

[From the Nashville Republican.]

The communication in this day's paper from the Attorney General, explains the circumstances connected with the death of the negro slave of General Jackson, alluded to in Col. Erwin's last communication in the Banner and Whig. It places the depravity of Erwin, and the friendship of Mr. Hunt for Gen. Jackson, in a new light; both of which will doubtless be justly appreciated.

FALL RIVER, TENN. August 9th, 1829.

Gentlemen: I have just received a note of yesterday, from a member of the Nashville Committee, requesting me, as the Attorney prosecuting in behalf of the state of Tennessee, to furnish, through your paper, to the public; a statement of the circumstances attending the death of Gilbert, a slave, lately the property of Gen. Andrew Jackson. In compliance with that call, I will now make known to the public every incident accompanying that affair to which any importance can be attached.

Upon the 29th day of August, in the year of our Lord 1827, Maj. Wm. B. Lewis informed me that during the preceding day, Gilbert, a slave of Gen. Jackson's had been killed by his Overseer, and that the General had written to the Coroner of the county and had requested him to hold an inquest over Gilbert's body; & that it was the wish of the General that I should attend the examination; he also informed me that the Coroner and the Jury were then on their way to the Hermitage. I told him that I would attend, and stated there as soon as I could with convenience; but before I reached there, the Jury had acted upon the matter and had pronounced that Gilbert had been killed by Ira Walton, his Overseer, in his necessary self-defence, and that Walton had been released from custody. The Jury and witnesses had not dispersed when I arrived, and some of the company, in the presence of all, judging correctly of the object of my visit, proceeded to relate to me the evidence given to them upon that occasion. The witnesses were men of unquestionable truth, and the jury was composed of several gentlemen of liberal education, and all of them were men of good sense and of great respectability. The testimony detailed to me, under the circumstances just mentioned, was in substance, the same with that contained in the affidavit of Ira Walton, the Overseer, which I have carefully examined, and is as follows:

