel for the prosecution would not dispute, had declared explicitly, that *circumstantial* evidence was not to be relied on. [Mr. Gardiner here quoted authorities to prove his assertion.] Circumstantial evidence had *hung* the *innocent*, for the supposed murder of persons who were *afterwards* found alive. He would refer to a few cases to the point. A young girl and her mistress lived alone; the mistress was murdered in her bed; the house was found shut up; the doors locked, and no one in the house with the deceased but the servant-maid; she was tried, condemned, and would have been hung, but for the providential disclosure of the fact, that the house had been entered from a neighboring house, by persons who had placed a plank from the window of one house to that of the other; had entered the house by the plank; killed the girl's mistress; withdrew the plank, and closed the window.

No one was suspected but the poor innocent girl, and her life was saved by an accidental discovery of the real murderers. A man was accused of the murder of his niece ; witnesses swore that they had heard, on a certain day, a girl crying, " don't murder me, uncle ! don't murder me ! " the girl disappeared, and the man adopted another girl, *resembling her*, whom he used to call his niece ; the man was tried and condemned. After a short time his own niece re-appeared. He cautioned the jury to be guarded against testimony going to prove the identity of the prisoner. A man robbed his mistress and fled ; a short time after, a man, resembling the servant, appeared in the town where the robbery had been committed ; he was apprehended ; the woman swore that he was the person ; all the neighbors who had known the man-servant swore to the identity of the prisoner ; he was tried, condemned, and hung ; some months after, another person was apprehended for a like crime ; was tried and condemned ; on his way to the gallows, he confessed that he was the person for whose crime the *other* had suffered. It then appeared, from competent testimony, that their resemblance to each other, was so strong, that even their intimate friends could not distinguish them. Confessions were not good testimony. They might be bought, or there might be a thousand reasons for making them, or, rather, *seeming* to make them. The jury probably remembered, or had heard of, the Boons, who were tried for murder in Vermont ; *they confessed* that they were guilty ; but before execution, the man who was supposed to have been murdered, was found alive in New-York. As to the testimony before them, none of it went to prove the guilt of participation or the prisoner. Leighton had heard Joe Knapp ask Frank Knapp, when Dick meant " to kill the old man. " He answered, " he did not know. " This proves that he could not have been interested in the murder, or he certainly would have given a different answer ; besides, the conversation probably alluded to something else, and there is no shadow of proof ; no evidence ; no testimony, that the question and answer related to the murder of Capt. White. The finding of the bludgeon proved nothing against the prisoner ; it has not been shown that he either made, borrowed, bought, or used it ; or that it was ever seen in his possession. The prisoner had been seen with a dagger ; his counsel will endeavor to prove by witnesses, that the dagger was *not made* until *after* the murder. A person had been seen near the premises on the evening of the murder, who resembled the prisoner in *size* ; there were more than 300 persons in court of his size ; his stature was common, and not remarkable ; besides, no one had sworn positively that it was he ; no one had seen his face ; no one could say, on his oath, that the person, seen that evening, was Frank Knapp, the prisoner at the bar.

MONDAY MORNING, Aug. 9.

Mr. Saunders. The plan represents truly the facilities and difficulties of entering the house from Brown street. Has no affidavit of Palmer's in his possession; had one just long enough to know he swore to it; can't say when it was taken; afternoon of the discharge of Selman and Chase; perhaps the next; saw it last in possession of Palmer; Brown, under keeper of the jail, and Mr. Waters, were present in the cell when it was subscribed and sworn; can't say whose hand writing; can't say how long; ended at the bottom of a letter sheet page; don't know where it commenced: left cell before Mr. Waters: Brown was within, or near the door.

Mr. Bray. Has not examined since to see if he could see a man coming round the corner. There are several paths across the common: man was 150 or 200 feet from where he stood: (pointed out the spot on the plan:) shew a stranger the point where he first saw the man: two gates or turnstiles each side of the arch: could not see the one upon the right: could see it from the other side: could not have seen him coming round the corner if he kept close to fence: don't think he saw him the moment he might have been in sight: might have been same size as the person at the post.

Mr. Brown. Was not present at any examination of Palmer in his cell. Mr. Saunders administered the oath: affidavit left with Palmer.

Jos. Burns. Dirk had plated handle silver mounted: had a cross-piece: was not drawn: can't tell how long: will tell what he knows: will *not* tell what he don't know: when Frank came Stephen White was not in his house: it was day time.

Mr. Allen. Has known Frank long: at school: had a dirk: can't tell whether before or after the murder: about the time dirks were selling in Salem: never owned nor wore one himself: some young men wore them after death of Capt. White. The dirk exhibited is the same Frank had. Mr. Newell made it for him or sold it to him: don't know when: never saw Frank with any other: after the murder, but can't tell whether after or before the robbery.

Mr. Leighton. The dirk had gilt handle: the one exhibited looks like it.

Mr. Newell. Made the dirk: was making it when Frank came in: Frank said he should like to buy it: agreed to sell it: sold it to him day before the attack at Wenham: made it himself: did not make it at Knapp's request: had little to do and began to make it for amusement: Knapp was pleased with it, and wanted to have it finished: is not his business: is a jeweller: there was a demand for dirks: can't say further why he made it: it was finished several days after Frank first came in.

Mr. Pearce. Dress at the time of the murder was like Knapp's usual dress: plaid cloak and black glazed cap: dress

was common : does not think it was customary to wear dirks before the murder : some sword canes : wore plaid cloak all winter : very different from camblet : dark green, shaded : was not on any steps, nor leaning on any post in Brown street that night : lives in Brown street.

Mr. Wiggin. Is a tailor : camblet cloaks most worn and common : made 24 from 1st Sept. to 1st April : made as many last year as in the previous three or four years : did not make a plaid last winter : mandarins are common : made as many as cloaks : something like wrappers : snugger : differed from cloaks.

Mr. Ward. Is a tailor : made about fifty cloaks last winter : two thirds imitation camblet, one third silk or German camblet, one or two Scotch plaids : made a cloak for the prisoner : made him a frock coat between the 20th and last day of January : single breast : snug about the body : quite full about the skirts : color olive, inclining to brown : has made such for other persons : not so many mandarins as formerly : frock fashionable.

Mr. Osborne. Is a hatter : sells from 16 to 1700 a year, and more than 500 caps : sold a cap like the one exhibited to the prisoner : not many of that kind worn : sold of that kind one to three dozen : other hatters sell them : sells to any one who comes into the shop.

Mr. Saunders. The affidavit, signed by Palmer, and shown him, is the one that he certified : certified to no other.

Mr. Gardiner read a certified copy from the records of the state of Maine. In 1827, Palmer, in company with one Preble, broke into a house in Belmont, Waldo county, state of Maine : was sentenced, and imprisoned in Thomaston jail two years.

Mr. Babb. Is inn-keeper and farmer : lives at the half-way house on Salem turnpike : knows Palmer : has not seen him before now since he left half-way house : not positive when he left there : according to his impressions came on the evening of the 9th April : left, morning of the 10th : heard of the murder on the 9th : a man gave him the news : Palmer never slept at the house before, that he knows : Palmer could not settle his bill, had no money : called himself George Crowninshield : gave witness a plaid silk handkerchief and a due-bill for 62 1-2 cents, signed Geo. Crowninshield : kept his head down : witness left the paper on the desk, and has never seen it since : saw Palmer go towards Lynn : knows it was about the 9th or 10th, as he was settling, at the time, with one Green, whose receipt is dated April 10th : don't know where Palmer came from : came in between 7 and 8 in the evening, and left next morning about 7 o'clock : didn't make much account of the due-bill : don't know who took it : was in a hurry to go to work. Palmer got up late : remembers many little things about it, which, if he could swear to, he could tell a pretty straight story.

Mr. J. P. Vose. Is clerk and commissary at the State Prison in Maine ; knows Palmer ; that is the man.

Mr. J. W. Webster. Lives at Belfast, Maine ; has known Palmer 8 years ; has no reputation ; his stories not to be believed ; knows nothing favorable ; always represented as very bad ; hundreds will not believe him in a case where he is interested.

Mr. John H. Angier. Lives at Belfast ; lawyer ; has known Palmer 8 or 9 years ; *never heard his general character for veracity called in question* ; would not take his oath ; public opinion is against him ; in fact he has no character with us.

Mr. Alfred Wells. Importer of Hardware and fancy goods, Boston ; sells arms ; has sold a good many small arms lately more than in the same time before since the War ; has had orders from Salem ; sold many to Mr. Johnson ; a good many within two months ; draw was emptied once or twice during the month of May and June ; has sent samples to Salem ; the *short* dirks were retained ; the *long* ones returned.

