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Passaic County Oyer and Terminer,

STATE OF NEW JERSEY.

TRIAL OF

Walter C. McAlister, Andrew J. Campbell
and William A. Death for the

MURDER OF JENNIE BOSSCHIETER

Giving in full all the testimony, the rulings
of the court and the arguments of coun-
sel as taken from the transcript of
the official stenographer.

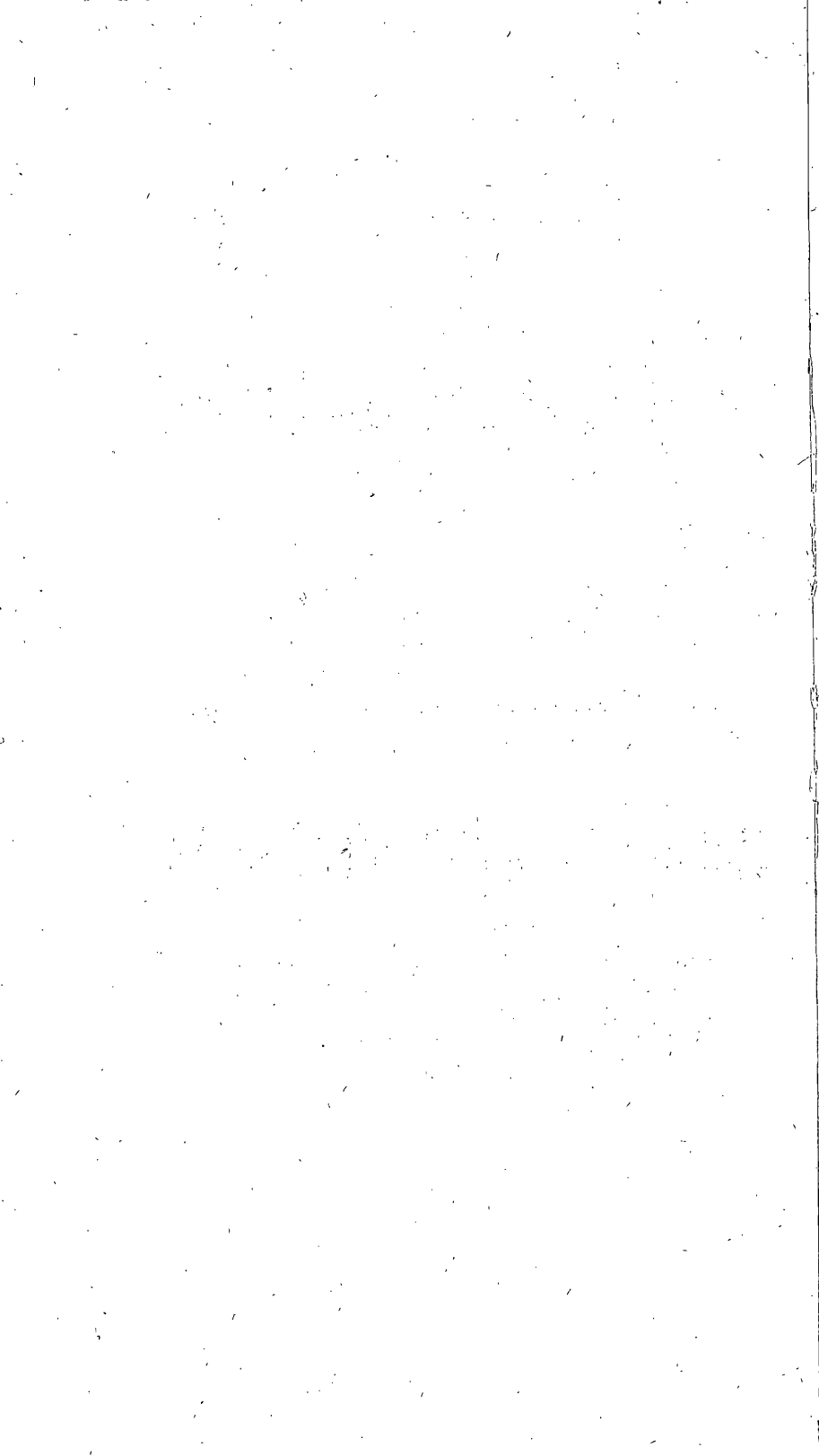
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INDICTMENT.

COURT OF OYER AND TERMINER IN AND FOR THE
COUNTY OF PASSAIC.

SEPTEMBER TERM, A. D. NINETEEN HUNDRED.

Passaic County, to wit:—The jurors of the state of New Jersey in and for the body of the County of Passaic, upon their oath present that Walter C. McAlister, George J. Kerr, William A. Death and Andrew J. Campbell late of the Borough of Hawthorne in the County of Passaic, aforesaid, on the nineteenth day of October in the year of our Lord one thousand nine hundred, with force and arms at the borough aforesaid, in the county aforesaid, and within the jurisdiction of this Court, in and upon one Jennie Bosschieter an assault did make, and her the said Jennie Bosschieter, then and there forcibly and against her will feloniously did ravish and carnally know, and that they, the said Walter C. McAlister, George J. Kerr, William A. Death and Andrew J. Campbell, in committing the said rape in manner aforesaid, her, the said Jennie Bosschieter, then and there did kill and murder, contrary to the form of the statute in such case made and provided, and against the peace of this state, the government and dignity of the same.

And the jurors aforesaid, upon their oath aforesaid do further present that the said Walter C. McAlister, George J. Kerr, William A. Death and Andrew J. Campbell on the nineteenth day of October, in the year of our Lord nineteen hundred in the Borough of Hawthorne aforesaid in the county aforesaid in and upon one Jennie Bosschieter, then and there being in the peace of God and this State, an assault did make and her, the said Jennie Bosschieter, then and there did wilfully, feloniously and of their malice aforethought kill and murder contrary to the form of the statute in such case made and provided, and against the peace of this State, the government and dignity of the same.

EUGENE EMLEY,

Witness:

Prosecutor of the Pleas,

FREDERICK G. GRAUL.

COURT OF OYER AND TERMINER, PASSAIC COUNTY, NEW JERSEY.

January Term, 1901.

THE STATE

vs.

WALTER MCALISTER, WILLIAM
A. DEATH and ANDREW J.
CAMPBELL.

On Indictment
for Murder.

Paterson, New Jersey, January 14, 1901, 10 o'clock.

Before HON. JONATHAN DIXON, J. S. C. and Jury.

APPEARANCES.

MESSRS. EUGENE EMLEY, Prosecutor of the Pleas, and
RALPH SHAW, Esq., Assistant Prosecutor, for
the State.

FRANCIS SCOTT, Esq., for Defendant McAlister.

MESSRS. MICHAEL and CHARLES B. DUNN, for the Defendants Death and Campbell.

HON. WILLIAM T. HOFFMAN, for all Defendants.

Counsel for all defendants move that the indictment herein be quashed and set aside for the following reasons:

1st. Because the first count of said indictment does not state the date when the person charged to have been assaulted died.

2nd. Because said count is defective for duplicity, it containing a charge of rape and also a charge of murder.

3rd. Because the charge of murder in said count is fatally defective, said count failing to use the words required by the statute, and the common law, to charge murder, to wit: the words "wilfully, feloniously and of malice afore thought."

4th. Because the venue in the second count is not charged to be within the jurisdiction of the court.

5th. Because said second count does not state when the person assaulted and murdered, died.

6th. Because the first count is a charge of rape, at-

tempting but failing to charge murder, while the second count charges murder.

7th. Because the first count in said indictment is a charge of rape against said defendants, while there is another indictment found at said term of said court for the same rape upon the same person named in the aforesaid first count, to wit: Jennie Bosschieter.

8th. Because said indictment is in divers other respects illegal and contrary to law.

The motion was denied, to which denial each defendant excepts and the exception is allowed by the court.

The empaneling of the jury then proceeded as follows:

William Devlin was called as a juror and challenged peremptorily by the state.

John Sloate was called as a juror and challenged peremptorily by the defendant Death.

Charles Brett was called and sworn as a juror, and took his seat in the box.

John Wheeler was called as a juror and challenged peremptorily by the State.

Walter Brooks was called and sworn as a juror, and took his seat in the box.

John McAllister was called as a juror and was challenged for cause by the state.

The Court:—What is your proof?

Mr. Emley:—I will have him sworn.

(The juror was then sworn on his *voirdire*.)

Examined by Mr. Emley:

Q. Where do you live? A. 206 Mill street, this city.

Q. What is your business? A. Silk.

Q. Whereabouts do you work? A. I work for the Hamil & Booth Company, for thirty years past.

Q. How long have you lived in Paterson? A. I have been in Paterson since about when I was eleven or twelve years of age, or thereabouts.

Q. Do you know this defendant McAlister in this case?
A. By sight.

Q. Is that the only acquaintance you had with him?
A. Yes, sir.

Q. Are you in any way related to him? A. No, sir.

Q. There is no connection of that kind? A. No, sir.

Q. Or with any of his family? A. No, sir.

Q. That is all.

(The challenge was thereupon withdrawn.)

Charles Worth was called as a juror and was challenged peremptorily by the state.

Martine J. Flynn was called as a juror and challenged peremptorily by the state.

George G. Ainsworth was called as a juror and challenged peremptorily by Mr. Dunn for the Defendant Campbell.

Charles B. Lovell, Jr., was called as a juror and challenged peremptorily by Mr. Dunn for the Defendant Death.

Herbert Bush was called as a juror and challenged peremptorily by Mr. Dunn for the Defendant McAlister.

John E Hockett was called as a juror, and was duly sworn and took his seat in the box.

Charles Fox was called as a juror and was challenged peremptorily by Mr. Dunn on behalf of the Defendant Campbell.

Frank McCourt was called as a juror and was challenged peremptorily by Mr. Dunn on behalf of the Defendant Death.

Herbert Senior was called as a juror and challenged peremptorily by Mr. Dunn on behalf of the defendant McAlister.

Joseph Fuchs was called as a juror and challenged peremptorily by Mr. Death.

Harry E. Remig was called as a juror, and challenged peremptorily by the defendant Campbell.

Oscar Allgier was called as a juror, and challenged peremptorily by the State.

Albert Reimer was called as a juror, and was challenged peremptorily on behalf of Mr. McAlister.

Aaron Jenkins was called as a juror, and challenged peremptorily on the part of Mr Campbell.

Charles Buttel was called as a juror, and was challenged peremptorily on the part of Mr. Death.

George Hardcastle was called as a juror, was accepted, duly sworn and took his seat.

James McCleece was called as a juror, and was challenged peremptorily on behalf of Mr. McAlister.

Adam Morrison was called as a juror, and was challenged on the part of Mr. Campbell.

Charles J. Haight was called as a juror, and was challenged peremptorily on the part of Mr. Death.

Charles Irving was called as a juror, was accepted and took his seat in the box.

James Kissick was called as a juror, and was challenged on behalf of Mr. Campbell.

Richard Salmon was called as a juror, and was challenged on behalf of Mr. McAlister.

Hiram Pearson was called as a juror, and was challenged on behalf of Mr. Campbell.

Charles Watson was called as a juror, and was challenged on behalf of the State.

Anthony Thomas was called as a juror, was accepted duly sworn and took his seat in the box.

Charles H. Stratton was called as a juror, and was challenged in behalf of the State upon the ground of previous service within the statutory time.

The Court:—When did you last serve? A. I was on the Coroner's jury in this case.

Q. When did you last serve in this court as a juror? A. Last year in April; I think it was in April.

Q. At the April term of last year? A. Yes, sir. Challenge allowed.

Mathias C. Winans was called as a juror, and not being challenged by either side, was duly sworn and took his seat in the box.

William Glass was called as a juror, and was challenged peremptorily on behalf of Mr. Death.

Edward Bergen was called as a juror, and, there being no challenge by either side, was sworn and took his seat in the box.

John R. Hall was called as a juror. The clerk announced that Mr. Hall was confined to his bed, whereupon the Court directed the next name to be called.

John Rubin was called as a juror, and, there being no challenge on either side, was sworn and took his seat in the box.

George B. Conklin was called as a juror and, no challenge being made on either side, he was sworn and took his seat in the box.

Garret Terhune was called as a juror, and was challenged peremptorily on behalf of Mr. Campbell.

Joseph Smith was called as a juror, and, no challenge being taken by either side, he was sworn and took his seat in the box.

The Court:—Among the orders which the Court makes the Court asks that the jury will conscientiously refrain from the reading of newspapers during the pendency of this trial; there will perhaps be nothing in the newspapers of especial interest, but it is desired that your mind should be made up from the evidence, and exercise that self-denial.

OPENING.

Mr. Emley:—If the Court please, Gentlemen of the Jury, The defendants before you, Death, McAlister and Campbell, are under indictment and on trial for the highest crime known to our law, the crime of murder. For the murder of Jennie Bosschieter committed on October 18th of last year, in the Borough of Hawthorne, in the County of Passaic.

I need hardly speak to you of the great importance of this case. That is fixed, in the first place, by the awful character of the crime; and then, again, the public interest in the case, the scenes about this Court house, these crowded benches, speak for me, and speak with a deeper meaning than any words of mine could possibly possess. Important to the State, therefore, goes without saying. Important to these defendants because of the well recognized seriousness of the charge, and also, because, if they be guilty, their guilt must be and is attended by a series of facts and circumstances which, if possible, must lend an additional horror to this already dreadful crime, and take from them all hope of pity, sympathy or commiseration. So, I say, gentlemen of the jury, that words need not be spoken to impress upon you the importance, both to the State and these defendants, of the serious matter which you now have in charge; and in starting out upon this case let me beseech you, in the utmost sincerity, not to be deceived or misled by any of the signs and tokens to which reference has been briefly made, for it is the desire of the State to present this case to you for your consideration, so far as possible, free from every particle of irrelevancy of a sensational or other kind, and presenting the case to you in that way, in that perfect and absolute spirit of impartiality, to ask you finally to determine the question of the guilt or innocence of these men free from resentment, free from prejudice, and to look at the case from the State's standpoint of absolute fairness alone. It will appear, gentlemen of the jury, in this case,—and in what shall now follow you will find as clear an outline as it is possible for me to draw of the transactions of that fatal night, without going into or undertaking to explain in detail exactly what the testimony of each particular witness will be.

Jennie Bosschieter was a young girl in her eighteenth year; she was one of a numerous family, living with her parents, her father and mother, and brothers and sisters,

on East Fifth street, at No. 155. That is in the Riverside section of the city, as you are, perhaps, all well aware. The residence of this dead girl was but a short distance to the left of River street where it crosses the tracks of the Erie Railroad. She came to this country in the Spring of 1890, ten years ago. The parents came from Holland, and came from Holland stock.

They are a family of gentle folk, driven, as many hundreds of others have been driven, by the unfortunate stress of circumstances, to a home upon American shores; and since they, at that time, took up their abiding place among us, they have dwelt together, as a family, in happiness and peace, and, as citizens, as law abiding and God fearing people. They all were actively engaged—Jennie among the number—in some active pursuit of life, and in this way, they by their separate contributions, be they more or less, great or small, kept the home and the family together intact. Jennie, with her sister, at the time of this great misfortune which came so suddenly into her life, worked at the Paterson Ribbon Company, whose mill is situate on Vreeland avenue, near the Vreeland avenue station of the Susquehanna road. There she and her sister worked steadily, daily, at the occupation of a ribbon filler, going to their work each morning in the company of each other by way of the Riverside and the Vreeland avenue trolley. They left home for that purpose on the morning of this day, as was their wont, and at the conclusion of the day's labor found their way again to their humble home in the Riverside precincts. They reached there in the neighborhood of five o'clock, where they remained until about eight. Then the sister—the living sister—made her preparations to go to the home of a near-by neighbor, as was her custom, to spend the evening in social converse and pastime. She left Jennie at home, as she left the house, in the neighborhood of ten minutes to eight, and that was the last that this sister ever looked upon her alive. Jennie left the house within a few moments for the purpose of going down town. She was dressed in the clothes that she had worn since the morning, with this exception that she changed her skirt, a gray to a brown, and her waist, her day waist, to another with some more pretention to style, and thus attired, with a cape over her shoulders, she started out on her way downtown. Susie, the living sister, and Jennie, the dead, in this father's home, occupied the same sleeping room, occupying the same bed. There they,

with their aged grandmother sleeping upon a separate couch, found their much needed rest. There they together night after night and morning after morning, prepared themselves for the night, and upon rising completed their toilet in the presence of each other. And upon the morning of this day, as she arose from the night's sleep and made her preparations for the labor of the day, she, as to her underclothing, dressed herself as had been her custom, wearing a short chemise, underneath her corset, drawers of modest pattern, and over them a short underskirt, and then another underskirt, and still yet another longer underskirt, and over that a brown overskirt, and the waist, and the jacket to which I have referred already, so was this poor girl attired as she left, around eight o'clock, her father's home for her trip down town.

Something had been said at home before her departure about procuring some powder for an infant of a married sister, who was then domiciled in her father's home, awaiting the preparations which her husband was making in the far west for her removal. Something was also said by this dead girl and this notwithstanding the apparent urgency of her errand to procure the baby powder—something was said by her suggesting to her sister Susie the possibility that circumstances might arise under which she might not that night return to her home—no questionable circumstances—but that there was a possibility that she might go for the night up to Mrs. Klatte's, a woman of eminent respectability, living upon Main street just above Grand. There was nothing unusual in this, nothing to create surprise, for it had been for a long time the habit of Jennie, who was at all times a welcome visitor in Mr. Klatte's home, after assisting her in little ways about the small business that she there carries on, to remain overnight and join on the following morning her sister at the City hall, whence they were in the habit of going together to the silk mill down at Dundee. And so, I say, there was a suggestion of that kind made that night, a suggestion which was received as a matter of course.

We lose sight of this girl here. I have, notwithstanding the most diligent and far reaching search, been unable to meet her anywhere during the hour immediately following her departure from home. I meet her for the first time in the neighborhood of 9:30 o'clock, standing upon Main street in front of Kent's store. She was seen there in conversation with the defendant, Campbell,

laboring under some excitement and returning, in answer to his apparent earnest pleading, a vigorous and a snappy "No, No." At that time, when she was seen talking to the defendant, Campbell, these other two men were near by. The defendant, Death, stood but a short distance away, at the corner of Main and Van Houten streets and the defendant, McAlister, occupied his accustomed place in the doorway of Kent's drug store. There they were, and there was this dead girl, little dreaming of the awful destiny which lay so near at hand.

From there she is next seen walking by Campbell's side down through Bridge street from Broadway to River, at the junction of which stands Saal's saloon. They are seen to turn the corner of River and Bridge streets passing westerly or southwesterly, perhaps, along River street until they come to the side door leading from River street, through a room used in connection with the saloon, into a winding hallway leading still further back to a room in the rear on the ground floor.

Mind you, this was the deceased and the defendant, Campbell, but as they turned the corner of Bridge and River streets, where the entrance to the saloon stands, the defendant, Death, was there to meet them, and joining them upon the sidewalk, passed with them through the short distance to the River street side door, and disappeared with them into the mysterious interior of this saloon. They, as I said a moment ago, found their way to this rear room where they were at once seated at a round table which was a part of the furniture of the room. These three men and this dead girl. Previous to the arrival of Jennie Bosschietter and Andrew Campbell at Saal's saloon, the defendants, McAlister and Death, came upon the scene, for a few moments before. McAlister, who was known to the proprietor of the saloon, with another man, who we will show was the defendant, Death, came there and had a drink, and, after having this one drink at the bar—in the bar room it was—Jennie and Campbell followed directly in their wake. I shall show you, gentlemen of the jury, by proof that, as to its credibility and as to its absolute and entire accuracy, is overwhelming, that there in the side room of this saloon, drinks were ordered and partaken of once, twice, aye the third time, by this girl at the invitation and in accordance with the well laid plan of these men, and that by means of these liquid refreshments which were then and there had, they—it matters not by whose hand—they, once,

twice, aye, three times, drugged her into insensibility and death. And I will show you, gentlemen of the jury, that, at the end of this period of perhaps three quarters of an hour in Saal's saloon, these men carried the insensible form of this girl in their arms, from that back room through a side door opening upon Bridge street, where they put her in a hack which stood in readiness to receive her, and that they then with her in the hack and in that condition drove with her through Governor street to Paterson, Paterson to Fulton, Fulton to Straight, then from Straight street through North Straight to the Goffle road, up the Goffle road to near the county line, through the dark, dreary, rough and unfrequented Rock road into the deep solitude of the woods, and laid her out upon the ground, and then, with undescribable brutality, removed her drawers from her body, and there, in the still hour of the night, surrounded by the darkness of the woods, they one after the other perpetrated this almost nameless outrage upon this unconscious and dying girl. I say dying girl, for, although helpless, she was then still alive. I shall show you, gentlemen of the jury, that, when their brutish passions had been finally satisfied, they with levity of speech and sportive demeanor returned her to the wagon for the journey toward home. They came out upon the Goffle road from this unfrequented by-road, and started down the Goffle road toward Paterson, thinking, no doubt, that all, in the end, would be well, until soon and suddenly, there is the thought, the dreadful suspicion, that this girl might not revive. Her sleep had been so prolonged and so deep that, by the brook at the school house, it seemed well to them that they should bestir themselves in an effort at her resuscitation, and there they pulled to the roadside by the running brook and took her from the wagon and laid her upon the ground. Then begins, gentlemen of the jury, the anxious hours of the men; handkerchiefs, wet with the water of the brook, were applied industriously to her face and person. But the slapping of her face, the rubbing of her hands and arms, and the cold applications were in vain; and disturbed, as they were there and then by the noise of an approaching wagon, and by the dreadful fear which had then come upon them, they resumed the journey, this gruesome journey, to Paterson, and took her to the office of Dr. Wiley, on Ward street, from whom they thought there might be relief. But, alas, it may have then been too late, for as she left the brook by

the roadside, and passed down but a short distance towards the city, the last manifestation, the last sign of life, was then seen, for as she sat upon the back seat of this hired hack, between McAlister and Death, she, lying there helpless and unconscious between them, was seen to rise up and lean forward of her own strength, which proving insufficient, she quickly fell back into the position where their hands had placed her, outraged and defiled, and from that time, so far as the State knows, no remnant of life remained. They came back by East Main street and the Straight street bridge, and by the streets which afforded the nearest approach to Dr. Wiley's office. Dr. Wiley was not at home. McAlister, and another not of these three, summoned him from his sleep, or rather those in charge of his office, and received the announcement that the Doctor was not at home. They then said to the driver of the cab that they would go down and see Dr. Townsend whose office was in the other direction, on Paterson street.

Upon their arrival at Townsend's office McAlister, and another not of these three, hastened from the wagon to the vestibule of his home, and with an impatience borne of a full comprehension of the dreadful situation hurried the doctor from his bed. He came down; he came down robed in his night gown, and was met at the door by McAlister and the other man to whom reference has been made, who said to him "Doctor, there is a girl out in the wagon here who has met with an accident, and we want you to go out and look at her." He did go out to look at her, after preventing McAlister and his comrade from gaining entrance to the house, which they then sought. Upon reaching the sidewalk he saw [this hack, with the girl on the back seat, and two other men, in addition to the driver, standing near by. He examined her as she lay there, feeling of her head and other parts of her person--her pulse, her heart; and he finally said to them, "Too late; too late, the girl is dead." That was at two o'clock in the morning of October 19th. The Doctor returned to his apartments and left them with this unnatural burden in their own hands. They then bethought themselves of what should be done; and at that point, for the first time, the driver of the hack learned the place of this girl's home, and out of the humanity of his heart he said to these guilty men "Take her there; take her there." And in accordance with their directions, he drove down through some of the streets in the River-

side neighborhood, until he came to the slaughter house near the Erie crossing, and to the gas house not far away, and there, upon the repetition by him of his kindly suggestion to take her home, it was said "Get away from here. There is a watchman around the slaughter house and we may be seen." "You," speaking to the driver of this hack, "Go where we tell you to go, or take the consequences; you go over the Hillman Street Bridge," which is the next bridge, I think, below the Straight street bridge, and crosses the Passaic from a point below, or to the left, as you go towards Riverside, to the left of River street, and comes out upon the other side at Hillman street, which runs up from the river bank but a short distance and there connects with East Main street. And so, that was the route of these men, through Hillman street to East Main street until the Goffle road is reached, which is the continuation of East Main street, out into the country towards Midland Park; and thus over the same old route again, did they go for the accomplishment of the final act in the dreadful drama of that October night, until they came to the silk finishing works of the Arnold Brothers, at Hawthorne, where there is a road turning out of the Goffle road, and running towards Hawthorne and the Erie railroad, and parallel with the river in the direction in which it flows, until it comes out again upon the Ridgewood road, at the end of what we all know and understand here to be the Wagaraw bridge. Near the end of the Wagaraw bridge, on the Bergen county side, and consequently near this River road, stands the mill of Alyea Brothers.

And so, gentlemen of the jury, if you have been able to follow me, you will see these men traversing this River road at that unearthly hour of the night. As they went along, and went along, and went along, where the driver then knew not, and reached a point upon the River road perhaps seventy-five or one hundred feet before the Ridgewood road is reached at the end of the Wagaraw bridge, the order to halt was given, and this moving caravan was brought to a stop. What for? Because, as they said, "This is a good place." A good place to leave the body of the dead girl; and jumping from the wagon there they, with their hands, and in their arms, lifted this poor child from the wagon seat and carried her to one side, between there and the River bank, where they laid her rudely and with rough hands, and where they left her to her awful and dreadful fate,—left her there in the cold

night to be found and discovered, when they did not know, by the idle curiosity of some stranger, some casual passer-by—left her there where, in the early hour of the morning, a workman at Alyea's mill saw her lifeless form, and brought her death for the first time to public notice.

Then they reoccupied the carriage and started on their way home. They didn't cross the Wagaraw bridge, which was just at hand, but they went on down to the Bergen county side of the river along the River road, as you doubtless all well know it—until they reached the road which leads down to the Thirty-third Street Bridge, which may be more familiar to you as the Morlot bridge, and they came into Paterson that way. They drove through Thirty-third street, which is the street, I think, that the trolley tracks are on, through Thirty-third street, passing Broadway, passing Park avenue, into Vreeland avenue for one block until Seventeenth avenue is reached, thence to the right and down Seventeenth street to about where the Armory stands. McAlister, and another not of these three, there left the conveyance for the purpose of going home, not, however, until McAlister had, undoubtedly as he supposed, abundantly reimbursed this hack driver by giving him the sum of ten dollars, the munificent sum of ten dollars, for this night's miserable work, and not until he had left strict instructions with the hack driver that nothing was to be said. Death and Campbell rode on a short distance until they reached the corner of Market and Carroll streets, just below the Armory, where they in turn left the wagon and are lost in the darkness of the night.

You have, gentlemen of the jury, in these poor words of mine the best outline of the conduct of these men that I can give you. These facts, which I have endeavored to state to you and to make entirely clear to you, will be supported—supported abundantly by the testimony of numerous, credible and reliable witnesses, and if that be so, if it transpires that my words should come true, I shall finally, as the humble servant of the State, ask at your hands, a verdict of guilty—guilty of murder—murder of the first and highest degree. Why? Because the law of New Jersey compels me to. That law declares that murder; mind you murder, perpetrated by means of poison shall be murder of the first degree. If anyone—if they, to keep to the case, in Saal's saloon administered to this girl poison for any unlawful purpose, for the purpose, if you please, of stupefying her and thereby making un-

lawful intercourse with her more easy, and she die in consequence thereof, even though the unlawful purpose be afterwards abandoned, that is murder—murder recognized from the earliest ages by the fundamental principles of the common law, and, being murder, the State of New Jersey has said that that murder, having been perpetrated by means of poison, is murder in the first degree. Then again, I say, I shall ask for this verdict at your hands because it is declared that any person who shall kill another—not murder another—who shall kill another in the perpetration of a rape, shall likewise be guilty of murder in the first degree.

I propose, gentlemen of the jury, to put these men on both horns of that dilemma. I propose to put them within the meaning of each one of these definitions of the crime of murder in the first degree, and I desire to say now, and I want it to be distinctly understood at the very outset of this case, that that is my purpose—that there is no middle ground here, that there is no possibility of compromise here, and without reservation I say it, but without resentment or prejudice of any kind, the facts will develop a case here before you, for your consideration, which, I believe, under the instructions of this most honorable Court, will leave no other alternative, will permit of no other conclusion, than the conclusion to which I have been forced myself, that these men are guilty of murder in the first degree.

CORNELIUS V. W. FONDA, a witness sworn on behalf of the prosecution, testifies as follows:

Direct Examination by Mr. Emley:

Q. Mr. Fonda, are you a Surveyor and Civil Engineer of Paterson? A. Yes, sir.

Q. You have followed that business for quite a good many years, have you not? A. Since 1876.

Q. And did you, in accordance with my instructions, make a diagram showing the Goffle Road, or that part of the Goffle Road which lies within the Borough of Hawthorne? A. Yes, sir.

Q. From what was that diagram made? A. From a survey that I made for that purpose.

Q. And is that the diagram on there and there, in front of you? A. Yes, sir.

Q. And is that an accurate diagram, made in accord-

auce with the boundaries of the Borough of Hawthorne?

A. Yes, sir.

Q. Just point out to us on that diagram, if you will, where the Goffle Road is. A. Well, it is known as the Godwinville Road and also as the Goffle Road. It starts at the City line of Paterson at the end of East Main street, running in a northerly and northeasterly direction to the county line at what is known as Lee's Hotel.

Q. Is that indicated on the map there? A. Lee's Hotel?

Q. Yes, sir? A. Yes, sir.

Q. Where is that? A. Right on the county line.

Q. You havn't shown it there? A. Yes, sir; right there (indicating on map.)

Q. And then the line from there runs where? A. From the Goffle road the line of the county and Borough of Totowa? In a northeasterly and southwesterly direction.

Q. To where? A. To Cherry Lane.

Q. Is that shown there? A. Yes, sir.

Q. Then where does it run? A. It runs through the centre of Cherry Lane to the centre of Passaic river.

Q. And then where? A. From there through Passaic river in an easterly and southeasterly direction to the city line at Crook's avenue—that is, the line of the county.

Q. No, I am following the borough lines now. Stick to that. Now again down Cherry Lane? A. Yes, down through the centre of Cherry Lane to the centre of the Passaic river; then in a southwesterly direction to a point in the centre of the river, opposite what it known as Prescott street, in the Borough of Hawthorne, produced through the centre of the river; then, through Prescott street to the top of the hill; then following the rocks along the top of the hill to the county line again.

Q. That would be the westerly line of the borough? A. Yes, sir.

Q. Have you shown that line there? A. Partially. It makes a circle and comes to this point here (indicating).

Q. In passing from the City of Paterson by the Goffle road, what other division of the county do you pass through after leaving the City of Paterson, and before entering Hawthorne Borough? A. The Township of Manchester.

Q. Where is that? A. Between this point here and here (indicating).

Q. What is the distance from the city line to the Borough line? A. About 1050 feet.

Q. What is the distance from the southerly line of the Borough, measured along the Goffle road to the northerly line of Lee's hotel? A. 14,944 feet.

Q. That would be about how many miles? A. Very nearly three miles.

Q. Yes, and what do you come to at Lee's hotel, passing up the Goffle road? A. The County line.

Q. What else? A. Before you come to Lee's hotel you strike the Rock road.

Q. How much before you strike the Lee's hotel? A. About forty feet.

Q. About forty feet south of Lee's hotel? A. Yes, sir.

Q. About how far south of the County line is that? A. The same distance.

Q. And in what direction does that Rock road run? A. The Rock road runs in the southeasterly direction.

Q. What? A. The southeasterly direction.

Q. Have you delineated that road upon your map? A. Yes, sir, here (indicating).

Q. And where does the road terminate towards the southeast? A. At what is known as the Ridgewood road.

Q. In the meantime crossing Cherry Lane? A. Yes, sir.

Q. And it extends beyond Cherry Lane? A. Yes, sir; beyond.

Q. What is the distance from the Goffle road measured along the Rock road over to Cherry Lane? A. 3,000 feet.

Q. A little over a half mile? A. Yes, sir.

Q. What sort of a road is that Rock road? A. It is a rough country road.

Q. A Macadam road? A. No, sir.

Q. A dirt road? A. Yes, sir; dirt road.

Q. And as you leave the Goffle road and enter upon the Rock road, you turn then to the right, do you? A. Turn to the right.