"I, Ira Walton, state, that upon the 29th day of August, 1827, whilst living with Gen. Andrew Jackson in the capacity of Overseer, I was under the necessity of killing Gilbert, a slave; the property of Gen. Jackson. The circumstances attending the affair are as follows:—Gilbert was a very strong, stout man, possessed of a most violent and ungovernable temper and disposition, with many other faults. He frequently runaway and stayed out until he would be apprehended and brought home. On all previous occasions Gen. Jackson had forgiven him for these offences, without chastisement, upon his promises of better behaviour; which, so far from reforming him, had made him much worse and more difficult to be controlled. About the 1st of June, 1827, he again runaway.— Upon the 27th of August, of that year, he was brought home, as I believe, by a Mr. McCullough, tied, late in the evening. That night Gen. Jackson called to see Gilbert, who again petitioned the General for forgiveness, to which the General replied, that he had deceived him so often by false promises that he could not trust to his promises any longer, & left him. That night the Gen. named to me, that he had told Gilbert that he should be whipped; but upon reflection, he then believed, he would not have him whipped, & said I must take him to Nashville in the morning, tied as he was, tell his character, and sell him for whatever he would command at auction. I gave it my opinion that this would not do, for several of his negroes had been injured by indulgence, and that if some examples were not made I could not control them— that Gilbert was the most insolent slave he owned; and therefore the most fit subject for punishment. The General then remarked that I was correct, and told me to take him away from the house next morning and whip him moderately with small rods. Early next morning I started with Gilbert, tied, for a distant field, where the slaves were at work, and where I intended chastising him moderately, according to the directions of Gen. Jackson. In going to this field it was necessary for me to pass through a body of woodland. There was with myself and Gilbert a small boy about ten years old.— Shortly after we entered the woods I directed the boy to climb a hornbeem sapling, near the small path we travelled, and break me a few switches, which he accordingly did. At this time, whilst the boy was breaking the switches, Gilbert, who was walking before me, came to an abrupt crook in the road around the end of a log—he passed around, I followed at the distance of about four or five yards behind;—when he had passed the end of the log he came facing me upon the opposite side, having disengaged one of his arms from the rope, both of which had been tied loosely before him around the wrists, without being confined to his body—he made a sudden spring, seized me by the breast with both hands and jerked me down across the log—as I was rising he picked up a chunk of wood and struck me across the head, which felled me to the ground—he then jumped on me, and, as I have before stated, he was a very stout, heavy man, and I being but small and not very strong, he proved an overmatch for me. Gilbert having full purchase with both hands, then commenced beating and choking me most violently, and would, I have no doubt, killed me had I not drawn my dirk—and stabbed him. After making several thrusts with my dagger I was knocked from my hand from eight to twelve inches beyond the reach of either of us—each tried to get it—I called the boy who accompanied us to pick it up—Gilbert was extending his arm to grasp it, the boy however succeeded. Gilbert then commanded the boy to hand it to him—I being much weakened, and suffering by his violence, entered the wood to plunge the dirk into him—the boy stabbed him in the fleshy part of his thigh, I then ordered him to stab him in the side—as the boy advanced Gilbert threw out one of his feet against him; the boy, by the violence of the blow, was thrown off to a considerable distance and fell—Gilbert then swore he would kill the boy if he did not keep off Gilbert was now laying with his whole weight across my breast; I extended one of my arms under his, rather around his body, & ordered the boy to place the handle of the dirk in my hand—he did so—I then gave Gilbert a stab in the hollow of the back, which caused him to change his position by placing one knee on each side of my waist, when he again seized me by the throat with one hand and with the other endeavored to take the daggers from me. I made several thrusts to stab him in the belly, but finding the dirk bent nearly double, I threw it as far from me as possible and made another effort to rise, but found I had not sufficient strength; I then drew up my feet for the purpose of kicking him from me—he caught me by the ankles & rose up with my feet in his hands, throwing the weight of my body on my neck, endeavoring to double me backwards. Whilst in this situation I drew from my pocket a small knife, and by a powerful exertion extricated one of my feet from his hold—he then let go the other and beat again with the weight of his body upon my breast, trying to take the knife out of my hand, which I kept out of his way until he came with his body upon mine—I then threw my arm around his neck and tried to cut the great artery; and without touching it, did cut a deep gash in the back and side of his neck. He then got up, stepped off about two paces, turned with his face towards me, stood erect, extended

(whilst I arose and sustained myself with much difficulty,) and his eyes steadfastly fixed, he gave me the most horrible look for about five or six minutes—then walked about ten or fifteen steps, trotted at a rapid pace about thirty yards more, again walked slowly in the direction of a thicket in the grove for a few more paces, then stepped suddenly and changed his course towards the Hermitage, and after going that direction, about ten steps, in a slow walk, stopped, and laid down. I had by this time sufficient strength to get up, and went where Gilbert lay; when with the same rope, which was still swinging to one of Gilbert's hands, I put his other through the running noose that had confined it previously, and drew his hands together as they had been tied before. Soon after this was done the negroes from the field came, having been informed by the little boy, who had become alarmed at the struggle; and in the meantime run to the field for assistance. I then dispatched a servant for Gen. Jackson, and returned to the place of combat to pick up my dirk and a few articles which had fallen from my pockets during the struggle. Whilst here the General came up and enquired what was the matter—being informed in as few words as possible, he asked me to send for a physician; I told him from appearances I apprehended it would be unnecessary, as I thought no physician could save him—the General said, "whilst life remains there is hope;" and ordered that Dr. M'Corke should be sent for immediately. Gilbert was then carried to the General's house, where Dr. M'Corke arrived in a short time, but was unable with all his exertions, to relieve or save him. For the few hours that Gilbert survived the wounds he sullenly refused to say to his master, or myself any thing in relation to the fatal encounter, although frequently enquired of by Gen. Jackson, and requested to relate the circumstances. Gilbert talked freely when spoken to on any other subject whilst he lived. After hearing all the testimony, and seeing the wounds and bruises that had been inflicted upon me by Gilbert, I was justified by the Coroner's inquest which sat on the occasion. The next day after this acquittal I was discharged by Gen. Jackson from his employ. General Jackson subsequently had me prosecuted for the murder of his servant Gilbert, of which I was acquitted by the Grand Jury of Davidson Circuit Court, and thereby liberated from the custody of a Sheriff.