Major Petty. Lives at Danvers within quarter mile of the Crowninshields' house ; just before or after the murder, he was at work with George Crowninshield, at his request, trimming some trees ; Richard Crowninshield and two young men came towards where George was ; did not know the young men ; heard one called Allen ; cannot say whether the prisoner was him ; about his size ; one had a whip ; did not know whether they came in a chaise or on horseback ; the young men went towards the house and George went with them ; looked after them and saw the front door open ; two of them were upon the steps ; can't say if they went in ; gone two or three minutes ; walked back within two or three rods of where he stood ; could hear them talk but did not listen ; talked as young men usually talk ; thinks that as they went to the house, George and one of the others went a little, perhaps a rod, ahead of the other two ; took no particular notice ; all came back together ; staid 10 to 15 minutes ; they started to go towards the factory ; it was after dinner.

Mr. Allen. Saw a man at work, but can't say it was Mr. Petty.

Major Petty. Was mending a fence when George called him to trim the trees ; it was in April ; was digging holes for two posts ; found no frost ; it was not in March ; think fore part of April ; never saw the young men before ; thinks he heard George call one of the young men Allen.

Mr. Shillaber. Was not present at Mr. Southwick's examination before Justice Savage ; has conversed with Mr. Southwick since the arrest of the Knapps ; asked him questions about the persons seen in Brown-street ; asked him which was the taller of the two ; asked him whether he thought they might be Richard Crowninshield and F. Knapp ; he said he did not know, for ought he knew it might be them ; had no conversation about

the man on rope-walk steps ; asked only one or two things ; his object was to satisfy himself that it might be Richard Crowninshield ; he asked these questions as counsel for Richard and George Crowninshield.

Mrs. Burns. Did not see George Crowninshield on the night of the murder ; did see Selman and Chase ; about 8 o'clock at her house in the yard near her husband's stable ; came in chaise, tied horse and went away ; husband not at home ; Mr. Chase returned about half past 9 ; stopt in the house about five minutes waiting for Mr. Selman who did not come, and he went away in the chaise ; Mr. Selman returned about five minutes after Mr. Chase went away ; a young man was with him ; did not know him ; stood at a distance ; should not have known it to be George Crowninshield, at that distance ; Selman did not stop ; said he would call again ; said he expected Mr. Chase to return ; left no message ; came back in quarter of an hour to see if Chase had called for him ; he had not ; young man told him to tell me to tell Chase that if he called at the other side of the bridge at Pendegrass' he would find them there. The house and stable are at the same place in St. Peters-street ; Pendegrass' is over the South bridge in South Fields ; did not know the voice ; never said it could not have been George ; she did not recognise the voice ; spoke moderately ; can't tell length of the yard ; never measured it ; can measure if the counsel choose.

Mr. Kneeland. Saw George Crowninshield on the night of the murder in South Fields about 7 o'clock ; other side of the bridge at a place called the news room ; is in the same building with Pendegrass' store ; is a Reading Room ; Richard Crowninshield advanced the money for the rent ; can't say who came with him ; George came in just after Chase had introduced Col. Selman ; stopt half to three quarters of an hour ; all three went away together ; saw them second time between 9 and 10 ; Mr. Chase came first alone in a chaise ; then George and Selman came after on foot ; after 9 he thinks ; George Crowninshield remained some time ; other persons came in ; talked some time ; went off ; Selman and Chase in company ; George remained ; witness left the room one or two minutes and returned ; was asked which way he was going ; answered, nearest way ; George said I am going to Mary's and will go along ; nearest way Maloons Mills ; stopped at the head of High street at his gate ; bid George good night ; about 11 o'clock ; struck after he went to bed ; mother keeps a light burning ; always goes into her chamber and gets it ; has done so thirteen years ; did not converse with his mother about the matter.

Cross examined. Is called a Reading room ; they take Alabama and Mobile papers, for the use of the room ; R. Crowninshield paid for the papers ; they take the Truth Teller from New York ; considered a good paper ; equal to the Enquirer ; room

sometime used as a place of diversion ; All Fours is sometimes played ; for a dollar or half a dollar ; have no blue beans ; if they had a few blue beans would play a little Lu ; it is not witnesses' Reading room ; employed to make fires ; sweep the room, keep the key, &c. ; Richard Crowninshield paid him ; no particular sum ; satisfied him for his trouble ; gave him a little change sometimes ; Dick paid \$12 a quarter ; hired it of David Foley for one quarter ; rent would have been up 11th of May ; when first suspected gave up the room ; would not have his premises ransacked ; can't say whether before or after the murder ; began to remove 8th April ; took away a looking-glass and some small things ; nothing on the 9th ; none of his friends came after he gave up the room. (Witness was asked if they ever played props ; he appealed to the Court whether he was bound to answer ? Yes, answer the question.) Well then, I have seen props hove ; no other games played there ; was not a gambling house ; a gambling house was a cheating house ; did not bet high ; two or three cents ; sometimes fourpence ; had liquor in the room ; sometimes liquorized.

Mr. Newport. Is a victualler at the corner of Union and Derby street—saw George on the night of the murder—George came in with Selman between 8 and 9—staid 10 or 15 minutes—inquired if John McGlue had been there—George inquired—did not say for what they wanted to see him—6 or 8 minutes of nine when they went away.

Mr. Fairfield. Keeps the public house at Danvers—saw George Crowninshield on the night of the murder—about 7 o'clock—Chase and Selman in company—stopt 10 or 15 minutes—drank—came in a chaise—went away in the same—two of them drank brandy and one, cherry—went towards Salem.

Mr. Austin. Is a tanner and currier—saw George about half past 9 on the night of the murder at Pendegrass'—stopt till half past 10—went up towards Marblehead with John Needham—witness came by south bridge—John Osborne was with witness—the persons at the room were John Osborne, the Crowninshield fellow, John Needham, Jo. Burns and witness—got home about 11—lives in Boston st.—never knew Chase until he was pointed out to him ; he had walked from Pendegrass' to the house in 19 minutes—does not know who usually went to the room—Chase and Selman went away about 5 or 10 minutes before him.

B. Selman. Saw George Crowninshield on the night of the murder—came from Marblehead with Chase to see a man—Chase wanted to see George, and witness went with him to the factory—Chase asked him for money—it was between 5 and 6 in the afternoon—George went with us to Salem—left him at the Post office just below the coffee house in Essex street—we went to Burn's shed and left the chaise—came out and met George nearly opposite the Post office—walked a short dis-

tance and went over to Pendegrass' : arrived about a quarter past 7 and staid till 8 : returned to Salem : went down by the Franklin buildings : Mr. Chase met an acquaintance and left George with me : Chase went with his friend, a female, and said he would be at the stable in 15 minutes : went with George to Newport's cellar : staid best part of an hour : George went to see McGlue : returned and met me at corner of Franklin buildings : George went with me to Reed's in William street : I went in and remained half an hour, when I came out George was waiting at the gate : went directly through Brown street to Burns' shed : did not stop in Brown street : went to shed and found the chaise gone : knocked at door : Mrs. Burns came : Chase had been there and gone : did not know where : went into Main street in front of Coffee house to look for Chase : from thence went to corner of Commercial buildings : struck 10 : told George it was late : went to Burns's told Mrs. Burns that if Chase came to tell him where I had gone : George with me all the time : would go with me as far as Pendegrass' where I met Chase : said he had been waiting half an hour : said he agreed to meet me there, and not at Burns's stable : smoked a cigar : got into chaise with Chase and went home : left George there : got home to Marblehead 5 or 10 minutes before 11 : 4½ miles distant : has been arrested and confined eighty-five days : wore a hat : Chase wore a glazed leather cap.

Clark Reed. Lives in Williams street : does not know where George Crowninshield was on the 6th: Selman came to the house about 9 o'clock : asked if I was in bed : came into room and staid 10 to 15 minutes : went with him to the door when some one said 'How do you do, Mr. Reed?' supposed it was Chase, but don't know.

Mr. Nathaniel Phippen Knapp. Has not been in Court since the Rule of Court excluding witnesses—has been told what had been testified in Court respecting the club—has been informed that it was by the prisoners directions that Mr. Coleman found it—can't designate his informant—his informant either Mr. Dexter or Mr. Miller—Mr. Dexter said nothing more than he stated. (These were answers to questions asked by Mr. Webster for the government, by consent of Court, previous to the examination of the witness by prisoner's counsel—Mr. Dexter objected to some questions put to witness and demanded to be sworn. *Mr. Dexter, counsel for prisoner sworn.* Met Mr. Phippen Knapp shortly after Mr. Coleman's examination—Phippen asked, has Mr. Coleman said that Frank told him where to look for the club? witness inadvertently answered, Yes—recollected himself and refused to tell Phippen any thing further.