Q. And what is that other line there, crossing Rock road just southeast of the Goffle road? A. The Susquehanna road.

Q. Yes, and what is the character of the ground as you leave the Goffle road and go through the Rock road, proceeding in a southeasterly direction? A. As to what? As to its shape or grade?

Q. Yes, sir; the topography of the road? A. The road falls until you get to the Wagaraw brook, which is be-

tween the Godwinville road and the railroad, then it rises to the railroad and continues to rise until you get to this point here (indicating), where the road joins the county line. From there out it falls towards Cherry Lane.

Q. And from the point where the road joins the county line, you say. A. Yes, sir.

Q. (Continuing). On towards Cherry Lane, where does the road lie with reference to the county line? On which side? A. On the southerly side of the county line.

Q. That is the Passaic county side? A. Yes, sir.

Q. And what do you say is the character of that part of the road? Is it level, or hilly? A. It is practically level.

Q. About how far is the point where the Rock road joins the county line from its junction with the Goffle road, measured along the line of the Rock road? A. About 1,200 feet.

Q. About 1,200 feet? A. Yes, sir.

Q. And where would that be, that point, with reference to the entire distance between the Cherry Lane road and the Goffle road? A. A little over a third.

Q. And what sort of condition is the road in there, that Rock road, for the purposes of travel? A. It is a rough road.

Q. And what sort of surroundings are there as you pass through the road there, how does the country appear? A. It is farming country, partially, and partially wooded.

Q. Where are the woods? A. The woods lie to the south of the Rock road at this point between the railroad.

Q. That is at the elbow of the Rock road? A. Yes, sir.

Q. That is just after you cross the Susquehanna tracks? A. Yes, sir.

Q. And those woods are how extensive there? A. Well, they extend quite some distance to the south, but have been cut off considerable from this point towards Cherry Lane where there are quite a number of houses built.

Q. Well, what does that other line that you have traced upon your diagram indicate, next southeast of the Goffle road? A. This (indicating)?

Q. Yes? A. That is the Wagaraw Brook.

Q. Is that a perpetual brook? A. Yes, sir.

Q. Running most of the time? A. Yes, sir.

Q. And what have you indicated at the point where the inscription is next below the county line? A. That is a school house here, and the Wagaraw Brook, crossing the road between the junction of the avenue with the Goffle Road.

Q. Which side of the Goffle Road is that school house? A. It is on the right hand side going northerly towards Midland Park.

Q. And there the road running to the left out of the Goffle Road at the school house—what road is that? A. The Goffle Hill road.

Q. Sometimes called the Sickomac Road, isn't it? A. Yes, sir.

Q. Now, Mr. Fonda, what is this road coming down to this end of the map that you have shown? A. That is known as the Wagaraw Road or Hawthorne avenue.

Q. That is the Wagaraw Road? A. Yes, sir.

Q. Where does that depart from the Goffle Road? A. At Arnold's Silk Finishing works.

Q. Where does that lead? A. The junction of the Goffle Road with the Wagaraw Road.

Q. Where does that Wagaraw road lead to from there? A. It leads in an easterly direction to the county line at Cherry Lane, thence following the river around to Alyea's mills at the Ridgewood road and the Wagaraw bridge.

Q. You haven't shown the further extension of that road beyond Cherry Lane on your map. A. No, sir.

Q. How far beyond Cherry Lane would you have to go passing along the Wagaraw road, before you reach Alyea's mill or the Wagaraw bridge? A. About a third of a mile.

Q. And through that distance how does the road lie with reference to the river? A. Follows the course of the river.

Q. Does it run closely along the river bank? A. Yes, sir.

Q. I call your attention to the point near the school-house; how does the brook run there with reference to the road as to its proximity to the road? A. The brook at a point nearly north of the school house runs very close to the road, and in fact, forms the easterly boundary of the road.

Q. At that point? A. Yes, sir.

Q. And between the brook and the roadway, what is

there? A. Nothing. A stone wall forms the edge of the brook.

Q. Is there anything there to prevent access to the brook? A. No, sir; only the road is higher than the brook.

Q. The ground descending? A. No, sir; there is a wall along that side.

Q. What sort of a wall? A. A stone wall.

Q. How high is that? A. I judge it is three or four feet.

Q. How far does that run lengthwise with the brook? A. It extends along the whole length of the brook where it borders the brook.

Q. What brook are you talking about now? A. The Wagaraw brook. There is another brook crosses the road further on, the Deep Vail brook; which makes a junction with this brook at this point here (indicating.)

Q. That is the bridge? A. Yes, sir.

Q. How does that lie with regard to access from the roadway? A. It is a gentle slope down.

Q. You have another map there; what does that represent? A. Saal's saloon, on the corner of Bridge street and River street, Paterson.

Q. What is that, from actual measurement? A. Yes.

Q. When did you make your measurements, last week? A. Yes, sir; a week ago last Thursday.

Q. Just describe that diagram to me, will you, and tell me what it represents? A. Between this line here (indicating) and this line here (indicating) is a sidewalk on Bridge street running down to the junction of the sidewalk of River street, running in a southerly direction.

Q. Which line are you referring to? A. The coal black line; and also that line here runs parallel with the building line on Bridge street with the curb line on Bridge street, it has a circular; then at the junction of River street runs in southwesterly direction along River street; that is the curb line; between that and the building line junction of River and Bridge streets; here is the main entrance to Saal's saloon.

Q. Directly on the corner? A. Right directly on the corner.

Q. Swinging doors or double doors? A. Double doors; next on Bridge street to the main entrance is a window, then a blank wall, then a window, a piece of blank wall, then another window and a piece of blank wall; the side entrance on Bridge enters through a vestibule, then from

there is the wall, a piece of blank wall, a window, a piece of blank wall, and a door leading into a private hall; on River street from the entrance there is a piece of blank wall, and then a window and a blank wall again, and then a small piece of blank wall and then a window and then a blank wall again, and a window, a blank wall and then a door entering into a small store on River street that connects with the ground floor of the saloon; then there is a small piece of blank wall, and a door leading into another private hall on River street.

Q. That is a brick building? A. Yes, sir.

Q. How many stories? A. I think three.

Q. And the main floor, the lower floor, was for saloon purposes? A. Yes.

Q. Above dwellings? A. Yes, above were dwellings.

Q. This entrance that you referred to as a private entrance leading to the bar, were there stairways going upstairs? A. Yes.

Q. What is the width of the building line on Bridge street; is there a scale on the map? A. Yes, sir; the quarter inch to the foot—about seventy-one feet on Bridge street.

Q. That is at the end of the stop. A. Down to the end of the main building.

Q. From that point on River street, how far is it back along the building line to the first entrance there? A. Forty-four feet and a half.

Q. What does that yellow mark indicate, is that the first room from the corner entrance going in; bar and this is the back bar; here is the lunch counter, then the office in the corner; dumb waiters leading to the second story.

Q. Passing around River street, what then do you come to? A. The sitting room, then beyond into the saloon, here is where the counter and shelves are on the back.

Q. As you come into the store from that entrance on River street, where do you get out of that room? How do you get out of that room? A. Right directly through the hall running through here.

Q. Where is the door? A. The door is here.

Q. That goes out into the hall which runs parallel with that hall? A. The hall starts at the barroom and runs about half ways in the sitting room, across here and then it turns and goes back into the sitting room there.

Q. Upon the end, the sitting room is there? A. Yes.

Q. That inside room would be in the rear of the Bridge street end of that building? A. Yes.

Q. From the barroom what exits are there; interior exits entering the other rooms? A. A door leading into the office, here (indicating) through into the sitting room is a door leading from here into the hall, a sliding door leading from the barroom into the billiard room back of it.

Q. This vestibule you have spoken about, what is the character of that? A. That is the sliding door.

A. Running around the whole of that floor? A. It does not run entirely, the saloon cuts it off, a ceiling covers it over.

Q. Is it covered over? A. Yes.

Q. The space over the vestibule is covered over? A. Yes, in the vestibule.

Q. Now where is the entrance from that vestibule, the exit? A. From the swinging doors on the vestibule, south of the vestibule.

Q. On the end of it, so to speak? A. Yes.

Q. Lengthwise of that vestibule, is it? A. This portion here (indicating) with the exception of a small counter on the door.

Q. To push beer cans through? A. Yes, sir.

Q. Speaking about the sitting room, where is the end to that? A. One entrance here, and another here parallel to the room entering from the private hall.

Q. As you stand at the Bridge street entrance to that saloon and look in that direction, what other streets would you pass? A. Governor street.

Q. And that runs, in regard to your map about where does it run? A. About opposite this entrance.

Q. It runs with right angles with Bridge street? A. Yes, sir; practically.

Q. How far? A. About half a mile.

Q. What street crossing to it do you first come to it? A. Paterson street.

Q. Paterson, that is the next street to Bridge street, running parallel with it? A. Yes.

Q. Then turning at the corner of Governor and Paterson street, going north through Paterson, what street do you cross, do you first cross? A. Fulton.

Q. And Fulton runs parallel with Governor street? A. Yes.

Q. And does that run into Straight street? A. Yes.

Q. How far from the end of Straight street bridge does

Fulton street cross Straight street? A. About four blocks. That would be about 100 feet.

Q. So that from the corner of Fulton street going in another direction through Straight you have to go straight across the road to the Straight street bridge? A. Yes.

Q. And after you cross the Straight street bridge what street do you pass down there? A. North Straight street.

Q. Does East Main street run out into North Straight street? A. Yes.

Q. About how far from the bridge? A. I should judge about 400 or 500 feet.

Q. Going towards the Godwinville Road Straight runs at a northeasterly direction? To the right one side running in a northerly direction.

Q. And that is at the junction of the Godwinville Road.

Q. This Wagaraw Road you have partly shown on your map, after passing Cherry Lane and Wagaraw Bridge near Alyea's Mill, for instance, what direction does it take then? A. In a southeasterly direction.

Q. Whereabouts with reference to the river? A. Practically parallel with the river, as the river flows; down to Passaic.

Q. What are the bridges over that road beyond the Wagaraw Bridge are there to Paterson? A. The Fifth Avenue Bridge, and there is another Morlot avenue.

Q. That is at Thirty-third street? A. No, sir; in Thirty-third street and Paterson.

Q. Where is that Fifth avenue bridge that you have spoken of, between Wagaraw bridge and Morlot bridge? A. Just about midway.

Cross Examination by Mr. Scott:

Q. What is the length of the hall running from the sitting room to Bridge street hall? A. The private hall?

Q. That hall you call the private hall? A. Twenty-one feet.

Q. Twenty-one feet? A. Yes, sir.

Q. And the width of the doors leading from the barroom to the billiard room you say was a swinging door? A. No, a sliding door, with I think a seven foot opening.

Q. You said upon the Rock road there were some houses? A. Yes, sir.

Q. Will you point out the spot where these houses are? A. One house, an old house, just after you crossed the

railroad; then, I do not think there are any until you reach a point on the road; down on the county line there are two or three, or three or four houses, I cannot say which.

Q. Can you tell us the distance from where the Rock road begins, right off the Wagaraw road to where it joins on the county line? A. Yes, 1200 feet.

Cross Examination by Mr. Dunn:

Q. What is the with of the sidewalk from the building line on the private entrance in Bridge street to the curb line? A. Twelve feet.

Q. What is the width of the sitting room at the point, at the opening into the private entrance? A. Ten feet.

Q. What is the length of the sitting room? A. About fourteen feet nine inches.

Q. Do the three doors you have spoken of opening into the sitting room, do the doors swing into the sitting room? A. Yes, sir.

Q. Have you measured the distance from Saal's saloon up to the point where the Rock road intersects the Goffle road? A. No, sir.

Q. Can you tell us what the distance is preserving the line indicated in the opening by the prosecutor? A. It would be about four miles, it would be a little over four miles.

Q. From Saal's saloon to the point that intersects the Goffle and Godwinville road? A. Yes, about four miles.

Q. Is that in an air line, or in the line indicated by the prosecutor in his opening? A. As indicated by the prosecutor.

Q. How far is it from the intersection of Rock road and the brook that crosses the Goffle road at the schoolhouse? A. About 3400 feet.

Q. Have you indicated upon your map any point after you crossed the railroad track on the Rock road looking East along the Rock road? A. No, sir.

Q. Most of the way there is open, no woods? A. A great portion of it.

Q. Is it open? A. Yes, sir.

Q. Are there any woods down around the Susquehanna railroad where this road crosses it? A. This Rock road, no, sir.

Q. Can you give us the distance from the brook at the school house to where Dr. Wiley lives? A. The brook at the school house.

Q. Do you know where Dr. Wiley's residence is? A.

Yes, I know. I was just trying to fix it in my mind. I should say it was very close to four miles; the difference in distance from Saal's saloon to Dr. Wiley's would be about the same distance as from the Rock Road to the brook—about four miles.

Q. Can you tell us how far it is from Dr. Wiley's residence and office to where Dr. Townsend has his residence and office, on Paterson street? A. I don't know where Dr. Townsend's office is.

Q. Near Paterson and Fair street, right within a door or two of the corner? A. I should judge about a third of a mile.

Recess was then taken till 2 o'clock.

MRS. DINAH BOSSCHIETER, called as a witness on behalf of the State, being first duly sworn, testified as follows:

Direct Examination by Mr. Emley:

Q. Are you the mother of Jennie Bosschieter? A. Yes, sir.

Q. Where do you live? A. At 155 East Fifth street.

Q. Did you live there in October last? A. Yes, sir.

Q. How long have you lived in this country? A. Eleven years by March.

Q. Eleven years this coming March? A. Yes, sir.

Q. You then came to this country from where? A. From Holland.

Q. Did your husband come with you at that time? A. Yes, sir.

Q. And your family? A. Yes, sir.

Q. Did you come directly to Paterson? A. Yes, sir.

Q. Where have you since lived? Have you lived here since then? A. Yes.

Q. And Jennie was your own child, I understand? A. Yes, sir.

Q. Have you other children then Jennie? A. Yes, sir.

Q. How many? A. Seven.

Q. All living? A. Yes, sir.

Q. Some of them married? A. Yes, sir.

Q. How many of them married? A. Two married. Seven children at home; two married.

Q. The two married are not your children? A. No, sir.

Q. They are Mr. Bosschieter's children by a former wife? A. Yes, sir.

Q. Who is the oldest of your children? A. Susie.

Q. How old is Susie? A. Twenty.

Q. Who was next in age to Susie? A. Abram.

Q. And then who? A. Jennie.

Q. How old was Jennie? A. Seventeen.

Q. When was her birthday, the last birthday? A. Twenty-second of April.

Q. Last April? A. Twenty-second of April.

Q. Twenty-second of April last? A. Yes, sir.

Q. She was then seventeen? A. Yes, sir.

Q. And your other children are all of them younger and smaller than Jennie? A. Yes, sir.

Q. Did your children live at home with you and your husband last October? A. Yes, sir.

Q. How long have you lived at 155 East 5th street? A. A little bit over three years.

Q. Does your husband do anything? A. Yes, he is working on a farm in the summer.

Q. And do your children all work, those who are able to, by reason of their age? A. Yes, sir.

Q. And did Jennie work in October last? A. Yes, sir.

Q. What part of the house at 155 East Fifth street do you occupy? A. Always the sitting room.

Q. What part of the house do you and your family live in? A. On the first floor.

Q. Who lives in the floor above? A. Mr. Smith.

Q. Is there still another floor above Mr. Smith's? A. No, only the garret.

Q. And is that occupied by any portion of your family?

A. That belongs to us.

Q. You use that, do you? A. We use that.

Q. What for? A. For sleeping rooms.

Q. Who slept up in the garret? A. Susie and Jennie and Abe—Abram—and Joe and John.

Q. How many rooms are there up there? A. Three.

Q. And did anybody occupy Jennie's room with her? A. Yes.

Q. Did anybody sleep in Jennie's room with her? A. Yes, Susie.

Q. Susie slept with Jennie? A. Susie slept with Jennie.

Q. And who else slept in that room? A. The old lady.

Q. Who is she? A. My mother.

Q. An old lady? A. Yes, sir.

Q. How many beds are there in that room where Jennie slept? A. Two.

Q. And did the old lady, the grandma, have a bed by herself? A. Yes, sir.

Q. And the other bed was occupied by Jennie and Susie? A. Yes, sir.

Q. Where was Jennie working in October last? A. Paterson Ribbon Company.

Q. Where is that? A. Well, I don't know the place; it is somewhere around Cedar Lawn somewheres.

Q. And how long had she been working there? A. I suppose over two years.

Q. Had she worked steadily during the two years last past? A. She was working short. She had been working—the mill was slack—she was only working short time.

Q. Was she ever away from her work during the last two years on account of sickness or illness, or anything of that kind? A. No.

Q. So when she didn't work it was because the work was slack? A. Yes, sir.

Q. Who worked there with her? A. Susie.

Q. What did she do there? A. One was doubler and one was quill winding.

Q. One was quill winding? A. Yes, sir.

Q. Who was doubling? A. Jennie.

Q. What time did they usually leave home in the morning for their work? A. Half past seven.

Q. Did they usually go together? A. Yes, sir.

Q. And what time did they usually return from work at the close of the day? A. A little before 5.

Q. Do you remember this particular day, the 18th day of October, the last day of Jennie's life? Do you remember that? A. Yes, sir.

Q. Did she go to work that day? A. Yes, sir.

Q. Did she go that morning at the usual time? A. Yes, sir.

Q. With whom? A. With Sus.

Q. Did she come home that evening at the usual time? A. Yes.

Q. With whom? A. With Sus.

Q. Reaching home at about five? A. Quarter to five.

Q. Did she seem well and in good health on that day? A. Yes, sir.

Q. And after their return home at a quarter of five, did they remain home then the rest of the day? A.

Yes, sir; till ten minutes to eight, when she wanted to go out.

Q. They remained at home until ten minutes to eight?

A. Yes, sir.

Q. Then who went out? A. Jennie.

Q. Who went out first of the two sisters? A. Susie.

Q. Where did Susie go? A. To a lady friend's, Mrs. Kamerly.

Q. Where is that with reference to your house? A. One house below us.

Q. Next but one to you? A. Yes.

Q. What time did Susie go out? A. A quarter to eight.

Q. Jennie remained at home, was at home when she left? A. Yes, sir.

Q. Then after Susie's departure, what did she do? A. She was resting herself.

Q. What did she do? A. Did a little bit of sewing, or something, I couldn't tell you.

Q. Did she go out? A. Yes, sir.

Q. Before or after Susie? A. After Susie.

Q. How long after Susie? A. Only a couple minutes.

Q. Then you think when Jennie left the house it was about what time? A. Ten minutes before eight.

Q. Did you see her go? A. No, I was down stairs in the cellar.

Q. You were down stairs? A. Yes, sir.

Q. She went out from downstairs, did she not? A. No, sir. I was in the cellar.

Q. Did you have any knowledge that she was going out that night? A. Sir?

Q. Did you know that she was going out that night? A. Yes, sir.

Q. Did you know where she was going? A. She wanted to go to the drug store for me.

Q. For what purpose? A. For baby powder.

Q. What baby had you at your home that need powder? A. From my oldest married daughter.

Q. What was she doing at your house? A. She lived there so long—her husband was in Michigan, waiting for him to come for her.

Q. And then your married daughter with the baby was merely staying at your house until her husband sent for her? A. Yes, sir.

Q. And it was for her baby that you required the powder? A. Yes, sir.

Q. Did you know what store Jennie was going to for the powder? A. We always go to Kent's or Kinsilla's, one of the two.

Q. That is where you were in the habit of trading for your drugs? A. Yes, sir.

Q. And did you hear Jennie say anything before leaving home about the possibility of her staying away all night? A. She said "If I ain't home on time, you know where I am."

Q. You heard her say that? A. No, I didn't hear it.

Q. Then, have you any knowledge of Jennie's whereabouts after she left your house, where she went? A. No, only to the drug store; that is all I know.

Q. What time did you retire that night? What time did you go to bed? A. Ten o'clock.

Q. Who last went to bed of your family? A. I did.

Q. And that you say was ten o'clock? A. Yes, sir.

Q. Was Susie then home? A. I couldn't tell you any more.

Q. Don't remember about that? A. I don't remember.

Q. And what time did you rise in the morning? What time did you get up in the morning? A. Half past five.

Q. And had Jennie come home then? A. No, sir.

Q. Didn't know where she was in the morning when you arose and found she hadn't come home? A. No, sir.

Q. Did you learn after that where she was? A. Yes, sir.

Q. From whom? A. From Sus.

Q. Who was Sus? A. The sister.

Q. Did you learn from anybody else? A. No, sir.

Q. Did you meet a man on the street as you were going to the grocery? A. Yes, sir.

Q. With any information? A. He asked me if Jennie was home.

Q. Who was that? A. Some butcher by the name of Siekemar.

Q. Where did you meet him? A. Right by the door.

Q. Right outside of the door? A. Yes, sir.

Q. That was in the morning, about what time? A. Seven o'clock.

Q. And he inquired for Jennie, did he? A. Yes, sir; he asked me if Jennie was home.

Q. Did you tell him no? A. I say no. I said "What did you want of Jennie?" He said, "Well, there is something

wrong with Jennie." I say, "How can it be? She is over to Klatte's?"

Counsel for Defendants objected to this conversation.

The Court:—Don't go any further with that.

Q. What did you do in response to what he said to you?

Counsel for Defendants:—I object to the question as leading.

Mr. Emley:—Wait till I finish the question.

Q. (Continuing) Or did you go back into the house? A. I went back into the house.

Q. And what did he do? A. He followed me.

Q. Into the house? A. Yes, sir.

Q. And there you had some further conversation with him? A. No, sir.

Q. Did any of your family have any conversation with him? A. No, sir.

Q. Did Susie? A. No, sir.

Q. How long did he remain at your house? A. Only a couple minutes.

Q. What did you do about Jennie, if anything, after he went away? A. Oh, I couldn't tell you.

Q. Why not? A. I was scared so.

Q. What scared you? A. That he told me Jennie was in the country.

Counsel for defendants objected.

Mr. Emley:—Never mind about that.

Q. When did you next see Jennie? A. On Friday night at home.

Q. Friday night? A. Yes, home.

Q. That is the day after she left to get the powder at the drug store? A. Yes, sir.

Q. What time Friday night did you see her? Around six o'clock I guess.

Q. Around six o'clock? A. Yes, sir.

Q. How did she come home? A. Brought her home.

Q. Who did? A. I don't know.

Q. What was her condition when she came home? A. She was dead.

Mr. Emley:—Cross examine, gentlemen.

The Court:—Any questions, gentlemen?

Mr. Hoffman:—Just one moment.

Cross Examination by Mr. M. Dunn:

Q. Had Jennie been out before that late at night, Mrs.

Bosschieter? Had Jennie been out late nights before that evening?

Mr. Emley :—I object.

The Court :—I will allow that question.

Q. (The stenographer read the question as above.) A. Only to go up to Klatte's; that's all.

Q. How many times? A. Well, I couldn't tell you how many times, but not so often.

Q. Quite often? A. Not so often.

Q. Had you frequently gone to bed when Jennie was still out at night? A. Yes.

Q. And when Jennie came home how would she get into the house? A. She always knocked on the door, or window.

Q. So when you went to bed you had locked the door? A. Yes, sir.

Q. And Jennie, to get in, would have to knock on the door or window? A. Yes, sir.

Q. And then what would be done? Would you get up and let her in, or some other member of the family? A. My husband.

Q. And you were not uneasy if Jennie was out—you were not uneasy if she was out a little late? A. No, sir.

Mr. Dunn :—That is all.

The Court :—That is all, Mrs. Bosschieter. Call the next.

(Susie Bosschieter was then called and came forward).

Mr. Scott :—Just one moment, your Honor, please, I want to ask Mrs. Bosschieter something.

The Court :—Be a little more prompt, gentlemen.

Cross Examination by Mr. Scott :—

Q. Next morning after Jennie went out, Thursday night to the doctor's or the druggist's, what time did you say you got up? A. Half past five.

Q. When you got up, you don't know that Jennie was in the house? A. No, sir.

Q. And when you first got up what did you do? A. Make the breakfast for the girls.

Q. You did what? A. Make the breakfast for the girls.

Q. Who came down first? A. My husband.

Q. Who? A. My husband.

Q. I mean of the girls—Susie? A. Yes, sir.

Q. Did she tell you anything about Jennie, or did you ask her? A. I asked her.

Q. And what did she say? A. I say "Where is Jennie?" So she said that Jennie is up at Klatte's.

Q. Jennie is where? A. Up at Klatte's.

Q. Where is that? A. A little ways from here.

Q. Outside of the house? A. Yes, sir.

Q. At some friend's house? A. Yes, sir.

Q. Friends of yours? A. Friends of hers.

Q. And then you gave no more attention to that? A. No, sir.

Q. She was to have gone to work on Friday, the nineteenth, wasn't she? A. What is that?

Q. She was to have gone to work? She was working at the time down at the Paterson Ribbon factory? A. Yes, sir.

Q. And you say she started to work usually at 7.30? A. Yes, sir.

Q. When she did not come home for her breakfast, did you say anything more to Susie about her? A. No, sir.

Q. Did Susie go to work at seven thirty? A. No, sir; Susie stayed home this morning.

Q. Why did she stay at home? A. Well, of course she heard the death of her sister.

Q. What is that? A. She heard the death of her sister.

Q. The night before the eighteenth, Mrs. Bosschieter, where was Jennie then? A. She was gone to Passaic to William Tanis' to see the firemen parade.

Q. To the firemen's ball? A. Firemen's parade.

Q. During the day or during the night? A. Night.

Q. Did she stay out all that night? A. No, sir.

Q. What time did she come home? A. I couldn't tell you.

Re-direct Examination by Mr. Emley:

Q. Just a moment, in connection with Mrs. Klatte brought out here. Who do you say Mrs. Klatte is? A. A lady friend of Jennie's.

Q. Where does she live? A. A little ways from here.

Q. On Main street? A. Yes, sir.

Q. Was Jennie in the habit of going to see her and remaining there with her? A. Yes, sir.

Q. Over night? A. Not over night so often—once in awhile.

Q. Occasionally, once in awhile? A. Yes, sir; once in awhile.

Mr. Emley:—That is all.

SUSIE BOSSCHIETER, a witness sworn on behalf of the prosecution, testifies as follows:

Direct Examination by Mr. Emley:

Q. Jennie, you live at home with your father and mother—I mean Susie? A. Yes, sir.

Q. You were the older of the two, of you and Jennie? A. Yes, sir.

Q. You and Susie worked down at the Paterson Ribbon company? A. Yes, sir.

Q. I mean, you and Jennie? A. Yes, sir.

Q. How long had you and Jennie been working at the Paterson Ribbon company prior to October last? A. About three years I think.

Q. During the last year of Jennie's life had you been working down there all the time? A. Yes, sir.

Q. And you did what there? A. Fill.

Q. Filled, and she did what? A. Sometimes filled and sometimes doubled.

Q. And she and you occupied the same bed at night? A. Yes, sir.

Q. Who else slept in the room there with you? A. Grandma.

Q. Your grandma? A. Yes, sir.

Q. Had you and Jennie been to work on Thursday, the 18th of October? A. Yes, sir.

Q. During the last year had Jennie lost any time in her work down there? A. Only through slackness of work.

Q. Only through slackness? A. Yes, sir; of work.

Q. Did you leave home together that morning for your work? A. Yes, sir.

Q. What time did you leave home? A. Around half-past seven.

Q. How did you go to your work? A. We walked to River street and got a car there and transferred to the city line.

Q. Around by the City hall? A. Yes, sir.

Q. What time did you get home that night? A. Around five o'clock. Or sometimes it was ten minutes to five.

Q. Did you come home together? A. Yes, sir.

Q. You reached home at the same time? A. Yes, sir.

Q. And after you reached home did you and she remain there? A. Yes, sir.

Q. Until when? A. Until after supper.

Q. Then what? A. Then she got dressed and went out.

Q. What did you do? A. I went to see a friend of mine.

Q. At what time? A. About a quarter of eight.

Q. Did you go to Mr. Kammerling's, your next neighbor?

A. Yes, sir.

Q. Did you leave first or did Jennie? A. I left first.

Q. You think it was about quarter to eight, do you?

A. Yes, sir.

Q. Why do you say quarter to eight? A. I was usually going over there about half past seven, and I thought I was late, and I noticed the clock and it was quarter to eight.

Q. Did you observe the time when you went out of the house? A. Yes, sir.

Q. You didn't see Jennie after that? A. No, sir; I did not.

Q. Where was she when you left the house? A. In the dining room.

Q. Doing what? A. She was ready to go out.

Q. Did she have her hat on? A. Yes, sir.

Q. And her coat? A. Yes, sir.

Q. Do you remember that morning when you arose, you and Jennie, whether you arose about the same time or not? Did you get up about the same time? A. Yes, sir; generally got up at the same time.

Q. Were you there in the room when she was dressing herself? A. Yes, sir.

Q. Did you see her dress herself? A. Yes, sir.

Q. Do you know what she dressed herself in that morning? A. Yes, sir.

Q. Won't you tell us what she put on? A. She had on a short white petticoat, and a short black one and a long black one, and she wore that morning a gray skirt with a shirt waist, I don't quite remember the color of the shirt waist and some kind of a black tie and collar—to go to work that morning.

Q. Did she wear a corset? A. Yes, sir.

Q. Did she have anything around that? A. A corset cover.

Q. Anything underneath it? A. Yes, sir; a chemise.

Q. And what did she have else on besides that, as to underclothing? A. Just her drawers.

Q. She had drawers on? A. Yes, sir.

Q. What kind of drawers? A. Plain drawers with a ruffle on them.

Q. How did they fasten around the waist? A. Fastened to the back with a tape.

Q. And then? A. On the side, buttons.

Q. Which side? Which part of the drawers was the buttons? A. Back side.

Q. Had she any other kind of drawers than that? A. No, sir; they were the same—about the same.

Q. Have you a pair of her drawers with you, similar to the ones she wore that morning? A. No, sir; I have not.

Q. (Exhibiting a pair of drawers) I will show you these and ask you whether or not they are like the ones that she wore that morning? Just take hold of them and raise that part of them up—undo it? A. (After examining some.) Yes, sir; the very same.

Q. Now, show us how they were fastened to her? A. This way (indicating.) To the back.

Q. That (indicating) being the front part of the drawers? A. Yes, sir; tied tight; buttoned on each side.

Q. Then the back part? A. Buttoned on both sides.

Q. That way (indicating)? A. Yes, sir.

Q. And were they closed drawers? A. Yes, sir; they were.

Q. Like those? A. Yes, sir.

Q. Closed front and back? A. Yes, sir.

Q. When she came home at five o'clock, what changes, if anything, did she make to her dress? A. Nothing else, only a top skirt—a skirt and another waist.

Q. As to her underclothing she went out at night dressed the same? A. Yes, sir.

Q. Before Jennie went out that night, Susie, did she claim any attention from you of any kind? A. No, sir; only that she was going to Klatte's.

Q. Why do you say she was going to Klatte's? A. She told me so—

Mr. (M.) Dunn:—One moment, I object to that form of question, because it may bring forth an answer that would not be competent, and I could not object to it.

The Court:—She says, "She told me so"—that she was going to Klatte; do you object?

Mr. Dunn:—I did not hear it; I ask that it be stricken out.