IRA WALTON.

Subscribed and sworn to before me a Justice of the peace for the county of Williamson, this 31th day of August, 1829, WM. SMITH, J. P.

There were no legal witnesses present at the encounter; but Walton stated to me—to Maj. Francis B. Ogden, of New Jersey, and Mr. Samuel Hays, on the afternoon of the 29th of August, the day after the affair happened, the circumstances substantially the same as contained in his affidavit above. Maj. Ogden and Mr. Hays were witnesses before the Jury of inquest herein after mentioned. This statement of Walton's was strongly confirmed by bruises and other evidences of great violence exhibited by his person; and the account of Joe, the small boy, corresponded with the foregoing statement. He was a very smart and intelligent boy, who was taken aside by the jury, as had been previously done by Gen. Jackson, and carefully examined about the whole. The jury concluded in the statement of Walton, because it was uniformly the same, and strictly corroborated by the statement of the boy Joe.—Walton's person afforded just such evidences of violence as might be expected from his statement; and the surrounding objects, such as the path, the Hornbeam tree, the switches, and the ground itself furnished striking evidence of a long, continued and severe struggle. Under these circumstances the jury rendered the verdict already mentioned.

After the jurors and other "neighbours" had gone home, Gen. Jackson asked me to walk with him to the place where the unfortunate affair took place. During our walk, he remarked to me that the jury was composed of men of first rate character and intelligence; that they had investigated the affair with great care and circumspection; that he did not find any fault with their decision; that it was probably right—that he had no doubt but that many of Walton's statements were true, and that if Walton gave him the fatal stab during the scuffle in the path, it was a strong case of justifiable homicide; but that he had entertained some doubts of the correctness of some parts of Walton's account of the affair. The first time we arrived at the spot where the main scuffle took place; he said "I will explain to you my views of this matter: After Walton had sent the boy to break the switches from the Hornbeem, instead of keeping his eyes upon Gilbert, was looking at the boy upon the tree, and directing him about switches; that Gilbert, who was a man of strong sense and of determined character, the moment he turned the corner of that log, he discovered Walton's attention withdrawn from him to the boy Joe, and at the same time he became roused by seeing the instrument of correction breaking from the tree, in an instant seized the opportunity of reeking his vengeance, or of making his escape, and Walton was jerked down across the log almost as quick as thought." He further stated that he was not satisfied that Gilbert's hands were untied during any part of the scuffle; that if his hands had been untied, and his object had been vengeance, that such was the disproportion of bodily strength, that after having killed him, and Walton could not have used upon him either a dirk or any other weapon; that if his object had been an escape, that he would then have moved off with impunity. He further stated, that Gilbert was tied when he came to him exactly as he was the preceding evening; and that Gilbert with his hands tied before him with the advantage of having Walton down, would be able to kill him, provided there was no weapon used by either party. That in addition to all this, he doubted whether there was time for all the things that had been stated; that the mortal wound was in the back, and that he did not think that a small, feeble, short armed man like Walton being underneath Gilbert, could reach over his back and stab with sufficient force to penetrate into the lungs; that he could not help thinking but when Gilbert was stuck badly he disengaged himself from Walton and ran; and that Walton pursued, and as he ran overtook him and gave him the fatal stab where he then lay; but that these things were matters of conjecture, and that he might be mistaken; he stated that Walton was an honest man, and he had found him to be a man of industry & truth; but that he could not help doubting whether it might not be a case of manslaughter by strict law, and wished me to think of the matter. His suggestions struck me with great force, and I promised to consider further of the matter;

Upon the next day Gen Jackson addressed me a letter, of which the following is a copy:

Hermitage, August 30, 1827.