Mr. Phippen Knapp. Heard nothing but what Mr. Dexter now states.

Mr. Needham. Is the mother of John Needham—son came

home at 15 minutes before 11—looked at her watch before going to bed and afterwards heard the clock strike—does not know who was with him—did not hear any conversation—heard her son speak to some one at the gate—did not hear what was said—saw her son in her chamber—came in to light his candle—asked him who it was.

Mr. N. Phippen Knapp. Was present at a conversation between prisoner and Mr. Coleman : went to prison with Mr. Coleman : went into brother Joseph's cell : went to Frank's cell, and as he was going in observed Mr. Coleman, he looked anxious to go in : asked him to go in : Mr. C. went in : had a conversation with him before they went in—Mr. C. said, Mr. Knapp I do not wish you to disturb the club, I will get a witness and go and get the club for his security : entered the cell : said to his brother—Frank, Mr. Coleman says he has been assured by the committee that they have ample evidence, sufficient to convict brother and yourself, and that your only chance of salvation is for one of you to confess. Palmer has applied for a pardon on condition of being a witness : a promise of pardon has been despatched to him by the officers of government : a messenger would pass through town that evening in mail stage : if they did not confess before the mail passed through it would be too late : if they would confess, the committee would stop the message, and apply for a pardon in favor of whichever would confess. I told him also, that the sub-committee had severally assured my father that Palmer knew every circumstance relating to the transaction, and that the only chance to save his sons was to confess : I then asked Mr. Coleman, if what I had related as coming from him was not true : he answered, Yes ; and then went on to state, I have seen your brother, and made him these assurances and offered him a pardon in case he confesses : I (Mr. C.) also assured him that if he confessed any thing to me, it should never be revealed unless he chose to become a witness : I am authorized by the committee to offer this pardon to either of you. I (witness) then said, Mr. Coleman thinks *Joseph* had better confess, for if *you* should be convicted, *you* would have a better chance of pardon than the reverse : Mr. Coleman thought so too, his youth would be in his favor : his case would excite great sympathy, especially if it should appear, that he was persuaded to do what he had done by his elder brother, but he did not insist upon the preference : I leave that to be settled between you : George hesitated and said nothing. Mr. C. then said, you know the conditions : if you are both tried you will both be inevitably condemned : if either of you chooses to confess, he will save himself : if Joseph confesses and you are convicted, you will have a good chance of pardon : if Joseph should be convicted on your confession, his chance will not be so great : at all events your chance would be much greater, than if you are con-

victed on Palmer's testimony : Mr. C. then hurried him : he had but a few minutes to choose : Frank then said, I have nothing to confess : it is a hard case, if it is as you say, Joseph may confess, I shall stand a trial. Witness recollected nothing more.

Cross-examined. Nothing said respecting the club. Mr. C. requested him not to remove the club before they went into the cell, 28th May, Friday evening, about 7 o'clock : Mr. C. said he had been to Joseph's cell two or three times that day : nothing said respecting the time the murder was committed : it was before Mr. A.'s third visit, that he told witness he had learnt something from Joseph. Mr. C. made the visits at the request of the committee, and against the wishes of the family. When we came out of the cell, Mr. C. said he was going to see committee : met him afterwards : said he was going to Boston to see Att'y. General : 8 o'clock, evening, same day, at witness' office ; next saw him Saturday forenoon, about 10, on the road to Boston, this side half-way house : started for Boston about 8 : Mr. C. was alone in a chaise : we stopt ; he asked me to leave mine and get into his. Henry Field was with me. I got into his chaise. Mr. C. had seen the Attorney, and had got a promise of pardon, or rather promise of *nol. pros.* : was not a promise to either one in particular, but to all except Richard Crowninshield, Jr. : asked me to return with him to Salem : was going to see Joseph : witness could not go back then : requested Mr. C. not to go near his brother without him, or until he had seen him. Mr. C. said he would not : would wait until I returned : is not sure whether Mr. C. got the story of the club from Frank or Joseph : believes from Jo : told him he did not get it from Frank, for he said nothing about it. Mr. C. said he believed that Mr. Stephen White had misunderstood him, and asked me to take a note to him to correct the impression. Mr. White was at Boston, at the senate chamber : Mr. C. wrote a short note with pencil : took it and rode to Boston : went to senate chamber : could not find Mr. White : was hurried, and did not see him : when he returned he gave the note to Mr. Coleman : arrived at Salem about 8 o'clock : went to Jo's cell and demanded admission of Mr. C. who was in the cell : he refused, and said I could not come in. Mr. Brown stood at the door : allowed me to ask him a question : could not admit me. Mr. C. said I could not come in ; he had not finished his business : would meet me at office as soon as he had finished his business : came to office about 5 o'clock : brought a paper : asked him to shew me what he had in the paper : could not except in presence of witnesses : would go and get witnesses and then read it to me : or go and see committee, and read it to me before them : would be at Mr. Barstow's, and when ready would send for me ; Mr. Barstow's young son came to office for me : went immediately down : found Mr. Coleman, Mr. Barstow, Mr. Merrill, and Mr. Saltonstall : they could not show the paper to me : committee thought it improper : talked with Mr. Barstow and Mr. Saltonstall : nothing more said to Mr. Coleman : met Mr. C. on Monday morning following in his chaise : was walking with Field : Mr. C. stopt his horse : beckoned to me : I went to him : he said, make yourself easy upon the subject of the conversation upon Salem road, I have seen Mr. White, and there is no misunderstanding. The next time I saw Mr. C. was on the afternoon of the day when Mr. Dexter came down to see me, three or four weeks after : after the death

of Richard Crowninshield : Mr. Dexter was not present when Mr. C. came : Mr. C. said, I have called Mr. Knapp to refresh my memory, I may be called upon as a witness and wish to state the conversation accurately : after some preliminary observations, he alluded to the club : you may remember that your brother Frank spoke of the club : I contradicted him : Frank did not mention the club : the conversation was stopt by Mr. Dexter's opening the door : Mr. Dexter endeavored to reason with him : Mr. C. said he had been contradicted : would go to Joseph Knapp, and ask *him* if *he* ever said any thing about the club : Mr. Dexter said, you appear to be excited, let me go with you : went, and took witnesses ; left the office with Mr. Dexter : heard something in Boston about confession : father failed 7th April : assignment prepared on 6th : witness sat up all night to draw out the papers : brother Frank rode less after the failure : witness had cautioned him against it : had ridden much : came home from sea 23d January : the cap exhibited, is like one Frank wore, in every particular : knows the dirk perfectly : never saw him with any other : was up all night preparing assignment : was at Mr. Waters' from 10 to 1 : went home at 1 : saw his father : left his office at half past 9 with his father : went to Waters' : staid there till nearly 10 : went with Mr. Waters to his office in Washington street : father went home a few minutes before he left Mr. Waters' house : at office a few minutes : struck a light, and got a book : started from office to go to Mr. Waters' house : stopt at father's and got an umbrella : rained until he got to house : when he came out, had ceased to rain : remained at Mr. Waters' house until 10 : got nothing from father's but a key, in order to get in when he returned : went home and found father in the entry : had just got in himself : told father he should set up until he had finished the writing : father went to bed : did not see prisoner that night : saw him at breakfast time : asked father about state of the family : Frank usually went to bed at 10 : the most regular person in the family about the hour of coming home : father's house is in Essex street : past Mr. Washburn on the way : saw a light in Capt. White's chamber about a quarter past 10 : heard it strike 10 before he got to Mr. Waters' : went from Joseph's cell to prisoner's cell : Mr. Coleman and witness went together, to make the statements to Joseph that the committee had made to Mr. Coleman : to treat of the confession, Friday, between 6 and 7 P. M. : had not been to either brother's cell before : both went into brother Joseph's cell : conversation about confessing : does not recollect that Joseph agreed to become States' witness : cannot recollect any thing he said : was not positively agreed, but on conditions, that he should have the preference : his having the preference depended upon Frank : if Frank did not choose [Mr. Webster.—What then?] cannot draw any inference : understood that his turning States' evidence, depended upon Frank's consent : went to Joseph's cell with Mr. Coleman, at his own instance : Mr. Coleman did not ask him to go : he asked Mr. Coleman to let him go : can't remember where he met Mr. C. when he went with him to the prison : when he left Jo's cell, proposed to go into Frank's cell : thinks Mr. Coleman intended to go out of the prison : Mr. C. went to Frank's cell at witness' invitation ; went to Frank's cell to see if he had any objection to stand trial, and let Joseph accept the promise of Mr. C. : it was, as he thinks, agreed in Jo's cell, that he should go, with this promise, to Frank. When and where were