The Court :—I think it competent, I will not strike it out: I will let it stand.

Mr. Dunn :—I except.

Q. Who was Klatte? A. A lady friend of ours.

Q. Where does she live? A. Up Main street.

Q. What does she do? A. Attends store; her husband is a candy dealer.

Q. They have a little store up on Main street? A. Yes.

Q. Do you know of the friendship between Jennie and Mrs. Klatte, if any? A. Yes, sir; I think they were friends.

Q. Had you knowledge of Jennie going to see Mrs. Klatte? A. Yes, sir.

Q. And did you know that it was her habit occasionally to stay there over night? A. Not very often.

Q. Occasionally, I said? A. Yes, sir.

Q. And she said she might go there this night? A. Yes, sir.

Q. Did she have any other attention from you on that night before she went out? Did you do anything to any part of her person? A. No, sir; only tie her finger.

Q. Oh, which finger? A. I don't quite remember, I kind of remember it was the middle finger.

Q. What was the matter with her finger? A. She had cut it.

Q. And how did you tie it up? A. With a piece of rag over the top.

Q. A new clean rag was it? A. Yes, sir.

Q. Fastened on how? A. Fastened over the top.

Q. With what? A string or a thread? A. A piece of thread.

Q. And have you seen that rag since then? A. Yes.

Q. Where did you see it? A. A gentleman brought it to the house.

Q. Were you able to say that that was the rag she had on her finger? A. Yes, I saw it was the rag.

Q. I will show you that and ask you whether or not that is it? A. That is it.

Q. Is that the rag? A. That is the way I tied it on.

Q. And that is just as you tied it on? A. Yes, just the very same way.

Q. What time did you get home that night from Kammerling's? A. Around ten, a little after ten.

Mr. Emley :—I wish this rag marked for identification.

The Court :—It may remain in Mr. Emley's possession.

Q. I presume you went to bed then after you got home? A. Yes, sir.

Q. What time did you wake up, rise the next morning? A. I couldn't say the time.

Q. As near as you can? A. A little before seven, about a quarter before seven.

Q. Did you see her then? A. No, sir.

Q. This was Friday, the morning I am speaking about now. A. Yes.

Q. What did you do after you got up? A. I got washed and dressed and went down to my breakfast.

Q. Was Jennie in then? A. No, sir.

Q. Did you learn anything after reaching the downstairs part of your house in reference to Jennie? A. Yes, sir; I heard—

Q. (Interrupting) Do not state what it was—you did learn something? A. Yes.

Q. What did you do after you learned what you said you learned? A. I went where she was.

Q. Where was that? A. Riverside at the ice house.

Q. Tell us all that you did. A. I walked to Mrs. Kammerling's and asked her to go there with me to see where Jennie was, and I went there and she was lying down by the ice house.

Q. How did you get there? A. I walked there.

Q. What streets? A. River street.

Q. What bridge did you cross? A. Over the Wagaraw bridge by Alyea's.

Q. Where did you go when you got alongside the bridge? A. Turned to my left.

Q. Is that the road that runs across the river? A. Yes, sir.

Q. How far along that road did you go? A. About—I can't exactly.

Q. A short distance? A. Yes, sir.

Q. What did you discover there? A. I discovered Jennie there; I discovered her hat first.

Q. Where was her hat? A. Lying alongside of her.

Q. Where was she? A. She laid on her back on the riverside.

Q. Between the river and the road? A. Yes.

Q. How was she lying? A. Straight with her head towards the river.

Q. Her feet towards the road? A. Yes, sir.

Q. How was she lying, was she on her face, or side or back? A. On her back.

Q. And was she then dead? A. Yes, sir.

Q. How was her skirt? A. All over her face; it was down.

Q. Did you observe anything as to her clothing? A. Yes.

Q. Was there any pins in her hair? A. No, sir; but it didn't look so, her hair was all down.

Q. How were her clothes? All straight as far as I could see.

Q. Any part of her person exposed? A. Not that I can say.

Q. Was there anything over her? A. Yes, a cloth was over her.

Q. Covered her entirely, or only her body? A. Just her body.

Q. Who did you say was with you? A. Mrs. Lena Kammerling.

Q. What time about was it that Friday morning? A. About a quarter to eight.

Q. After your discovery, where did you go? A. I went up to the icehouse.

Q. Whose ice house? A. Alvea's.

Q. How far does that stand from where you saw Jennie? A. Just across from the bridge.

Q. Who did you see there? A. I don't know, I can't remember, the only one, Dr. Vroom.

Q. How long did you remain there? A. I don't know, about twenty minutes.

Q. Did Dr. Vroom come there while you remained there, or was he there while you were there? A. He came there while I was there.

Q. From there, where did you go? A. I went home.

Q. When did you see Jennie next? A. On Sunday.

Q. Where? A. At home.

Q. When she was buried? A. On a Tuesday.

Q. Do you mean Tuesday following the night that she went out? A. Yes, sir.

Q. The morning when you went over to the river was Friday the morning directly following the Thursday night she went out? A. Yes, sir.

Q. Had she been well that Thursday? A. Yes.

Q. Prior thereto? A. Yes, sir.

Q. When you saw her at the riverside, did you make

any examination as to the condition of her underclothing? A. No, sir; none whatever.

Q. You do not know whether her drawers were on then or not? A. No, sir.

Cross Examination by Mr. Dunn:

Q. Where you home on Friday afternoon? A. No, sir—yes, sir; I was.

Q. Was the body brought home Friday afternoon? A. Yes, sir.

Q. You said you didn't see it until Sunday, you mean you didn't go and look at it after you had seen it that morning until Sunday? A. No, sir; not until Sunday.

Q. But the body was in the house during the time? A. Yes, sir.

MARINUS GARRY, called by the State, is sworn, testifies as follows:

Direct Examination by Mr. Emley:

Q. Where do you live? A. 21 East Twenty-third street, Riverside.

Q. Do you work for Alyea's? A. Yes.

Q. Their place is where? A. Right across the Wagaraw bridge.

Q. Ridgewood road? A. Yes, sir.

Q. What is their business? A. Feed business.

Q. What is the nature of your employment? A. Driver.

Q. What time does your work take you there in the morning? A. Oh, about 6 o'clock.

Q. Do you remember the morning of October 19th, last? A. Yes, sir.

Q. What time did you go there to work that morning? A. I should judge about five or ten minutes after six, something like that.

Q. Through River street? A. No, sir; I live at the foot of River street; I cross the Wagaraw road.

Q. After you cross the bridge, entering upon the Ridgewood road, did you notice anything out of the usual order? A. Yes, I saw a lady lying there, this girl.

Q. Where? A. On the left hand side of the road, going towards the stable, towards Hawthorne.

Q. On the left hand side of which road? A. The river road.

Q. About how far from the Ridgewood road, from the end of the bridge? A. 100 feet, I guess, as near as I can say.

Q. What did you do when you saw her lying there?

A. I went and felt of her wrists. I couldn't see her face, her hair was all over her face, I put it one side, and I then saw she was dead, that is I thought she was, and then I went and notified the people in the mill, and they came over to see her.

Q. Which side of the road was she lying on? A. Left hand side.

Q. That would be between the road and the river? A. Yes, sir.

Q. What position was she in? A. Lying on her back.

Q. In what direction was her head? A. Towards the river.

Q. And her feet towards the road? A. Yes.

Q. How is the ground there? A. A lot of weeds growing there.

Q. Is it level or uneven? A. About even.

Q. Is it at all stony? A. Two or three stones around there; yes, sir.

Q. Was there anything there over her when you saw her? A. No, sir.

Q. How was her clothing? A. Partly straight, only the top of her skirt was up a little, not much, but the other skirt was down to her shoe tops.

Q. That is the underskirt? A. Yes, sir.

Q. Where was her hat? A. Her hat lay away from her, about four feet, something like that, four or five feet.

Q. Did you disturb her in any way? A. No, sir; only to take up one arm and removed her hair off her face.

Q. Then you concluded she was dead? A. Yes, sir.

Q. What did you do then? A. I went back to the mill and notified the people there.

Q. What else did you do? A. Then I went and got one of their blankets to put over her.

Q. You put the blanket over her? A. Yes, sir.

Q. About what time did you go out with your team?

A. About half past or a quarter to eight that morning.

Q. Before you went out was there anything further that came to your notice? A. No, sir; nobody came to me. Dr. Vroom came there.

Q. Who was he? A. Coroner of Ridgewood.

Q. What did he know, anything about it? A. I don't know.

Q. Any word go to him? A. Telephoned word to him from the mill.

Q. When you went there he hadn't arrived? A. No, sir.

Q. What time did you get back there? A. About ten o'clock.

Q. Did you see her then? A. Yes, sir.

Q. Where was she then? A. In the side room in the mill, back, the side room we call it.

Q. How long did she remain there? A. About five o'clock in the evening.

Q. From there where did she go? A. I believe the undertaker took her home, I don't know about that.

Q. That is all you know about it? A. Yes, sir.

No Cross Examination.

LEONARD KAMMERLING, called by the State, is sworn and testifies as follows:

Direct-Examination by Mr. Emley:

Q. Where do you live? A. 145 East Fifth street.

Q. Is that where the Bosschiet's live? A. Right in between.

Q. That was your house, where our Susie had spent her evening of October eighteenth? A. Yes, sir.

Q. So you know them well? A. Yes, know them well.

Q. How long have you known Jennie? A. Since she had been in this country.

Q. Did you see her at any time of October eighteenth? A. No, sir.

Q. Was it any time during the evening of the eighteenth? A. Yes, sir.

Q. Where did you see her? A. In Main street.

Q. Whereabouts in Main street? A. In front of Kent's drug store.

Q. That is where with reference to the corner of Main and Van Houten? A. Right in front of the store.

Q. Where had you been? A. Down to the Alderman's.

Q. Clinton and Circle avenues? A. Yes, sir.

Q. Just over the river? A. Yes.

Q. Reached by West Street bridge? A. Yes.

Q. What time did you see Jennie? A. In the neighborhood of half past nine.

Q. What time did you leave home, the Alderman's home? A. I left the Alderman's house about ten minutes after nine; I looked at the watch.

Q. Where did you go when you left his house?

A. Came down Clinton to North Main, down North Main to the Bridge street bridge. along Broadway to Main, up Main, while the parade came across the street, then after the parade had passed by West street down to Broadway.

Q. How long in point of time do you think you were in getting from your brother's house to the corner of Main and Broadway? A. About ten minutes.

Q. What time do you think you reached the corner of Broadway and Main? A. Twenty minutes past.

Q. When you reached the corner of Broadway, what did you do? A. Stopped there until the parade got past.

Q. Where did the parade come from? A. Out of West street.

Q. Which way did it proceed? A. Up Broadway.

Q. That was a campaign parade? A. Yes, sir.

Q. How long do you think that was in passing where you stood? A. Maybe five minutes.

Q. So you left the corner of Main and Broadway about twenty minutes past nine? A. Yes.

Q. Where did you go then? A. Right up Main towards Ellison.

Q. Drug store? A. Yes.

Q. How far past the corner of Main and Broadway is Kent's drug store? A. A block and about twenty-five feet.

Q. Van Houten is the next street I believe running parallel with Broadway? A. Yes, sir.

Q. What time do you say you think it was when you reached there? A. In the neighborhood of half past nine.

Q. What do you say you saw there? A. I saw Jennie standing up against the awning post.

Q. Where was that awning post? A. Right in front of Kent's drug store.

Q. On the sidewalk, is that post? A. On the curb.

Q. Which way was she facing? A. Towards the Main street bridge.

Q. Towards the direction in which you were coming? A. Yes.

Q. Who was she with there? A. Talking with a young man.

Q. Who was he? A. I saw him once; I don't know his name.

Q. Do you see him here? A. Yes, sir.

Q. Where is he here? A. Sitting right behind you.

Q. Which one? A. The middle one.

Q. Stand up (addressing one of the prisoners) Is that the one? A. Yes, sir.

The Court:—What is his name?

Mr. Emley:—Andrew Campbell.

Q. Did you see anybody else there that you knew? A. There was one standing close by, I didn't take much notice of him.

Q. Do you know who he was? A. No, sir.

Q. Do you know now? A. No, sir.

Q. Have you seen him since then to identify him? A. No, sir.

Q. Were there any others around there that you saw? A. No, sir.

Q. That is the only one you know? A. Yes, sir.

Q. What was Jennie's position with Campbell, where was he standing? A. Standing right facing her.

Q. How close to her was he? A. About six or seven inches in between.

Q. Were they engaged in conversation? A. Yes, sir.

Q. Did she see you? A. Yes, sir.

Q. Did she recognize you? A. Yes, sir.

Q. Did she speak to you? A. Said "Good evening."

Q. You returned the salute? A. Yes, sir.

Q. Where did you go then? A. Right straight up Ellison street.

Q. Did you stop before going home? A. I stopped at Kinsella's.

Q. Was it further above where they stood? A. Yes, sir.

Q. What did you do there? A. I went there to get a cigar.

Q. How long were you in there? A. About two or three minutes.

Q. When you came out? A. I stood on the curb and watched them.

Q. Watched who? A. Jennie and the young man with her.

Q. Why did you do that?

Mr. Dunn:—I object to that; objection sustained.

Q. How long did you stand there? A. Couple of minutes.

Q. What did you see, when you say that you stood there and watched them? A. I didn't see anything when I stood there.

Q. Did you hear anything said? A. Yes.

Q. As you passed them the first time, did you hear anything that either of them said? A. Yes.

Q. Which one was it you heard? A. Jennie.

Q. What did you hear her say then?

Mr. Dunn: I object to that, he said he didn't hear anything, and whatever she said to Campbell will not affect the other defendants.

The court allows the question; exception.

A. "No, no."

Q. How did she speak those words?

Mr. Scott: I object to that; I do not think it is proper to describe how she said it.

The court allows the question; exception.

A. Kind of snappy.

Mr. Dunn: I think that ought to be stricken from the record; I object to it.

The Court overrules the objection; exception.

Q. Did you notice anything peculiar in her countenance or her manner at the time of speaking those words?

Mr. Dunn: I object to as to her countenance, as it does not appear was in a position or sufficiently near at the time, anything about her countenance or her manner.

The Court overrules the objection; exception.

A. I noticed she was a little pale.

Q. Did you hear anything Campbell said to her? A. No, sir.

Q. Did you hear him make any reply to that? A. No, sir.

Cross Examination by Mr. Dunn:

Q. At the time, did you know Mr. Campbell? A. No, sir.

Q. Had you ever seen him before to your knowledge? A. No, sir.

Q. You knew Jennie? A. Yes.

Q. For how long? A. Ever since she has been in the country.

Q. What was there that occurred as you passed by to cause you to turn back and watch? A. As I passed I heard her say, "No, no."

Q. That was all? A. No, sir.

Q. Afterwards were you at the jail with one of the detectives from police headquarters? A. Yes, sir.

Q. How long after this night? A. I was down to the jail?

Q. Yes, sir. A. A week and a half.

Q. Who were you there with? A. Detective.

Q. Who? A. I do not know his name, a tall fellow, stout.

Q. Do you see him now here? A. He was here this morning.

Q. Would you know the name if you heard it? A. I do not know the name; I would know the man.

Q. Was it Mr. Taylor, Titus? A. That gentleman standing back there with the moustache, (indicating)

Q. Mr. Taylor, will you stand up? Is that the gentleman (indicating)? A. Yes, sir.

Q. While you were in the jail, for what purpose did you go to the jail? A. To identify the man.

Q. You didn't do it? A. Yes, sir; I did.

Q. You picked out Mr. Campbell there that day? A. Yes.

Q. Didn't you stand in the jail and when these prisoners went by, the officers pointed out them to you and said "That is Campbell," and you said, "Yes, I guess that is right," is that not so? A. No, sir.

Q. You were not able to identify him at all? A. Yes; I identified him.

Q. Did he have his coat on in the jail on that day? A. Yes, sir.

Q. Did he have his face shaven? A. He did; he had a pretty smooth face.

Q. Did he have his face shaven the night of this occurrence? A. Yes, sir.

Q. Why do you say it took you ten minutes to come down from the Alderman's house to the corner of Main street and Broadway? A. Yes, sir; it did.

Q. Have you any reason for saying that? A. No, sir; I took my time; I looked at my watch when I left the house.

Q. And when you reached Main and Broadway, you took it out again? A. Yes.

Q. Why? A. Because I wanted to know the time.

Q. Did you have any appointment which required you to know the time? A. No, sir; none at all.

Q. That is the only reason you can give us for looking at the time? A. Yes.

Q. While you stood there, looking at the parade, did you look at the time again? A. No, sir.

Q. When did you next look at the time? A. At the City hall.

Q. And what was your object in going to the City hall at that time of night? A. My brother was living there and I went to his rooms.

Q. What time did you go into the City hall? A. Two minutes past nine.

Q. After you got your cigar in Kinsilla's drug store, how long did that take you? A. Two or three minutes.

Q. No longer? A. No, sir.

Q. On the coroner's inquest, when you were examined on this matter, did not you state then in answer to the following question: "Q. You were in the jail last Sunday morning?" and your answer was, "I was," "Q. Did you recognize one of the prisoners in jail as one of the two who were talking to Jennie Bosschietter? Answer, The officer told me that that was Mr. Campbell"; Did you answer that? A. I said that was the man; I didn't know him by name.

Q. Didn't you say that the officers told you that that was Mr. Campbell? A. That that was his name.

Q. Didn't you testify as I have read before the coroner? A. Yes, sir.

Q. What object had you to look at the time when you got into your brother's house in the City hall? A. Because I only went there for to visit a few minutes; the clock was right up in front of me.

Q. Where did you live then? A. 145 Fifth street.

Q. What time did you leave home? A. Twenty-seven or twenty-eight minutes past.

Q. Where did you go to the alderman's? A. Up on Circle street.

Q. Did you walk? Yes.

Q. All the way up there? A. Yes, sir.

Q. What time did you get there? A. I can't tell you what time I got there.

Q. Why? A. I don't know.

Q. Did you look at your watch? A. No, sir.

Q. When you went there, did you have an appointment at the Alderman's house? A. No, sir.

Q. How long did you remain there? A. I hooked up the horse.

Q. For a drive? A. Yes, sir.

Q. Where did you go? A. Down to George to
Riverside Place.

Q. What did you do down there? A. I saw him on
some business.

Q. Did you go into his place? A. No, sir; I stood on
the stoop.

Q. Anybody else with you? A. No.

Q. How long did you remain talking there? A. Ten
minutes.

Q. Do you not fix that time by guess? A. Yes.

Q. Then, after you got through there, where did you
go? A. Right back to the Alderman's.

Q. Anybody with you? A. No, sir.

Q. How did you drive, fast or slow? A. Fast.

Q. What route did you take? A. Down the street,
Riverside, over Midvale avenue, so into the yard.

Q. What did you do after you got back there? A. Un-
hooked the horse and went upstairs.

Q. Put him in the stable? A. Yes, sir.

Q. Take care of him? A. Yes, sir.

(By a Juror). What time did the witness say he got to
the city hall; didn't we understand him to say two min-
utes after nine?

The Court :—Yes, he said two minutes after
nine.

The Witness :—That was a mistake of mine;
I meant to say twenty-seven or twenty-eight
minutes to ten.

By Mr. Emley :—

Q. How about when they were standing on the curb,
what was it you heard said? A. "No, no."

Q. How about her looks? A. She looked pale. I
knew the girl for years, and I looked back.

By Mr. Dunn :—

Q. She was a blonde? A. Yes, sir she had a good color.

Q. It was gas light? A. No, sir.

Q. Electric light? A. No, sir.

Q. How did you see her then? A. The light from the
drug store, as I passed her.

Q. When you were standing there looking at her, how
far were you away from her? A. About twenty feet, I
suppose.

By Mr. Emley :—

Q. When you were up at the jail with the police of-

ficer and he spoke Campbell's name to you, was it before or after you had picked him out as the man you had seen? A. I pointed him out, and he said, "Do you know him?" I says, "That is the man there." He says, his name is Campbell.

By Mr. Scott:—Is that the only man you pointed out?

A. Yes, sir.

Q. That is all.

NELLIE DEVRIES, a witness sworn on behalf of the prosecution, testifies as follows:

Direct Examination by Mr. Emley:

Q. Where do you live? A. North Main street.

Q. Is that across the river? A. Yes, sir.

Q. Do you remember the 18th of October last? A. Yes, sir.

Q. Were you at home all that evening? A. No, sir.

Q. What time did you go away from home? A. Half past seven.

Q. Did anybody go with you? A. My lady friend.

Q. Who? A. Bertha Dyson.

Q. Where did you go? A. To see the parade.

Q. The campaign parade? A. Yes, sir.

Q. And where did you go to see that? A. Up Main street to Broadway.

Q. What route did you take after you left home; where did you go; how did you go from your house? A. Up North Main to West street, to meet my lady friend.

Q. What bridge did you cross there? A. The West street bridge.

Q. And then from there what? A. Up Main street.

Q. How? A. Up West street.

Q. To where? A. We was for a walk first.

Q. To where did you go? A. Up Main to Market, to Broadway, and there we seen the parade.

Q. Where did you see the parade? A. By Hill's.

Q. By Hill's store? A. Yes, sir.

Q. That is where? A. Near Bridge street, is it not?

Q. Near Bridge? A. Yes, sir.

Q. Between Bridge and Broadway? A. Yes, sir.

Q. Between Bridge and Main streets? A. Yes, sir.

Q. On which side of Broadway were you standing upon when the parade passed? A. The left hand side going up.

Q. That is the same side upon which Mr. Hill's store stands? A. Yes, sir.

Q. Which direction did the parade come from? A. From lower Main street.

Q. Up Broadway? A. Yes, sir.

Q. And did you wait there until the parade was past you? Yes, sir.

Q. You and Bertha? A. Yes, sir.

Q. How long was the parade in passing you there? A. About five minutes.

Q. In what direction did the parade go from there? A. I could not say. They went up Broadway, but we did not notice which way it went up.

Q. After the parade passed you where then did you go? A. Through Bridge street up Broadway (interrupted)—

Q. After the parade passed? A. Yes, sir.

Q. And did you go leisurely, or not? A. Well, just walked, like.

Q. And you say you went up Broadway to Bridge street? A. Yes, sir.

Q. And from there you went down Bridge street? A. Yes, sir.

Q. Which side of Bridge street did you pass down? A. On the right hand side, going down.

Q. And do you know where Mr. Saal's saloon is? A. Yes, sir; River and Bridge.

Q. You passed on the opposite side of Bridge street? A. Yes, sir.

Q. How far did you go along that side of Bridge street? A. All the way to River street.

Q. And when you reached River street what did you do? A. Crossed over.

Q. Over where? A. To Saal's saloon.

Q. To the Saal's saloon side of Bridge street? A. Yes, sir.

Q. And as you crossed over from the one to the other side of Bridge street, did you see anyone you knew? A. Mr. Campbell.

Q. This young man here (pointing at the defendant Campbell)? A. Yes, sir.

Q. Were you acquainted with him? A. By sight.

Q. How long had you known him? A. Not long. He was our landlord.

Q. You knew who he was? A. Yes, sir.

Q. Was he alone? A. With a lady.

Q. Did you know the lady? A. No, sir.

Q. Where did they come from? A. From up Bridge street.

Q. From the direction of Broadway? A. Yes, sir.

Q. And which side of Bridge street where they walking on? A. The left hand side, coming down.

Q. And where were they, Campbell and the lady, when you saw them? A. They were turning the corner.

Q. Which corner? A. The corner.

Q. The corner of Bridge and River? A. Yes, sir.

Q. Do you mean around the corner where the saloon points? A. Yes, sir.

Q. Which way did they turn from? A. From River street.

Q. And in what direction? Towards Main street, or in the other direction? A. Towards Main street.

Q. Where did they go then when they turned the corner and went through River street toward Main? A. Went in the side door at Saal's saloon.

Q. Did you see them go in there? A. Yes, sir.

Q. Which side door? A. The first door.

Q. The first side door in River street? A. Yes, sir.

Q. Did you see them after that? A. No, sir.

Q. Where did you then go? A. Down River street over to Main street over bridge, home.

Q. As they turned the corner, did you see anybody else? A. Another young man joined them.

Q. Where did he come from? A. It seemed as if he was standing on the corner.

Q. And when he joined them where did he go with them, if anywhere, or what did he do? A. He went in with them.

Q. He passed with them and went in the saloon with them? A. Yes, sir.

Q. Do you know who that man was? A. I don't know; no sir.

Q. Would you recognize him if you were to see him?

A. No, sir; I couldn't tell.

Q. Was Bertha with you then? A. Yes, sir.

No-Cross Examination.

BERTHA DYSON, a witness called on behalf of the prosecution, and sworn, testifies as follows:

Direct Examination by Mr. Emley:

Q. Where do you live? A. North West street.

Q. Are you a friend of Nellie DeVries? A. Yes, sir.

Q. You work with her? A. Yes, sir.

Q. Where do you work? A. In Pelgram & Meyers.

Q. At the silk mill? A. Yes, sir.

Q. Were you in company with her on the night of October 18th? A. Yes, sir.

Q. Where did you join her that night? A. On the corner of West and Water streets.

Q. How did you proceed from there? A. Over the West street bridge, up West street.

Q. To where? A. To Broadway.

Q. From there around where? A. Down Bridge street.

Q. Before then did you stop anywhere on Broadway?

A. We stopped to see the parade.

Q. Where? A. By Hill's there, on Broadway.

Q. By Hill's confectionery store? A. Yes, sir.

Q. Did you stand there when the parade came? A. Yes.

Q. Is that the parade that came from towards Main street? A. Came up West street.

Q. Up Main street and then toward—A. into Broadway.

Q. Into Broadway at the corner? A. Yes, sir.

Q. Did you remain there with Jennie until the parade had passed by? A. Yes, sir.

Q. How long do you think it took the parade to pass by there? A. About five minutes.

Q. Quite a good many of them out that night in the parade? A. Quite a few.

Q. They then went on where? A. Up Broadway.

Q. Where did you and Nellie go after the parade had passed? A. Down Bridge street.

Q. Which side of Bridge street? A. On the right hand side.

Q. All the way on the right hand side? A. Yes, sir; all the way to River street.

Q. Until you reached River street? A. Yes, sir.

Q. And then when you reached River street where did you go from the right hand side of Bridge street? A. Then we went down River street.

Q. No, where did you go from the right hand side of Bridge street when you reached River street? A. From Bridge we went down River street.

Q. But then did you cross over? A. Yes, we crossed towards Saal's saloon on the corner.

Q. When you crossed over there towards Saal's saloon,

did you see anybody you knew? A. Campbell and a young lady on the other side.

Q. Campbell, is that this man here (pointing to one of the defendants)? A. Yes, sir.

Q. Where had they come from? A. They were coming from Bridge street.

Q. I know, but then where did they come? A. From Broadway.

Q. On which side of Bridge street? A. On the left hand side.

Q. Going down? A. Coming to River street.

Q. Where were they when you saw them? A. Near the corner of Saal's saloon.

Q. Where did they go then? A. They turned the corner and went down River street in the saloon.

Q. You saw them go in the saloon? A. Yes, sir.

Q. Where did they enter the saloon? A. The first door going down River street.

Q. And did you see anybody else with them? A. Another young man.

Q. Did you know him? A. No, sir.

Q. You didn't know him? A. No, sir.

Q. Have you seen him since? A. No, I haven't seen him since.

Q. Would you know him again if you were to see him? A. No, sir; I wouldn't.

Q. Where did he come from? A. He was standing in the doorway of the saloon, facing River street.

Q. Which doorway? A. The double door on the corner.

Q. And that is where he stood as they passed the corner? A. Yes, sir.

Q. Then do you say he joined them there? A. He joined them there.

Q. Where did he go with them? A. He went with them in the door.

Q. Is that the last you saw of them, when they disappeared in the door? A. That is the last I saw of them.

Q. Then you went home? A. Then I went home.

Cross Examination by Mr. Scott:—

Q. What time, Bertha, did you leave home that night? A. About half past seven or a quarter to eight.

Q. You came right up West street to Main and walked down to Mr. Hill's confectionery store and stood there and watched the parade? A. Yes, sir.

Q. Didn't stop anywhere on the way? A. No.

Q. Came directly to Mr. Hill's place? A. Yes.

Q. The parade, you say, took about five minutes to pass? A. About that time.

Q. Was that parade about to join a general parade or was it a parade of itself? A. A parade of itself.

Q. How was it, just one company, one body of men? A. There were two or three companies.

Q. And it took about five minutes to pass? A. About five minutes.

Q. Then immediately after that you went down Bridge street? A. Yes, sir.

Q. And through River street and home? A. Yes, sir.

Q. What time did you get home? A. I don't know exactly the time.

Q. Before nine o'clock? A. It was after nine.

Q. Tell us about? A. I guess about half past nine.

Q. About half past nine you went in the house? A. Or twenty minutes to ten.

Re-Direct Examination by Mr. Emley:

Q. You made no note of the time, did you? A. No, made no note of the time.

By Mr. Scott:

Q. What number was your house? A. No. 10 North West street.

Q. That is right near the Bridge, is it not? A. That is No. 10 North West street.

Q. Is that near the West Street bridge? A. Yes.

Q. And you came from Saal's directly home how? A. Through River, across Main street bridge, and Water streets.

Q. And then to your house? A. Yes, sir.

CHRISTOPHER SAAL, a witness sworn on behalf of the prosecution, testifies as follows:

Direct Examination by Mr. Emley:

Q. Where do you live? A. Corner of Bridge and River streets.

Q. Are you the keeper of that saloon at the corner of Bridge and River streets? A. Yes, sir.

Q. Do you own the property there, the building? A. Yes, sir.

Q. Brick building? A. Brick building.

Q. What part of it do you occupy? A. The second story, the second floor.

Q. As living quarters—that is your living quarters?
A. I live over the saloon.

Q. The first floor, do you occupy the whole of the first floor? A. Yes, sir.

Q. In connection with your business? A. Yes, sir.

Q. And you say you live on the second floor? A. The second floor.

Q. And is there a third floor, another floor above that?
A. Yes, sir.

Q. Who lives there? A. There lives my son and Mr. Bucker.

Q. Were you home on the night of October 18th? A. Yes, sir.

Q. In charge of your business there then? A. Yes, sir.

Q. Did you see a man by the name of McAlister in your saloon that night? A. Yes, sir.

Q. What was his first name? A. I think his first name was Walter.

Q. Walter, you knew him, did you? A. I knew him; yes, sir.

Q. What time did you see him there that night? A. I think it was about between nine and ten o'clock, nearer to ten than nine.

Q. Is that as near as you can fix the time? A. That is as near as I know.

Q. Was that when you first saw him? A. When I first saw him, yes.

Q. Where did he come from, do you know? A. I can't exactly tell which way he came in there. It was summer, it was quite warm, and when I saw him he was at the bar.

Q. You don't know what entrance he passed in? A. No, sir.

Q. Where was he when you first saw him? A. Stood right in front of the bar.

Q. Where were you? A. I was behind the bar.

Q. Was he alone? A. There was another young man with him.

Q. Do you know him now? A. I think I do.

Q. Did you know him? A. No; I didn't know him.

Q. Who was it? I thought it was Campbell.

Q. What do you think now? A. Well, they say it must be Death.

Q. What do you think about it? Do you know? A. All I know, I thought it was Campbell with him.

Q. What did they do as they stood there in front of the bar? A. They had drinks, cigars or drinks.

Q. Where did they go after they had a drink? A. They went off and on in the bar room.

Q. Then were did they go? A. Mr. McAlister ordered a drink before the bar.

Q. That second drink? A. No, that was the first drink. That was for the setting room that was for the setting room—ordered a drink for the setting room.

