



"Ours are the plans of fair, delightful Peace,  
Unwarp'd by party rage to live like Brothers."

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### The Register

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### RALEIGH REGISTER.

TUESDAY, APRIL 6, 1824.

The trial of RICHARD HAINDS indicted for the murder of James I. Boylan, as we anticipated, was taken up on Friday last. In consequence of the great interest which was excited throughout the County, much difficulty was experienced in the selection of a Jury, though the challenges were not so numerous as in the case of the unfortunate Lewis. The Jury were impanelled about 12 o'clock, and the following witnesses were sworn on the part of the State, viz: Edward Flanagan, Norfleet Hill, Bernard Dupuy, Timothy Jones, John Holloway, Wm. Ragan, David Lockhart, and John Ruffin.

Edward Flanagan was first examined. He deposed, that on the evening of the 6th September, 1822, while at the Billiard-room of the prisoner at the bar, the deceased, James Boylan, came in and observed, that he had a ten dollar bill, and that he would either win or lose that amount before he went away. That immediately after these words, he went from the billiard-room, to the bar-room, to reach which, he had to pass through a passage about 18 feet long. That Hains followed him into the passage, and pretty soon after, he heard them talking; that the seat he occupied in the billiard-room, directly fronted the passage leading to the bar-room, though the table was between the passage door, and the bench on which he sat. That after talking some considerable time, his attention was arrested by harsh words passing between the prisoner and deceased; that he then left his seat, walked round the table, and took his station at the door of the passage leading into the bar room; that from this position he had a full view of the bar-room, except one corner of it, a space of 28 inches which was screened by the angular projection of the wall. When he got to this door, he heard Boylan, who was this side the counter of the bar-room, say to Hains, who was on the opposite side, that "cards had been played there on Monday and Tuesday night." That Hains replied "they were not?" that Boylan said, "they were and he could prove it;" that Hains then appealed to Smith, his bar-keeper, who was standing at the writing desk, and asked him, "were they?" Smith answered "they were not." That Boylan then said, "it is a d—nd lie;" that Hains said "I'll soon show you that you shall not abuse me in my own bar room," and came round the counter; that Boylan, who was leaning on the counter, when Hains started to come round it, rose up, and as Hains approached him put out his right hand, which came in contact with prisoner's hand, and immediately as their hands touched, that the deceased fell back, and turning, run through the passage by the witness, the blood gushing from him and exclaiming "Oh my God, I am gone." That he followed him to the front door, where he was eased to the floor by Mr. Hill, and that he instantly died. That he (Flanagan) returned into the bar-room and told Hains that Boylan was dead, and that prisoner said "I am sorry for it, but cannot help it." Witness did not see a knife until after Hains was arrested. The knife which was found on the prisoner was the same which was used for cutting tobacco, which the prisoner kept for sale; and that this tobacco keg stood under the counter when he last saw it.

David Lockhart, stated the particulars of the deceased coming to the billiard room pretty much in the same manner with Flanagan. After Boylan went into the bar-room, the witness also went for a drink of grog, and asked Boylan to partake, which he did. Boylan was talking about playing cards, and prisoner refusing to permit him. After taking his drink he returned to the room, and took his seat on the bench fronting the passage. That he was looking into the bar-room, and saw Hains advance towards the bar-room door, and Boylan

straightened himself from a leaning position; that seeing this, he immediately went towards the passage, and met the deceased at the door, the blood running from him. That after prisoner was arrested; he expressed a wish to go out, and most of the company went with him; that Hains came to him, while standing out of doors, and giving him a hunch, said "take this;" that he witness refused, believing it was a knife.

Norfleet Hill, stated that he was playing a game of billiards on that evening, when the deceased came running from the passage, through the room, and was about falling at the front door, when he caught him in his arms and eased him to the floor. That he attempted to close the wound with his fingers, but he died immediately; that he asked deceased, what was the matter, but did not hear any answer.

Bernard Dupuy's testimony was to the same amount as Hill's, except that when Hill asked Boylan, what was the matter, he (Boylan) replied, "he stabbed me or stuck me," or words to that effect.

Timothy Jones, was in the billiard-room and heard part of the conversation between Boylan and prisoner. Had heard Hains say he had warranted deceased, for \$5. That Boylan had refused to attend trial, but had since paid him, but he thought no better of him for it. Was in the habit of going frequently to prisoner's house, but never saw the deceased there when prisoner was at home, since the above conversation, before that night.