you to meet Mr. C. and report Frank's answer? No where. If Frank assented I do not know that I was to do any thing; went to see what he had to say about it: knew that Mr. C. was going to committee or to Attorney, to report Jo's consent: witness insisted that he did not recollect where he was to go to report Frank's answer; does not recollect that Mr. Coleman proposed to go to Boston before he left Jo's cell—2 or 3 minutes after leaving Joseph's cell before they went into Frank's—talked about the club—was in Jo's cell all the time Mr. C. was there—heard all the conversation between Mr. C. and J.—was in Joseph's cell probably 10 or 15 minutes—it was then that Jo. agreed to become State's witness on the conditions stated—don't know that he *heard* it agreed—understood there was something like an agreement, dependent upon Frank's subsequent assent. If Frank did not assent it was to be offered to him, that is, the promise—Joseph would not accept the promise unless Frank consented—understood so—don't recollect how Mr. Coleman was to know that Frank consented—was in front of the door of Joseph's cell when Mr. Coleman asked him to say nothing about the club; heard nothing said about the dagger in Frank's cell—or melting it up—did not hear Frank say that it was a hard case that Joseph should have the preference when the business was done for his benefit—he said it was a hard case—witness understood, hard to choose—will not *swear*—nothing to his recollection was said about melting up the daggers—will not swear—no secret conversation between Mr. C. and F.—has no doubt, he heard all—swears he did not hear Frank say that he told Jo, it was a silly business which would bring them into trouble—sat along side of Frank—Mr. C. stood up—will not swear that Frank did not say that 'he told Jo it was a foolish business'—will not swear that Frank did not say 'it was a hard case that Jo should have the preference when he was to have all the benefit'—will swear that he, F. did not tell Mr. Coleman that he went home after the murder—no conversation about time of the murder—Mr. C. did not ask what time the murder was committed—swears there was no conversation about the dirk—none about the club—Howard street church steps, nor place where club was concealed—did not any body speak to Mr. C. about the bludgeon—Mr. C. mentioned the club in the entry near the door of Jo's cell—is not certain whether Mr. C. or somebody else first told him—knew the fact when he came out of Jo's cell—thinks he did not know before he went into the cell where the club was—thinks Mr. C. told him—don't know—never did know under what *particular step* nor under what *particular flight* of steps the club was found—went from Frank's cell to office—Mr. C. went to see committee—said he should go and see Attorney General—recollects he was to ask Frank, but does not recollect when or where he was to report Frank's answer to Mr. Coleman—nothing was said about how many went into the chamber—nor who perpetrated the murder—knows no part of Mr. C's testimony but what has been stated—knew Mr. C. was to be called—witness expected to be called—expected their testimony would differ—one brother had hopes as witness—offered the pardon to Frank—he might have the opportunity if he chose—each had a chance—if they chose neither might take it—never asked Mr. C. whether Frank had said where the club was to be found—did not read Mr C's note to Mr. White—the note was unsealed—thought it of consequence to deliver the note—searched for him—Sen-

ate not in session ; Legislature in convention ; went into H. of Representatives ; did not apply to the messenger ; did not inquire for him ; went up on business and was in haste to return ; heard of the death of Capt. White about 6 or 7 o'clock, morning ; Mr. A. G. Brown told him that Capt. W. had committed suicide and was found in his bed with a dagger in his side ; something had been said to him about robbery of father's house ; F. mentioned it first ; F. said he found the room and closet doors open ; desk open ; did not know how it came so ; could not tell the day ; brother Frank made the discovery ; never missed any thing ; Frank had been an acquaintance of the Crowninshields 4 or 5 years back ; went to New York with them ; went to Boston to see counsel for his brother ; wanted to see Mr. Coleman before he went into cell ; did not go to bed at all on the night of drawing the assignment ; Mr. Flint was Frank's pastor ; had been to see him ; before he got to Salem, met a friend who had a fast horse ; changed horses to get home sooner ; brother had then no counsel ; chose to go in to hear what was said to them ; wanted to see the business fairly conducted ; wished, for his own satisfaction, to be present when the promise was made ; when he got back Mr. Coleman had gone to Joseph's cell ; when he (witness) went there, Mr. C. refused to admit him.

[The cross examination of Mr. N. Phippen Knapp was managed with exceeding adroitness ; it is utterly impossible to transfer the feelings excited in the *listeners* in Court, to the *readers* out of it.]

Solomon Giddings. Lives in Beverly ; passed Capt. White's house about 11 ; saw nothing that attracted his attention ; was coming from the wharf ; clock struck in Essex-street ; saw no one.

W. F. Gardner. Lives next to Capt. White ; passed his house about half past 10 ; coming from Mr. Dealand's ; there was a party at Mr. Dealand's ; was breaking up ; saw nothing which attracted his notice ; don't remember that he left any one behind him at Mr. Dealand's ; don't remember to have observed whether the window shutters in Capt. W's house were opened or closed ; don't recollect how many were in company ; perhaps three.

Mr. Fuller. Surveyor ; lives in Boston ; has been a surveyor 14 years ; has surveyed for the city ; swears to the accuracy of his plans and explains them to Court and Jury.—(*Court Adjourned.*)

TUESDAY MORNING.

S. P. Fuller, called again. Nothing can be seen of Capt. White's house from the rope-walk steps ; nothing from the post near the corner of Shepherd's house ; nothing from the post at Bray's house ; can be seen from the southerly side of the street, between Shepherd's house and the rope-walk ; may be seen from the upper part of the passage from Mr. White's garden to Brown street.

Charles G. Page. Saw Frank Knapp on the evening of the murder, about 7 o'clock, in Essex street, near Barton's Hotel ; with John Forrester, Birchmore and Balch ; they met Knapp walking alone, he asked them to go into the hotel and take refreshment ; they went in and staid about five minutes ; he left the company. Is a member of Harvard College, and belongs to Salem ; wore a glazed cap about that time ; they are common articles of dress with his class and camblet cloaks also.

Cross examined. Can fix the time because, in accounting for him-

self the next morning, he remarked where he was the preceding evening ; he recollected what company he was in ; had some doubt what evening it was, when he was first asked concerning it, but had recovered it since ; he did not, when asked, recollect to have recalled it to mind the next morning, but after consideration, did recollect ; said he wanted time to consider—did not say he could not tell—but after consideration one night he did recollect and tell (“ Well sir,” said Mr. Webster, “ we will not detain you from your studies”—he replied, “ It is vacation now, sir.”) In answer to Mr. Gardiner, he said—came to Salem on Saturday before the murder—could not have been out on Sunday evening—cannot be positive whether it was Monday or Tuesday evening that this occurred—knows it was Tuesday evening—went to bed early—it was windy and cloudy.

Moses Balch. Lives in Lynde street—thinks he saw Frank Knapp on the night of the murder, but cannot be positive as to the evening—was with him the first and last part of the evening, with Birchmore and Page—first saw him in Essex street between 6 and 7—was with him about three quarters of an hour—saw him next between 8 and 9 in at Mr. Remmons’s in Derby Square, Birchmore was there, and don’t recollect whether Forrester or Page—left about 9—went out to walk all together—went into Essex street—nowhere in particular—he left at the corner of Court and Church streets—don’t know when Forrester left, but believes it was at the Franklin building—has known one or two persons to wear dirks, and they have been quite common since the murder—wore a glazed cap at that time.

Cross examined. Frequently walks out in the evening—can’t say more about the night when he met these persons, than that it was Monday or Tuesday—believes it was rather dark and cloudy—was in at Remmons’s smoking when Frank Knapp came in—it was soon after he shut the store, when he saw him the first time—when he went home, all the folks were going to bed—it must have been 10 o’clock.

Zachariah Birchmore. Saw the prisoner on the night of the murder—went with him into Barton’s hotel about 7 o’clock—was there about an hour—Knapp went away—saw him again about an hour after, at Remmons’s with Forrester and Balch, who were sitting with him smoking—Knapp came in about half past 8—they all left together about 9—and he left the party walking about half past 9—near the Franklin buildings—it was to the best of his recollection the night of the murder.