Q. Where is the sitting room? A. Behind my billiard parlor.

Q. Behind your billiard parlor? A. Yes, sir.

Q. Where did he order those drinks? A. He stood at the bar when he ordered it?

Q. How many did he order? A. Four drinks.

Q. What did he order? A. He ordered a little milk, pony cider and pony seltzer and small absinthe.

Q. What do you mean by small absinthe? A. Absinthe, just the same as milk.

Q. Ordinary whiskey glass? A. A little bigger.

Q. What is absinthe—what is that? A. I don't know myself what it is. It is a French drink.

Q. What did you do when he ordered those drinks of you? A. I put them on a plate and they took it in the setting room.

Q. Who took it in a sitting room? A. I think it was McAlister took it in the setting room.

Q. Off the billiard room? A. Yes, sir.

Q. Well, then what? A. Well, took time—some time and then the bell rung.

Q. What bell? A. Bell for the sitting room; and I went in.

Q. Is there a push button in the sitting room? A. Yes, sir.

Q. That rings a register over your bar, does it? A. Rings in the bar room; yes, sir.

Q. Is that the bell that rang? A. Yes, sir; it rings.

Q. What did you do when that bell rung? A. I was going into the sitting room to know what they want.

Q. You went into the sitting room? A. Yes, sir; I went into the sitting room.

Q. How did you go in there? A. Into the billiard parlor and then the sitting room, into the door.

Q. Is there a door leading from the billiard room to the sitting room? A. Yes, sir.

Q. This sitting room that you refer to, is that the sit-

ting room on River street or the sitting room in the rear of the building? A. In the rear.

Q. Well, when you went in there what did you see?

A. When I went in there I see Mr. McAlister, and I see two other young fellows and the girl—that girl.

Q. Do you know who they were—the other two fellows? A. No, I don't know them.

Q. Do you know now? A. I know that now, I think.

Q. Who were they? A. Well, I think, Mr. Campbell and Death—I don't know Death right yet. If I should see him on the street I don't know him yet—that's right.

Q. What were they doing? A. Sitting there, saying nothing.

Q. Sitting where? A. Sitting at the table.

Q. Was there a round table in there? A. A round table in there; yes, sir.

Q. And was it there they sat? A. Yes, sir.

Q. How did they sit at this round table? A. Well, Mr. McAlister set here (indicating) and Mr. Campbell next to him and then Mr. Death and the girl.

Q. Who sat next to the girl? A. I don't—I can't—I don't know exactly if it was Mr. Death or Mr. Campbell.

Q. You don't know? A. No.

Q. Who sat next to her on the other side? A. This side (indicating) nobody was setting, Mr. McAlister set on this side of her quite far away.

Q. What were they doing there? A. Nothing, when I came in.

Q. Sitting there? A. Sitting there.

Q. Weren't they talking? A. Talking, yes.

Q. Eh? A. They were talking together, yes.

Q. What did they say? A. I don't know.

Q. What is the reason you don't know? A. Well, I wasn't so long in there, and I didn't listen to that.

Q. You know what they said to you, don't you? A. Yes, sir.

Q. Eh? A. They asked—they ordered a bottle of champagne by me.

Q. Who did? A. Mr. McAlister.

Q. A bottle of champagne? A. Yes, sir.

Q. Did you know the girl? A. No, sir.

Q. Never had seen her before? A. No, sir.

Q. Well, what did you do when they ordered a bottle of champagne? A. I went out in the barroom to get it for them.

Q. Went out in the barroom? A. Yes, sir.

Q. And got it? A. Yes, sir.

Q. What kind of champagne? A. A quart bottle—Great Western.

Q. What did you do when you got it? What did you do with it? A. Brought it into the room.

Q. Took it back into the sitting room? A. Brought it in'o the room.

Q. Were they there yet? A. Yes, sir.

Q. What were they doing then? A. Left the bottle in there and went out.

Q. No, what were they doing when you went in with the wine? A. Nothing.

Q. Sitting there? A. Sitting there—Mr. McAlister stood up and the other three were setting.

Q. You went out then, didn't you? A. I went out again.

Q. Where did you go? A. Behind the bar again.

Q. How long did you remain there? A. Well, I was behind the bar until about ten o'clock, after, I think it was. I was behind the bar about ten minutes and so on, and then I went into the cellar, I had some work to do in the cellar with the ice box, and I don't know exactly how long I was there, and when I came back again, they all was gone.

Q. The room was empty then? A. Yes, sir; empty.

Q. Where had they gone? A. I don't know.

Q. When you went into the cellar who did you leave in charge of the bar? A. My wife.

Q. Where is your wife now? A. My wife is home, sick, I got a certificate for you here. I got it over there.

Q. Sick in bed? A. Yes, sir.

Q. Let me see your certificate? A. (Witness started to leave the witness chair).

Q. No, sit down. Have you got it there? A. In my overcoat I got it.

Q. Did you see anything more of them that night?
A. No.

Q. Eh? A. No.

Q. Do you know where this girl came from that you saw in the room there? A. No, sir.

Q. You don't know how she got in there? A. No, sir.

Q. Could she get in there without you seeing her? A. Yes, sir.

Q. How? A. From the River street.

Q. Well, did you see anything of either one of these men after that night? A. No, sir.

Q. What? A. That night I didn't see them—

Q. After that night? A. Yes, sir; in the tomorrow morning.

Q. What morning? A. Next morning.

Q. Who did you see then? A. Mr. McAlister and another young fellow that was with him.

Q. Where did you see him then? A. In my saloon.

Q. What time next morning? A. I guess it was around about nine o'clock.

Q. Nine o'clock? A. Yes, sir.

Q. What did they want there next morning? A. They wanted to see me.

Q. What about? A. To see me; and he says—

Q. Who says? A. Walter McAlister, he says—

Mr. M. Dunn: I object to anything Walter McAlister said not in the presence of—

The Court: The question is certainly competent and so is the answer.

Q. What did he say to you there? A. He said, "That girl is dead," he said.

Q. Did he say what girl? A. No, he didn't say what girl?

Q. "That girl is dead?" A. "That girl is dead."

Q. Well? A. I said, "I got nothing to do with it."

Q. What else? A. Well, he says, don't—he tell me to say nothing at all. He mean in case some big reward would be put down, I should not give him away, I should not take the reward, that's all.

Q. That is what he said? A. Yes.

Q. Who was the other man with him that morning?

A. One of them two young fellows, I don't know exactly which one it was.

Q. One of the two? A. Yes, sir.

Q. Was he present when McAlister said that to you?

A. I don't know whether he was just nearby, or not. I see him in the barrroom with him, but I don't know whether he was with him at the same time when he said that, or not, I can't say.

Q. Well, did those two, McAlister and the other man, come there that morning together? A. I don't know if they come together, or not, I was in the cellar, and when I come up, I see Mr. McAlister.

Q. Were they together there? A. I can't say exactly if they was together, or not.

Q. Did they go away together? A. I think they go away together.

Q. You know they did, don't you?

Mr. Scott:—I object.

The Court:—Yes, he answered your question.

Q. Did you see them go away? A. I see them go away.

Q. Then, don't you know whether they went away together, or not? A. You mean that morning?

Q. That morning, yes? A. Yes, I think I see them go together, yes.

Cross Examination by Mr. Scott:

Q. Just one or two questions, Mr. Saal. Mr. McAlister is accustomed to come to your saloon? A. What do you mean?

Q. Wasn't Mr. McAlister accustomed to come to your saloon—stopped there often? A. Sometime in the day time when he come from his shop, yes, sir.

Q. His shop is just across the river? A. I don't know where his shop is.

Q. He goes from his home down past your saloon, usually? A. Yes, sir.

Q. To his work? A. Eh?

Q. And comes back again past your saloon to his home, and has been accustomed to stop at your place very often to get drinks? A. Not too often—not too very often.

Q. Eh? A. Not too very often.

Q. Now this night you say you don't know what entrance he came in at? A. I don't know.

Q. You had a number of people in the saloon that night? A. Yes, sir.

Q. Was the saloon full? A. I had quite some crowd in it, through the parade—people wanted to see the parade and come in.

Q. About how many? A. I can't say exactly that.

Q. Was anybody playing billiards in your billiard room? A. I don't know, I can't remember.

Q. Who was serving drinks at the time you saw McAlister in there, besides yourself? A. In the bar room?

Q. Yes, sir. A. Me.

Q. You alone? A. Yes, sir.

Q. Mr. McAlister was in there with some men, besides those you have mentioned, was he not—do you know Mr. Dordoni? A. Yes, sir.

Q. Was he there? He and Mr. McAlister were together, were they not? A. He stood before the bar.

Q. And were drinking with each other? A. Yes.

Q. How many drinks did they have, altogether? A. I can't say that exactly.

Q. Two or three? A. Two or three, I guess; I can't say exactly.

Q. Mr. McAlister treated Mr. Dordoni and his friends? A. I think so.

Q. And they treated in return? A. I don't know if they treated in return; I can't say that.

Mr. Scott:—That is all.

Re-direct Examination by Mr. Emley:

Q. Just a moment. How many rounds of drink did you send in to this side room, to this party? A. I sent only one round in. He took in himself a bottle of champagne; that's all.

Q. That is all? A. That's all.

Q. When you went into the side room and found it empty after coming up out of the cellar did you find the champagne bottle there on the table? A. Yes, sir.

Q. And glasses? A. Yes, sir.

Q. How many glasses did you serve with that bottle of champagne? A. Four glasses.

Q. Four glasses? A. Yes, sir.

Q. Ordinary champagne glasses? A. Ordinary champagne glasses.

Q. Was there anything left in the bottle? A. No, sir.

Q. It was all drank? A. All drank.

Q. Were there any other glasses there then, on the table, except those? A. No, sir; only the champagne glasses.

Q. And the empty champagne bottle? A. Yes, sir; the empty bottle.

Q. Well, after McAlister ordered the round of drinks at the bar and took them to the side room—after that, did you see him again out in the bar room drinking with anybody else? A. I can't say exactly that he was out in the barroom again, or not. You know there was quite some people there; and I can't watch one man all the time. It was all open there in the barroom.

Mr. Emley:—That is all.

COMER SANFORD, a witness sworn on behalf of the prosecution, testifies as follows:

Direct Examination by Mr. Emley:—

Q. Where do you live? A. 13 Hillman street.

Q. Do you remember the night of October 18th? A. Yes, sir.

Q. Eh? A. Yes, sir.

Q. A little louder, I can't hear you. What time did you go home that night? A. That night?

Q. Yes. A. Oh, about eleven o'clock.

Q. Were you standing on the corner of East Main and Hillman streets that night?

*Mr. (M.) Dunn:—*I object to the question, because it is leading—

*The Court:—*I will allow it.

Q. I will complete my question; I am not finished. Shortly before going home? A. Yes, sir.

Q. Yes, and as you stood upon that corner that night did you observe anything? A. Yes, sir; I seen a hack come up East Main street.

Q. You saw a hack come up East Main street? A. Yes, sir.

Q. From what direction? A. From the Straight street bridge.

Q. Going in what direction? A. That way (indicating) towards the Goffle road.

Q. Did you take notice of what kind of a hack it was? A. No, sir.

Q. Did it pass you? A. Yes, sir.

Q. Did you take notice whether there was anybody in it or not? A. Yes, sir.

Q. Were you able to see who was in it? A. I seen four men and a young lady in it.

Q. You saw four men and a young lady in the hack? A. Yes, sir.

Q. Do you mean four men—

*Mr. Dunn:—*Let him explain it himself, please.

Q. Where where they, how were riding? A. Towards Goffle road.

Q. No, but what their position in the wagon? A. Two in the back and two in the front with the driver.

Q. Two what? A. Two men.

Q. In the back? A. Yes, sir.

Q. Where was the girl? A. She was lying down this way (indicating by reclining backwards).

Q. Where? A. In the back.

Q. Where was she with relation to the two men who sat behind? A. What is that?

Q. Did she sit on top of them or in between them, or where—the girl? A. On top of them; sat on top of them—on their lap.

Q. What was her position? A. Well, she was laying down.

Q. Where do you say the other two men were? A. In the front, towards the driver.

Q. Facing which way? A. Towards this way (indicating).

Q. Towards the men in the back? A. Yes, sir.

Q. Aside from this did you see another man driving, or another man in addition? A. Yes, sir.

Q. Where did he sit? A. On top, back of the horse.

Q. How was he sitting, on a high seat? A. Yes, sir.

Q. A high seat in front? A. Yes, sir.

Q. Were there lights in the wagon? A. Yes, sir.

Q. Was there a top on it? A. Yes, sir.

Q. What sort of a top was it? A. I couldn't say.

Q. But did it cover the whole wagon?

Objected to as leading.

The Court: Go on, you can answer.

A. Yes, sir; it covered the side of the wagon.

Q. And did you go from there home? A. Yes, sir.

Q. How far away from there is your home? A. About fifty feet.

Q. And did you go directly home after they passed you?

A. Yes, sir.

Q. You got home about what time? A. About eleven o'clock.

Q. Was there anything which especially attracted your attention about this turnout, as it passed you? A. I seen the parade that night.

Q. Over the river here? A. Yes, sir.

Q. And is that what attracted your attention to the wagon? Was there anything in the manner of the people in the wagon, the driver or any of the others? A. Yes, sir; the hackman looked at me when I looked at the hack.

Q. And when they passed you where did you say they went, in what direction? A. The Goffle Road.

Q. And you saw nothing of them after that? A. No, sir.

By Mr. Scott:—

No cross examination.

CHARLES LEE, a witness sworn on behalf of the prosecution, testifies as follows:

Direct-Examination by Mr. Emley:

Q. Do you live out on the Goffle road? A. Yes, sir.

Q. You keep the road house, I believe, there, do you not? A. Yes, sir.

Q. Opposite the Rock road? A. Yes, sir.

Q. Do you remember the night of October 18th? A. Yes.

Q. Were you at home that night? A. Yes, sir.

Q. What time did you close up that night? A. I closed up about ten o'clock.

Q. Where did you sleep? A. I slept right over the dining room.

Q. In front of the house? Is that in front of the house? A. Yes, sir.

Q. And from your sleeping room where can you look out? A. Right on the River road, on the main road.

Q. And that sleeping room of yours is about opposite Rock road, I believe? A. Yes, sir.

Q. Within how far? A. Within about twenty yards.

Q. And do you remember being aroused that night at any time? A. Yes, sir; by the dogs.

Q. By the dogs? A. Yes, sir.

Q. About what time was that? A. I should judge it was about eleven o'clock or a little after.

Q. Did you look at the time, then? A. Well, I had a lot of stuff stolen around my place, and I got up and went out to the barn. I was out there sometime, and when I came in it was a quarter to twelve.

Q. How long then were you out at the barn? A. It might have been half an hour or a little over.

Q. When you heard the dogs barking did you look out? A. Yes, sir.

Q. What did you see? A. I saw the wagon. It was on the Goffle road, and was going towards Paterson; but I could not say for sure if it came out of the Rock road, or not.

Q. What kind of a wagon was it? A. A covered hack wagon.

Q. Did you see who was in it? A. No, sir; the back of the wagon faced me.

Q. And you did not follow that? A. No, sir.

The Court: Any cross examination, gentlemen?

Mr. Scott: Not by me.

AUGUSTUS SCULTHORPE, a witness sworn on behalf of the prosecution, testifies as follows:

Direct Examination by Mr. Emley :

Q. You live in Paterson? A. Yes, sir.

Q. Where? A. At 210 Market street.

Q. Do you live there with your family? A. Yes, sir.

Q. Are you a married man? A. Yes, sir.

Q. You have some children? A. Three children.

Q. What is your occupation? A. Driving a hack.

Q. Where is your stand? A. Erie depot, Market street.

Q. Were you driving a hack last October around about the 18th? A. Yes, sir.

Q. And prior thereto and after that? A. Yes, sir.

Q. What sort of a hack did you drive then? A. It was a victoria.

Q. One or two horses? A. One horse.

Q. Did you have lights on it? A. Yes, sir.

Q. How many? A. Two.

Q. And a top to it? A. Yes, sir.

Q. The top extending how far? A. A small top, just over the back seat.

Q. How many seats were there? A. Two seats.

Q. I mean, in the body of the wagon? A. I mean in the back.

Q. Facing each other? A. Yes, sir.

Q. Where was the seat for the driver? A. Higher, high up.

Q. Is it up on a box? A. Yes, sir.

Q. What are your hours for hack driving, at the depot?

A. Six o'clock to four o'clock in the morning.

Q. Yes, you drive at night? A. Yes, sir.

Q. What time did you go to your stand on that night? A. I guess I went there about a quarter past six.

Q. How long have you followed that business? A. Close on nineteen years.

Q. Here in Paterson? A. No, sir.

Q. Were you born in Paterson? A. No, sir.

Q. Where were you born? A. Asbury Park.

Q. How long have you lived here? A. I think going on twenty-one years.

Q. And for nineteen years you have driven a hack around the Erie depot? A. Yes, sir.

Q. Well, on this night in question, did you have any calls? A. On the eighteenth?

Q. Yes. A. I got a call at ten fifteen that night.

Q. How do you know it was ten fifteen that night? A. Well, I waited for the ten ten train to come up.

Q. Is there a train on the Erie due here at ten minutes after ten? A. Yes, sir.

Q. And that is the way you have fixed the time? A. Yes, sir.

Q. And when that train pulled out of the depot this order came along? A. And when that train pulled out of the depot this order came.

Q. And did you serve anybody that night with the hack? A. A gentleman came up and engaged my rig.

Q. Where did you go then? A. He told me to drive down to Mr. Saal's place— (Interrupted.)

Objected to.

The Court: That is proper.

Q. Where did he tell you that?

Objected to.

Q. What message did you receive at the Erie depot?

Objected to. Question allowed.

Exception allowed.

A. Mr. Kerr gave me the order to carry four people from Saal's place, at the corner of River and Bridge. I comes down there and drives down around on the River street side. Mr. Kerr gets out and goes through the side door, and while he was in there I turned the horse around facing Bridge street on River. He came out of the same door and says "You had best drive around on Bridge street." I drove around there and was there a couple of minutes and the parties came out.

Q. Who were they? A. Mr. McAlister, that is the only man I knowed of the crowd.

Q. Is that this man here, Mr. Walter McAlister (indicating that defendant)? A. Yes, sir.

Q. And you did not know the others then? A. I knew them by sight but I did not know their names.

Q. Did you see the other two men here? A. Yes, sir.

Q. Where are they? A. They are both sitting there together.

Q. These two men (indicating the defendants Campbell and Death)? A. Yes, sir.

Q. And McAlister? A. Yes, sir.

Q. And the fourth man I understood you to say? A. Yes.

By the Court :

Q. Who was the fourth man? A. Kerr.

Q. Did you know Kerr at the time? A. Yes, sir; I just knew him by sight.

Q. Did you know him by name? No, sir; I did not exactly know him by name.

By Mr. Emley :

Q. Go on? A. He went to the saloon side door.

Q. Which door? A. The Bridge street side door, at the glass door. There was some lady there, and she opened the door and looked out up and down Bridge street when I pulled around there. I had not any more than made a stop when someone turned the light out in the back part. I seen it. And the first thing you know the four lads came bringing this woman out and placed her in my wagon in the rear seat. And two lads came in, and the other two went across the street—(interrupted).

Q. Who got in? A. Mr. McAlister, the woman and Death.

Q. Where did they seat themselves? A. On the back seat.

Q. How did the woman sit? A. She sat between them.

Q. The other two? A. The other two got in right by Smoky Van Houten's place.

Q. At what street? A. Governor street.

Q. You in the meantime had driven from the saloon across the street? A. Yes, sir; and I made no stop.

Q. What then? A. They gave me the order to drive out the Goffle road.

Q. How did you go? A. Through Governor to Pater-erson, to Fulton, to Straight, and over the Straight street bridge to East Main street and out East Main street to the Goffle road, and they told me to keep on out and they would tell me when to stop. And I drove out as far as Mr. Lee's place, and he told me to pull up the Rock road. I was never there before in my life. They said they would tell me when to stop. I must have drove about three blocks up this road and then I was told to stop.

Q. You went across the railroad? A. Yes, sir; up the

grade there. I got to the certain place and they all hopped out.

Q. What sort of a place is it? A. A kind of open space, no bushes, no woods. The woods were off from it. This was a kind of old road.

Q. They got out of the wagon? A. Yes, sir.

Q. When they stopped there, they got out of this wagon? A. They got out of the wagon and got hold of the girl, and pulled her out of the wagon. And one of them says, I want the blanket; and they pulled it from under me and laid it on the ground; and placed the woman on the ground; and while they were at the woman on the ground I got hold of the horse and backed it up.

Q. Which side of the wagon, and on which side of the road did they take the woman out of the wagon? A. As we go in, the right hand side.

Q. How far from the wagon did they take her? A. Five or six yards from the centre of the road.

Q. What did they do with her? A. Well, while they was at her I turned the horse around in the road there, backed him around, and lifted the wagon around, and when I got them straight in the road they were by the woman at the time, and just as I got him around, Death came to the wagon, and says we all had a go at this young girl; go on, you tackle it. And I told him right away; no, not me, I would not have anything to do with it. He asked me two or three times to take a go at it. I would not have it. So then Kerr came up and say, lets get out of this. He was shaking and didn't know what to do. They brought the girl back to the wagon again and drove out some way, and after they had driven down there I was ordered to stop at the school house near the brook.

Q. One moment, did you see what, if anything, McAlister and Death and Kerr did after laying the woman on the ground? A. No, sir; I did not see what they done, only what they told me.

Q. Did you see where they were? A. All down, kneeling down.

Q. Where? A. On this bare spot.

Q. How near to the woman? A. Well, they were all together, where this bare spot was.

Q. And what did they say, if anything, about her person, if anything?

Objected to as leading. Question allowed.
Exception taken.

A. Yes, sir; "it is small" he says, you had best go and get a piece of it."

Q. What words did he use? A. That is the way he said it."

Q. How? A. He says, "it is very tight; go on and get a piece of it."

Q. Which one said that? A. Mr. Death.

Q. And where were the others then? A. They was at the wagon.

Q. And what were they doing, if anything? A. I didn't notice.

Q. When Death was leaving there, how about their apparel, about their clothing? A. I could not say what they done with it.

Q. Did you notice anything about their own clothing? A. They were using their handkerchiefs, I seen that myself. Wiping themselves off.

Q. What? A. Their person.

Q. Their privates? A. Yes, sir.

Q. You saw that? A. They came to the wagon and deliberately showed it.

Q. Who? A. Mr. Death and Mr. Kerr, if I have got to say it, done it.

Q. Go on? A. And Mr. McAlister was back by the hind wheel of the wagon.

Q. Any others? A. That is all the persons then there.

Q. All the persons then there? A. Yes, sir.

By the Court:—

Q. Death and Kerr and McAlister? A. Yes, sir.

Q. I understood you to say you saw each of them?

A. They were all down on this girl on the ground.

Q. I understood you to say you saw each of them using the handkerchiefs? A. They were wiping their—what you may call it—off.

Q. Which one of them was wiping his privates off with a handkerchief? A. Each one of them.

Q. Each one of them was wiping his privates off with a handkerchief? A. Yes, sir.

By Mr. Emley:—

Q. While they were down there on the ground, did you hear any sort of human voice, any sound like a voice?

A. I heard a grunt a couple of times.

Q. How many times did you hear a groan? A. I guess two or three times.

Q. When was that? A. When they had her up there

in the woods laid on the ground; and two or three times I saw motions of the girl.

Q. Where were the men? A. They were in there by her, right down by her.

Q. Did you hear them at the place in the woods say anything to each other or ask each other to do anything to the girl? A. No, I didn't hear nothing like that in the woods.

Q. Did you hear them there in the woods discuss between them or say anything to each other about who should go first?

Mr. Scott:—I object to that.

Question allowed; exception.

A. Well, that I couldn't say which one. They was saying something about who would go first. Now, I couldn't say which one it was.

Q. Did you hear something of that kind? A. Yes, sir; I heard something of that kind.

Q. Did you see anybody take anything in the way of clothing off from the girl?

Mr. Scott:—We object to that as leading.

Question allowed; exception.

A. I didn't see anything like that.

Q. Did you see anything in the way of clothing lying on the ground near the girl.

Objected to by counsel for defendant.

Question allowed; exception.

A. Well, I am telling you I didn't see nothing, no clothes at all I seen, it was tore on my blanket, the ravel, whatever they was.

Q. When did you see them? A. When I got to the stable that night.

Q. Ravellings on your blanket? A. Yes, sir.

Q. What sort of ravellings? A. Threads, like muslin.

Q. Then what was done, do you say, with the girl, after this performance on the ground there? A. Well, they put her in the wagon, we came out the Rock road on the Goffle road.

Q. Where did they put her in the wagon? A. Up to the woods.

Q. Whereabouts in the wagon did they put her? A. The rear seat, the back seat.

Q. Who sat on the back seat with her? A. Coming out Mr. McAlister and Campbell.

Q. And she sat where? A. She sat in the middle, in the centre of them.

Q. What was her position as she sat there in the wagon? A. She laid right back, her head right back.

Q. Had that been her position all the way up there? A. That is the way she went till we got there.

Q. Had there been anything said by her on the way up there? A. By her?

Q. Yes. A. No, sir.

Q. Did she speak at any time after leaving Saal's saloon? A. No, sir; the only time, I heard her grunt two or three times up in the woods.

Q. You heard her make no sound after leaving the woods? A. After she was up there in the woods I never heard her make no sound.

Q. Then you came out from the Rock road to Goffle again, did you? A. Yes, sir.

Q. Turn towards Paterson? A. Yes, sir.

Q. Then what happened? A. I went down to the school house, and there I was ordered to stop at the brook. They got her out of the wagon again, put the blanket on the ground, laid her head up on a kind of hill, and they commenced to work on her, rub her legs, arms, and bathe her head with water—carried the water from the brook. They couldn't get her to. After she laid there a little while, and along came a wagon; and then they bundled her up and put her in the wagon before the wagon got up to my wagon.

Q. Which direction was that wagon going? A. It was going towards Midland Park.

Q. Then what? A. Then they got, some of them said "well, we best get a doctor" or something like that—go to a doctor—and I was ordered to drive down to Doctor Wiley's place, in Ward street. So I drove to Ward street, and Mr. McAlister and Kerr, they got out; one went down in the basement for the doctor, the other went upstairs—McAlister went upstairs. So he wasn't in, the lady says. Then they told me to go to Doctor Townsend. I went to Doctor Townsend's place.

Q. Where is that? A. On Paterson street, 113 Paterson street I think it was. So Kerr and McAlister they went up and rang the bell, and the doctor was upstairs, and he came down to the door; and they tried to push themselves into the door; and the doctor wouldn't have it. So he got on some gown and came out, walked around the back part of the wagon in the middle

of the street side to look at the girl; he looked over the girl, and I stood against the fence—he felt all over her head and hands and arms; he says, “Boys, I can’t do nothing for her; she is gone.” So the doctor stood there a minute, and he went in. McAlister says, “Doctor, you know what to do now.” I didn’t know what he meant by it.

Q. Tell just what he said? A. “You know what to do.” So, after the doctor went in, I says to the fellows, “Where does this girl live?” And he says, “Down in East Fifth street,” I didn’t take notice; I drove on down Pater-son street right down to East Fifth street, and they made a holler, they wouldn’t let me go there with the woman.

Q. Go where? A. Take her home, see! I was ordered to drive across Hillman street bridge and out the Goffle road again. Said I had to drive around that way.

Q. Were there any watchman down around there in that neighborhood there? A. I didn’t see any.

Q. Was there anything said about a watchman being around there? A. Not as I know of. I know I got right around by the gas house, and I was ordered to drive over the bridge and out the Goffle road and around by the dye houses.

Q. Around the dye houses? A. Yes, sir.

Q. Around the dye houses? A. And then I got over to Alyea’s and they ordered me to stop. So the whole four of them gets out and picks this girl up out of the wagon and kind of sets her back on the ground, lets her head fall over; she hit something, I don’t know what it was, a stone, or what, her head hit something; I heard it crack.

Q. That you say was near Alyea’s mill? A. Right near Alyea’s mill.

Q. Which side of the road? A. On the right hand side coming in to the bridge.

Q. Going towards Alyea’s mill? A. Yes, sir.

Q. Between the road and the river? A. Yes, sir. Her head lay towards the river. Then they got in the wagon after they laid her down there, they all piled in on the top of one another, on the one seat; it was a big, broad seat.

Q. The back seat? A. Yes, sir. And then I drove right down around the river, drove to the Thirty-third street bridge; that is what they call Morlot’s bridge to Thirty-third street. Came right over to Thirty-third street, and then came along across Broadway on Thirty-third street, across avenue and right down Seven-teenth avenue, right down Vreeland avenue to Seven-

teeth avenue, and down Seventeenth avenue right back of the armory, where Mr. McAlister got out and Kerr got out, and left me there. And Mr. Death and Campbell. they got out at the corner of Carroll and Market streets.

Q. When McAlister and Kerr got out what did they do? Did they do anything, or say anything? A. They paid me.

Q. What did they give you? A. Gave me \$10.

Q. Who gave you that? A. McAlister.

Q. What did he say? A. He says, "You know what to do now." He meant, to keep your mouth shut. So the other two got out at the corner of Carroll and Market streets, and I went on to the stable. I guess that was about three o'clock in the morning, five minutes past three when I quit them.

Q. And when you reached the stable you say you saw these ravelings on the blanket? A. Ravelings on the blanket, and I thought that was what it was from, they tore up some underwear.

Q. After leaving the school house by the brook did you notice any sign of life about this girl? A. Yes, sir.

Q. How soon after leaving there? A. Well, I can't say how soon, but I know the girl was alive. They had her up in the wagon, they were slapping her face; she was laying back.

Q. Who was doing that? A. Well, Mr. Alister was slapping the side of her face, and she got right up, and she slopped herself right over in the front.

Q. Show us how she got up. A. She laid back this way (indicating.) Then when they were slapping her face and ears, she raised right up.

Q. You saw that? A. Yes, sir.

Q. Did she raise up by her own strength? A. Raised up herself.

Q. Wasn't lifted up? A. No, sir.

Q. How long did she remain up? A. That was the last I saw her move.

Q. How long did that movement of the body last? Did she fall back again on the seat? A. Yes, she went back.

Q. That was the last sign of life that you saw? A. Yes, sir; that was when I was coming down.

Q. After you left the school house? A. After I left the brook.

By the Court.

Q. How did she come out of Saal's saloon? A. Carried out.

Q. How? A. The side door.

Q. How was she carried? A. Well, feet carried out first; and then they turned her round and put her back again.

Q. How many were carrying her? A. There was four together.

Q. Do you mean that her feet were off the ground?

A. Yes, sir; her feet didn't touch the ground.

Q. And in that way she was placed in the wagon? A. Yes, sir; she was carried out feet first, like this (indicating), and her head this way. And they turned around and put her in backwards.

Q. When she left the wagon in the woods or by the woods, how did she leave the wagon? A. Well, I couldn't say how she left the wagon. It was so dark, and I didn't notice how they got her out, whether they got her out backwards or frontways.

Q. Could you tell whether she got out herself? A. No, she didn't get out herself; she couldn't stand.

Q. Was she lifted out? A. Lifted out and lifted in.

Q. Did you see how many lifted her out? A. Yes, the four had hold of her.

Q. And when she was returned to the wagon was she lifted again? A. Lifted again to the wagon. When they placed her on the ground, she was lifted from the wagon by all of them.

By Mr. Emley:—

Q. That would mean by Alyea's mill? A. Yes, sir.

By the Court:—

Q. You have spoken of her being placed in the wagon three times and leaving the wagon three times? A. Yes, sir; she was put in the wagon at Bridge street.

Q. At the saloon? A. Yes, sir.

Q. And then she was put in the wagon again at the woods? A. Yes, sir.

Q. And then she was put in the wagon again at the school? A. At the school house.

Q. And on each of those occasions did she herself get into the wagon? A. No, sir.

Q. Or did she get out of the wagon at any time? A. The only way she got out of the wagon, she was carried out; never could stand.