John Holloway, in reply to a question put by the Attorney General, whether he had ever heard Hains use any threats towards Boylan, stated as follows: Hains told me in the winter of 1821, he had won about \$17 from Boylan, and he would not pay him; but that at length he got an order from Boylan, for \$12 of the sum, on a store in town. Towards the latter part of the winter, he (Hains) went to the south, and returned in the fore part of the spring; that he then asked Boylan for the balance, and he disputed paying it. That Hains then warranted him, and the evening before the trial of the warrant, Hains told him, that he expected deceased would attack him, that if he did "he would put that knife in him." [The knife which was found on the prisoner after his arrest and produced in court, was either the same or very much like the one which prisoner shewed him.] Witness further stated, that Hains told him that deceased had written to the Justice of the Peace, before whom the parties were to appear, to make the prisoner prove his account, which amounted to the same thing in his view as pleading the gaming act. Witness stated that James Boylan, was an overbearing, quarrelsome person, but never knew him to fight.

William Ragan, who was City Constable at the time of this transaction, being asked if he knew the knife produced in court, answered that it was the same which was found on the prisoner, after his arrest. How came you by that knife, asked the Attorney-General? I told the prisoner there must be a weapon somewhere, and demanded it of him. I began to search him and Dr. Henderson assisted me, who in feeling about, found the knife in the prisoner's pocket, and said "here is the knife;" prisoner took it out and said "yes, this is my knife." Witness stated that the knife was bloody.

John Ruffin was not in the Billiard-room, or present at the affray, but arrived a few minutes afterwards. He stated that he had heard prisoner speak of the same transaction which Jones detailed. That prisoner said, that Boylan had paid him, but he believed him to be a greater rascal than ever; that this conversation happened about six weeks previous to Boylan's death. Witness stated that he knew prisoner pretty well, and never knew him to have but one barrel, but that the deceased was of an arbitrary and turbulent disposition, though he never knew him to have a fight. Witness also confirmed the testimony of Lockhart, respecting the conduct of Hains in the yard, when he hunched Lockhart.

Norfleet Hill cross-examined by the prisoner's counsel: Did Hains refuse to escape after Boylan's death? Answer, He did: I went into the bar room after Boylan's death, and said to prisoner, "here Dick, take what money I have and escape," and he refused to go, saying, that what he had done was in his own defence. The Attorney-General interrupted the witness by ask-

ing him, if he was conscious that by this declaration he inculpated himself? Witness answered he was sworn to tell the truth, and must do so regardless of consequences.

The depositions of the Witnesses, taken before an examining Court the day after the arrest of Hains, was here read by the prosecutor's counsel, to show an evident variance in the statements of Smith on that occasion and the present, and the consistency of Flanagan's testimony.

The evidence on behalf of the State closed here. The defendant's witnesses were then sworn. The counsel for the Prisoner stated to the Court and Jury, what facts they expected to establish, by the witnesses produced by them. They expected to have the true statement of the transaction as it occurred, not to a person standing at the door of a long passage, but one who was in the bar-room from the commencement, who saw every incident that took place. They would show that the principal witness for the State (Flanagan) was not entitled to credit, and would prove the unexceptionable character of their witness Smith.