Cross examined. Is not sure whether it was before or after the murder—thinks it was that night—don’t think there was any conversation about the murder—recollects it was his impression it was that night—cannot recollect any thing more about it, than that—generally wears a hat—don’t recollect what kind of an evening it was.

John Forrester, jr. Has taken a walk with Frank Knapp—was introduced to him that evening, a little before 7—went to Remmons’s refectory—saw him there about a quarter before 9.

Cross examined. Don’t remember how long he had been sitting at Remmons’s when Frank came in—Remmons keeps a sort of an oyster shop—did not drink at R’s—drank at the hotel—was smoking at R’s—his father’s family lives in Salem—was at the hotel drinking—it was an unpleasant evening—before the murder—night of the murder or night before—was as likely to be one night as the other—the night of the murder was unpleasant, the night before was pleasant—recollects,

for he was out walking—don't recollect where—don't recollect who was with him—went out after 6 and returned about half past 9—can't tell what month it was in—April he believes—cant tell whether first or last part—nor whether 20th or 25th, or either of them—can't state whether it was the evening of the murder, or the evening before, or the evening after—did not walk in the company of those persons but one evening.

Justice Murdock. Lives in Brighton, keeps a public house—saw a man there Monday, the 5th of April, that he has since understood is Palmer—wrote his name there J. C. Hall—staid till Tuesday, 2 or 3 o'clock afternoon—don't know where he went—said he was going to Boston, and walked off in that direction—did not see nor hear any more of him—5 miles from Boston to Charlestown—about 12 or 13 to the half way house.

Joseph J. Knapp. Is the father of the prisoner—failed on the 6th of April—was at home on that night a little before 10—came from Mr. Waters' house in Derby street to his own in Essex street—was in the keeping room, Frank came in and asked if he should bolt the door—told him no, that Nathaniel was out and he would wait till he came in—told him he expected Nat. in good season—F. asked if he wanted any assistance—told him no—asked him how the weather was—he said it blew fresh from the east—Frank said it was just, or just after 10—Frank then retired and left him—retired to his chamber, in the third story—only one pair of stairs that goes to the third story—must go up and come down the same way—other doors open to that staircase—Frank usually left his cap on the window seat of the keeping room—remembers having seen him throw it down there, that evening—heard no one in any part of the house but his son Nat.—saw Frank next at breakfast time, half past 7, to 8 o'clock—he came from his chamber—does not remember about his boots; but he generally put them in the kitchen—usually came home at 10; seldom differed from that, which was a strict rule of the house; Frank will be 20 years old next month; Nat. was with him, till near 10; he left him at Mr. Waters' house; saw him again about 20 or 25 minutes past 10; when he came home to take the key of the door, that he might get in when he pleased; was assisting him to make an assignment of his property; Nat. staid a few minutes and retired just after one o'clock; Nat. went to bed first; did not go himself till near two; Nat. retired to his chamber, immediately after he came in; did not see either of his sons in their chambers that night.

Cross examined. Saw Michael Shepherd that night at his son's office, a little after 9; not more than 15 or 20 minutes. did not see him later than that; left Mr. Waters' office about 10 minutes before 10; knew the clock had not struck 10; saw him the next day; is not sure where he saw him; it was at his own house; in the forepart of the day; had no conversation about the time of Frank's being at home; saw him next at the Mercantile Insurance Office; the next day after the murder, Wednesday; had no conversation then about the time, when Frank came home; saw him next on the evening of the same day at the Asiatic Bank; had a conversation then about the time when Frank came home, and told him, that Frank was at home and abed before half past 10; Shepherd had asked him if he could credit what was in circulation; their arrest had taken place then; Jos. and Frank had

been arrested then ; the Crowninshields had been arrested before ; remembered then all the circumstances, so that he could tell Shepherd what happened the night before ; (On a question having been put, the witness said) he didn't know but he had missed some questions ; had mistaken the question. (Mr. Webster asked witness what he should like to alter in his statement.) This conversation took place after the arrest ; he saw Shepherd the evening after the murder at the Asiatic bank, but nothing was said then ; about the time the arrest took place, on the same day or the next he had the conversation with Shepherd on the subject ; no person was present ; that was the only conversation ; Mr. Shepherd opened the conversation ; he told him Frank was at home and in bed that night before half past 10 ; told him he himself was at home ; told him he knew the clock had not struck 10 when he left Waters's house ; told him that it was 5 minutes past 10, when Frank came home ; told him about Frank's asking if he should bolt the door ; told him that he recollected having seen Frank throw his cap down on the window seat ; had no conversation with Mr. Treadwell on the subject, that he can recollect ; never told Mr. Treadwell, on being asked, that he did not know what time Frank came home, nor that they said it was before half past 10 ; has no knowledge of having had any conversation with Mr. Treadwell on the subject ; commenced to make the disposition of his property after Shepherd left Waters's ; it was proposed to him by Mr. Shepherd, that evening, to make an assignment ; he sat up to make a schedule of the property he had for Mr. Waters ; he signed the assignment on Wednesday, cannot tell what part of the day ; he was sitting up till 2 o'clock to prepare the schedule from memorandums.

Aaron Foster. Lives in Beverly—is the toll keeper of the Beverly bridge—did not see Frank Knapp on the night of the murder—saw him pass in the month of April, several times—recollects his passing four times after the murder, with a dark sorrel horse—can't fix any time before the murder—after he paid his toll and started for Salem, he snapped his whip and said, 'this is the horse to go over the gravel'—he then thought he was one of Mr. White's connexions, and did not appear to care for his death, and thought, if he had that horse when he was robbed he might have run away from the robbers—knows Richard C.—don't recollect having seen Richard and the person together—can't state any particular night, when he saw Frank—has seen Frank pass with Joseph—Frank had somebody with him the night he had the dark sorrel horse—the man paid the toll and gave him a 5 f. piece—receives but few of those pieces—can't testify on oath, who the person was, with Frank.

James Savary. Boards at the Lafayette Coffee-House—went down towards Mr. White's house about 4 o'clock in the morning after the murder—saw a man coming out of Mr. White's house, who came towards him, and then, as soon as he saw him, turned and run—the man had on a dark dress, and was of a middle size.

Mr. Kinsman. Had taken pains to examine the localities about Brown street—can see Capt. White's house about twenty paces east of the south-east corner of Downing's house.

Silas Horton. Was out between 3 and 4 o'clock on the morning after the murder—saw a man near Crossman's court—when he came

in sight, the man turned and made off—did not run—was not near enough to see the dress or size.

McGlue. Owed George Crowninshield about thirty or forty dollars—about that time, George wanted fifteen or twenty dollars badly—paid him ten dollars the Friday night before he was taken up—George inquired for him the night of the murder—did not pay him any money that night—owed him for work done at the chaise factory—they turned axletrees there for him—had two lathes there.

Mr. Choate. Never saw nor heard of any other confession or affidavit of Palmer's, than the one produced in court and verified by Mr. Saunders.

Mr. Palfray. Can't recollect when the flannels were taken in Danvers, but it was on a Saturday evening, and he published a statement of it the next Monday morning, and Richard Crowninshield died the Wednesday after.

Nathaniel Phippen Knapp. Don't recollect that he was at home on the evening of the Wenham robbery—don't recollect that he was not at home—did not hear them speaking of arming themselves—did not hear them say, jocosely, that they thought they might have been robbed—never gave any account of such a thing—has never given any account of the visit and conversation between himself, Colman, and Frank, different from what he stated yesterday—has never given any other account concerning the light seen in Mr. White's house.