Q. Did you say anything about this to anybody after you left them that night?

Objected to.

The Court:—How is it competent?

Q. Did you say anything to these defendants after that?

A. Did I say anything?

Q. Yes; after leaving them, after you separated that night? A. Only what they told me.

Q. I mean after you left them that night, after separating from them that night did you see the defendants again? A. I saw Mr. McAlister walking down Park avenue, and he came and spoke to me into the Erie depot and he said "You look out."

Mr. Hoffman:—Objected to. I object to what McAlister stated, it has no bearing on the other defendants.

The Court:—Am I to exclude it with reference to McAlister and allow it as to the other defendants? He can answer.

Exception.

A. He just said "Look out for yourself;" I didn't say anything back and he went right away and left me; that is the last I saw him.

Cross Examination by Mr. Hoffman:

Q. I understood you to say you came from Asbury Park to Paterson a number of years ago, is that right? A. Yes, sir.

Q. How long have you lived in Paterson, how many years? A. Over twenty years.

Q. Are you a married man? A. Yes, sir.

Q. How long have you been married? A. Married—let me see—I have been married nine years, going on nine years.

Q. You and your family live here in Paterson? A. Yes.

Q. And for about nineteen years you have been a hack driver? A. Yes.

Q. During that time you have been largely engaged at the Erie depot? A. Yes, sir.

Q. Your time for going to work commenced at six o'clock at night? A. Yes, sir.

Q. And continues until the morning? A. Yes, sir.

Q. What class of custom generally did you have at this time?

Mr. Emley:—I do not see the relevancy of that.

The Court:—The Court will allow it.

A. I used to take men down town, and wherever they wanted to go.

Q. People coming off the cars? A. No, generally down town; down town here.

Q. People coming from the trains, didn't you have customers from them? A. Yes.

Q. Didn't you take people to trains too? A. Yes, took them from and to trains.

Q. Now, upon this night in question, what time did you leave the depot to fill this order? A. 10.15.

Q. And you went then to the saloon? A. Yes, to the River street side.

Q. Did you see anyone at the saloon when you got there? A. Well, I didn't see anybody at the saloon on the River street side.

Q. Did you see anybody on the street by the saloon when you got there? A. No, sir.

Q. How long did you wait there before you saw anybody? A. I was only there five minutes altogether, I guess it was about five minutes.

Q. Did you indicate to anybody in the saloon that you were there with your carriage? A. No, I did not.

Q. Did you sit upon your carriage until somebody came out? A. I did.

Q. How long was it after you got there and stopped before some one did come out? A. I don't know, I was standing there two minutes around on the east side.

Q. That is your judgment as to the time? A. I know that because I had only not more than turned my horse around when the men came out.

Q. What man came out first? A. Mr. Kerr came out first.

Q. How soon after Kerr came out did the others come out? A. The others came out right away.

Q. Immediately after? A. Mr. Kerr went on the River street side, that is when I first landed there.

Q. Who followed Kerr out? A. Nobody came out on the River street side, only him, and he told me to drive around to Bridge street.

Q. When the girl came out tell me who were with her? A. The whole four were with her.

Q. You mean by that these four men you have been speaking of? A. Yes.

Q. And no one else? A. Yes, no one else.

Q. I believe you said some lady looked out the door?

A. The lady looked like Mrs. Saal, she looked up and down the street.

Q. You say "looked like," are you certain it was her?

A. No, sir; she had a wrapper on.

Q. In what condition was the lady who was brought out of that saloon when she was brought out? A. She couldn't stand.

Q. How do you know that? A. They picked her up and carried her.

Q. Do you know she couldn't stand up herself? A. No, sir; she couldn't stand.

Q. How do you know? A. They carried her out of the saloon and put her in my wagon.

Q. You say so only because you saw them carry her, that is why you say she couldn't stand? A. Yes, that is what I saw myself.

Q. That is the only reason you say she couldn't stand?

A. Yes.

Q. You didn't see her make any attempt to stand? A. No, sir.

Q. They carried her out, that is all you say? A. She was placed on the ground and picked up off the ground.

Q. Where? A. Up in the woods.

Q. I am talking about the door of the saloon, and I am not talking about any other place, do you understand me?

A. Yes, sir.

Q. Did you see any effort on her part to stand? A. No, I am about to tell you she was carried out of the saloon by these four men, carried out feet first.

Q. Carried out gently? A. Yes.

Q. Feet first? A. Yes.

Q. Who had hold of her feet? A. McAlister had hold of one side and Death on the other side.

Q. Other side of what? A. Other side of the girl when she came through the door.

Q. I am talking about feet; you said she was carried out feet first, someone must to have had hold of her feet? A. Yes.

Q. Who? A. Campbell and Kerr.

Q. Now, you have Campbell and Kerr holding her feet? A. All had hold of her.

Q. Hold of her feet? A. No, sir; hold of her.

Q. I am speaking of someone who had hold of her feet, will you tell me, if you can? A. I am trying to explain

to you, McAlister had hold of her on one side and Death on the other side.

Q. Do you mean one side of her body? A. No, sir; of her arm.

Q. And another one had hold of her by the arm? A. Yes, and the other—

Q. And the other had her by the other arm? A. Yes.

Q. Who were they? A. McAlister and Death.

Q. Didn't you say a moment ago that McAlister and Death had her by the feet? A. No, sir.

Q. Who did have hold of her by the feet? A. Campbell and Kerr, they had her this way (indicating) carrying her.

Q. Were her clothes disarranged? A. No, sir.

Q. How did you notice that? A. I didn't see any white skirts.

Q. And you took it all in? You knew all that occurred through looking at all these men and saw what they did?

A. Yes, sir.

Q. You saw them put this girl into the carriage? A. Yes, sir.

Q. Where were you? A. Sitting on the seat.

Q. Was that cover up or just turned back? A. No, sir, it was up.

Q. It was over the back seat? A. Yes.

Q. Closed partly over the front seat? A. No, sir; just about half way.

Q. So you could see all that took place in the wagon?

A. I could see what was put in the wagon.

Q. Were you able to look in the wagon and see what was done before they started? A. Yes, the girl was placed in the back seat.

Q. Between who, if anybody? A. Between McAlister and Death.

Q. On the front seat? A. The other fellows didn't get in until after I crossed by Van Houten's, they got in there.

Q. They didn't get in when the girl and the other two got in? A. No, sir.

Q. You are sure of that? A. Yes, sir.

Q. Did you hear anybody say anything to Kerr or Campbell or McAlister? A. No, sir.

Q. Did you hear any conversation taking place at the time the girl was being put—as you say, being carried and put into the carriage? A. No, sir; I did not.

Q. Not a word? A. No, sir.

Q. Was anything said to you then at that time? A.

No; only say, I was ordered to drive where they told me.

Q. By whom were you ordered? A. By McAlister and Kerr.

Q. Tell you what? A. I said, "Where do you want to go?" and they said "Right over the River road."

Q. Who said that first? A. Mr. McAlister.

Q. Was that all he said? A. Told me to drive to the River road.

Q. Was that all he said? A. Yes.

Q. You said that Kerr spoke to you? A. He was right in with him.

Q. What did he say? A. He didn't say anything then.

Q. Why do you say then that McAlister and Kerr told you to drive up the River road? A. They done most of the talking; only one said what I have told you.

Q. Now, you said that only one gave you orders to drive up that road, is that right? A. Yes.

Q. Told you to drive up that road? A. Yes.

Q. When was this? A. Ordering me to go?

Q. Where was this? A. Going right through Governor street.

Q. Well, I am talking about what occurred and what was said at the saloon door? A. I am saying, I am trying to get at—

Q. Is that what occurred and was said at the saloon door? A. I am telling you Mr. Keer didn't get in until he got to the shop on Governor street.

Q. Were you ordered to go anywhere until Kerr got in? A. Yes, sir; by Mr. McAlister.

Q. Where did he order you to go? A. Out Goffle road.

Q. What did he say? A. "Go to the Goffle road."

Q. So you had two orders to go up the Goffle road? A. Yes, sir.

Q. Did Death or Campbell say anything with reference to how you should go? A. No, they didn't know the road I guess.

Q. Well, I didn't ask you that? A. They didn't say anything to me there.

Q. Not a word? A. No.

Q. Now, at that place and that time, you stood there with your wagon and saw these men bring out that girl, and you say she could not walk; that is true, isn't it?

A. Did I say she could not walk? She was carried out.

Q. Tell me why you drove off with that party and that girl in that condition? A. Well, I didn't know where she

lived, I thought she lived out that way and they knowed her, see? I never asked.

Q. Did you drive off that way because you didn't know where she lived? A. I didn't know where she lived, or anything else.

Q. Nothing had been said to you about driving to the house? Not then.

Q. Not a word? A. Not a word.

Q. You drove off at their direction with that girl in that condition as you describe it? A. That's the way they told me to drive.

Q. Why did you obey their order? A. Well, I didn't know, I didn't ask them nothing about it.

Q. You simply saw that girl, helpless as you say, put in your wagon, and they told you with relation where to go and you went and didn't say a word, not a single word to a soul? A. No, they didn't; they give me an order to drive out Goffle Road, and I didn't know whether she lived out Midland Park or where.

Q. Now then, how far was it from the place where she was put into the carriage, to wit, at the saloon, to where you first stopped, as near as you can judge? A. What do you mean? From the saloon?

Q. That is what I said, from the saloon to the first stop you made, do you know how far it was? A. Well, I did not make any stop at all after the saloon; I went right on.

Q. Well, you stopped eventually—sometime; how far was it from the saloon to that place? A. You mean Governor street—that would be?

Q. You stopped at the saloon first and took in the girl and the men? A. Yes, sir.

Q. You remember that, do you? A. Yes, sir.

Q. You are sure you remember that? A. Yes, sir.

Q. And the next stop you made was at Lee's, wasn't it? A. Never made no stop there.

Q. You did not stop there at all? A. They only spoke to me was Lee open, and he wasn't open.

Q. You drove right on? A. I drove right by Lee's place.

Q. You did not stop there at all? A. No, not at all. McAlister said "Is Lee open—"

Q. Well, I am not asking you about that; you did stop somewhere, didn't you? A. Never stopped, I am telling you. Going up you mean?

The Court :—Yes.

Q. I mean when going up, of course. A. I never stopped nowhere.

The Court:—

Q. Not till you got to the woods? A. No, sir; not till the woods.

By Mr. Hoffman:—

Q. How far is it, should you judge, from the place where you put the girl in at the saloon to the place at the woods? A. That I can't tell, judge; I can't say.

Q. How long were you in going there? A. I don't know, I never timed it; I guess it is about—

Q. Give me some estimate of it as near as you can; you have some idea of it? A. I guess close to an hour, you might as well say, an hour.

Q. You think you arrived there within an hour? A. I guess so.

Q. Did you drive fast? A. Not very fast I didn't go.

Q. During the whole of that hour's drive did you look back at all into the carriage? A. No, I didn't.

Q. Not once. Did you hear any conversation in the carriage? A. No.

Q. There wasn't a word said in the carriage by none of the men and not by the girl? A. The only time I heard anything said is when I got to Lee's place. I was to turn off up that road.

Q. So the first conversation that passed between these boys, or between the boys and the girl—the first conversation that took place at all was when you got to Lee's, or about approaching Lee's? A. Up there in the woods.

Q. Do you mean to say you drove all that distance, occupying whatever time passed and these men didn't say a word to each other? do you mean to say that? A. They might have said something and I didn't listen.

Q. What were you doing? A. I was looking after the horse.

Q. It was wide open—behind you? A. Down low behind.

Q. Yes, but you could see everything that took place there? A. No, I couldn't see everything, I had to watch the horse.

Q. Well, if you looked you could? A. I had to watch the horse.

Q. Why, was he a dangerous or a fractious horse? A. I couldn't keep him in the road.

Q. Why not? A. He would run all over the road.

Q. Why? A. Well, I—

Q. Why? because of your bad driving, or was it the horse? A. No, the horse.

Q. Bad horse was he to drive? Now, after the conversation with reference to the stoppage at Lee's did you hear anything until they stopped at the place called the woods? A. When I got to Lee's place I didn't stop at all. I was ordered by Mr. McAlister and Kerr to turn up the Rock road. When I got to the Rock road I was ordered to stop over the hill.

Q. How far from Lee's place to the place where you stopped? A. I judge about three blocks.

Q. But nothing was said until you were ordered to stop? A. No, sir.

Q. Were you ordered to stop when going by Lee's? A. I guess they would have went in if he had been open, but he wasn't open.

Q. Well, you got to this place called the woods, and what was the first thing that was said to you there? A. Where do you mean?

Q. At the place called the woods—really the first place you stopped? A. I was told to stop.

Q. You were told to stop? A. Yes, sir.

Q. Were you told to stop at Lee's? I don't know whether you understand me or not; when you were driving by Lee's had some one of the crowd told you to stop when you got to a certain place, or did they tell you to stop at the place at the time? A. They spoke about if Lee was open to stop, and I said "Lee ain't open." Mr. McAlister and Kerr says to go up the Rock road.

Q. Did they designate then the place you were to stop?

A. When I got up there they told me to keep on driving.

Q. And when you got to the place they told you to stop? A. Yes, sir.

Q. Was there any conversation between them going from Lee's up to this place? A. I didn't hear nothing.

Q. Not a word? A. No, sir.

Q. You are sure of that? A. I am sure.

Q. Did you see the girl going from Lee's up to that place? A. Did I see the girl?

Q. Yes. A. The girl was in the wagon.

Q. Well? A. She was in the wagon.

Q. I am well aware of that, according to your story; did you see her? A. Yes, sir.

Q. How many times did you see her? A. Well, I seen her carried out of the wagon up there.

Q. I am talking about when she was in the wagon, on that route? A. On that route?

Q. Yes, did you look back and see her? A. Yes, sir.

Q. How many times? A. I guess once or twice, going out.

Q. Where? what part of the route? A. What part of the road?

Q. Yes, sir? A. I looked back just as we got to Charlie Lee's place,—and spoke to me.

Q. Where was she then? A. In the wagon.

Q. Whereabouts in the wagon? A. In between on the back seat; the rear seat.

Q. She was talking? A. No, sir.

Q. Did she say a word? A. I never heard it.

Q. How was she sitting? A. Laying back.

Q. You mean by that her head was back? A. Her head rested on the back of the rest of the wagon.

Q. She was sitting upon the seat? A. Yes, sir; on kind of the edge of it, laying back as far as she could.

Q. And the two men were on either side of her? A. On each side.

Q. That you saw? A. Yes, sir.

Q. You saw her sitting upon the edge of the seat? you saw her with her head lying back? A. Lying back.

Q. And you saw her between those two men? A. Yes, sir.

Q. Did you have any light in your wagon? A. Yes, sir; they blowed it out going out.

Q. Going out where? A. A going out Goffle road.

Q. Had you seen this before they "blowed" it out? A. Before I struck out there they blowed the lights out on me.

Q. Did you see what you have just described before they blew the lights out or after? A. Just what I described to you?

Q. Yes, sir. A. I seen it—I seen her in the wagon—

Q. Was the light blown out then or not? A. Yes, sir, the lights was out.

Q. I understood you to say it was very dark that night? A. It was dark.

Q. It was dark? A. Yes, sir.

Q. And the lights were out? A. Yes, sir.

Q. Now how did you see all this? A. The only way I could see was to look around at them.

Q. If the night was dark and the lights were out how could you see if you turned around? A. You could easily see.

Q. You didn't see it, did you? A. I did see it.

Q. Wasn't the top in your way so you could not see up on the back seat? A. No, sir.

Q. Now, your seat was high? A. Well the top ain't in the way.

Q. The top tips forward, doesn't it? A. Little.

Q. Towards the driver's seat; and yet you say you saw all this of a dark night without any light and the top of your wagon in that condition, you say that, do you? A. I seen it; yes, sir.

Q. What sort of a road was that? A. What do you mean? the Rock road?

Q. Yes, sir; a smooth macadam road or a rough road? A. Going up the Goffle road it is pretty good some places, but when you get on the Rock road after leaving the Goffle road it is bad.

Q. How far did you go upon this Rock road? A. About three blocks off the main road.

Q. And the road is very bad there? A. Yes, sir.

Q. Did you look back to see what the condition of the parties was after you got on the Rock road? A. No, sir. Not after I left Charlie Lee's.

Q. You did not look back? A. Not after that.

Q. So you did not know anything about what the condition was? A. No, sir.

Q. You went right on just as you were directed? A. Just as they directed me.

Q. Without a word? A. Yes, sir.

Q. Didn't say a word to them? A. No, they—

Q. Didn't object in the slightest to anything they told you to do? A. They told me to go on.

Q. But did it with great facility? A. Well, they told me to go on.

Q. Who spoke first when you stopped, that was after you stopped, who spoke first? A. You mean up in the woods.

Q. Yes. You did not stop anywhere else? A. McAlister said to stop there.

Q. He is the one who spoke first? A. Yes, sir.

Q. Did you know what was the matter with the girl? A. I do not know; no, sir.

Q. Didn't anyone of those men tell you, of the men with her? A. No, sir.

Q. Didn't one of those men tell you she was drunk?
A. No, sir.

Q. That she had had absinthe and champagne? A.
No, sir; I never take it myself.

Q. You never take what? A. Any kind of a drink.

Q. Well; as I understand you then when you stopped,
the place having been designated, they all got out. Do
you know who got out first? A. That I could not say
who got out first.

Q. Why not? A. I can't say.

Q. Don't you remember, or didn't you see? A. I know
they all got out together, right after one another.

Q. Did you see where the girl was when they got out?

A. Yes, sir.

Q. Where was the girl? A. The girl was on the seat.
She was sitting up there on the seat.

Q. She was sitting there upon the seat? A. Yes, sir;
back on the seat.

Q. Do you know who took her out, who had hold of
her? A. The whole four had a hold of her.

Q. Did they take her out in the same manner they put
her in at Saal's saloon? A. Yes, sir.

Q. The men had the same places? A. Yes, sir.

Q. That is, one had hold on each side of her shoulders,
and the others the other end? A. Yes, sir. That is the
way they carried her.

Q. Now, they got blankets I understand? A. Yes,
sir; they got a blanket of me.

Q. And she was taken out and put upon that blanket.
A. Yes, sir.

Q. How do you know? A. I only seen them spread
the blanket on the ground.

Q. You did not see her upon the blanket at all? A.
You could, if you looked sharp.

Q. Did you look sharp to see? A. Yes, sir.

Q. Did you see her upon the blanket? A. I seen her
laid down upon it.

Q. Then why didn't you say so, you saw her laid down
on the blanket? A. Yes, sir.

Q. And these men were around? A. Yes, sir.

Q. And did you think anything wrong was going on?
A. I didn't know what to think.

Q. You did not have the remotest idea of what was go-
ing on? A. I didn't until they came and told me.

Q. You didn't think so? A. I did not know what they
were going to do.

Q. You had no idea? A. I didn't have any idea of it or I would not have went.

Q. When you saw these men around the woman did you see them down on the ground? A. They were all down nearly all the time.

Q. But you did not see any one of these men down on on top of the woman? A. One of them I saw on top.

Q. That is my question? A. I did answer; one man on top of her.

Q. And that is all you saw, one man on top of her? A. Yes, sir,

Q. Is that what you say, only one? A. I seen one.

Q. That was all? A. Well, you ask me if I seen one, and I did.

By the Court:

Q. Do you mean you only saw one, or did you see others down on top of her? A. They were all on top of her.

Q. Did you see only one on top of her? A. I had to look pretty sharp.

Q. Did you see only one on top of her? A. I seen Mr. McAlister down on her.

Q. As to the others, did you see any of the others? A. Only what they told me.

Q. But what you saw. We only want to know exactly what you saw. You say you saw Mr. McAlister on top of her? A. Yes, sir.

Q. Did you see any of the others upon her? A. Mr. Death.

Q. Did you see any of the others? A. Mr. Kerr.

Q. Did you see him upon her? A. He was down by her, and he came and told me—(interrupted)

Q. Distinguish between what you were told and what you saw. Did you see anybody else upon her besides those two, McAlister and Death? A. They were down by her, I could not say what they were doing.

Q. Did you see Campbell upon her? A. I did not see—

Q. Eh—A. Yes, sir; they was down, the three of them.

By Mr. Hoffman:

Q. I understood you to say a while ago that when they stopped you went on with your wagon? A. When I stopped?

Q. When you stopped you went on? A. No, sir; I did not.

Q. Didn't you answer the question that way, in de-

scribing the matter to my friend, Mr. Emley? A. You are talking about in the woods?

Q. Yes. A. No, sir; I did not. I got off my wagon and takes hold of my horse's head and turns him around. It was a small road.

Q. Do you remember being sworn before the Coroner's jury, when this case was being examined before that official? A. Sworn.

Q. Yes, sworn. A. Yes, sir.

Q. You were sworn there? A. Yes, sir.

Q. You remember it? A. Yes, sir.

Q. And you remember what was said? A. I guess I do.

Q. And what was said there to your best recollection of what took place then, as you recollect it? A. I gave it as I seen it.

Q. Do you remember a juror, juror No. 4 to be particular, at that time asking you a question? A. I don't understand.

Q. It was before the jury? A. Yes, sir.

Q. You remember that? Yes, sir.

Q. Do you remember that the fourth juror asked you a question? A. (The witness does not reply).

Q. Do you remember that the fourth juror asked you a question. I will read the question; perhaps that will refresh your memory? A. (No reply).

Q. "Could you see what transpired when the girl and fellows were on the ground together?" Do you remember that question? A. Yes, sir.

Q. And you answered? "A. No, sir. It was very dark, and the lights had been extinguished in the lamps on my wagon." Did you say that? A. I said that.

Q. When the girl was put back into the wagon you were ordered to drive away? A. Yes, sir.

Q. Where, to go to Paterson? A. Yes, sir.

Q. And you did so drive in that direction? A. I drove down to the brook.

Q. And stopped there? A. Yes, sir.

Q. You were ordered to stop? A. Yes, sir.

Q. And there someone got water, did they? A. Mr. Death. He carried water.

Q. From the stream close by? A. Yes, sir.

Q. And what was done with it? A. She was washed. They washed her face, and bathed her head and down here in her bosom (indicating).

Q. She was alive at that time? A. Yes, sir; alive.

Q. How long did they remain there after that? A. I had no watch with me.

Q. As near as you can recollect? A. I guess it was about twenty minutes or half an hour.

Q. They were working there? A. Yes, sir.

Q. Working there that way? A. Yes, sir.

Q. Bathing her? A. Yes, sir.

Q. Chafing her arms? A. Yes, sir; and rubbing her legs.

Q. Yes. And then you started and stopped at the next place, did you, Dr. Wiley's; is that right. A. Yes, sir.

Q. When you got to Dr. Townsend's that was the first you knew, and as far as you were advised, these men knew the girl was dead; is that right? A. Well, coming down the road they were slapping her face.

Q. How close is that to Dr. Wiley's? A. That is right after they left the brook.

Q. What did she do? A. And she raised up and flopped herself right over in the front part of the wagon; and then she went back; and that is the last move I saw her make.

Q. Is that the last time she moved? A. Yes, sir.

Q. You turned around and saw that yourself? A. Yes, sir.

Q. Did you see whether or not they continued to slap her and rub her all the way down until they got to Dr. Wiley's? A. I could not say whether or not (interrupted).

Q. Well, you came down and drove to Dr. Wiley's? A. Yes, sir.

Q. Fast or slow? A. I trotted right along.

Q. You drove quite rapidly? A. I didn't drive too fast.

Q. More than the usual gait. A. I just let the horse jog right along.

Q. You knew you were going to stop at the doctor's? A. Yes, sir; I was ordered to stop at the doctor's.

Q. At the doctor's? A. Yes, sir.

Q. And you were obeying your instructions as well as you could, with your horse? A. Yes, sir; but I did not drive him off his feet.

Q. Now, Dr. Townsend informed you that the girl was dead? A. Yes, sir.

Q. And yet you drove these men according to your story, and this dead body, a great distance, comparatively from Dr. Townsend's house? A. Well, the doctor pro-

nounced her dead at his house, and I asked the fellows where she lived, and they told me down in East Fifth street; and I wanted to take her home. They was all scared.

Q. They said no? A. They said no when I got down near there.

Q. What time of the morning was that? A. I guess about two o'clock.

Q. Well, there were no persons on the street then? A. No, sir,

Q. Do you mean to say that during all that ride from Dr. Townsend you saw nobody on the street? A. No, sir. I did not see anybody down that way.

Q. No policeman? A. No, sir.

Q. Then why didn't you seek somebody, some officer or some citizen, and say to him just exactly what had occurred?

A. I didn't know what to do, them fellows had me so scared, I didn't know what to do.

Q. But you had been with them all the time to all the various places and you didn't get scared till you found from Doctor Townsend that the girl was dead? A. I was into a bad place.

Q. What did you start for? A. Well, I didn't know it.

Q. And you said nothing about it until when? A. I think it was on Monday. I was going to speak to the chief Sunday, and the chief got away. I was up at Little Falls that day.

Q. What day of the week was the 18th? A. On a Thursday, I think.

Q. And you said nothing about it until Monday? A. Monday.

Q. Until Monday? A. Monday.

Q. Friday, Saturday, Sunday—three days, and more passed before you said a word about it? A. Yes, sir.

Q. Did you go then to see the officer, or did the officer come to you? A. Well, when I seen him coming at the Erie depot—

Q. He came to you? A. He walked over by me; he didn't speak to me there.

Q. Did he ask you anything about what had occurred?

A. No, he didn't say nothing to me; but as soon as the boy came for me, I up and told, see!

Q. Where was it that you told this story? A. Well, I was in the Hofgesang Hotel.

Q. Who were present? A. There was Hen Titus I think, and Taylor.

Q. That was once that you told. Did you tell it again to any one? A. Then I went right down and told the whole business.

Q. To whom? A. To the Chief of Police.

Q. Did you tell it again after that, to any one? A. I told it to Judge Senior.

Q. Did you tell it before the Coroner's jury? A. Yes, sir.

Q. That makes four times you told it? A. Yes, sir.

Q. Is that right? A. (Nods).

Q. And never in any one of these stories did you tell all that you have told here upon the witness stand, as to what these men said up there in the woods, did you? A. I only told the way I heard it off them.

Q. Not once did you tell that story you have told here to-day? That is so, isn't it? A. Well, I told it to Chief Graul and them people.

Q. But did you tell them what you told here to-day? A. I guess, must have.

Q. Must have — why don't you know? A. I told just what I am telling you.

Q. Did you tell the whole story that you have told here today as being the truth—did you tell that story in all its parts to the chief of police, Judge Senior, or to the coroner, before the Coroner's jury? A. Well, I am telling you I told it just the way I know it is.

Q. Don't you know that you have never told the story to any of these people as you have told it here today? A. Did I make a mistake on any of them?

Q. I don't know, my friend, whether you did, or not. Did you ever tell that fact, the handkerchief story before today? A. I have.

Q. Did you tell it before the Coroner's inquest? A. I guess I did.

Q. Don't you know you did not?

The Court :—That is hardly proper. He is answering you that he thinks he did.

Q. You knew, and have known for years, where the office of the chief of police is in this city? A. Yes, sir.

Q. You know where Judge Senior lived? A. I don't know exactly where he lived.

Q. Where his office was? A. I know where his office was; yes, sir.

Q. You knew where the prosecutor of the pleas lived ?
A. Yes, sir.

Q. And yet for three days you never told this story to anyone? That is so, isn't it? A. Three days.

Re-Direct Examination by Mr. Emley :—

Q. Referring to the time you were in the woods and your leaving the woods, what, if any, peculiar noise did you hear just as you were leaving? A. Grunt.

*Mr. Scott:—*He has testified to that.

*The Court :—*Are you speaking of what he called grunts of the woman?

*Mr. Emley:—*Not at all. I say after they had put the woman in the wagon and were leaving the woods, what peculiar sound, if any, did you hear then, at the wagon, or near the wagon.

A. When she was in the wagon?

Q. Yes, just as you were coming out from the woods?

A. I never heard nothing of the woman after she got off the ground.

Q. Did you hear your horse, for instance, striking a stone with his shoe—anything of that kind? A. Oh, yes.

Q. Now, what was that that you heard? A. Well, it sounded like a bottle.

Q. What sounded like a bottle? A. It rung, something rung. I didn't pay much attention to it.

Q. What did you think it was?

Objected to by counsel for defendants.

Objection sustained.

Q. Can't you describe what it sounded like to you? A. It sounded like a bottle hitting a stone.

*Mr. Hoffman :—*I object to that and ask the court to strike it out.

*The Court :—*I decline to strike out.

Exception.

Q. When you heard the sound, the ringing sound, did you hear anybody in the wagon say anything?

*Mr. Hoffman :—*I object to that, he said he didn't hear any ringing sound.

Q. After you had spoken with the police officers on Monday you went with them to the place in the woods? A. Yes.

Q. Was it on Monday you went there? A. I think it was on Monday, Monday afternoon.

Q. Did you call their attention to the sound you heard that night?

Mr. Hoffman :—I object to that as leading.
Objection overruled; exception.

Q. Did you find anything there when you went back?
A. When I took him up there, yes.

Q. What? A. The bottle.

Mr. Hoffman :—This was on Monday, and I think it is objectionable to allow this witness to testify to any time intervening.

The Court :—I will let it stand.
Exception.

Q. Did you find a bottle there on that day? A. Let me see—on Monday I made a full breast of the case—let me see—yes, I think it was.

Q. You didn't go but once with them? A. No, sir.

Q. Whenever it was? A. Either Monday or Tuesday I went with them.

Q. Did you find at the time a bottle at the place they had the girl in the woods? A. Yes.

Q. What sort of a bottle?

Mr. Hoffman :—Let us see the bottle.

The Court :—Everything in order, gentlemen.

Q. You say you did find a bottle? A. I had a small vial with a piece chipped off where it struck the stones, with some stuff in it.

Q. To whom did you give that bottle? A. "Tom Mac."

Q. Thomas MacInerney, the police detective? A. Yes, sir.

Q. Did you give it to him then and there when you found it? A. Yes.

By the Court :

Q. How near to the place where this girl had been upon the blanket was that? A. I guess about seventy or fifty or sixty yards from where they chucked it, it was on this side (indicating.)

Q. You are speaking now of the time when you heard the noise? A. Yes.

Q. This bottle that you found, was it on the right when you turned in going away from this place? A. Yes, sir.

Q. About seventy-five yards away from it? A. About that; about fifty or sixty yards, something like that.

Q. On which side of the road as you were driving away?
A. I think the right hand side going up.

Q. On your right as you were driving away? A. Yes, sir.

Mr. Hoffman:—I think there is something very objectionable in the answer, where he says that they chucked it out.

The Court:—I will overrule that, and have it stricken out.

Cross Examination by Mr. Hoffman:

Q. Who, if anybody, saw you when that bottle was found? A. The detective.

Q. Who? A. Tom MacInerney.

Q. Was he right by you when you found it? A. Yes, right by, not two yards from me.

Q. Who took possession of the bottle? A. I gave it to him.

By Mr. Dunn:—

Q. How near to the road was it where you found the bottle? A. From the side of the road?

Q. Yes. A. I guess it was about two yards from the center of the road.

Q. How far from the place where the wagon had stopped? A. From where the bottle was chucked out?

Q. I didn't ask you anything about where the bottle was chucked out. I asked you how far was it from where the wagon stopped to the place where you found the bottle? A. I must have started up only a short distance, it was a short distance from where I heard the noise.

The Court:—Mr. Dunn wants to know how far was the place your wagon stopped to the place where you found the bottle?

A. I guess about thirty-five or forty yards, something like that, where my wagon stood.

Q. When you started, after your wagon had started and after the girl had been replaced in the carriage, what were the orders given to you? A. Orders given to me?

