

Supreme Court of Missouri have said the same thing in case of *State v. Dunn*, 18 Mo. 419, and *State v. Jennings*, 18 Mo. 435.

I will now, gentlemen of the jury, call your attention to the several facts and circumstances showing the malice requisite to bring this case under the head of murder in the first degree: 1st. The character of the wound. It is laid down in all the books that when the wound is inflicted with a deadly weapon or a weapon likely to produce death, and no just cause is given for it, the jury may and ought to infer that the party intended to do what he accomplished, for every sane man is presumed to act upon some motive and to intend the natural consequences of his act. If I draw a pistol and shoot one of you down, the fact that I intended to kill is a necessary conclusion from the act. If I throw a stick at one of you, the length of my little finger, and it enters the eye and inflammation takes place, and death results from the inflammation, it would be unreasonable to infer that I intended such a result; on the contrary the reverse would be the natural inference, for such a stick is not a weapon likely to produce death; but if I draw a bowie knife and plunge it in the breast of one of you, and death ensues, the natural conclusion would be that I intended to take life, and such intent constitutes express malice.

This rule of law applies directly to this case. The prisoner loaded a pistol at Hutchinson's the eve before the homicide. The body of Gordon was found with a gunshot wound in the back part of the head ranging towards the right eye, a wound such as a pistol of the character and size of the one seen in the possession of the prisoner would be likely to produce; a wound evidently made by a large-sized leaden ball. There is no evidence to show that he had just cause or provocation for the act, nor has his counsel given us any explanation of the transaction. You are therefore forced to the conclusion that he intended that death should result from the act; for death is the natural result of such a wound. The physicians who have testified in the case say such a wound would necessarily produce instantaneous death.