George Wheatland. Has heard Phippen Knapp testify in part—but did not expect to be called as a witness—had mentioned the conversation he had with Phippen Knapp, to Mr. Cabot, and to Mr. Saltonstall, since he heard that Phippen was to testify—the day before the Crowninshields were arrested, Phippen came into his office; he asked Phippen to tell him about the Wenham robbery, for he had been to Ipswich and did not hear it. 'Why,' said Phippen, 'there had been a number of circumstances, such as breaking houses to excite suspicion; and that just before starting, which was a little before half past 8 or 9, they talked jocosely about being robbed, and said they might be attacked by robbers—Frank took a sword cane; they started and came back and made a parade about taking pistols, but went without them;' understood Phippen to say, his brothers then talked jocosely about a robbery; Phippen told him, immediately after the murder, that he passed by Captain White's house, four times on that night, and saw a light in Capt. W.'s chamber, but which time it was, of three of the times, he could not tell; did not pretend to fix which time, but believes he said he could not tell. The witness had a conversation with him, touching the conversation in the cell, between Mr. Colman, Frank, and himself; he asked why Mr. Colman went to see his brothers? Phippen stated, that Mr. Colman was an intimate friend; that he married Joseph, and had been intimate with his wife, and with Mrs. Beckford and the White family. Phippen said, he went to Jo's cell; called, but could not get in, because Mr. Colman was there, and when he was let in, Joseph had been telling Mr. Colman every affair, concerning the murder; when they were leaving Joseph's cell, he told Mr. Colman he must go and tell Frank what they had been about; they then went to Frank's cell; Phippen said he told Frank why Joseph was going to confess; because it would be better for Joseph and the

family. He then asked Phippen if Mr. Colman asked Frank any questions. He said yes, and stated several questions, with the answers Frank gave; does not now recollect what the questions and answers were about, but thinks they must have been about either the club, or being in Brown street; thinks it was one or the other, because he did tell Phippen that that was enough to make Frank a principal; witness expressed wonder that they should get confessions prematurely. Phippen said, it was no matter, for they had evidence enough to convict Dick already; did not pay particular attention to the questions and answers, but does recollect his own reply, that it would make Frank a principal; did not state that he had advanced any fees in the case; he had heard of nothing in Palmer's confession which could implicate Frank, and therefore he thought the confession premature.

Rev. Mr. Colman. Had heard the testimony of Phippen Knapp; does not desire to alter any thing in his former testimony; he first went to the prison, immediately after their arraignment, Friday, 28th May; came away a little before 1; went again at 3 o'clock; the friends of the prisoner, especially Mrs. Knapp, desired him to go. Mrs. K., his mother, asked him not to desert Joseph in his distress; Joseph desired him to call and ask his father and Phippen to come; he did so, and they requested him not to go, because it would be said they were confessing. He said he would not go if Phippen would make excuse for him to Joseph; he went to Phippen's office to see if he had made excuse, and did not find him; waited a quarter of an hour, and then walked towards the jail to meet him, as he saw him coming out of the jail-yard; they met and leaned over the fence in conversation till Mrs. Beckford and Mrs. Knapp came along; he then went along to the prison; while he was talking with Mrs. Beckford, Joseph Beckford, who had been to the cell, came and said that Joseph wanted to see him. Brown, the jailer, came a few moments after, with a similar request; he then went into the cell; Phippen came while he was there. After the conversation with Joseph was concluded, Frank was admitted, and was told that Joseph had confessed; he said it must not be done without Frank's consent; when they went away to Frank's cell he promised to come back and let Joseph know whether Frank did consent; after coming from Frank's cell, Phippen went to the opening over the door of Joseph's cell and said something, he did not know what, but supposed it to be that Frank assented; went up, afterwards, to Boston to see the Attorney General; got the promise of a pardon for one of the prisoners, and on his way back met Phippen, riding with Mr. Field; asked Phippen to come and sit in the chaise with him; he did come, and said he hoped he (witness) had said nothing about Frank's having confessed; said he did not recollect, but would give him a note; wrote one with a pencil to Mr. Stephen White; saw Mr. White afterwards, and observed that he wished to be understood as having given Joseph as authority for what he had heard relative to the murder; saw Phippen afterwards, and told him he might make himself easy; promised Phippen, when they parted on the road, that he would wait till 1 o'clock; did wait till 3, and then went to the cell; Phippen came while he was there.

Cross-examined. Thought that Phippen went to Joseph's cell to say that Frank assented; told Dexter he had no doubt about the club; thinks he asked Jo. to tell him whether he told any thing about the

club, and Mr. Dexter interfered and told him he did not say any thing ; did not go to Phippen's office to refresh his recollections, but to compare them ; on the side of the steps where he found the club he recollected but one rat-hole ; there might be more ; did not tell Mr. White that he did not wish to implicate Frank, that would have done what he desired not to do ; the object of going to Jo's cell, when he went with Mr. Dexter, was, as he understood, to learn whether Joseph had particularly designated the place where the club was ; he wished to do this for Phippen's satisfaction, for he never had a shadow of doubt on his own mind ; did not recollect the form in which he put the question to Joseph.—(Adjourned.)

Michael Shepherd. Had a conversation with Mr. Knapp, the father, who told him that Frank had kept good hours lately, as Phippen told him ; did not mention any thing about his coming home on the night of the murder ; thinks this conversation was before the arrest of the Crowninshields ; Mr. Knapp did not say any thing about being at home that evening himself, nor about knowing that Frank was at home ; did not say any thing about bolting the door ; did not say any thing about the clock's striking 10 ; witness did not ask when his son came home ; thinks he put no other question, than whether his son had associated with these young men.

Mr. Treadwell. On Friday morning the 28th of May, had a conversation with Mr. Knapp—Mr. Shepherd had received the Palmer letter from Mr. Waters—took Mr. Knapp into the private room of the bank and told him that he thought his sons were guilty, and advised him to go and get a confession from one of his sons—because Palmer was arrested and had confessed and would be pardoned and turn States evidence—he said he would go—he then asked Mr. Knapp if he knew where Frank was that night, he said no—then asked him, what time did he come home that night ? said he did not know, but about the usual hour—he then added that he was up very late that night—that is all the conversation he had with him upon the subject.

Mr. Shepherd again. Mr. Knapp, the father was very busy the night of the murder making assignment of his property, but saw nothing unusual in his appearance, but was a good deal mortified and disturbed.

George King. Tends bar for Mr. Dustin in Danvers, saw Palmer about 6 o'clock on the day Mr. White was buried, staid to supper, nearly an hour and a half—heard Mr. Dustin say he was a suspicious character and wanted somebody to watch him—he was watched—it was not far from 7, when he left the house.

Stephen Brown. Lives in Danvers—lived at Lynnfield, at the hotel about the time of the murder—saw a person now known to be Palmer—cannot fix the day of the month—it was Wednesday before the Fast—came in the morning, about half past 9, did not see which way—he was there till Saturday afternoon, except Friday afternoon, when he was gone—saw him between 7 and 8 Saturday morning—but did not know how he got into the house—he said he had been detained in Salem—don't know when he came, nor how he got in—went by the name of Hall.

Elizabeth Benjamin. Lives with Mr. Joseph J. Knapp—recollects the night of Capt. White's murder—does not remember if Frank was at home that night—he slept at home, or she would have noticed it in

making the beds—she went to bed about 9—Frank came down as usual on the next morning—Phippen did not go to bed that night as she remembers from the bed—she found him in the morning waking about 5 o'clock, with the shutters unopened—did not observe any thing unusual about Frank that morning—saw Frank and Joseph when they started for Wenham the night of the robbery—does not recollect seeing Phippen at that time.

N. P. Knapp again. Recollects the conversation with Mr. Webster at the time he had referred to—went to ask him, relative to engaging counsel—he said but little, and nothing that Wheaton has testified to—he did not state he was at home the night of the Wenham robbery—he went to Beverly that evening—was with, or saw there, Mr. Field—on the way there he met his brother returning—did not return himself till 9 o'clock—F. said it was fortunate he took his sword cane—he took it because he was to be gone some weeks—all the information he got on the subject he got then, and it was subsequent to the robbery—had no conversation with Wheaton about getting a pistol—he had the pistol under his own lock and key—he does not recollect the conversation about the Wenham robbery—but if he had any it was as here stated—witness related about the time he went to town, &c. on the night of the murder—made copies of the assignment, he thinks two copies—was engaged till after day-break—he never gave any other account of the time when he saw the light in Mr. White's chamber, than he had stated before. He recollects that the object for which Mr. Coleman went to Joseph's cell with Mr. Dexter, was to ask Joseph if he ever told Mr. Coleman any thing in regard to the club. He did not state to Mr. Wheatland what he testified he did, in regard to the conversation in Frank's cell—Mr. Coleman went to ask, because he said he did not get this information from Joseph, surely.

Henry Field. Was with Phippen Knapp at the Beverly Lyceum, the night of the murder.