Q. By anyone? A. They didn't give me any order, only to drive out.

Q. Who gave you the order to drive out? A. The fellows in the wagon.

Mr. Emley:—I think that has all been covered.

Q. Was there anything said as the girl was being placed in your wagon and was being taken up to the brook near

Alyea's to get some water to see if they could not revive her? A. They told me to drive down to the brook.

Q. When you started down to the brook after she had been placed in the wagon, did you re-light the lamps in your buggy? A. No, sir.

Q. The road through there is very rocky and rough? A. Yes.

Q. Your horse was somewhat active and fractious? A. No, sir; dumb, and when he is out on the road you have to watch him.

Q. There was necessity for you to watch your horse on that road? A. Yes.

Q. And from the time the girl was replaced in the carriage, you started up your horse, urged him in order to get to the brook just as soon as possible? A. I was urging him.

Q. And you had to keep your eye fixed on the horse? A. Yes.

Q. And do you mean to say that you were looking back on that road to the way to the brook? A. No, sir.

Q. How then, can you say to this jury, that while you were driving through that place, from the place that the wagon stopped down the road, you saw somebody behind you throw a bottle out of the wagon? A. I tell you I heard something hit on the stones.

Q. It may have been your wheel, as far as you know? A. I heard it.

Q. Wasn't it the same as though it was the tingling of your wheels sliding over a stone? A. No, sir.

Q. When you went back the next day, did you have a bottle with you? A. No; I never do carry any bottles. (Laughter.)

The Court:—No demonstration. There must be quiet in the Court room even if the Court room has to be vacated to secure it. If the audience comes into the Court room to listen to the trial, it remains here on condition that there are no demonstrations of any sort. If I hear demonstrations in the Court room, I will clear it. Let that be understood. The persons who are now seated in the Court room will remain seated, and those who are standing will vacate the Court room as quickly as possible. The jury will then retire, and an adjournment will be taken until ten o'clock to-morrow morning.

Adjourned accordingly.

PATERSON, NEW JERSEY, Tuesday, January 15, 1901, at 10 a. m.

Continuance of trial pursuant to adjournment.

Appearances as before.

S. CYRUS TOWNSEND, a witness sworn on behalf of the prosecution, testifies as follows :

Direct Examination by Mr. Emley:

Q. Are you a physician of this city? A. Yes, sir.

Q. How long have you been practising medicine here?

A. Twenty years.

Q. Whereabouts is your office? A. 113 Paterson street.

Q. Is that below Broadway, towards River? A. Between Fair and Hamilton avenue.

Q. Is your residence there also? A. Yes.

Q. Do you recall the night of October 18th last? A. Yes, sir.

Q. Were you at home that night? A. Yes, sir.

Q. Late at night, or rather, early in the morning of the 19th did you have a call, a professional call? A. The night bell rang.

Q. What time was that? A. Two o'clock.

Q. What did you do in answer to the bell? A. I went to the speaking tube and asked what the trouble was.

Mr. Emley:—Go right on.

A. (Continuing) Some one said through the speaking tube that there was a case of serious accident and would I come down stairs; I slipped on a bath robe and a pair of sandals; and went down stairs; McAlister and George Kerr came into the hall, and said, "We have got a case of serious accident out in the cab, shall we bring her in," and I said "No, wait a moment, I will go upstairs and put a pair of trousers on and come out and see what the trouble was." I did so, and came down stairs, and went out, and stepped around to the rear of the cab.

Q. Where was the cab? A. In front of the house.

Q. What sort of a cab was it? A. Commonly known as a victoria.

Q. Who was by the cab? A. There was two men only; I recognized Campbell, and the other I suppose was the hackman leaning up against the fence some distance away.

Q. What did you do? A. I went around to the rear of the cab and in the back, on the left side, I found a young

woman sitting in the back seat with her head hanging over her chest ; I examined the back of her head, face and hands, examined her wrists, pulse, and found none ; her waist or coat, whatever she had on, was unbuttoned, or buttoned at the inside or top button ; I unbuttoned the top button of the garment and examined her chest, the respiration, examined her heart, for heart beat, and found none ; I took her hand up, threw it up, so the light would shine on it, and she was perfectly cold, the fingers were blue to the hands, and when I had done that I said, 'I cannot do anything for her; she is dead.'

Q. To whom did you say that? A. The party there, the three, Campbell, McAlister and Kerr, I don't remember seeing the fourth man and I went in the house.

Q. What did they say when you said that you could do nothing? A. Some one remarked are you sure?

Q. Is that all? A. Yes, sir.

Q. Where did you leave them when you went into the house? A. On the sidewalk.

Q. Still standing there, were they, when you disappeared in the house? A. Yes, sir.

Q. What examination did you make of the back of the girl's head, if any? A. I felt that in straightening up her head.

Q. What did you discover, if anything? A. Nothing, but her hair was loose.

Q. Was there any contusion there of any kind? A. No, sir.

Q. Any sign of a wound of any kind there? A. No, sir.

Q. What time did you say that was? A. The clock struck when the bell rang.

Q. Struck what? A. I didn't know the time, and I asked my wife when I went upstairs what time the clock struck, she didn't remember whether one, two or three; to be sure, I looked at my watch and it was five minutes after two.

Q. Did you say certain portions of the girl's body was examined by you? A. Yes, the chest, neck, face and hands.

Q. This garment you speak of, was it an outer garment or the waist garment? A. I think it was the waist.

Q. How was her hair? A. Hanging loose about the back of her head.

Q. Could you form any opinion as to how long she had

been dead? A. My opinion was she was dead not less than an hour, probably longer.

Q. Did you see any of the defendants after that? A. I was in Kent's drug store on Sunday morning in reference to some medicine, was behind the prescription counter; when I came out Campbell came in the store.

Q. Have any conversation with him? A. Simply passed the time of day.

Q. That was Sunday following the 18th of October? A. Yes, sir.

Q. It was you on Monday, I believe, who reported the matter to the Chief of Police? A. I related the circumstances to the Chief of Police.

Q. When was that? A. Monday morning.

Q. Monday morning following the 18th of October? A. Yes, sir.

THOMAS McINERNY, the witness called and sworn in behalf of the State, testifies as follows:

Q. You are one of the detective sergeants on the police force of this city? A. Yes, sir.

Q. You were one of those detailed by the Chief for the investigation of the death of Jennie Bosschieter? A. Yes, sir.

Q. Did you on Monday or Tuesday, October 22nd, or 23rd, go with Sculthorpe to the place on the Rock road where it was said this girl had been taken? A. Yes, sir; on Tuesday.

Q. Tuesday morning or Tuesday afternoon? A. Tuesday afternoon.

Q. And were you present there with Sculthorpe when he found a bottle?

Mr. Scott:—That is improper. He should say what he saw himself.

The Court:—What is the objection?

Mr. Scott:—He is leading the witness, presuming that the witness knows something that he may not know.

By the Court:

Q. You were present with Sculthorpe on the ground, were you? A. Yes.

The Court:—Examine him as to what happened.

Q. Just tell us, if you please, what happened there in

the way of discovery on the part of Sculthorpe or yourself? A. Well, we went with Sculthorpe, Sargent Titus—

Q. I don't care who you went with. A. Well, we covered the ground, the exact ground that they covered that night, and we went up through the Rock Road.

Q. I suppose you did, Mr. McInerney. I have got you on the ground.

The Court :—He wants to know what you did when you got there—what happened, what occurred?

A. Well, he found this bottle, small vial, and a number of other—

Q. Where did you find the bottle?

Mr. Scott :—A number of other what?

The Witness :—A number of other articles.

Q. Where did you find the bottle? A. We found the bottle I would judge about 30 yards from the place where Sculthorpe said they had this Jennie laying.

Q. Where with reference to the road—the Rock Road? How near to the Rock Road was it? A. Well, just to the right of the Rock Road, on the other side.

Q. What did you do with the bottle after you found it? A. Well, I kept it in my possession until—

Q. You took it did you? A. Yes, sir.

Q. After you took it, what did you do with it? A. I brought it to the police headquarters.

Q. You kept it, did you? A. Yes, sir.

Q. Until when? A. Well, do you want to know the precise date that I kept it too?

Q. Yes. A. November 24th.

Q. What did you do with it then? A. I turned it over to Nathaniel Shane.

No cross examination.

NATHANIEL SHANE, a witness called in behalf of this State, being duly sworn, testified as follows:

By Mr. Emley :

Q. You are connected with my office? A. Yes, sir.

Q. Did you receive from Mr. McInerney on the date of the 24th of November a glass bottle? A. Yes, sir.

Q. What did you do with it? A. I brought it to the office.

Q. What did you do with it there? A. I gave it to you.

Q. Did you afterwards have it? A. Yes, sir.

Q. Where did you get it? A. From you.

Q. When? A. The next morning.

Q. What did you do with it then? A. I took it to New York.

Q. What did you do with it there? A. I gave it to Dr. Whitthaus.

Q. Was there any peculiarity about the bottle? A. Yes, sir.

Q. What? There was a chip off one corner of the bottom of it.

WILLIAM M. VROOM, a witness called in behalf of the prosecution, being duly sworn, testified as follows.

By Mr. Emley:

Q. Doctor, where do you live? A. Ridgewood, New Jersey.

Q. Do you practice medicine up in Bergen county? A. I practiced medicine.

Q. And are you also the Coroner of Bergen county? A. I am the Coroner of Bergen county.

Q. Did you receive word from anybody on the morning of October 19th? A. I did.

Q. Of a death near Alyea's mill? A. I did.

Q. How did you receive that word? A. By telephone.

Q. And what did you do in answer to the call? A. I went down to Alyea's mill to view the body.

Q. What time did you get down there? A. Somewhat after eight o'clock.

Q. Now, just go on, doctor, please, and describe the condition of things as you found them. A. When I reached the mill I was told that there was a body lying down along the river of a girl, and I went down there and found a girl lying along the road leading from the bridge toward Hawthorne, perhaps from 75 to 100 feet from the bridge. She was covered with a horse blanket, hat lying one side. I found her head lying toward the river, feet toward the road, lying prone upon her back. Her hands were down at her side, and she was perhaps about twelve feet from the main road lying along a little path running diagonally from the road to the river. I uncovered the head and found the hair dishevelled and over the face, and found that she was dressed and that her hands were cold. Her face was cold; her face was blue, her neck was blue, and fingers were stiffened as if she had been dead some time. I felt of the body and found the body partially

warm under the clothing. I then raised up her head and I found her head was resting upon a sharp, rugged rock there; it was imbedded in the ground, and little or no blood there of any kind. And I examined the wound and found a wound of an inch and a half in length over the back part of the head, a little to one side, to the left; and this wound was cut evidently by this stone right to the skull bone. I found no other particular marks of violence at that time, and ordered her removed to the Alyea mill, so that I could make a more thorough examination. After she was carried up there, I in the meantime found out about who she was, her name from some bystanders, and secured a room there and made a thorough examination of the body. I found this wound was cut right in the skull and through the covering of the bone. No blood much until she was lying on the floor, and then the blood poured out considerably on the floor from the cut in the scalp. I then empanelled—ordered a jury empanelled to view the body, and called an inquest for that afternoon. The jurors viewed the body that afternoon, and as there was no other evidence at hand I adjourned to the next day for further evidence.

Q. Well, what further discoveries did you make, if any, with relation to the body of the dead girl? A. I found that the girl was dressed in ordinary street clothes. She had a jacket or loose outer garment on. She had a black velvet hat on. She had a dress waist on and a dress skirt. Under that skirt she had a sort of an underskirt of black material, quite heavy, and under that an ordinary heavy skirt, which was very damp. I couldn't account for that as she was then laying covered up. The chemise seemed to be intact, seemed to be all buttoned and no disturbance there. The drawers were missing.

Q. The drawers were missing? A. Yes, sir; the drawers were missing. There seemed to be no hat pin or hair pins, and her hair was disshevelled, and no other articles were found.

Q. Did you find any other marks upon her body upon further examination? A. At that examination I found nothing but a little blood on one finger as she was lifted up and carried in.

Q. Did you see anything on the arm or wrist? A. There was a mark on the wrist which appeared the next day sometime. It seemed to be strange.

Q. That was on Saturday? A. Yes, sir.

Q. Where was it? A. Around the wrist.

Q. What sort of a mark? A. Simply a redness, of three inches, perhaps.

Q. This discoloration that you have spoken of the back and chest, just describe that, if you will? A. The discoloration which was very apparent was blueness taking in the lower part of the chin, down over the neck and so over the upper part of the chest. It was a decided blueness of the skin.

Q. Was that a natural condition post-mortem? A. That is a condition called a synosis or blueing of the skin.

Q. Due to what? A. Due generally to deficient aëration of the blood.

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Q. Primarily due to what? A. Primarily due to interference with the respiratory organs, breathing; or sometimes due to the action of the heart. If the blood is not supplied with sufficient air to keep the blood red, it shows itself to be blue.

Q. Well, did you after Saturday, October 20th—you say you discovered this discoloration of the wrist on Saturday for the first time? A. Yes, sir.

Q. After that did you notice any further changes in the contusions of her body, exterior changes? A. No, sir.

Q. Well, did you have anything further to do with the professional investigation into the case, as to the cause of her death, after Saturday, October 20th? A. Not having sufficient evidence to present to the jury I went to the house the next day, having allowed an undertaker to remove her to her home, and took out a button of bone over the site of the injury.

Q. Which day was that? A. That was Sunday. I removed a button of bone from over the site of the injury, a little round circle of bone from the skull, to determine absolutely whether there was a fracture of the skull or not, and found there was not. And found the brain to appear perfectly normal beneath that. Not finding any sufficient cause of death from that I went down the next day.

Q. That would be Monday? A. Yes sir; Monday. And after that Dr. McBride performed a post-mortem examination.

Q. Who is Dr. McBride? A. Dr. McBride is the County Physician of Passaic County,

Q. Where was that performed? A. At the girl's home.

Q. That then was the first autopsy? A. Yes, sir.

Q. And the only autopsy? A. Yes, sir.

Q. Who was present at that autopsy? A. Dr. Todd and Dr. McBride and myself.

Q. Just describe that autopsy? A. We took off the top of the skull and looked at the skull under the site of the injury and the place where I had taken out the button and found no crack, no crevice of the skull. We took out the brain, and made sections of the brain, the cross sections and vertical sections. We found no hemorrhage and no marks of contusion, or any apparent cause of injury. The ventricles were not filled.

Q. Speaking of what, now? A. The brain, the hollow parts of the brain, and there was no injury to the meninges, the covering of the brain. The body was then opened, the thorax, the chest, and the abdomen. The lungs were taken out and examined, and there was no indication of disease. The heart was examined and taken out, and opened. The valves were examined, washed, and no indication of disease found. The spleen was also examined and taken out. The liver was removed, and seemed slightly congested, red. The kidneys were removed, one kidney being a little larger than the other, which is generally about normal, and was a little congested only. No other marks of change of any kind were found. The uterus or womb was removed and examined, and nothing apparently abnormal found, but was retained for further examination, as well as the heart, the spleen and the kidneys. Finding no evidence of injury of that, the stomach was tied off, removed, placed in a sealed jar and kept for chemical examination. That was about the extent of the examination, the post-mortem examination.

Q. And the examination showed what? The result of the examination showed what? A. From examination of the organs there was no apparent cause for death.

Q. Was there anything in this slight congestion of the kidney that you speak of and the liver that was in any way explanatory of the cause of death? A. Not at all.

Q. Did you speak about the spleen? A. Yes, sir; I did.

Q. I understood you to say so. A. Yes, sir. Nothing abnormal found.

Q. Just repeat if you please, doctor, what you said about the spleen. A. The spleen was examined and nothing abnormal in its appearance being found it was removed also for further examination.

Q. What became of the stomach that you say was encased in a jar—a steel jar? A. The stomach—this jar I took home with me to my office and consulted the Prose-

cutor of Bergen County, and he told me to hold it until I found out what the Prosecutor of Passaic wished to do as evidence of place of death had developed before my jury reassembled, and I consulted with the Prosecutor of Passaic County, and it was turned over by me to Dr. McBride, the physician of Passaic County.

Cross Examination by Mr. Scott:

Q. The first time you saw this body was on Friday, October 19th? A. Yes, sir.

Q. At what time? A. Somewhat after 8 o'clock in the morning, between 8 and 9.

Q. You then found it where it was lying on the roadside as you have told us? A. Yes, sir.

Q. Was anybody with you? A. Yes, sir.

Q. Who? A. A man by the name of Dr. Van Emburg, a dentist, who rode down with me.

Q. And in the examination of the body which you made at that time you and the dentist were alone there? A. Yes, sir.

Q. Just tell us what examination you made? A. After I removed the body to the mill?

Q. No; when at the roadside? A. At the roadside?

Q. Yes, sir; briefly. A. I examined the face and found the discoloration referred to, this blueness. I looked at the hands and found that they had become set—rigor mortis. I felt under the clothing and found that the flesh was somewhat warm. I noticed how the girl was externally dressed; and I lifted the head and found the wound in the back of the head, in the back of the skull—back of the head.

Q. Just tell us the examination you made as to that wound. A. I lifted the head up, and found there was little or no blood on the stone, it was simply marked. The stone was a sharp stone—a large rock embedded in the ground and weeds and grass growing all around it. The wound was cut through the scalp about an inch and a half in length. There was apparent—very little bruising around it, and it was cut directly through to the skull so that my finger could follow to the skull direct through the covering of the bone—the pericardium. It was perhaps only a quarter of an inch in length. The bright clear bone was evident below.

Q. From that examination did you make up your mind that there was a fracture of the skull? A. No, sir; I did not.

Q. You were uncertain about that? A. I was uncertain; there was nothing to prove there was a fracture at all. To finish; I also found at that time the cause of the blood flowing, after I lifted the body, and that is that one of the scalp veins was injured and the blood simply flowed out. I could see that.

Q. Then the body was taken to Alyea's mills so you could make a further examination? A. Yes; a private examination.

Q. Anybody with you when that examination was made? A. Yes; Dr. Van Emburg.

Q. This same man? A. Yes, sir.

Q. What did you do when you got there; what further examination did you make? A. I simply felt of the wound with my finger, looked at the wound; that is all.

Q. Did you make up your mind at that time that there was a fracture of the skull? A. No, sir; I could not.

Q. You didn't so announce to anybody? A. No, sir.

Q. What further examination did you make of the body at that time? A. I loosened the clothes; saw about the way the girl was dressed, saw the clothes seemed to be apparently intact, and I made an external examination of the girl, called a visual examination, and found nothing to give me any light at all.

Q. In other words, the result of your second examination was not to inform you as to any cause of death? A. No; it did not.

Q. As a matter of fact, did you determine the cause of death from any examination you made at any time including the autopsy? A. No, sir.

Q. Then from your own knowledge you ascertained nothing as to the cause of death at any time? A. From my autopsy, no, sir.

Q. What did you say became of the body after the second examination in Alyea's mills? A. It was taken to her home.

Q. By whom? A. The undertaker.

Q. With your permission? A. With my permission.

Q. You held no inquest? A. Yes, sir.

Q. Your jury? A. Adjourned to meet again.

Q. It has not met again? A. Yes.

Q. Did it come to any conclusion? A. Yes, sir; they did.

Q. What time of day was it when the body was taken over to her home? A. The latter part of the afternoon; I suppose after 5 o'clock.

Q. Saturday afternoon? A. Saturday afternoon—Friday afternoon.

Q. Then you didn't see the body again until the following Monday? A. I didn't—Yes, Sunday.

Q. It was Monday you made the autopsy? A. I took the bone out of the skull.

Q. Anybody with you? A. The undertaker was there at the time.

Q. And Mr. Vermeulen the undertaker had embalmed the body at any time, or before that time? A. I do not know that he had at all. I had no idea, or anything from him that he had.

Q. Did you ascertain from observation of the body on Sunday whether or not he had embalmed it? A. I ascertained he had introduced a needle into the abdomen; I asked him what that was for, and he said, to draw off the gas; and he had also introduced a needle to draw off the blood.

Q. Where did he introduce the needle to draw off the blood? A. On the left hand side of the third or fourth rib.

Q. A hollow needle? A. That I do not know; I do not know anything about that.

Q. You do not know anything about the process? A. No, sir.

Q. Is that all you ascertained? A. Yes, sir; all I ascertained.

Q. You didn't find out this time whether, from any examination you made of the body, whether it had been embalmed? A. No, sir.

Q. Was there a surplusage of embalming fluid? A. Not at all.

Q. Tell us what you did on Sunday? A. I took and enlarged the wound a trifle; about an inch so as to introduce my instrument.

Q. How did you find it? A. I bored it with an instrument which you have for that purpose and took out the button bone intact right through the enlargement of the skull.

Q. What was your object in doing that? A. To see if the skull was fractured.

Q. You were still in a state of uncertainty of that, and followed your investigation further to find out if that was so? A. It was the only external mark of violence, and I was pursuing that out.

Q. Did this examination satisfy you that there was no fracture of the skull? A. Yes.

Q. Was that all that you did to the body that day? A. No, sir.

Q. Nothing else? A. I do not recall anything else.

Q. Was the body laid out at that time? A. Partially so.

Q. Was it in the coffin? A. No, sir.

Q. Where was it? A. I could not tell you; some arrangement the undertaker has to place the body on, I think a board.

Q. I believe it was you and Dr. McBride that made the autopsy of Jennie. A. Yes.

Q. What time of the day was this? A. I think in the afternoon after dinner.

Q. Give us the hour, please, about? A. Perhaps about 3 or 4, something of that sort.

Q. Dr. Todd was present; did he take any part in the operation upon the body? A. No, sir.

Q. Did McBride? A. Yes; we did together.

Q. Just tell me what you did. A. Took off the top of the skull and examined the skull for injury around the area which I had taken at the autopsy, and found no fracture radiating from that of any kind; took out the brain and made a vertical and cross section of the brain to find any indication of any hemorrhage or infusion of blood, or infusion of liquid of any kind, and found none, no indication of any injury, and then passed down to the thorax.

Q. Your examination was for the purpose of observing any marks of violence on the brain, and see whether any injury existed, for hemorrhage, the primary indication. What did you do with the brain after you had finished your examination? A. Laid it aside and put it—I had a little board and placed it on that.

Q. Exposed to the air? A. Right there by us, and then I put it back in the cavity of the skull—we make our section and put in the top of the skull that was taken away.

Q. The open side up? A. Yes, the open side up.

Q. So it was exposed to the air, the brain was exposed? A. Yes.

Q. How long did the brain remain in that condition, the brain exposed there in the skull? A. Perhaps 20 minutes or half an hour.

Q. How long on the board? A. I could not answer that from positive recollection.

Q. Tell us the time from the time you removed the brain from the skull, tell us the whole time. A. Until I could finish the examination and operation.

Q. That was all you found with the brain? A. I will make it an hour, as near as I can charge my memory.

Q. And after you got through, what did you do? A. Put the major portion back in the skull and put it back in place.

Q. You did nothing further with the brain that day? A. No, sir.

Q. Now go ahead with your examination. A. We went down to the thorax and opened the body and examined the lungs and took them out.

Q. What did you do with the lungs, what was your examination of the lungs? A. I looked at them, at their appearance and felt of them to see if there was any hardening, any indication of disease; left them out; made a section to see if any apparent disease was there.

Q. You say you cut them? A. Yes.

Q. The purpose of examining the lungs was to see if there was any disease? A. Yes, to see if there was any disease there.

Q. Go ahead? A. We looked at the heart, examined the heart and its appearance, took it out and examined it, opened cavities and looked at the valves.

Q. The examination was for the purpose to see whether there was any heart disease? A. Yes.

Q. You found nothing of that character? A. No, sir.

Q. How long did it take you to examine the heart? A. Well, it took some time because I re-examined, having got water and washed it.

Q. What kind of water did you wash it with? A. Ordinary city water.

Q. Not distilled water? A. No, sir.

Q. I will repeat my question, how long did the examination of the heart take? A. Fifteen minutes.

Q. What did you do with it after you finished your examination? A. Put it in a jar.

Q. What kind of jar? A. A little jar that we procured and had it scalded out with hot water.

Q. Did you bring the jar with you? A. No, sir; I did not.

Q. You found it there? A. We found jars there.

Q. It was scalded out, you say? A. Yes, sir.

Q. What with? A. Water from the kettle.

Q. You put it in this jar? A. Yes, sir.

Q. What then? A. Sealed it up.

Q. You sealed it up yourself? A. Dr. McBride.

Q. You saw him seal it up? A. Yes, sir.

Q. Go ahead. What further examination did you make? A. We came to the abdominal cavity; we took out the spleen and examined it.

Q. Finished with the spleen, what did you do with that?

A. We examined it in appearance, and found very little of evidence of any disease—found no evidence of any disease; and I placed that back.

Q. Was there any congestion at all? Didn't you say there was a little congestion of the spleen? A. No, I didn't. I didn't notice any congestion of the spleen.

Q. None at all? A. No, sir.

Q. What did you do with the spleen? A. I put it back. I believe Dr. McBride handled the spleen himself.

Q. At that autopsy? A. I think I didn't handle the spleen itself.

Q. That was not put into the jar? A. That was not put into the jar at the time, no, sir.

Q. Go ahead. A. I took the kidneys out and looked at them, handed them to Dr. McBride. Dr. McBride opened the kidneys with a knife, and stripped the capsul, found no indication of any inflammatory disease there. They were put in jars. I took the right kidney.

Q. The right kidney was put in a jar? A. Yes, sir.

Q. What became of the left kidney? A. I think that was put back in the body, as far as I recollect.

Q. Was that jar cleaned out, as the other was? A. Yes, sir.

Q. And sealed? A. Yes, sir.

Q. By whom? A. Dr. McBride.

Q. How sealed? A. It was a screw top, screwed down.

Q. One of these preserve jars, was it? A. Yes, sir, large wide mouthed jars.

Q. Go ahead? A. We reached the uterus or the womb and found nothing apparently abnormal about it, and that was removed and turned over to Dr. McBride. The fact is Dr. McBride removed that part himself.

Q. What did Dr. McBride do with the uterus? A. He took it with him in a jar.

Q. Sealed up just as you have described about the others? A. Yes, sir.

Q. The same kind of jar? A. Yes, sir.

Q. Cleansed out by hot water in the same way? A. Cleansed.

Q. There were three jars then that you used for preserving of the heart, the right kidney and the uterus? A. I took the right kidney and the stomach in the same jar.

Q. The right kidney and the stomach were put in the same jar? A. Yes, sir.

Q. You haven't told me about the stomach? A. No, sir.

Q. Now, tell me about that. A. We took the stomach out. The stomach was tied up, the inlet and the outlet were tied up with a string, so there would be no escape of the contents.

Q. There was no examination of the contents at all? A. No, sir.

Q. No opening of the stomach? A. No opening of the stomach, no, sir; and that was put in the jar with this right kidney and sealed, and I took that.

Q. Where did you get these jars? A. In the house.

Q. Did you make any examination as to what kind of jars they were? A. Not particularly, except to see that they were clean, scalded out.

Q. Were they fruit jars? A. I think they were ordinary fruit jars.

Q. Was there anything in them which suggested to you that you cleanse them out? A. The question again.

Q. Was there anything in the jars? Were they dirty at all? A. No, sir; they were clean jars.

Q. Did you do anything with the intestinal tract? A. I looked at the intestinal tract, but did nothing with the intestinal tract myself.

Q. Did Dr. McBride? A. Dr. McBride, I believe, did.

Q. At that time? A. Except to examine it.

Q. What examination did you make? A. We looked at it and stretched it out, and found no injuries or anything of that sort, no apparent disease.

Q. Did you open them? A. No, sir.

Q. Put them back in the body? A. That was put back in the body.

Q. After you finished your examination who took charge of these four jars? A. I took one jar and Dr. McBride the other.

Q. You had the jar with the stomach and the right kidney? A. Yes, sir.

Q. And the doctor had the others? A. He had the others, yes.

Q. The other two? A. Yes. Sealed those up; he took them with him.

Q. You took your jar to your home? A. Yes, sir.

Q. Kept it there? A. Yes, sir.

Q. For how long? A. About two days.

Q. Did you open it any time? A. No, sir; never opened it.

Q. Never made any examination of it yourself after that? A. Not at all.

Q. What did you do with it? A. I took it home. It was wrapped up in paper around the jar; and then put in my surgical case, surgical satchel; and I took it to Dr. McBride after two days.

Q. Mention the day that you took it to Dr. McBride. A. I took it there; yes, sir.

Q. Mention the day and the dates. This was Monday you made the autopsy and you kept it two days? A. I am not positive about the day, whether it was Wednesday or Thursday, not positive.

Q. In the meantime it was in your office at home? A. Yes, in my laboratory.

Q. Where anybody could get it or see it? A. No one knew it was there; it was supposed to have gone to New York.

Q. Doctor, don't you know that when you made this autopsy on Monday, that the embalming fluid had been put into the body by the undertaker, Mr. Vermeulen? A. I didn't know it; no, sir.

Q. Couldn't you tell from your examination? A. When I made the examination?

Q. Yes, when you made the autopsy wasn't there appearances of it in the body? A. The wounds through which it was—

Q. There was a wound in the breast? A. Yes, sir; that was the indication, that wound there.

Q. And that was made by the undertaker? A. He said so. I asked him what it was.

Q. Did he tell you about the embalming fluid put in there? A. No, he told me there was none put there.

Q. What was it made for? A. To draw out some of the blood from the body so as to preserve it, he said.

Q. As I understand you to say the wound was made there for the purpose of introducing the embalming fluid? A. No; I didn't know what it was made for until I asked him.

Q. What did he say? A. To draw out the blood.

Q. Didn't he tell you that through that same aperture

in the breast he introduced the embalming fluid? A. No, sir; he said not. I asked him.

Q. You couldn't tell from your autopsy whether there was any embalming fluid in the body at that time? A. From the autopsy I couldn't tell whether there was embalming fluid; no, sir.

Q. The undertaker told you that he had embalmed the body, did he not?

Objected to by Mr. Emley. Objection overruled.

Q. So that when you delivered this jar to Dr. McBride containing the stomach and the right kidney on the following Wednesday or Thursday, that finished everything that you did with the viscera, with any of the contents of the body? A. Yes, sir.

Q. Do you know what was buried with the body, doctor? A. Do you mean of the viscera?

Q. Yes. A. Dr. McBride removed the intestines, part of the intestines. I get this from him.

Mr. Emley:—Never mind.

Q. I mean of your own knowledge? A. I have no knowledge further than what I have told you.

Q. The lungs were put back in the body? A. Yes, sir.

Q. Everything that you did not put in the jars, those three jars, was put back into the body? A. Put back in the body at the time? Yes, sir.

TUNIS VERMEULEN, a witness produced on behalf of the prosecution, being duly sworn according to law, testified as follows:

Direct Examination by Mr. Emley:

Q. You live in Paterson? A. Yes, sir.

Q. And are one of the coroners of this county? A. Yes, sir.

Q. Your business is also that of an undertaker? A. Yes, sir.

Q. You had charge of the funeral of Jennie Bosschietter? A. Yes, sir.

Q. And the preparation of her body for burial? A. Yes, sir.

Q. Did you personally attend to that? A. Yes, sir.

Q. What did you do to her body, to its preservation? A. I embalmed it.

Q. When? A. On Friday afternoon.

Q. Following her death? A. Yes, sir.

Q. Where? A. At her house.

Q. By what means? A. With a trocherd, that is, a needle; we call it a trocherd.

Q. Needles do not embalm bodies? A. No, sir. With embalming fluid.

Q. When you got through was there any of it left? A. Yes.

Q. And out of that which was left did you give any part to Dr. McBride? A. Yes, sir, when I came up to him on Wednesday, I think.