Archibald Smith, deposed that at the time of this fatal occurrence, he lived with the prisoner as his bar-keeper; that he went to live with him on the 1st day of September, and this affair happened on the 6th consequently he had served him but six days. That Hains went to Fayetteville on the 2d or 3d of Sept. and returned only on the morning of that fatal day; that he, Smith, was standing at the desk making some charges, and Prisoner was giving him some directions, about a new way of keeping books, when Boylan came up and wanted to play cards. Hains refused to let him play, remarking at the same time, he had no objection to any person playing in his house, but was fearful of an indictment. That Boylan said "cards had been played there for the last fortnight or three weeks;" that Hains denied it and appealed to him for the truth, and that he (Smith) said it was not so, and that Boylan replied it is a d—nd lie. That Boylan observed, he only wanted to play cards for something to drink and that Hains replied he would treat him but that there was a billiard table and he might go and amuse himself. Boylan said he would play cards, for cards had been played there; Hains told him he must go out of his house, if he wanted to play and again referred to him, (Smith) to know if this was the fact, and he again answered in the negative, and that Boylan repeated, it is a d—nd lie. That Hains then, in a laughing manner, said to deceased, "come Boylan don't make a fuss, but take a drink of Gin," and Boylan answered with an oath, that he never drank Gin. That prisoner then put down two decanters, and both filled their glasses to drink, and Hains said "I am sorry you should think, I would let cards be played in my house," and Boylan for the third time repeated, it was a d—nd lie. That Hains then said with an oath, "he would soon show him, that he should not abuse him in his own house," and started round the counter; that at the same moment deceased advanced to the bar-door, grasped Hains by the throat and shoved him with violence against the wall. That he (witness) then fearing some ill consequence, put down the candle for the purpose of going into the billiard-room for assistance, but in his hurry placed it on a tumbler, which overset; that he then placed the candle on the shelf and turned round to go towards the parties, when he saw Boylan break loose, and retreat through the passage. He heard something spill, but thought Boylan had run against the water-tub which stood in the passage, but on following him he found it was blood. In reply to a question asked him, witness stated, that the knife found on the prisoner, belonged to the bar and was used for cutting tobacco and breaking sugar; that it had always, since his acquaintance there, laid on the keg; that this keg was under the counter when he went to live with Hains, but to make way for some bottles he removed and placed it on a shelf, which a person standing at the bar door could easily reach. Witness was very certain, that when Hains started round the counter he had no knife in his hand; did not see prisoner strike Boylan, which he supposes was done, when he turned round to place the candle on the shelf.

Henry Cooke stated that Hains was in possession of the house and the proprietor of the Billiard-table when the homicide happened. That prisoner boarded with him, and was a peaceable man. Giles Johnson deposed, that he went to see the witness for the State, Edward Flanagan, whilst in jail, and in speaking of this transaction, Flanagan said, "he was in jail, not for debt or crime, and if his evidence could hang the d—n rascal, he should swing." [Flanagan was imprisoned by the State, to secure his testimony in its behalf and remained there eleven months.] William Ruffin testified, that he went to prisoner's after the alarm was sounded that evening, not more than five minutes after the deed was done, and found no one in the Billiard-room, but Flanagan and Hill with the deceased. He asked who had perpetrated the foul act, and received no answer. He went towards the bar-room, and at the door some one touched him—it was Hains. In consequence of some declarations made to him by the prisoner, he was induced to say to him, you are my prisoner, and he replied, "I put myself under your protection." Witness testified to Arch'd. Smith's character. Smith had lived with him for a considerable length of time, and he never knew him, in any instance, to depart from truth, and as far as came within his knowledge, his conduct was irreproachable. Would as soon believe a statement, made by him, of facts coming under his observation, as any other man. Here the evidence closed at 4 o'clock in the afternoon and the Attorney General opened the case. He insisted strenuously on the fact, that it was a case of wilful murder; and that if the whole of Arch'd. Smith's testimony was to be credited, which notwithstanding the encomiums passed on his character, he seemed disposed to doubt, still it was murder, for Boylan's pushing Hains against the wall was not a sufficient provocation for the use of so deadly a weapon, as it did not place the prisoner in that situation of "dire necessity" which the law requires to reduce the offence to manslaughter.—That the instrument which the prisoner used to effect his purpose, in itself implied malice, and evidenced "a heart regardless of social duty, and fatally bent on mischief."

The Attorney General was assisted in the prosecution by Wm. H. Haywood, Jr. Esq. and the Prisoner was defended by Thomas Ruffin, James F. Taylor and John S. Ellis, Esquires.

The latter gentleman first addressed the Jury in behalf of the prisoner. He endeavored to show that Hains killed Boylan in his own defence, and that his using the knife was entirely accidental. That when, according to Smith's testimony, Boylan pushed the prisoner with violence against the wall, that Hains, in struggling to extricate himself from Boylan's grasp got hold of the knife, and as the readiest way of freeing himself, made a pass at the deceased, but without any intention of killing him. That the worst aspect of the affair would only justify a verdict of manslaughter, and when the weight of Smith's testimony was considered, he confidently expected an acquittal.

At this stage of the trial, the Judge remarked that it would probably curtail the case, considerably, for him to state, that he should clearly instruct the Jury, that if they believed the testimony of Archibald Smith, they should bring in a verdict of Manslaughter only.

After this declaration from the bench, Thomas Ruffin, Esq. briefly addressed the Jury, for the purpose of invalidating Flanagan's testimony and strengthening Archibald Smith's evidence.