Mr. DEXTER commenced his argument for the prisoner—He cautioned the jury against acting under the influence of previous impressions, or any impressions but such as could be legitimately derived from the evidence, according to the law. He said that great excitement prevailed in the whole community, and it was impossible but they had heard much to the prejudice of the prisoner. He then argued several points of law; and stated, that in the view of the counsel for the prisoner, it was the law, that a man must be actually present, giving aid, to be a principal—that it was not enough that he should be merely present—but he must be so giving aid and abetting the murderer—neither was it enough that he intended to give aid—he must actually give it, and must be where he could give it with effect—aid must be given and it must be effectual aid, or such as might be supposed to be effectual. There had been proof offered of a conspiracy, but to be a conspirator is not to be a principal; he might have procured and contrived the murder, but have been absent at its execution—in which case he could not be convicted under the present indictment. The jury must

find him present at the time of the murder, giving actual and efficient aid to the murderer, or he must be acquitted. No such evidence had been produced. The evidence of a conspiracy rested upon the testimony of Palmer and Leighton, and on that alone. Leighton's testimony was incredible from its very nature and he had besides declared when before questioned that he knew nothing of the matter; how he came to recollect just the point that was wanted, at just the time when it was found he could not do without it might be considered incredible.—Palmer's testimony was wholly incredible and discredited. He had been convicted of an infamous crime, which if it had been done in this state would have excluded him from the stand, and the jury could not believe his story against the life of any one. There was no satisfactory proof of a conspiracy, and the question then is was the prisoner present, as the government say in Brown Street. The jury would remember, that proof of identity is always unsatisfactory, and in this case there was absolutely none, that could weigh a hair against the prisoner. The only proof of identity is the glazed cap; it has been shown that glazed caps are common; their dress was totally different; the man seen in Brown st. wore a camblet cloak; Frank wore a frock-coat; would he have encumbered himself with a cloak; or was he likely to have laid aside his cloak; there is not a particle of testimony that it was the prisoner who stood at the post; there is not the least show of evidence that it was he who was setting upon the Ropewalk steps; would he have set there; would he have exposed himself to recognition, would he have suffered Mr. Southwick to pass him 2 or 3 times and trust his security to a mere dropping of the head; he knew that Mr. Southwick must have known him and inquiry would certainly be made. It was about half or 20 minutes past nine when he was seen in Brown street, now we will show you he could not have been there unless you believe he could have been in two places at once; (here Mr. D. traced his course, as appeared by defendant's witnesses from 7 to 10 o'clock.) The testimony of his father and the domestic tends to prove that when last parted with, he went directly home. If the hypothesis of the government is true, the time of the murder must have been half past 10; this is incredible; there is no proof, and excluding the confession, there is not a single witness to prove it, unless it be that two men were seen in Brown street at half past 10; therefore the murder was committed at half past 10; and the murder being thus proved to have been committed at that time, the men seen in Brown street must have been the murderers; this is reasoning in a circle. Gentlemen, there is no evidence to prove that the murder was committed then, and there is no evidence that it was not committed until many hours after. The physician who was called in in the morning to view the body, says that he believed Capt. White to have been dead three or four

hours; his opinion is worth every thing; Mr. Savary says that he was up at 20 minutes before 4 o'clock; that he met a man near the house who seemed to avoid him; Mr. Walker who was up about the same time, met a man who turned round and went away from him; now what is the evidence to negative the supposition that one of these persons seen at that hour and under these circumstances was the man; which do you believe, that the murder was committed at half past 10 by the men seen in Brown street, with no proof but the fact of their being there, or that it was committed between 3 and 4, by the men seen about that hour, having the testimony of the physician in confirmation. Mr. Phippen Knapp testifies, and if he is wrong, why does not Mr. Waters, who was with him testify to the contrary, that he saw a light in Capt. White's chamber at a quarter past 10; now you are called to believe that the assassin entered the house and accomplished his work in 15 minutes after. But for the evidence of Mr. Coleman we should have done; for without this the Government have failed to prove the conspiracy.

(Mr. Dexter here entered into an argument to prove that the prisoner had assented to Joseph's confession, that the decision of the Court was hasty and should be again reversed; the testimony should be excluded. The Court said this was now a question for the Jurors, the Court would instruct them hereafter. Mr. Dexter then entered into an examination of Mr. Coleman's testimony, comparing his statements with those of Phippen Knapp, &c.) Is the confession true? I do not say it is false; the character of the witness was sacred, I will not derogate from its sanctity; but when a clergyman steps out of the sphere of his duty, he becomes a man amongst men; and should be treated as such and no otherwise; for what purpose did he go? in kindness to the family. He tells you so and you must believe it; yet Phippen says he went against the wishes of his family, were their feelings to be soothed by confession? the questions were not asked in kindness; they were asked in a spirit of deadly animosity; the witness had prejudged the prisoner and believed it wrong that he should escape. If he had gone in kindness he would never have asked the questions; surely he had some other motive than idle curiosity. If he wanted to save Jo, why not confine his questions and his visits to Jo's cell; how could he serve Phippen or the family by extorting questions which would condemn the prisoner. The questions were direct—and had an object; why did he ask about the club? was it to gratify an idle and tormenting curiosity? was it not rather to wring from him his heart's blood? The confession contains, if true, four facts each absolutely necessary and each absolutely unsupported by any other testimony. The time of the murder; the identity of the club; the name of the murderer; the fact of his being in the chamber alone: four facts extorted, as confession, from the prisoner to fill up gaps which neither the Govern-

ment, private prosecutor, nor Committee of Vigilance could supply. The witness was not Frank's Pastor, he was a stranger to him; Mr. Flint was his Pastor; Mr. Flint had visited him; but he had made no confession.

[We have not room to follow Mr. Dexter further—his argument employed six hours in the delivery and was managed with uncommon dexterity—at the conclusion he exhibited a plan of the streets, &c., and he endeavored to convince the Jury that, admitting one of the persons seen in Brown street was Frank, he could not be connected with the murder as an accessory present, aiding and abetting; as from the nature of his position he could neither act himself nor furnish the murderer with assistance. Gentlemen, we here rest our cause; these are the last words the prisoner will address to you; the whole evidence is before you, try him by the testimony, and as you truly try him, so may your God and his God judge you.

MR. WEBSTER, *for the prosecution*.—I am not accustomed to represent the government in criminal prosecutions. During my practice at the bar, which has not been very short, I have not more than twice taken part in the prosecution against any man arraigned upon criminal indictment; never, where life was at stake; where life was in jeopardy. It was, therefore, with some regret that I heard the learned counsel for the prisoner assert that I was brought here to *hurry* the jury beyond the evidence, and against the law. Gentlemen, I am sure that no man can hurry *you* against the *evidence*. I am satisfied that no man in this court will be permitted to hurry you against the *law*. My coming here has been considered worthy of notice; it would have been more agreeable to me to be elsewhere, I came here not in any official capacity, but as a citizen of this Commonwealth; as one deeply interested in the preservation of its peace; in the security of man's life, and in the security of his property, it was my duty to come here to unite my humble assistance, and give my poor modicum of ability to the discovery of the perpetrators of this most foul and horrible outrage. It has been said that there exists an excitement! Gentlemen, there is cause for excitement; true, *you* should not be excited; *you* must act upon the testimony, and come to the consideration of this cause with minds and consciences free, unshackled and unprejudiced. But there is an excitement; there ought to be an excitement, which should rouse the faculties, and call into operation all possible assistance, even of the dullest apprehension. Who, that values life, peace, quietude and repose, can deny that he is troubled; that he is excited? Gentlemen, I appeal to you; you all heard of this murder, long before you were brought here to try the present issue—did *you* not fear? did *you* not feel this excitement? did *you* go to your beds and sleep as soundly as before? It is impossible; every thing connected with the transaction was of a nature to alarm you; it was a cool, desperate concerted murder; it was neither the offspring of passion, nor revenge; the murderer was seduced by no lion-like temptation; all was deliberation; all was skillful; and now, that all is known, it appears more atrocious than was even apprehended. The murderer was a cool, business-like man; a calculator; a

resolute and determined assassin! The spirit of crime was weighed against life; counted out and delivered by tale; grains of silver against ounces of blood. The assassination was accomplished; the crime assumed a new face; and this New-England murder becomes a new lesson and a new example. Let the painter beware how he exhibits the murderer with the grim visage of Moloch; let him not paint the blood shot eye, beaming with malice and red with revenge; let his features be smooth and unruffled; all calmness, coolness, and deliberation; not human nature in despair, nor in paroxysms; no rushing of the blood to the face; no fiendish distortions—but all calm and unagitated smoothness. In all my professional career—in all my reading, I never met with an account of a murder, executed with so much skill; so much deliberation; so much coolness. At that blessed hour when, of all others, repose is soundest, the murderer goes to his work; in darkness and silence, he enters the house; he does not falter; there is no trembling of the limbs; his feet sustain him; he passes through the rooms; treads lightly through the entries; ascends the stairs; arrives at the door; there is no hesitation; no pause; he opens it; his victim is asleep; his back is towards him; his deaf ear is uppermost; his temples bare; the moon-light plays upon his silver locks; one blow, and his task is accomplished! Now mark his resolution; his self-possession; his deliberate coolness. He raises the aged arm; plunges the dagger to the heart! not once only, but many times; replaces the arm; replaces the bed-clothes; *feels the pulse*; is satisfied that his work is perfected, and retires from the chamber; he retraces his steps; no eye sees him; no ear heard him; he is master of his own secret, and he escapes in secret. That was a dreadful mistake; the guilty secret of murder never can be safe; there is no place in the universe; no corner; no cavern, where he can deposit it, and say ‘it is safe;’ the general administration of Providence forbids it; the elements of our nature conspire against secrecy; they declare emphatically, that the murderer shall not escape detection; he lives at war with himself; his conscience is a domiciled accuser, that cannot be ejected, and will not be silent. His tormentor is inappeasable; his burthen intolerable; his bosom’s secret over-masters him; subdues him; he succumbs; his guilty soul is relieved by confession, or suicide; and suicide is confession.

