

against him: Joseph Woodruff (foreman), Thomas E. Renick, David M. Tyree, Burrell Roland, Reuben Bledsoe, Dorsey Waters, George Woodcock, Moses V. Kean, Jeremiah Pierce, William T. O. Dickinson, Jeremiah H. Williams.

MR. COALTER'S OPENING SPEECH.

Mr. Coalter. Gentlemen of the jury: At the request of Mr. Gale, the prosecuting attorney of this circuit, I rise, gentlemen, to address to you a few remarks. I do so at his request from my possessing an earlier knowledge of this case, it being one involving a transaction in another county, and which has been brought here by a change of venue. I hold in my hand the indictment which was found in Warren County, when it was brought to this court, and now proceed to read it to you. This indictment is founded upon a statute of your state, declaring two different grades of the crime of murder.⁸ The words used in these two sections have been defined accurately by judicial construction. The word "wilful" means that a person intended to kill. It supposes an actual condition of the mind in regard to the killing when the deed takes place; and the words "deliberate" and "premeditated" in the act require that the killing must have been thought of before the act of killing began to take place, and that in order to constitute murder in the first degree, there must be a killing with intent to kill; to do the deed at

order of Governor Fletcher under the ordinance passed by the Convention of 1864, vacating all the judicial offices in the State of Missouri. See 35 Mo. Supreme Court Reports, pp. v-viii. He died at the home of his daughter in Eureka, Mo., and is buried in the Oak Ridge Cemetery, Kirkwood, Mo. For a History of the Bay Family see Schaff's Hist. St. Louis, Vol. 2, p. 1477.

⁷ See 2 Am. St. Rep., 207.

⁸ Statutes of Mo., Vol. 1, pp. 558-9. "Crimes and Punishments," Art. 11, Sec. 1. "Every murder, which shall be committed by means of poison, or by lying in wait, or by any other kind of wilful, deliberate and premeditated killing, or which shall be committed in the perpetration, or attempt to perpetrate, arson, rape, robbery, burglary or other felony, shall be deemed murder in the first degree"; Sec. 2. "All other kinds of murder at common law, not herein declared to be manslaughter, or justifiable or excusable homicide, shall be deemed murder in the second degree."