By the Court:

Q. Do you mean the Wednesday following her burial? A. Yes, sir. She was buried on Tuesday.

Cross Examination by Mr. Dunn:

Q. Where was this fluid injected into the body? A. In the lung cavity, and in order to do that—(Interrupted).

Q. Just describe to the jury the process that you pursued with your instrument. A. First you take a small knife, a scapel, as we call it, and make an incision between the third and fourth ribs; then we take a twelve inch needle and put it through as near to the breast as we can, and shove it into the cavities, and over to the shoulder, and so as to not let it go down; and then sometimes we can inject a pint in, and sometimes we cannot; sometimes we can only inject half a pint in there. And sometimes, as soon as they get enough, we pull the needle out and put it to the other shoulder, and put some in there; and after we get through I take and embalm the stomach, the abdominal cavities, and make an incision by the navel there, a small incision.

Q. Where did you make the incision in this case? A. Just below the navel.

Q. What did you do? A. I passed the needle in there, that is, the 12 inch needle, and injected the other in there, as much as it would take.

Q. That is, the whole needle? A. Yes, sir. And the fluid has to be put in like as if you were using a squirt gun or syringe. You force it in.

Q. It is forced in by air? A. We use a syringe, a bulb as we call it.

Q. A regular bulb syringe? A. No, sir. One of these kind you push, (indicating.)

Q. That is the means by which you drive the fluid into the cavities? A. Yes, sir.

Q. About how much fluid did you inject into this body, into the chest cavity? A. Well, about, not quite a quart. It might have been a little over. Of course we do not take any particular notice of the quantity.

Q. No. And then about the incision you made near the navel, about how much did you inject there? A. Well, only in the neighborhood of about a quart. We used altogether about 2 quarts. That was inwardly. Then of course we used the bleacher.

Q. Just tell us about that. A. We take a basin, a porcelain basin, or a bowl, and just take a little of that, sometimes take in a quart; it depends how long we are going to keep the body. And then that it diluted with water; and we take cloths and lay them across the breast and over the stomach and over the hands and over the face, and then we let them lay there. We generally go every day and see that the body stays in good order; and of course if we see gas is forming we take the needle and put it in the hole and let the gas come out.

Q. Now in the incision in the abdomen what part of the body did you design to reach there? A. Only the cavities. Of course we take chances whether we pierce the intestines or not; we can't tell that; unless we happen to open the body, and we never do that; we are as careful as we can be.

Q. Who assisted you in this operation on this body? A. My brother.

Q. What is his name? A. David.

Q. And did you inject any fluid in this body at any other place than those two that you have mentioned? A. Well, we tried to get some through the nose.

Q. Explain what you did in regard to that, here to the jury. A. We just took a nasal tube—we have some 9 inches long and some 12 and some 10 inches. We took the nose tube and put it in the right nostril to see if we could get it down to the glottis. We left it there, and if we could get it past there so much the better. We tried it and it seemed it would not work, and I said we could just put in what we can and we will use the rest of this bottle.

Q. You did insert the trocherd? A. Not the trocherd, it is a soft piece of rubber, as far as it would go into the nostril.

Q. About how much fluid do you think you injected through the nose? A. That is a thing I could not say.

We only used two quarts, and of course I did not look at that.

Q. You did inject some? A. Yes, sir; a little but how much I could not say.

Q. Do you know the name of the embalming fluid? A. Yes, sir.

Q. Tell me what is the name of that embalming fluid? A. O. K., they call it.

Q. Where else did you inject any fluid into the body? A. Nowhere.

Q. These applications were all made, as I understand you, on Friday afternoon after you took the body home?

A. Yes, sir.

Q. And after that did you make any other application or injection into the body? A. No, sir.

Q. Did you do anything else in the way of treating the body? A. No, sir; I did not.

Q. You were the coroner who had charge of the inquest in reference to the death, did you not? A. Yes, sir.

Q. Now, did you also have charge of the interment of the body in the cemetery—at the cemetery? A. Yes, sir.

Q. Were there any of the vital parts of the body of the girl that were not in her coffin at the time of the burial?

A. Yes, sir.

Q. Just describe to the jury what and where they were.

A. To tell the truth what really was among it I couldn't say. But it was a small box, I wrapped it up in a newspaper, and it was in such condition I could not very well put it in the body, of course I could have it put in the coffin, but I thought best that we put it in the grave with her—it would be just as well. That was on Tuesday night, and the first thing on Wednesday morning I put it in a box myself and tied a string around it, and my brother took it to the cemetery, and before we got there in the afternoon to the funeral the box was in the grave.

Q. What part of the grave was that box placed in? A. That I could not answer because I wasn't there when it was put in the grave.

Q. You were not there when the body was interred in the grave? A. No, sir; I know it was in the grave.

Q. Do you know when that viscera was—first, do you know who removed that viscera from the body?

Mr. Emley:—It seems to me this examination is taking a pretty wide reach.

The Court:—I will permit it. Confine your-

self, Mr. Coroner, to the matters you know of yourself, not to those you have been told.

Q. Where did you get the viscera which you speak of having put in this box? A. I got it at the house there.

Q. What say? A. I got it at the house there.

Q. Who was present at the time you obtained it? A. Dr. Vroom and Dr. McBride.

Q. Was that the date they made their autopsy? A. Yes, sir.

Q. On Monday? A. Yes, sir.

Q. You were there at that time? A. Yes, sir.

Q. And did you tell them there at that time that the body had been embalmed? A. Certainly, they knew it, because I will never take a body unless I am authorized to do it first.

Q. My question was, whether you told them that or not at the time they were making their autopsy? A. Yes, sir.

Q. Now, do you know what this viscera was, what part of the body it was that you got and put into the box? A. Well, the brain was in it, I know that.

Q. Yes, what else? A. What else I couldn't say, whether a lung or not.

Q. Do you recollect it was a lung? A. I would not permit myself and say it was; I couldn't say.

Q. Now, where did you get it when you placed it in this box? Where was it? A. It was wrapped up in a newspaper.

Q. Yes; had it been wrapped up by you? A. No, sir; by either the County Physician or Dr. Vroom.

Q. Now, at whose direction did you place it in the little box? A. That was my own suggestion that I put it in the box. But I was to take and prepare it and see that it was buried right.

Q. Now, what did you do with it on Monday after you put it in the box? A. I put a paper around it and wrapped it up good, where no one else knew it only myself.

Q. Where did you place it? A. I put it in sort of a closet.

Q. Where? A. Inside of our wash room.

Q. Over at your undertaking establishment? A. Yes, sir.

Q. You took it away from there over to your undertaking establishment? A. Yes, sir.

Q. There was no lock and key on that? A. Well, no.

Q. Any person around in your employ had access to that

closet? A. Well, no one else only my brother, that is—

Q. Well, I understand they could have gone there? A. Yes, sir.

Q. Now, when did you take it out of that closet? A. The very next morning.

Q. That is, on Tuesday morning? A. Yes, sir.

Q. And what did you do with it then? A. Sot it in the wagon.

Q. What wagon was that? A. The wagon that was to take the overbox for Jennie's casket to the cemetery.

Q. The wagon that was to take the outer case? A. Yes.

Q. What was done with it? A. It was taken to the grave, and as soon as the grave was finished I suppose it was put in.

Q. Now, where was Jennie interred? A. Fairlawn Cemetery.

Q. How far is that from your establishment? A. Well, I think about three miles, I would not be sure.

Q. Who took the overcase there? A. My brother, which one I couldn't say because I wasn't home at the time.

Q. And this little box went along with that, and that is the last you saw of the little box? A. No, sir.

Q. When next did you see the little box? A. On Wednesday or Thursday, I won't be sure of that, but I think on Thursday.

Q. What day was the body buried? A. Tuesday.

Q. When next did you see the little box? A. When it was brought back to the house again.

Q. Well? A. I can't say —

Q. You didn't see it the day of the funeral? A. No, sir—I did in the morning, I put it in the wagon myself.

Q. But after that? A. No, I did not.

Q. Were you at the funeral? A. I attended the funeral myself.

Q. Was the grave filled up while you were at the cemetery? Very near.

Q. Did you see the little box while you were there at the burial? A. I did not.

Q. And when next did you see anything of it? A. I seen it at night when they brought it home.

Q. Who brought it at night? A. My brother.

Q. Which brother? A. The superintendent of the cemetery.

Q. Which brother? A. David.

Q. David? A. No, sir; excuse me, I think the old gentleman brought it up with him.

Q. That is Mr. Abram Vermeulen, your father? A. He brought it the night I brought it up to Dr. McBride.

Q. I know, but when is that? A. I couldn't tell you exactly the day it was when I brought that, I don't know whether the day following her funeral, or on Thursday.

Q. And you don't know where this little box had been in the meantime? A. I know it was in the grave, that I know.

Q. It was in the grave? A. Oh, yes; I know that.

Q. And how it got out of the grave you do not know, do you? A. I couldn't tell you; my brother can.

Q. What is the name of the brother that can tell us that? A. David; he is the one that was there and brought—

Q. And when it was brought back you took it to Dr. McBride? A. Yes, sir; immediately.

Q. And that is the last you saw it? A. Yes, sir; that is the last I saw it.

Q. Over the box was there any covering? A. Excuse me; I took it to Dr. McBride and then to Dr. Todd I think.

Q. You took it to Dr. McBride and under his direction took it to Dr. Todd? A. Yes, sir.

Q. And that is the last you seen of it? A. Yes, sir; the last I seen of it.

Q. Now, when you got it back into your hands did you examine it? A. No, sir; I did not.

Q. Did not open the box at all? A. It was too precious for me to handle at all. I says, it is something they need, and I didn't touch it at all.

Q. Was there any cover on the box? A. Just the newspapers, as I say, about three or four thicknesses of newspaper.

Q. It was a thick wooden box? A. I guess it was about—a thin shoe dressing box—I guess about half a dozen bottles in it of shoe dressing.

Q. A pasteboard box or a wooden box? A. A wooden box.

ANDREW F. McBRIDE, a witness sworn on behalf of the prosecution, testifies as follows:

Direct Examination by Mr. Emley:

Q. You are a practising physician of Paterson, doctor? A. Yes, sir.

Q. You are also the County Physician ? A. Yes, sir.

Q. You have held that office how long ? A. I am in my fourth year now.

Q. On Monday, October 22nd, did you have your attention officially called to the death of Jennie Bosschieter ?

A. Yes, sir.

Q. By whom ? A. Chief of Police Graul, of the city of Paterson.

Q. Just tell us doctor if you will, what in your official or professional capacity you did following the information which you received from the Chief of Police A. The first thing I did was to communicate with Dr. Vroom of Ridgewood, telling him that I would like to be present and assist him at the autopsy that afternoon if it was agreeable to him, as I had little reason to believe that I might be interested in the case, and made an appointment with him to meet him about 4 o'clock at the residence of the deceased, and I did so, and brought my autopsy set down to her home and met the doctor there and found the remains of the young lady in her coffin prepared for burial.

Q. That was Monday afternoon ? A. Yes, sir ; the 22nd of October, about 4 o'clock.

Q. Before you go on, who was there at that time besides you and Dr. Vroom ? A. Dr. Vroom and Dr. Van Noordt and Mr. Vermeulen, the gentleman that just left the stand, and his brother ; and, of course, the family were in the adjoining rooms. In the front room where we were performing the autopsy no one was present but the people I have just mentioned. We had the body removed from the coffin, placed on a board, the clothing removed and I made an external examination of her body. First I examined her head and found a wound which had been sewed on the upper and back part of her scalp. That was the only mark on the head or face ; I examined her chest, or thorax ; and found a wound between the third and fourth ribs, in the third interspace on the right side of the chest bone or sternum, that was the only wound on the upper part of the body ; on the autopsy I found a similar wound about an inch and a half below the navel, a little to the left of it. On the upper extremity of the back of the wrist, back of the hand, there was a mark of discoloration.

Q. Which wrist was that ? A. The left.

Q. Just show it, on your hand where it was ? A. Right about here (indicating) about near that portion (indicating). On the back of the hand there were two little marks

as though they had been caused by finger nails sinking into the flesh.

Q. Upon the left hand? A. Yes, sir.

Q. Same as the discoloration on the back? A. Those were the only external marks on the body. We then went back to the head. Prior to this Dr. Vroom explained that the wound on the head was present when he first saw her; he explained he had enlarged it a little from the button bone, which he showed me; this was a bone—a portion of the parietal bone, a superficial bone, a small bone about the size of a nickel.

Q. Before you go on, doctor, let me ask you to describe a little more accurately the external wound you have spoken of, including the wound in the back of the head; give the back of the head first; point on your own person where those wounds are. A. Right about here (indicating the right side of the head). One about two inches long on this side, and a wound in the breast was in this direction (indicating.)

Q. What was that; was it a cut? A. Looked to me as though it was caused by some round instrument.

Q. Was it a cut or an abrasion? A. A cut, of course. And one down below it to the left, I think about an inch and a half below it.

Q. Was that similar to that above? A. Yes, exactly the same as the one above. The scalp was incised from ear to ear, and the scalp made bare, that exposed this portion of the bone. We exposed the skull showing where this portion of button bone had been removed from. We then removed the skull here. I washed them thoroughly and carefully to discover any evidence of fracture. The membranes of the brain were next examined; these were congested; these were incised, and these were examined particularly careful, and everything was normal except some slight congestion. The brain was removed from the skull, and a number of incisions made in it, both transverse and vertical. The brain substance was examined carefully and showed to be in a normal condition. After doing that, the brain then was placed aside. The chest was open; the breast bone was removed with portions of ribs on each side, showing the lungs; these were gone around carefully for any evidences of disease that might be there externally; there was no evidences of any disease. The pericardium of the skull was next opened; there were some slight wounds. I found that that was caused by the undertaker in embalming the body. The heart appeared

normal with the exception that there were a few slight wounds at the base of the heart; this I learned had been caused by the undertaker's needle, or trochard he called it, in trying to rid her of this fluid, to aspirate the heart. The heart was then removed. Chambers of the heart were opened; both valves were examined and were found normal, except the valves, one of the valves had been torn by the undertaker in introducing his needle; it showed three wounds at the base which I learned were caused by the undertaker in trying to aspirate. The heart was then put to one side and the lungs removed and examined for disease, or for anything abnormal; we incised, carefully examined and found them perfectly normal. After finishing with the chest, we then proceeded upon the abdomen, doing so by throwing back the abdominal line, and then examined superficially the organs just as they appeared, after the opening; everything appeared normal with the exception—I want to say I found that some of the embalming fluid had been injected into the abdomen. I then removed the covering of the abdominal wall; I then removed the covering of the abdominal wall; examined the liver, a portion of the liver, one portion of the liver that some of the embalming fluid had gone into, a slight portion of the liver; I examined the liver; it was about normal in size, it might have been a little congested; then I examined the other organs, and in appearance they appeared to be normal, as far as appearance and the sense of touch would lead me to believe, and the size. After examining them I ligatated the stomach at both ends, in between.

Q. That is you tied it? A. Yes, tied it so that the contents could not escape. Prior to that time we had asked the family to supply us with some wide mouthed glass jars. I was very careful to caution them to have them scalded out thoroughly, so that there would not be anything there of any kind that would cause trouble. They did so, and the stomach was placed in this glass jar. We then removed the kidneys, right and left. The covering of the kidneys were removed in turn, and the substance of the kidneys were incised and examined carefully. They appeared normal. We then examined the uterus and womb and found them normal in size. I forgot to mention that at the autopsy I examined her vagina, made vaginal examination. Then going back I removed the uterus and I removed the kidneys, the left kidney, and I placed them in the same jar with the stomach. I closed that up tightly. Had the family get me another jar, and in that

jar placed the uterus, right kidney and heart ; they were securely fastened.

Q. The uterus, right kidney and heart? A. Yes, sir ; The body was then sewed up. These organs were removed. I had an appointment that night with the Chief of Police ; I met him and then learned for the first time that the case belonged to Passaic County. Dr. Vroom gave me to understand that the case belonged to him and I gave him the stomach and left kidney ; the others I retained myself. Then when I met the Chief of Police I learned that the case belonged to Passaic County.

Q. Positively? A. Yes, sir.

Q. You felt positively sure? A. Yes.

Q. That was late at night? A. The next morning I consulted with you—the next day. We then went back to her home along with Dr. Todd and removed the remaining organ. We brought that here in a vessel, a large jar. It had been thoroughly cleansed, and removed the liver, spleen and entire intestinal tract and placed them in that jar, closed the jar up ; we brought it to his office, sealed the package and put on a label, when they were removed, from whom they were removed, and the contents of the jar. I then telephoned to Dr. Vroom to return the stomach and left kidney. He did. This was sealed and labeled as the other which I also sealed, same as the jar that I had sealed with the heart, right kidney and uterus, and communicated with Dr. Witthaus' laboratory, and I myself removed the jar containing the liver, spleen and intestinal tract with the jar containing the left kidney and stomach to Whitthaus' office, to Mr. Whitthaus in person.

Q. To New York? A. Yes.

Q. For what? A. For chemical analysis.

Q. Something has been said here about some of the organs, or some part of the organs being buried not within her, but along with her? A. That is true.

Q. What do you know about that? A. I know the brain and both lungs were buried in separate boxes, but that was after they were thoroughly examined.

Q. That was the contents of the box which has been referred to? A. Yes; it would not have done for the brain to have been put back in the skull in the condition it was in ; it was all cut up.

Q. When did you take the remains to Dr. Witthaus?

A. The morning of October 26th.

Q. What day was that? A. Friday; if I remember rightly I think it was the 26th.

Q. You say you saw indications of the embalming fluid. Did you enter into any investigation in that direction along this line? A. Yes; knowing the body had been embalmed I also—I told the undertaker that I wanted a sample of that embalming fluid, and sent it to me in a jar that had been thoroughly sterilized, and thoroughly cleansed, a sample of some of the fluid used to embalm that body. I forgot to tell you that I brought that also to Dr. Witthaus that same morning.

Q. You did send that fluid to Witthaus? A. Yes, sir.

Q. Did you take these articles to Dr. Witthaus? A. Yes.

Q. For the same purpose? Of analysis? A. Yes, sir.

Q. Well, then, doctor, summing up the results of your autopsy, what did you conclude? A. Having made what I considered a very careful post mortem examination, no evidence of disease or injury that could have caused death having been present, there was only one conclusion left for me, and that was that something she had taken had acted as a poison.

Q. Suppose, in addition to the information which your autopsy and investigation furnished you, the further fact that the subsequent analysis of those portions of the girl's body disclosed the presence of a considerable quantity of chloral hydrate, what upon that supposition, would, in your judgment, have this girl's death been attributable to?

The counsel for the defendants respectfully object to the question, upon the ground that it assumes facts not in the case.

Mr. Emley :—I intend to prove that.

The Court :—In view of the statement of the Prosecutor, what objection then is there?

Mr. Hoffman :—The question assumes facts not in the case at present.

Question allowed. Thereupon the counsel for the defendants pray an exception to the ruling of the Court and the same is allowed and sealed accordingly.

A. I would say she undoubtedly died of chloral hydrate poisoning.

Cross Examination by Mr. Scott :

Q. Your autopsy was made at four o'clock Monday afternoon? A. Yes, sir.

Q. Two hours? A. Yes, sir.

Q. At that time the body, you say was prepared for burial? A. It was; yes, sir.

Q. Where was it? A. It was in the front room of the first floor in a coffin.

Q. In a coffin? A. Yes, sir; or casket.

Q. Was it taken out of the coffin or casket for this autopsy? A. Yes, sir.

Q. By you and whom else? A. The undertaker and Dr. Vroom and the undertaker's brother.

Q. And Dr.— A. Van Noort.

Q. Now, you described what you did and the condition in which you found the various internal organs? Just tell us, doctor, what was put in those three jars? A. There were not three jars used; there were only two jars used.

Q. Tell us what was put in those two jars? A. One jar was the stomach and left kidney, and the other jar was the right kidney, heart, and uterus.

Q. Dr. Vroom took one jar and you took the other? A. Dr. Vroom took the jar containing the stomach, and left kidney, and I took the one containing the other three organs.

Q. Wasn't there a lung in that jar? A. No, sir.

Q. Positive of that? A. Positively sure; no, sir.

Q. Didn't you say before the Coroner's jury there was the uterus, the left kidney, one lung and the stomach Dr. Vroom took? A. If I did the stenographer got me wrong. If he got them in that jar the stenographer made a mistake.

Q. You didn't say anything there about the jar? A. The left kidney, one lung and the stomach.

Q. Just a mistake; that is all. Now, Doctor, you say that you occasioned the family to thoroughly cleanse the jars? A. I did; yes, sir.

Q. You didn't see it done? A. I was told it was done, because I asked the question when they brought it. I didn't leave that room to go out and see it done; no, sir.

Q. About that box, Doctor. What did you say that contained? The box that was interred with the body? A. A brain and both lungs.

Q. You in making the autopsy, took out the brain and both lungs, and what did you do with them at that time? A. Examined them.

Q. What did you do with them after you got through

with your examination? Laid them back? A. No; I could not put the brain back into the body.

Q. How did they get into this box? A. I believe by the undertaker.

Q. You simply laid them aside and then the undertaker took charge of them after you got through with them? Did you know that they were buried with the coffin. A. I was so informed.

Q. And you told the undertaker to get the box back? A. I ordered him to bring it to me; yes, sir.

Q. Was this after you had visited Dr. Witthaus and taken these jars to him? A. Oh, no, sir.

Q. How did you come to send for them? A. Just as soon as I learned that the case belonged to Passaic County I didn't want to let anything go that might be of any service to us.

Q. That was entirely at your own suggestion then? A. Entirely at my own suggestion; yes, sir.

Q. Did you think it of sufficient importance to disinter the body? A. The body was not disinterred, simply the box.

Q. The grave was reopened, was it not? A. The grave must have been reopened to get the box.

Q. Did you think it of sufficient importance to have that grave reopened for the purpose of getting that box? A. I thought it might be; yes, sir.

Q. Dr. Witthaus didn't tell you to bring the brain to him, did he? A. No, sir.

Q. When you took these jars to him, did he ask you what you had in them? A. They were labeled.

Q. Did he ask you about anything else that was not in the jars? A. To the best of my recollection he did not. I think I informed him that I had the other organs.

Q. You informed him what? A. That I had the other organ.

Q. Did he ask about the other organs? A. I don't know whether he asked me about it or whether I suggested the information to him.

Q. How did you come to suggest the information to him? A. Possibly for the reason that they might have been of some service in his examination.

Q. And the suggestion came entirely from you without any intimation from him at all that he required them? A. Yes.

Q. What did you do with the brain and the lungs after you got them out of this box? A. I still had them, ex-

amined them, of course. I had them brought to Dr. Todd's office.

Q. They were not taken to Dr. Witthaus? A. No, sir.

Q. Was the examination of the brain and lungs, this subsequent one, made by you at his direction or suggestion? A. Oh, no.

Q. This embalming fluid that you took to Dr. Witthaus, was that at his request? A. No, sir; didn't know anything about it at all until I brought it there to him.

Q. Now, you say that from the result of your autopsy and your examination of the viscera on this poison, that if chloral hydrate was found in the body, you would say that this girl died from poisoning; do you say that? A. Yes, sir.

Q. What would you say in answer to this question? From the knowledge that you had from your autopsy and the examination of these internal organs, suppose this girl had taken a large quantity of absinthe would you then say that she died of poison? A. If chloral hydrate were found there after death in large quantities, I would still say it would be chloral hydrate; yes, sir.

Q. Without the aid or assistance of absinthe? A. The presence of the absinthe there might have made death more certain than chloral hydrate poison simply, because it might have been taken up quicker; it might have formed a different form of chloral alcoholate.

Q. What do you mean, that the action of the absinthe would dissipate the chloral? A. I simply mean that anything containing alcohol might cause the chloral hydrate to be converted into chlora alcoholate, which might be absorbed more rapidly than chloral hydrate simply, because it would be in a more concentrated form or it would not dissolve in water.

Q. What wouldn't dissolve? A. The chloral alcoholate would not dissolve in water as the chloral hydrate would.

Q. What do you mean by chloral alcoholate? A. Chlora and alcohol.

Q. What do you mean by this other term, chloral alcoholate? A. I mean it is chloral hydrate with the addition of alcohol.

Q. Doctor, knowing what you do from your examination, if a sufficiently large quantity of absinthe or alcohol were taken into the stomach of this girl, would she not die of poison? A. I would say she died of chloral hydrate poison; yes, sir.

Q. Leave the chloral hydrate out. Don't you think she would be apt to die as the result of taking these drinks and would die of poison? A. If I knew that she had taken large quantities of—

Q. Leave the chloral hydrate all out altogether. I am making this supposition that she had taken into her body two ounces or three ounces of absinthe, and I add a Manhattan cocktail containing vermouth and two glasses of Great Western champagne, would she not, from what you know of the case, and from what I suppose that she may have taken into her stomach, would she not die of poison? A. What form of poison?

Q. Never mind the form. I am asking for the answer—any form? A. Well, that is rather indefinite, isn't it?

Q. Isn't it definite enough for you to answer the question, Doctor? A. I would say she died of poison; yes, sir.

RUDOLPH A. WITTHAUS, a witness sworn on behalf of the prosecution, testified as follows:

Direct Examination by Mr. Emley:

Q. You are a physician? A. Yes, sir.

Q. And professor of toxicology? A. Yes, sir.

Q. How long have you practiced medicine? A. I do not practice medicine.

Q. Or been qualified to practice medicine? A. Twenty-five years.

Q. And how long have you followed the study and teaching of toxicology? A. About the same time, about the same period.

Q. And you are connected with the Union Laboratory Company on Forty-second street in New York, I believe? A. Yes, sir.

Q. You do that department of their work? A. Yes, sir.

Q. And you, I understand, are also a professor at the Cornell Medical College in New York? A. Yes, sir.

Q. And have written and published numerous books upon the subject of toxicology and medical jurisprudence? A. Oh, not numerous; no. I have published books.

Q. Four or five we call numerous out here? A. Yes.

Q. And it has happened in your experience of the last twenty or twenty-five years that upon frequent occasions you have been called upon to testify as an expert in cases of murder by means of poisoning, has it not? A. Yes, sir.

Q. Can you mention in a word, doctor, not to prolong the examination, some of the more important and conspicuous cases in which you have appeared in that capacity? A. The Molineux case, the Harris case, Buchanan case, Fleming case, Meyers case.

Q. You, I believe, appeared for the people in all those cases, except the Fleming case? A. Fleming and Meyers I appeared for the defense.

Q. Did you ever see that man before (Mr. Shane)? A. Yes, sir.

Q. Where? A. In the Cornell Medical College.

Q. Do you remember when it was? A. November 24th.

Q. Did you receive a bottle from him? A. I received a package containing a bottle; yes, sir.

Q. Have you it there? A. Yes, sir.

Q. Is there any peculiarity about that bottle, Doctor? A. One corner of the bottom is chipped.

Q. And what did it contain when you received it? A. It contained about three drops of a faintly yellowish liquid which I analyzed and found to consist of a strong solution of chloral hydrate.

Q. You say strong solution of chloral, can you describe that to us more accurately? A. The bottle contained about two and a half grains of chloral hydrate.

Q. The full bottle? A. What was in it, a few drops.

Q. And what is the relative strength of that solution? A. I should say it was pretty nearly a saturated solution.

The Court:—That means what?

A. As much as the water will contain.

Q. Was it an aqueous solution? A. I judge so.

Mr. Emley:—I offer this bottle in evidence.

Q. Did you receive from Dr. McBride, of this county, in October last, a portion of the remains of a human body?

A. Yes, sir.

Q. Just tell us when, Doctor. A. The 26th of October.

Q. Where did you receive them? A. Forty-five East Forty-second street.

Q. That is at the Union Laboratory's company? A. Yes.

Q. And you received them personally from him? A. I did.

Q. What did you receive? A. I received a small jar which contained a stomach and a kidney; a larger jar

which contained an intestine, liver and spleen; and a bottle which contained a faintly yellowish liquid.

Q. There was three jars, then? A. Two jars and a bottle, which the doctor told me was embalming fluid.

Q. And you received those things from Dr. McBride and instructions from him for the purpose of chemical analysis? A. Yes, sir.

Q. And did you perform such an analysis? A. I made an analysis of the stomach, of the embalming liquid—

Q. Now, doctor, perhaps you can by proceeding in your own way, tell us more clearly what that analysis was and how it resulted. A. Do you want the details of it?

Q. I suppose my friends on the other side will.

Mr. Scott:—No, you are asking the question now.

Q. No, never mind the details then? A. I found in the stomach the presence of chloral hydrate, the quantity of which I estimated at a little over five grains. I examined the embalming liquid by the same process and found no evidence of chloral in any form.

Q. The embalming fluid you say then was free from chloral? A. Entirely. I also made a partial examination of the spleen; although I obtained some of the reactions for chloral they were not sufficiently distinct to warrant me in saying it was absolutely present.

The Court:—What was the amount of the entire contents of the stomach? A. The contents of the stomach were small. When I say stomach I mean half of the tissue of the stomach and contents. I think there was very little contents of the stomach. There could have been but probably a drachm of the contents altogether. There was a quantity of material of course adherent to the walls of the stomach; but as to fluid or solid contents that could be poured out, there were practically none.

Q. And it was in that quantity which you have just described you found, this five or more grains of chloral hydrate? A. Yes, sir.

Q. That you found in the contents of the stomach; as distinguished from the tissue? A. No, not in the tissue.

Q. And whatever contents there were in the tissue—(interrupted)? A. The tissue was cut up and analysed.

Q. What is chloral hydrate? A. Chemically do you mean? Q. Yes. A. Trichloralderhite; that is, that is

the hydro trichloralderhite. The chloral itself is the trichloralderhite, and the crystalline material is the hydro trichloralderhite.

Q. And from the toxicological standpoint, what is it?
A. It might be called a hypnotic or narcotic poison.

Q. Is it so recognized? A. Yes, sir.

Q. Is there any other name that it is commonly known by? A. Well, it is a solution. Strong solutions are known under the name of knock-out drops.

Q. And what are the anti-mortem effects of chloral hydrate? A. It produces a deep sleep which in fatal cases go into a condition of narcosis. The temperature is usually sub-normal. It usually depresses the temperature, not always and it produced congestion of the cerebral vessels to a slight extent. There is a first appearance of the face sometimes.

Q. And is its action rapid or slow? A. Do you mean its action to produce sleep?

Q. Upon life? A. It is fatal.

Q. I mean in action? A. Its action inducing sleep is rather rapid.

Q. That is what I mean. And what is the generally recognized duration of that sleep? A. Oh, that depends upon the dose; it may last as much as sixty or seventy hours.

Q. And there would be nothing unusual then, in a duration of two or three hours? A. No. That would be a very short duration.

Q. During that period, is the sleep generally continuous and profound? A. Yes, sir.

Q. What, if any, are the post mortem symptoms of the presence of this drug? A. I do not think it produces any definite post mortem lesions.

Q. No anatomic changes of any kind? A. No, sir.

Q. So that so far as is known, there is no way by a post mortem examination of identifying and declaring the presence of choral hydrate poisoning? A. No, sir. Not that I know of.

Q. What are the peculiarities of this agency, with reference to its action? Is it a very stable poison, or is it a volatile poison, quickly taken and distributed? A. Quickly absorbed, yes; sir.

Q. Quickly absorbed by what? A. If in a glass, the solution would be absorbed to some extent from the stomach, to a great extent from the small intestines.

Q. And does any part of it go into the blood? A. Oh, yes.

Q. And when taken up by the blood, what is its effect upon life? A. Well, all poison act after being absorbed into the blood; they don't act until they got there.

Q. What are the physiological effects of this poisoning? How does it bring about that? A. It puts them to sleep and if they take too much it kills them.

Q. How does it kill them? A. I don't know and nobody else does that I know of.

Q. Does it interfere with respiration or the action of the heart? A. Yes, sir; but how it does I cannot tell.

Q. What would this quantity which you found in the contents that you had indicate to you, if anything as to a larger quantity? A. That a very much larger quantity had been taken.