We cannot follow Mr. Webster further without increasing our Report to a size beyond the *price* at which we propose to issue it. His argument will, we understand, be reported at large. If it should be accurately reported, the annals of bar eloquence will not contain its superior. In the course of the argument Mr. W. alluded to the charge of a prejudicial excitement, said, “That it should not be forgotten that there might also exist a counter excitement produced by a morbid interest in the fate of the bold, daring and resolute perpetrators. This unhallowed feeling had increased rather than diminished—this unaccountable principle of our nature had been lately used to great account, by one (Bulwer) whose genius had endowed vice with attraction—disguised moral deformity with beautiful conceptions—exposed human vice to inhuman admiration.

He then went on to state the inferences drawn by the counsel for the government from the evidence in the case. He said

that suspicion fixed upon the Knapps ; because they were the only persons interested in the death of Capt. White—that the conspiracy was proved by the testimony of Leighton and Palmer—that the presence to aid and abet the murder was proved by Southwick, Bray and Webster, and the confessions of Frank himself confirmed the whole, though they disclosed no one fact, which was not known to the government before.

He then continued, the indictment charges the prisoner with aiding and abetting in the murder of Capt. White—it charges him with being a principal in the second degree, and you will be instructed that that presumes that he was present, aiding and abetting—you must be satisfied that he is guilty in the manner in which he is charged, beyond all reasonable doubt. I can wish nothing better for you gentlemen than that you should go home with confidence in the right discharge of your duty. It has been truly said, that this will be a day long to be remembered. It will be long remembered, because it is a day full of important duty to be performed or neglected. It will follow you, gentlemen, it will follow us all, as duty accomplished, or as duty neglected—and if there is any thing, which is at all times and every where present, it is the consciousness that we have discharged ourselves well of every important trust. If we could take the wings of the morning and fly into the uttermost parts of the east, the sense of memory would be present there—if we seek to cover us with darkness, it will be there—at the close of life it will be with us—and at that solemn hour, the consciousness of duty discharged, or of duty neglected, will be there, to afflict us if disregarded, or to console us if under the will of the Almighty, it has been performed.

Judge Putnam then asked the prisoner, if he had any thing more to say, in addition to what had been said by his counsel.

He replied—“ I have nothing more to say.”

Judge Putnam then proceeded to charge the Jury.

He stated a few points of law applicable to the case, that any one of a conspiracy was bound by the acts of all the conspirators, either in pursuance of the original plan, or to effect concealment.

That an accessory before the fact, was one who counselled, procured, or advised to the commission of the murder, but did not aid or abet in its commission.

That a principal in the second degree, was one who gave aid, abetment, or encouragement to the principal murderer, while he was doing the deed ; and that this might be done, by being in any convenient place to prevent interruption, by giving signals, by encouraging the heart and strengthening the hand of the perpetrator—or by aiding him in making an escape from the scene. If a person was any where, so that he could give aid and encourage the murderer or assist him in his retreat, he was present at the fact, and was a principal in the crime. Even if

he did not give any aid, because none was needed, yet if he went to a convenient spot, for the purpose of giving aid, it amounted to the same thing in the law as if he did actually give aid. His presence for that purpose, made him a principal.

He then commented on the evidence, especially as related to the presence in Brown street on the night of the murder. He said the jury must be convinced, beyond a reasonable doubt, that the prisoner was there, and that he went for the purpose of giving aid. He said if the jury were satisfied that the prisoner was in Brown street for any of the purposes above mentioned, he must be convicted ; but if they believed that he was an original conspirator, and if they believed he was present in Brown street, but that he was there merely for the purpose of gratifying his curiosity, or finding out whether the murder had been committed, and not to give aid or assist an escape, he must be acquitted on this indictment.

The charge was concluded at 1 o'clock on the 9th day of the trial. The jury retired, and remained out till Friday, the 10th day, a little before noon. They then came in, and said they had not agreed, nor was there any hope that they would agree.

The Court asked if they doubted about a point of law, or of fact. The foreman said they doubted about both : in the first place, whether the prisoner was proved to be in Brown street, and in the next, whether, if there, he was there for the purpose of giving aid.

The Court said that these were both points of fact for the jury to decide, and the Court give them no instructions touching that matter, farther than to recapitulate the law applicable to those points, which was briefly done.

The jury was then sent out again, and remained till the afternoon of the same day, when, declaring that they did not agree, and could see no hope of agreeing, they were discharged.

The Court desired to go on to impanel another jury to try the same cause, and to proceed immediately. But the counsel for the prisoner moved a postponement till the November term, alleging, that in the present state of public excitement, it would be impossible to get an impartial jury, in whose hands the fate of the prisoner could be safely trusted. The Court, however, thought that this objection to an immediate proceeding, was not sufficient ; and Mr. Dexter then stated, that an important witness in behalf of the prisoner was absent, and would not return at present, and offered to file an affidavit of that fact. The Court adjourned for one hour, to enable the counsel to prepare an affidavit, when it would meet to consider the question, and hear the government counsel in answer.

At this time the grand jury came into Court, as had been previously ordered, and presented several new bills of indictment relating to the persons now accused of the murder of Capt

White, and were discharged by the Court from all further attendance, having accomplished all the duty assigned to them by the law officer of the state.

The Court came in at half past 5 o'clock.

Mr. Gardiner for the motion of *continuance* read three affidavits; one by prisoner—one by N. P. Knapp—one by R. Rantoul, severally sworn to by the Clerk of the Court.

The prisoner swears that his brother S. H. Knapp, at present from the country, would, if he were present, swear that prisoner went into his chamber about the time he is charged with having committed the murder, and spoke to him—that he answered him—that prisoner returned to his own chamber, and shut the door, that his brother, S. H. Knapp, heard him shut the door—that the prisoner did not expect to be confronted with the testimony of Mr. Colman—that he did not expect to be accused as principal, and had not prepared himself to prove an *alibi*.

N. P. Knapp swears, that he believes, that what the prisoner alleges is true, that his brother S. H. K. would swear, &c. and that his testimony is material evidence in his favor.

Mr. R. Rantoul swears, that he was present at Justice Savage's at the examination of the prisoner, and that it was not then thought necessary that his brother S. H. Knapp, should postpone his voyage to South America, on account of this trial, as his evidence was not deemed necessary—the prisoner being then accused as an accessory and not as principal.

Mr. Webster against the continuance, argues that the testimony of the witnesses present is sufficient to that point, without the presence of Mr. S. H. Knapp, and is willing to admit, that he would swear as alleged in the affidavit.

The Court decided against the motion for continuance, and adjourned until Saturday morning, at 9 o'clock, for the empanelling a new jury, and proceeding to the second trial of John Francis Knapp, upon the same indictment.

NOTE A PAGE 17.

The Wenham robbery as it is called, is a story related in the "Essex Register" of Monday, May 3, 1830—upon the authority of the brothers Joseph and Frank Knapp. Their story as told to the Editor was this:—They were going on the Wednesday previous, from Salem to Wenham in a chaise; when near Wenham Pond, about half past nine in the evening, three footpads came towards them—one seized the horse by the head, and the other two came one on each side of the chaise, near the boot; one of them laid hold of a trunk and was struck by one of the brothers with the but end of his whip—the other brother having a sword cane drew it, jumped out of the chaise and pursued the person nearest to him, who ran and was followed by the others. The footpads leapt over a wall and concealed themselves in a pine wood. It was said they were alarmed by the approach of the mail stage. The brothers continued their journey unmolested—other particulars were related—but the whole account is evidently a forgery.