Shelbyville Feby 16th 1842

Dear Sir —

I have just read the third time the statement of Wm Wm Warnock relating to the manner in which his trial for an alleged breach of the peace said to have been committed on the 17th of last month was conducted — He states that he was first put upon his trial on Wednesday the 19 of last month — and the Jury could not agree, and were dismissed by you; that then application was made to you to continue the case over until the next Saturday week; that you agreed if the Constable Mr Robert Alexander said so it should be continued until the next Saturday week — that application was mad to Mr Alexander and he agreed that it should stand continued until that time. One of the witnesses of Wm Warnock to wit, Wm Samuel Forwood was absent at the first trial — and Mr Wm Forwood who was present at the first trial — went to Louisville the next day — after he had been informed that the case was set for the Saturday week following — that on thursday morning the day succeeding the first trial of the case — and after Wm Forwood had left for Louisville — Warnock was notified by the Constable that he must be tried on that day — that he urged a continuance of the case — because of the absence of his witness; that you examined him as to what he expected to prove by the two Mr Forwoods — and after he had made his statement you replied that what he stated would be admitted — He previously applied for a change of venue — and you stated it was with Mr Alexander to give him a change of venue if he would make the warrant returnable before some other Justice of the peace — that Alexander stated, he had made it returnable before you and that you would have to try it

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and he was immediately put upon his trial. With such witnesses as he could catch upon the spur of the occasion, and a verdict was rendered against him for thirteen Dollars & fifty cents. and the costs, amounting in the whole to the sum of twenty five Dollars ninety three cents - that the costs were thus augmented by the number of witnesses which the prosecutor caused to be summoned and who were in attendance upon the first and second trial

From this statement of the case I am induced to ask for Mr Warnock as his Atty a new trial. The circumstances surely demand it. The law does not recognize any right in a constable to control the time at which a trial shall be had. The time of trial is a matter of Judicial discretion to be exercised by the Judge alone - you were the Judge on that occasion and should not have permitted yourself to be be ruled by Alexander - He is your officer & should be ruled by you -

Suppose the Sheriff should undertake to rule the Judge of the Circuit Court in the exercise of this discretionary power which the law vests in the Judge - What do you suppose would be the consequence? A heavy fine would be imposed upon him and perhaps imprisonment - The constable should obey your orders, and not you his - You are not his officer to do his bidding - but he is your officer and is compelled to submit to your orders and decisions

The excitement known to you to have existed in the minds of the people in and around Simpsonville in relation to the alleged breach of the peace should have been of itself sufficient to prevent a hurried trial of the case. The unwillingness of the defendant to be tried in Simpsonville should have prevented his being rushed into trial at that place - But in this again the Constable is made to exercise a controlling power - or "If he will return the warrant before some other Justice of the peace" the case might be tried some where else"

the Constable should have had no more to do with the change of venue than the horse he rides — The change of venue was a matter of law to be determined by you after the warrant had been returned before you — All trials should be by men of unprejudiced minds, that the accused may be satisfied if a verdict is found against him — that he is fairly convicted — Fines are imposed to correct the conduct of men, But what man would be corrected or any way improved by a fine imposed upon him when he knew it was the result of prejudice and unfairness? Instead of being improved by it — he would look upon those inflicting it as so many instruments of oppression and injustice under the dominion of excited feelings and the law would then lose the salutary effect which it is designed to have — upon the whole case I trust you will have no difficulty in granting a new trial to Mr Warnock — which he through me as his attorney respectfully asks —

Thos. S Wilson

Shelby County to wit —

I Certify that Wm Warnock personally appeared before me — and made oath — that he believed the within statement to be true — Given under my hand as a Justice of the peace for said County. this Sixteenth day of February 1842

Jas Hollingsworth J.P.S.C.

State of Tn. Shelby County Sct

I James Hollingsworth a Justice of the Peace in and for said County. do hereby certify that the foregoing pages, contain a true. full and compleate transcript of the statements they purport to be as the same is filed in my office — Given under my hand this the Seventeenth Day of February 1842 —

Js. Hollingsworth J.P.

Shelby Co-

Wm Warnacks

Petition

Affray Case —

Rejected

2d March R P Letcher

1842

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fee, 50

Commonwealth against Warnock

After failing to get a verdict from the Jury on my first trial. Wm Horwood. one of my Witness es being compeled to go to Louisville, and Sam'l Horwood another of my Witnesses being at Bards town & Being a Stranger I got Wm Horwood to try to get the trial put off. until the next saturday week. he went to see Squire Hollingsworth - who told him he was willing, if Mr Alexander was willing. he then went to Mr Alexander at 1 Oclock at night - and Alexander agreed to not bring it on until the time mentioned and from thence William went to Louisville, Mr Alexander came verry early to Simpsonville and notified me to attend trial at ten Oclock I asked him the reason why he proceeded so hastily - he said that one of the Irishmen had come to his house and urged him to bring on the trial I then told him to I could not go safely into trial without the two Mr Horwoods and that he must summon them with others. I also begged him to put off the trial - he said I had better see Squire Hollingsworth I did so - the Squire said it was all with Alex ander. I then told the Squire I wanted to get the trial removed to Shelbyville - or some other place where I was better known - and where there was not so much excitement - he told me that it was all with Alexander. he could return the warrant before any other Justice of the peace - I then went to Alexander and told him what the Squire had said - he then told me it was already returned before Hollingsworth - The trial was brought on. and I stated to the Court that I was not ready and could not go safely into trial. without the two Mr Horwoods - the Squire swore me to answer questions - I stated what I wanted to prove by those