Wm. H. Haywood Jr. Esq. then addressed the Court in favor of the prosecutor and consequently against the prisoner at the bar. We cannot here, forbear adding our testimony to the general opinion, respecting our youthful fellow-citizen. In this case, as in many others that Mr. Haywood has been concerned in, he has displayed a degree of legal knowledge, and an acquaintance with human nature, which holds out a flattering prospect of great usefulness in his profession. He clearly proved that the testimony of Archibald Smith, as given on trial, went much further than his deposition taken by the examining magistrates; for on that occasion, he said nothing about the pacifying language used towards the deceased by the prisoner, but in answer to the question at what time was your attention arrested, replied, not until the d—n lie had been twice given. He has distinctly showed, that the testimony of Flanagan, had been perfectly consistent throughout—no deviation—no addition. He remarked, that it was strange and inconsistent, that Hains, after taking the opprobrious epithet applied to him, by Boylan, twice,

with perfect good humor, should on its third repetition fly into a violent passion; that Flanagan's account of the business was much more reasonable, as by his statement Hains resented the first insult. He impressed on the Jury, that every witness who was sworn, except Smith, corroborate Flanagan's testimony as far as they went.

The Judge charged the Jury, that the case turned on this point. If the testimony of Flanagan was believed, Hains was guilty of murder; but if Archibald Smith told the truth, he was guilty of Manslaughter. That the Jury however, were competent judges of the credibility of witnesses, and after taking all circumstances into consideration, must decide between them. That though Smith's credibility was established, Flanagan's was not impeached, and that if any reasonable doubt was entertained of the guilt of the prisoner, they should incline to the side of mercy.

The Jury were out about half an hour and returned with a verdict of guilty of Manslaughter.

On Saturday, Richard Hains, Joseph Cooke and Lemuel Lewis, were brought out to receive the sentence of the Court. In the case of Hains, the Attorney General prayed sentence of death. The prisoner pleaded the benefit of Clergy, which was granted, and he was sentenced to be burnt in the hand, and pay the costs of prosecution. He was permitted however, in consequence of his poverty, to take the oath of insolvency. He was branded and discharged.

Joseph Cooke, who had been convicted of passing a counterfeit three dollar note, changed into a fifty, was sentenced to stand in the Pillory, one hour, be imprisoned six months, and pay a fine of one hundred dollars. The former part of the sentence was immediately executed.

When Lemuel Lewis was called up, Mr. Ruffin who had been assigned as his counsel by the court, moved for a new trial, on the following grounds: 1st, that he was denied the aid of his counsel in challenging the Jury, 2d that in the charge of the Court to the Jury, such a broad construction of the law had been laid down, as possibly to have misled them.

The objections were however overruled by the Court, and sentence of death passed upon the prisoner, Friday the 7th day of May, is fixed for his execution.

"Say what revenge on — can be had;  
Too dull for laughter, for reply, too mad."  
The STAR, that twinkling luminary, whose "darkest visible" is proverbial, does us the honor to abuse us. Were it a new thing, we should probably think it worth our attention, but as every one of Mr. Crawford's opponents think it a bounden duty to throw stone at us, we view the accumulating heap without displeasure. With respect to those Editors who say "You Myrtaer, and "Si vous plait Monieur," to whatever candidate they can pick up to oppose Mr. Crawford, we know that they are not amenable in the high courts of truth and reason, & we might as well "put a blind horse in a china shop" as endeavor to reason with them. We therefore allow them "rope enough," and bid them a loving farewell.

In conformity to public notice, a meeting of the friends of Gen. JACKSON, was held on Friday last, at the Court Room of the capitol. Previous arrangements prevented us from attending, not of course as favorable to this Presidential Candidate, as it is well known, we prefer another, but as caterers for the public, it would have been our duty to do so. We have not heard a particular statement from any of the friends of the General, though we have enquired of several; the number of persons who attended, have been variously estimated from 40 to 60. It will be remembered, that it was Court week, and that a great many persons from the country were in town. We presume, however, that the STAR will publish an official account of the meeting, and if it does, we will acquaint our readers with the facts, hereafter.

### A Runaway.

COMMITTED to the Louisburg Jail, on the 5th of September last, a Negro Man who at that time called himself Tom, and said that he belonged to Joseph Holmes of Alabama, but now states that he belongs to Armistead Abbott of Stokes county. The owner is requested to come forward, prove property, pay charges, and take him away, or he will be dealt with as the law directs.  
F. C. PEARSON, Sheriff.  
Franklin county, March 13, 33 3w