

It is to be remembered that since these cases, as has been stated, premeditation has come to be considered necessary in Missouri in murder in the second degree.

In *State v. Talbott*, 73 Mo. 347, the court approved the following instruction: "If, therefore, the jury believe that defendants took the life of Perry H. Talbott by shooting him in a vital part with a shotgun or other firearm, loaded with gunpowder and a leaden bullet, with a manifest design to use such weapon upon him, and with sufficient time to deliberate and fully form the conscious purpose to kill, and without sufficient reason or cause or extenuation, then such killing is murder in the first degree; and while it devolves on the state to prove the wilfulness, deliberation, premeditation, and malice aforethought, all of which are necessary to constitute murder in the first degree, yet these need not be proved by direct evidence, but may be deduced from all the facts and circumstances attending the killing."

The Talbott Case was approved in *State v. Tabor*, 95 Mo. 585, 8 S. W. 744; and was followed in *State v. Kindred*, 148 Mo. 270, 49 S. W. 845, and in *State v. Grant*, 152 Mo. 57, 53 S. W. 432. In *State v. Herrell*, 97 Mo. 105, 10 Am. St. Rep. 289, 10 S. W. 387, the court condemned an instruction similar to the first clause, but omitting the second clause.