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Witnesses - by Samuel Fonvood. that I went to the House of Carroll at his request being employed by him as an overseer of his negroes and by Wm [illegible] that I did not breake the peace in word or deed. that I had no hand in the dog biteing the woman only that he had accidently been near enough to bite her when she was committing a breach of the peace herself on Wm Fonvood which caused the dog to bite the woman. the Sajeant said they would admit what I wanted to prove by those Witnesses, and so the trial went on. there was nothing proven against me only that I caught the negro by the arm when she run out of the Kitchen turned her round and brought her home. which I believed to be my duty I did believe. and do yet believe that if I had got the trial removed to some other place, or before some other Justice. that the verdict would have been different. that the explanation of the law that was given was erroneous, in my opinion and was calculated to make it appear that We were as a mob of ruffians. and therefore I am not satisfied to let things remain as they are. if I can get any redress. some statements made to the Jury induced them to believe that the title of the negro was vested in Carroll. consequently the Jury believed I had committed a breach of the peace by going and bringing Carrolls negro away. I can prove by written documents that were absent at the trial. that Samuel Fonvood had the title and I believe I can prove by Witness - who live in Lawrenceburgh that Carroll had no title. and that Samuel Fonvood alone was the owner of said negro. which by leaving the facts of the case to the Jury would shew them at once that I was not guilty of a breach of the peace

Shelby County to wit:

I Certify that Wm Warnock personally

appeared before me - and made oath, that he believed the Within Statement to be true — Given under my hand, as a Justice of the Peace for Said County, this the Sixteenth day of February 1842

J. S. Hollingsworth J.P.S.C.

State of Ky. Shelby, County Set. —

I. James Hollingsworth a Justice of the peace in and for Said County. do hereby certify that the foregoing pages - contain a true. full and complete transcript of the Statements they purport to be as the same is filed in my office — Given under my hand this Seventeenth Day of February 1842

J. S. Hollingsworth J.P.

Under Ch. 12½

~~free~~

Gad^r. Selcher.

Mr Moore

Frankfort Ky

C. Smith
1842

Laurel County Ky
Feb: 16. 1842

D. Gov:

In the trial of the Commonwealth
vs Jesse Moore in the Laurel
Circuit Court, which you res-
pited on the 1st day of Feb: 1842
I was his Council. I drew
a bill of exceptions and prayed
an Appeal — bond was ex-
icuted — a copy made out
and given to Judge Ballinger
by me on his way to the
Senate, but did not reach
the Clerk. Shortly before
the three years expired,
Moore found that the Record
had not reached and had a
new one made out and
sent it by Mail, but did
not reach there in time.
Mr Moore is willing to be
qualified that he sent the
second record by Mail, &
paid the postage and $1 — ~~[illegible]~~ ~~[illegible]~~
but they did not reach
there in time as Mr Swigert
wrote to Mr Moore. The Record
is in the Office which I hope
you will examine. By
its inspection I am ~~[illegible]~~ satisfied

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as a Juror you would not have found apt. Moore, And as a Judge you would have given a new trial.

From an examination of the Record I flatter myself you will remit the Anth. It is unjust for the Commonwealth to ask it.

yrs &c

E. Smith

P. S.

Since writing the above ~~letter~~, I will now say Mr. Moore sent on two Copies by mail after I sent the first. and $4 ordered for the two.

E. S.

To his Excellency Robert P Letcher
Governor of the Commonwealth of Kentucky

The undersigned, your petitioners Respectfully Represents to your that at a Circuit Court held in the Town of Shepherdsville Bullitt County in the month of July 1838 the Reticular day of the month not Recollected he was fined the Sum of $260 dollars & Costs for Retailing spirituous Liquors without Licence, of which there is Remaining $100 dollars against him that since the Session of the court imposing said fine he has been entirely Broke up by the payment of Debts Justly due and should have been paid and now is entirely broke up. Destitute of property save a small portion Hardly Sufficient to give the smallest Comforts to a wife who is unhealthy and unable to give Him any assistance in the maintainance of a number of Small children who are dependant upon him for support and the small portion of property inconsiderable as it is he is afraid Sheriff will be taken away from him to pay the fine & costs aforesaid and when sold will not pay the same your petitioner prays the interposition of your Excellency in this cause as in

Duty will ever pay

February 17th 1842

James Massy

Wm Stark

Lawrence Roby

Bluford Steel

Elijah Pierce

Jonathan Patterson sign

Jonathan Patterson Junr

Heston Patterson

James McGlothlin Junr

Ben McGlothlin

James McGlothlin sign

Nat Boyrs

Morgan Patterson

Nat Gatter

John Watts

Comfort Wood

Miles Roby

John Roby

S. M. Cunbee

Wm Clark

Corn Moon

Nicholas Gravity

William Lavoy

Anna McCormack

R. Andrews.

Geo R. Stone

Wm C. Short

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~~duty will ever Pray~~

~~February 17th 1842~~

~~James Massy~~

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