Sir—You have been already apprised of the unfortunate affair which took place on my farm on the day before yesterday, in relation to the death of Gilbert, who was slain by Ira Walton, my overseer.

You have also been apprised that a jury of inquest has been held over his dead body, by the Coroner of the county; and that the jury reported that Walton killed him "in his own defence." I communicated to you yesterday, all the facts relative to that unfortunate event, I wish to know of you, from the statement of the facts I have detailed, whether you think, from a consideration of them, there has been such a violation of the laws as requires a further prosecution of the matter.

I have discharged Mr. Walton from my service; he remained here until released by the finding of the jury, since which he has been going at large. If you should be of opinion, from a consideration of the case, that he should be held to answer for the death of Gilbert, let me know as

room as your convenience will permit. I have no wish to prosecute Mr. Walton should you think justice does not demand it; but being the guardian of my slave, it is my duty to prosecute the case so far as justice to him may require it; therefore, submit the matter to your consideration, as attorney prosecuting for the government for your advice on the premises.

I am very respectfully,

Your most obedient servant,

ANDREW JACKSON.

*Andrew Hays, Esq. Attorney General, Nashville, Ten."*

To which I returned the following answer:

*Nashville, Aug. 31, 1837.*

Dear Sir—I have received yours of the 30th inst. and have given that attention to the matters therein contained, which their importance require. You are fully aware that the finding of the jury, summoned by the coroner, is no bar to the further prosecution of the offence; the finding is a *prima facie* evidence of the innocence of Mr. Walton. But my opinion is, from the full consideration of the evidence, that there exists a considerable doubt as to the absolute necessity of killing the slave Gilbert, at the time that he received the mortal blow. Altho' he behaved very much amiss, it would seem to me that the distance of the place where he was found, from the place where the scuffle took place, as well as from the place of the wound in Gilbert's back, afford a strong presumption that he was stabbed in the back whilst running, and not in the first scuffle; and among other circumstances, which induce me to think that it is not a case of justifiable homicide, is, that his hands were tied; and I do not believe they ever were untied. The rule of law is, that if the homicide is ever brought home to a delinquent, the *onus probandi* of the circumstances of excuse or justification, are imposed upon him.— Without an expression of any positive opinion of his guilt or innocence, (which would be improper in me at present) I have no hesitation in saying, that I think that public justice, as well as your duty as a master and guardian of your slave, requires that you should have Mr. Walton before the circuit court to answer a bill of indictment for the death of Gilbert. Yours, &c:

Very respectfully,

ANDREW HAYS.

*General Andrew Jackson, Hermitage.*

In pursuance of the direction contained in my answer, Gen. Jackson caused Walton to be again arrested, and he was bound over to appear at the November term of the circuit court of Davidson County, at which term of the said court, I prepared an indictment for murder, and sent it with the witnesses before the Grand Jury—Gen. Jackson being the prosecutor marked upon the back of the bill. After the Jury had heard the evidence and before they had acted finally upon the bill, I went to their room and instructed them, that if they should be of opinion that it was a case of murder, to find it to be a true bill; but that if they should be of opinion that the offence was manslaughter, I would make the necessary alterations in the bill to describe that offence, but that if they thought it a case of excusable homicide, to say "not a true bill." I was very particular and careful to draw and explain to the Grand Jury the distinction and difference in law between manslaughter and justifiable homicide in self defence; and after considering of the case two days, the Grand Jury brought into court the bill of indictment, endorsed by the foreman, "Not a true Bill;" and the prisoner was then discharged from further prosecution.

ANDREW HAYS, *Atty. Gen'l for*

*the 7th Solicitorial district of Tennessee.*

To the Editors of the Nashville Republican & State Gazette.