"was not." After this, he accounts for himself by stating
that he was in the woods sitting on a log, on Clear Ridge.
When it remains necessary for a man to account for where he
was the day before, if he gives different relations of what he
was doing, and where he was, it is a circumstance against
him. You have heard how he seduced John to return to his
father's on Saturday. You have heard the circumstances of
the tracks and the boots—the alleged blood on his hands—
his knowledge of the guns—of the family—of the whole
ground—of the description of his person by Brown, as well
as all the other facts proved; and if, on the whole, they sat-
isfy you of his guilt, your duty is obvious. As you cannot
hear the evidence out, we will read it to you.

The counsel for the prisoner says that there are but three
circumstances upon which any reliance can be placed.

1. The testimony of Brown, alleging that he knew at the
time that it was the prisoner that shot at him.

2. The circumstance of McConaghy's account of where he
was that day.

3. The fact of his visiting John the day before, and seduc-
ing him home on Saturday.

We agree, these are the leading circumstances; but
there are many minor ones, which, if they accord, and
are consistent with these, will tend to their support
and weight. If the jury should find any of the
minor circumstances to militate against these, it will tend
to weaken them. But do not all the minor facts and circum-
stances support the leading ones? Do they not all tend to
establish the fact that Robert McConaghy committed the
crimes charged in the indictment? You are the judges of
this. We agree that suspicion is not proof; that a man ought
never to be convicted on probabilities; but that the circum-
stances which should satisfy a jury of guilt, should be fully
established; that the facts proven should be consistent with
the charge; and, lastly, that the circumstances should be of a
conclusive nature and tendency. We agree that the investi-
gation of the circumstances in this case has left every other