Q. A very much larger quantity? A. Very much larger.

Q. How much larger, I presume, you were unable with any great definiteness to say? A. I could not say definitely.

Q. And that larger quantity that you have just spoken of now, how do you account for its disappearance from the contents which you had when they came into your hands? A. It was absorbed into the circulation, carried by the blood to the different organs, and produced those physiological effects.

Q. And it was that missing quantity? A. Part also might have been eliminated, passed off by the urine.

Q. I suppose the part you found in the stomach contributed nothing to the death? A. It could not have done the person any more harm than if it had stayed in the bottle.

Q. It was the missing part that was hurtful? A. Yes, sir.

Q. And you say you think it must have been a large quantity? A. Yes, sir.

Objected to as leading.

Mr. Emley:—It is merely a repetition.

Q. As to this other, you say you found no chloral there? A. Did you find any of the constituents of chloral there, or anything there from which chloral might be, in any way, derived by—A. (Interrupting) I did not make a complete analysis. I went far enough to satisfy myself that it did not contain chloral, and had not any substance that would yield chloral.

Q. With the opinion which you obtained as the result of your chemical analysis put the further fact that the deceased died suddenly, being preceded for three hours by a deep coma, the autopsy after death, after careful examination and investigation, disclosing no known cause of death from natural disease or otherwise, what in your judgment should the death of this girl be attributed to? A. Poisoning by choral hydrate.

By the Court :

Q. How much of such fluid as you found in this bottle, doctor, would constitute a fatal dose to a young woman?

A. I should say less than a teaspoonful.

Q. Such a dose would be likely to lead to fatal results?

A. It might.

Cross Examination by Mr. Hoffman :—

Q. I understand you, Doctor, that you have had quite a large experience in the courts as an expert witness in trials of poisoning. A. I have been called in several cases; yes, sir.

Q. You mentioned some of them? A. Yes, sir.

Q. Not all? A. No, sir.

Q. The Benham case you did not mention? A. I did not—and several others.

Q. And in these various cases the decisions rendered under the instructions of courts by juries have been sometimes in consonance with your views and at other times not? that is so, is it not? A. I believe so.

Q. In these chemical analyses, Doctor, I understand you to say you found chloral hydrate only in the stomach. A. Yes, sir.

A. And that there you found five grains only? A. I didn't say only, because I consider five grains a very large quantity.

Q. Well, you did not find more than five grains? A. No, but I didn't say "only."

Q. Well, perhaps not, but that is a distinction of terms merely. Am I right in my understanding of your answer that those five grains were not a fatal dose? A. I did not say sir; no, sir.

Q. I ask you that? A. No, sir.

Q. They were not a fatal dose? A. No, sir.

Q. And did I understand you—perhaps I am mistaken about that also, Doctor, that they were as harmless in the stomach—those five grains—as if they had remained in the bottle? A. Precisely.

Q. So that standing alone by themselves they would not have produced death of this girl? A. No, sir.

Q. How did you find, Doctor, this chloral? A. How did I find it?

Q. Yes, sir. A. By distillation. Do you want me to describe the process?

Q. In this case; yes, sir. A. I divided the stomach into two lateral halves. I took one half and cut it up into small pieces, and that with half of the contents placed in a flask and acidulated it with tartaric acid. A flask was adjusted to the condenser and arranged so that a current of air could be drawn through it. Some water was added, and the liquid was distilled, and fifty cubic centimetres were collected of the distillation—but first, the first distillate constituted a distillate from an acid liquid distillation. Distillation was then stopped and the contents of the flask, called arsenicpotash, added to the alkali and reaction, and the distillation repeated. Forty cubic centimetres of the second distillation from the alkali and the liquid was collected. These two distillates were treated separately. The acid distillate was divided into several portions; one part—do you want the individual tests?

Q. Go right on, doctor? A. One part was tested by adding to it an alcoholic solution of potash and a drop of aniline. The liquid was heated, when it developed a peculiar and very characteristic odor, which resembles the odor of the highly concentrated odor of witch hazel, which is one of the characteristics of chloroform or chloral. To another portion caustic potash was added—not caustic, but a solution of in potash was added, and the liquid heated, when a fine orange red color was produced. This liquid on further dilution with water gave a brilliant green shimmery appearance that we call florescence, which is another characteristic either of chloral or chloroform. Another portion was treated with a solution of beta naphthol and when warmed developed another brilliant blue color, which is another characteristic of chloral or chloroform. Another portion was treated with faling solution and heated when it produced a strong of copper, which is another quality of either chloroform or chloral. Another portion was agitated several times with ordinary ether. The ether was drawn off and allowed to evaporate spontaneously, and on spontaneous evaporation it left a crystalline residue which when redissolved in water gave the three reactions that I have mentioned, which is a property possessed by chloral but

not by chloroform in a liquid, the chloroform hydrate being a crystalline substance.

Q. And that concluded your test? A. The qualitative test.

Q. The remainder of the material was used for a quantitative determination? A. It was treated with alcoholic solution of caustic potash and heated in a flask with return condenser for about five hours, a process which decomposes either chloral or chloroform, causing its qualities to combine with potash and produce chloride, a form given as silver chloral. That gave me four grains and five one-hundredths of a grain in that portion of the material obtained from this stomach. The alcoholic distillate was treated by a similar procedure giving similar results, except it did not give the crystalline residue, because the action of the liquid on the hydrate is to decompose it and yield chloroform, so that the material which is extracted is not chloral hydrate but chloroform.

Q. Does that conclude it? A. Yes, sir.

Q. So that you have to put it in the concrete, the color test is the main test, is it not? A. There are two of them.

Q. The other is the presence of the strong smell of something akin to witch hazel? A. Something akin to it. That is about the nearest odor I can think of. It is an extremely characteristic odor; it can never be forgotten.

Q. Those are the two main tests? A. No, sir; there are six tests.

Q. Equally important? A. All taken together.

Q. That does not answer my question. A. I draw my conclusions from all of them.

Q. Are those tests equally important? Would you be satisfied with any one of those tests? A. Not to say that chloral hydrate was present, no.

Q. That is what I am asking. A. Well, you can't divide them into individual tests. There is the resorcin test and the potassium hydrate test and the odor test. The fact that the ether extracts no solid crystalline material from a distillate chloral hydrate, being a substance which distills at a temperature of boiling water, and there are very few solid crystalline substances that distill at so low a temperature as that.

Q. But there are some? A. Very few, and none which will give these three reactions when dissolved in water.

Q. Well, we are getting away from— A. I don't think so.

Q. I do. You would not be satisfied to say there were

chloral present in this body by the results of any one of these tests, would you? A. No, I think not.

Q. But having made all these tests then you would say you are satisfied there was chloral hydrate? A. Absolutely.

Q. As an expert? A. Yes, sir.

Q. Did I understand you to say that no one was more important test and conveyed the fact of the presence of chloral hydrate than another? A. Well, the distinction between chloral hydrate and chloroform depends upon the obtaining of crystalline material, which certainly is patent to anybody. The difference between crystalline solid and volatile liquid, like chloroform, is a very important quality.

Q. Now, in reply to the question of the Prosecutor you said that the presence of the chloral hydrate which you found indicated that there had been in the body a much larger quantity? A. Yes, sir.

Q. Could you, with any certainty whatever, tell how much had been in the body? A. No.

Q. Therefore you could not tell that there had been a fatal dose of chloral administered in this case? A. From these facts—from the result and from the very large quantity I did find and from the belief that there must have been at least ten times as much chloral taken as there was in the stomach, I think I am perfectly safe in saying that death was due to chloral hydrate poisoning.

Q. Let us go over, now, Doctor, and see where that amount of chloral [disappeared to; if there was such a large dose as you believe—as you say—what became of it? A. It was absorbed; passed from the stomach and from the intestines; in all probability also into the blood by the process that is called absorption.

Q. But would it not have remained somewhere in the body? A. Not as chloral hydrate.

Q. Why? A. Because it enters into chemical combination with other tissues and other substances in the body, and it is not eliminated as chloral; it is eliminated in the shape of what is called ural chloridic acid, or ural chlorate acid.

Q. How does it happen you found six grains? A. I am endeavoring to explain to you.

Q. Go ahead? A. That is where this transformation takes place. In all probability it takes place in the circulation.

Q. In point of fact your science did not determine what

has become of the chloral? A. What has become of it?

Q. What did become of it in this case? A. I do not know.

Q. Of course you do not; you do not know how much was administered in this case? A. I do not.

Q. You do not know whether there was a fatal dose in this case? A. My analyses account for 10 grains; 10 to 20 grains will kill.

Q. Has killed? A. Yes, presuming that the quantity was actually given, as I found. There was enough taken to constitute a poisonous dose, as 20 grains has killed. In all my experience I have never extracted sufficient poison from a cadaver to constitute a poisonous dose, except in one case.

Q. Chloral has become almost universal in its distribution? A. What do you mean?

Q. I mean doctors administer it right along? A. Yes.

Q. And it is used for beneficiary purposes? A. Yes.

Q. And it has been of beneficiary results? A. Yes.

Q. And doctors administered more than twenty grains and has caused death in twenty grains?

Q. Twenty grains is a small dose of chloral, not a large dose, and as many as twice twenty have been administered without any fatal effect? A. Yes, fifty and sixty grains.

Q. With fatal effect? A. Yes, a person suffering with disease.

Q. You know of one or two cases, I imagine from what you have said where twenty grains have killed? A. No, sir.

Q. There has been as many as four hundred grains administered to persons? A. Yes.

Q. And did the person to whom it was administered recover? A. More than that, over an ounce.

Q. So that the doctors themselves administer poison; do you know how much of a dose would be fatal? A. I never said so.

Q. Do you know of any case that would refer to it? A. With reference to what?

Q. With reference to the fatal dose of chloral? A. You do not state the fatal dose of any person?

Q. I am now speaking of a fatal dose of chloral? A. That is an entirely different question.

Q. The result of administering any chloral is as what; suppose you were a physician and administered chloral; what would be the first indication you had given a dose

of chloral? A. There is generally a period of excitation which is followed—

Q. (Interrupted) Excitation what way? A. Manifested in a great many ways; then that is followed by delirium, then it is followed by a deep sleep, coma, chloral sleep.

Q. When they recover from the sleep there is no indication that they have received such poison? A. No, sir.

Q. There is no reaction? A. No, sir; there is no reaction.

Q. Do you say that a chloral sleep is parallel with natural sleep? A. It appears like a sort of delirium; while they do not go to sleep they have no remembrance of what they have done.

By the Court:

Q. You say that coma precedes death? A. Does in death cases.

Q. Then I understand you that when it results in sleep the chloral victim sleeps without any apparent reaction after? A. Apparent, no.

A. Are you familiar with the action of absinthe? A. Yes, to a limited extent.

Q. And with the action of vermouth? A. Yes.

Q. And with the action of alcohol and champagne? A. Yes.

Q. A large dose of absinthe would not that produce precisely the same symptoms as though from chloral? A. What do you call that?

A. I mean doses to make manifest symptoms, of having taken absinthe, produced the same symptoms as chloral affects a person? A. Doses sufficient to cause the same effect would undoubtedly cause these effects.

Q. Could there be sufficient effect to cause the same effect? A. I do not know.

Q. Could it not produce the same effect? A. I do not know.

Q. If there was a sufficient quantity of absinthe taken would not there be the same effect, usually, commonly? A. Yes, sir; and then possibly death.

Q. Possibly death? A. Possibly.

Q. So that you have a parallel state of symptoms, as I understand you to have stated chloral occasionally produces, that absinthe would produce the same thing; producing delirium, then coma, then death; is that matter right? A. That would follow if the effect was the same;

but there was nothing said about delirium in the question asked me—in my answer.

Q. But I am asking you if the result of doses of absinthe are not parallel with doses of chloral? A. I do not think they would be absolutely alike, but there is a similarity.

Q. Do you not think it is so? A. No.

Q. What form do you think that it would likely take? A. In cases of chloral poisoning in large doses, and in the case of poisoning from large doses of absinthe, there would be a similarity.

Q. Then as I understand it, results would be more likely to be possible from large doses of absinthe than from large doses of chloral? A. No; I do not know of any fatal doses of absinthe poisoning.

Q. Have you read of any? A. I do not recall that I have.

Q. Do you know the constituency of absinthe? A. Absinthe, wormwood.

Q. That is poisonous? A. I think it might if it was given in sufficient quantities; I do not recall the case.

Q. In your judgment it would cause death with the same similar symptoms? A. Yes.

Q. Are you acquainted with Schumaker's materia medica? A. No, sir.

Q. Do you know that when I was a medical student.

A. Yes; I knew of

Q. Do you know it now? A. I haven't seen it since.

Q. If I stated to you that in that absinthe taken in large doses results in death and produces anesthesia, coma and death, you would say that was correct? A. I would say very likely.

Q. Take alcohol as may be contained in a cocktail—I suppose you and I know what the constituency of a cocktail is; as, for instance, as contained in champagne, in any case would it not produce the same state of symptoms as in chloral poisoning? A. If the quantity was large enough.

Q. I am speaking now, of a Manhattan cocktail, the alcohol contained in a Manhattan cocktail—champagne is charged with alcohol? A. I do not think a person could swallow enough Manhattan cocktails to kill him.

Q. Don't you think there is alcohol enough—alcohol will kill in sufficient quantities? A. Absolutely I do—that is a different proposition.

Q. A sufficient quantity of champagne would kill you say, but you do not think they could swallow sufficient to

kill? A. No, I do not; the alcohol in champagne is only about fifteen per cent.

Q. But if they could drink enough it would kill? A. Yes, death would ensue.

Q. Would there not be a paralysis of the heart by the imbibing of alcohol? A. I am talking about champagne.

Q. I am talking about the alcohol in champagne? A. A man could not swallow enough champagne to kill him.

Q. Can't you take sufficient champagne to contain sufficient alcohol to kill? A. No, sir.

Q. Why do you not think so? A. Because there is not sufficient concentration of alcohol. The concentration of alcohol and sherry is only twenty-five per cent., and whisky about fifty per cent., and in making a cocktail you could not put enough in there to kill; there would not be over twenty per cent.

Q. You think there would not be over twenty-five per cent. in a cocktail? A. No, sir.

Q. How much alcohol do you think would kill? A. It depends upon the concentration of alcohol.

Q. So it is in the administration of any poison? A. No, it is not; it does not in poison.

Q. I will read from the Medical Student's Manual on Chemistry? A. What edition?

Q. '95 on page 244 speaking of alcohol in a concentrated form, "in a concentrated form alcohol exerts a de-hydrating action"—

The Court: One moment, Mr. Hoffman, ask the question, do not read the statement.

Q. I will ask you if you agree with this. "In a concentrated form, alcohol exerts a de-hydrated action on animal tissues with which it comes in contact; causing coagulation of the albuminoid constituents"; do you agree with that?

Q. That is your own? A. Yes, sir.

Q. You have made an analysis of this embalming fluid? A. I didn't make the analysis with the same effect.

Q. Did you use the same tests? A. I used precisely the same process as I did with the other.

Q. And did the result of your tests agree with them? A. They were all negative; all dissimilar.

Q. Do you know what you found in this embalming fluid? A. I didn't find anything; I looked for something.

Q. You looked for what? A. Chloral hydrate. *[Read]*

Q. You had no knowledge of it at all? A. No, sir.

Q. Then you did not analyse it? A. No, sir; not beyond that point. I saw there was no chloral hydrate present. If there had been I would have found it.

Q. Did you find any menthol alcohol? A. I don't know; I did not look for it.

Q. You don't know a thing about it? A. I do not know whether it was there or not.

Q. Did you find any alum? A. I didn't look for it; I didn't find it.

Q. But incidentally, as you were making your investigation did you come upon it? A. No; there were evidences which would be produced by embalming. And also by other substance.

Q. Did you find any sodium acetate? A. No, sir.

Q. Well, did any of the appearances there indicate that it might be present? A. No, sir; except the fact that it was embalming fluid.

Q. Did you find any mercuric chloride? A. I don't know.

Q. You did not cross any as you were going on with your analysis there? A. No, sir.

Q. Did you find any zinc chloride? A. I don't know.

Q. Did you make as careful and accurate test of this fluid as you did of the viscera that was given to you, coming from the body of this lady? A. Yes, sir.

Q. The same tests that show chloral always show chloroform? A. Apart from the fact that this material was crystalline and solid.

Q. Answer the question (question repeated by stenographer). A. That is one of the tests, whereas chloroform is fluid and chloral is solid.

Q. Question repeated. A. No.

Q. They do not? A. No.

Q. Occasionally? A. No.

Q. Never? A. Shall I answer the question categorically.

Q. Just as I put it. A. No.

Q. Explain that. A. One of these tests is the obtaining of this material either in the shape of a liquid or in the shape of a solid. Chloroform never at that temperature appears as a solid. Chloral never at that temperature appears as a liquid. The other tests show the results procured as I mentioned and described them.

FRANCIS H. TODD, a witness called and sworn in behalf of the State, testified as follows:

By Mr. Emley:—

Q. You are a practising physician in Paterson, Doctor?

A. Yes, sir.

Q. How long have you been in the practice of medicine?

A. Since 1897.

Q. And during that time you have been connected more or less with the Sisters' hospital here? A. With the General hospital.

Q. The General hospital? A. Yes.

Q. And are you still so connected with that institution?

A. In an indirect way I am.

Q. You assisted Dr. McBride when he made the autopsy on the body of Jennie Bosschieter, I believe? A. I assisted him at the second autopsy; yes, sir.

Q. That was on Tuesday, I believe? A. Yes, sir.

Q. And what did you discover from that assistance in that autopsy? A. When I got there the body was in the coffin ready for burial. It was removed. The parts of the clothing were removed, the body was put on a slab or board, and we found that there had been already an autopsy performed. The wounds had been closed, the incisions had been closed, stitched up; the wounds were opened, or the incisions were opened, and I assisted Dr. McBride in removing the liver, the spleen and the intestines. In removing the intestines the fact was observed that the intestines had already been tied off; that is, the upper end of the intestines had already been tied off as it was severed from the stomach. The intestines were removed, together with the spleen and liver and placed in an absolutely clean jar and sealed; and Dr. McBride assumed the charge of the jar.

Q. Without going into the details, was that autopsy sufficiently complete to enable you to determine the absence or not of any cause of death? A. My observations of the liver showed it to be an absolutely normal liver, apparently of normal size, and the incision into seemed to be of normal tissue. The spleen was examined carefully. It also appeared to be normal in size and consistency. The intestines appeared to be normal. There was nothing abnormal that could be seen by examination, although the intestinal contents was not released and not removed.

Q. I ask you the question then again, was that examination complete enough to enable you to determine the absence or not of any cause of death? A. There was ab-

solutely no disease present in the organs that I examined, and from those organs there would be no cause of death. Death had not been caused by any disease. The heart, kidney and uterus, I also examined, but not at the autopsy.

Q. When? A. A day or two following that.

Q. What did that indicate to you? A. The organs with the exception of the heart were perfectly normal. The heart was injured by a wound caused, as was stated, by a needle or a trocher introduced from the external wall of the chest inward, and it caused three wounds, one of which had lacerated one of the valves in the left side, but it was a post mortem wound, and the valve and heart appeared to be in a normal condition. The kidney was perfectly normal. The uterus was normal, showed to be non uterus, not having born children. The appendages were examined and found to be perfectly normal. I mean by the appendages, the tubes and ovaries.

Q. What conclusion did your examination when finally completed lead you to? A. From my observation I couldn't form an opinion as to the cause of death from anything that was seen in the office.

Q. Now, then, supplementing the information which you obtained in the way just indicated with the further facts that this girl died suddenly after a period of three hours' sleep, and that a chemical analysis of her stomach and the intestines made shortly afterwards accounted for the presence of say ten grains of chloral hydrate, what in your judgment was her death due to? A. Chloral hydrate poisoning.

Cross Examination by Mr. Scott :—

Q. You didn't say anything about the stomach. You made no examination of that? A. No, sir.

Q. Did you see it? A. I saw it as it was in the jar.

Q. You didn't see it until it was in the jar? A. No, sir.

CALVIN TERRIBERRY, a witness called and sworn in behalf of the state, testified as follows :

By Mr. Emley :—

Q. Doctor, you practise medicine in Paterson? A. Yes, sir.

Q. You have done business for how many years? A. Twenty-eight or twenty-nine years.

Q. You have for many years been upon the staff of the Sisters' hospital, as I understand it; here? A. Yes, sir.

Q. And have had somewhat of an extensive experience in the general practice of medicine? A. Yes, sir.

Q. I will ask you this question; in a case of this kind, occurring the death of a young girl suddenly, preceded by a period say of three hours' duration of deep sleep, coming upon her also suddenly, an autopsy following death, showing a healthful condition of all the organs of her body; chemical analysis of the stomach and intestines made soon after the autopsy, accounting for the presence in the contents thus analyzed of say ten grains of chloral hydrate; what in your judgment was the cause of the girl's death?

Mr. Scott:—We object. The question presupposes, in the first place, a chemical analysis of the intestines which was not made; and it also presupposes a quantity of ten grains, for which there is no reason whatsoever.

The Court:—If by the intestines be meant the part below the stomach, there was no examination of that, as I understand.

Mr. Emley:—I don't mean by that—I mean what went with the stomach.

The Court:—Let the question be so modified, the stomach and its contents. I understood the chemist to say he found five grains in one-half of the contents and stomach so that he estimated that in the whole of the stomach and contents there would be present about ten grains.

Mr. Scott:—I think this question, being based upon an estimate in which he only found five grains, does not presuppose a fact.

The Court:—It is a fact, I suppose, over which counsel will contend, and on the evidence Mr. Emley may contend for it. Therefore the question, as a hypothetical one, is proper as modified, so that the chemical analysis has relation to the stomach and contents.

Counsel for defendants object to the question as modified and ask an exception, which is granted.

A. I will say in all probability it was due to hydrate of chloral poisoning.

Q. Would you have any doubt about it? A. No. I wouldn't feel any doubt it.

DR. WILLIAM K. NEWTON, a witness sworn on behalf of the prosecution, testified as follows:

Direct Examination by Mr. Emley:—

Q. You are a practicing physician of the City of Paterson? A. Yes, sir.

Q. You have followed your profession here for a number of years? A. Twenty odd years.

Q. I will put to you a case of this kind: the sudden death of a young girl between seventeen and eighteen years of age in apparent health, growing, and after having lain in a comatose condition for three hours, and an autopsy upon her body the result of which precluded the possibility of death from any natural cause, and a chemical analysis of her stomach and its contents after death, after the autopsy, which analysis accounted for the presence in the whole stomach and its contents of ten grains of chloral hydrate, what in your judgment would you pronounce the cause of that girl's death to be?

Same objection, upon the same grounds.

The objection is overruled.

Whereupon the counsel for the respective defendants prayed an exception to the ruling of the Court and the same is allowed accordingly.

A. My judgment is the cause of the girl's death was poisoning by chloral hydrate.

Cross Examination by Mr. Scott:—

Q. You will observe that the question put to you contained this clause "After the autopsy." Now, suppose the autopsy were made by opening the stomach, or suppose that the stomach, if unopened, had not been properly cared for, would you still make the same answer?

The prosecutor objects to the question on ground that such does not appear in this case.

*The Court:—*We will allow the question.

A. The only way I could answer that question is that if any chemical analysis had been made, the cause of death as by chloral hydrate could not be ascertained.

Q. You mean the presence? A. The presence could not be ascertained by the analysis.

Q. So your answer to Mr. Emley's question is based upon the fact that ten grains of chloral were in the stomach? A. Based entirely on the result of the chemical analysis, and the condition of the body as last described.

FREDERICK G. GRAUL, a witness sworn on behalf of the prosecution, testified as follows:

Direct Examination by Mr. Emley :—

Q. You are the chief of police of this city? A. Yes, sir.

Q. You learned on October last of the death of a young girl who was found on the Bergen County side of the Passaic river? A. Yes, sir.

Q. Did you learn of her death on the day upon which her body was there found? A. I did, yes, sir; after dinner.

Q. And did you subsequent to that receive any information pointing to the implication of any person or persons in the manner and method of her death? A. Yes, sir.

Q. When did you receive that information? A. On Monday forenoon, the 22nd of October.

Q. From whom? A. From Dr. Townsend.

Q. After that did you take any steps for the apprehension of those persons? A. I did.

Q. When? A. On this same day.

Q. What time? A. Just as soon as I got the information.

Q. And as a result of those steps were they taken into custody and brought to the city police headquarters? A. Yes, sir.

Q. When? A. That day.

Q. What time? A. I think between six and seven o'clock in the evening McAlister was brought in. Kerr was brought in about eight or nine and Death was brought in after midnight, and Campbell towards morning.

Q. When were they placed under arrest with reference to their arrival at the police station, before or after? A. Immediately upon their arrival.

Q. And after that were you at any time by anybody taken to the place where Death said that this girl had been taken previous to her death? A. I went out the next morning, that would be Tuesday morning, the 23rd.

Q. Who took you there? A. I went out there with Detective Taylor.

Q. Who else? A. Nobody else with me at all.

Q. Who else was with you at the same time? A. I knew pretty well from the description—(Interrupted)

Q. Where did you go? A. To the Rock Road.

Q. Then where did you go? A. I found what I supposed was the place where they had laid this girl.

Q. Where? A. On Rock Road.

Q. How far the Goffle Road? A. I should think about, well, an eighth of a mile perhaps.

Q. And were you and Taylor then there alone? A. Yes, sir.

Q. And were you there joined by any other or any others? A. Not at that time; no, sir.

Q. And what did you find there? A. I found a white rag that apparently had been on a person's finger.

Q. (Producing an envelope) is that it? A. Yes, sir.

Q. Where was that lying with reference to the Rock road? A. Well, it was laying about perhaps fifteen or twenty feet from the roadway.

Q. Which side of the roadway? A. On the Passaic county side.

Q. The right hand side, coming in? A. The right hand side going eastward.

Q. And have you had that since, until it was delivered to me? A. Yes, sir.

Q. That has been in that envelope? Yes, sir.

Q. And the endorsement on that envelope indicates what? A. I just made a memorandum there of the date.

Q. Of what? A. Of the finding of it.

Q. What date is it? A. October 23rd.

Q. You made that at the time in your own handwriting? A. Yes, sir.

The rag is thereupon offered in evidence.

Q. Which of your officers were detailed on Monday, October 22nd, upon the case of these defendants? A. Detectives McInerney, Lord, Taylor and Titus, my four detectives.

No cross examination.

JOHN H. TAYLOR, a witness sworn on behalf of the prosecution, testifies as follows:

Direct Examination by Mr. Emley:—

Q. You are one of the detective sergeants belonging to the police force of this city? A. Yes, sir.

Q. And are one of the four men detailed by the Chief on this case? A. Yes, sir.

Q. And you are the man who went with the Chief on the 23rd of October to a place on the Rock road? A. Yes, sir.

Q. Had you previously been there? A. No, sir.

Q. Had you been there with Mr. Sculthorpe? A. No, sir.

Q. Then the chief and you were there? A. No, sir.

Q. Did you go there afterwards with Mr. Sculthorpe? A. Yes, sir.

Q. And where was the place pointed out by him as the place where he had gone the night of October 18th with reference to the place where you and the Chief of Police went? A. The very place the chief found that rag.

Q. And was that the place which Sculthorpe afterwards pointed out to you as the place where he had gone? A. Yes, sir.

Q. Did you assist in taking these defendants into custody on the 22nd of October? A. Yes; I did.

Q. Can you state in what order they were brought in at police headquarters? A. Yes, sir; I can; McAlister first, Kerr next, Death and then Campbell.

Q. What time was Death brought in? A. 2.18, morning of the 23rd.

Q. By whom? A. By myself, Officers McInerney, Titus and Lord.

Q. Where was he taken? A. Upstairs in our office.

Q. Whose office? A. Our office.

Q. Where is that? A. Directly off from the chief's.

Q. Is that a private office used by you men? A. Yes, sir.

Q. How long was he detained there by you four? A. Well, before he was put in the cell?

Q. How long was he detained there by you four men? Before you four men left him? A. Probably half an hour.

Q. Half an hour? A. Maybe more.

Q. During that time was there anything said by you or him or the others there with reference to the charge which had then been made against him? A. There was.

Q. Did he make any statements to you at that time, relating to that charge? A. He did.

Q. Were those statements made by him of his own free will and accord? A. They were.

Q. Were there any promises made to him by you, or

any threats made by you or any of you, which in any way were calculated in the slightest degree to invite his confidence? A. No, sir.

Mr. Scott:—I object to the question, your Honor.

The Court:—What is the objection?

Mr. Scott:—We object to the form of it—"calculated." He asks for a conclusion, and I submit he ought to be asked what he said upon this question, or what was said by these people, as to raising hopes or fears, and what they said in return. I think he is asked for a conclusion here, and not facts, and I object on that ground.

The Court:—You want the conversation given?

Mr. Scott:—As to the question of hope or fear only.

The Court:—Very well; I think the objection is the proper one, Mr. Emley.

Mr. Emley:—Very well, your honor, I will try to repeat my question without the objectionable feature.

Q. What was said by you or any of your colleagues then and there to Mr. Death, if anything, to induce him to make a statement or statements to you? A. He was asked if he knew Jennie Bosschietter and had seen her on the night of the 18th of October—

Mr. Scott:—I object to his answer as not responsive to the question.

The Court:—That is not ground of objection from your side, if it is satisfactory to the prosecutor, and is of itself competent. The mere fact that it does not answer his question is only for the prosecutor.

Mr. Scott:—He is going into the very thing we do not wish him to go into until ascertained.

The Court:—He is only testifying to what he said now, but perhaps the matter may be expedited by simply asking him whether he made any promises or threat.

Mr. Emley:—That is what I intended to cover by my other question, your honor please.

The Court :—But you added ‘calculated to, produce’ and that left some room for objection.

Mr. Emley :—I will strike that off the question.

Q. Were there any threats or promises made by you or any of your colleagues there to Death? A. None whatever.

Mr. Scott :—We want right now to cross examine upon that part of his testimony, before he proceeds.

The Court :—As soon as the prosecutor has finished his examination on which he proposes to offer what he said, you may cross examine him; yes, sir.

Q. I believe you said that what he said to you was voluntary and of his own free will? A. It was.

Mr. Emley :—I rest it there, sir.

Cross Examination by Mr. Dunn :—

Q. Mr. Taylor, when Mr. Death was taken into this room—do you recollect the room was in the rear of that formerly occupied by the recorder, now occupied by the chief, was it not? A. In the room that was formerly occupied by the poormaster.

Q. Yes; that is off the Chief’s present room? A. Yes, sir.

Q. Can you recollect what there was there? That there was a table there in that room? A. We had two desks. There is a large table in the Chief’s room.

Q. Wasn’t there a table in this room? A. Yes, sir.

Q. Do you recollect what was upon that table at the time? A. I don’t know that there was anything upon that table.

Q. Do you remember that there were three revolvers on that table? A. There was not.

Q. Were there any revolvers upon the table? A. Didn’t see one.

Q. Do you remember Officer Titus making the remark to Mr. Death in regard to revolvers? A. No, sir; I do not.

Q. Now, do you recollect Mr. Titus saying to Mr. Death, “What is the use of your lying about this? We know it all?” A. The remark was made to him, “Do you mean to tell us what you are saying is truthful? Do you mean

to say that you were not out with her that night? If you mean to say that we know different."

Q. Wasn't that remark also supplemented by "it is better for you to tell us. It will be better for you to tell us all?" A. I don't know whether that remark was made or not.

Q. Will you say it was not made? A. I don't know whether it was made or not.

Q. Do you remember of making a remark there, "we want you to tell us everything; we will make it easy for you?" A. We never did say that.

Q. What did you say on that part of the subject? A. We asked him questions and he answered us.

Q. Yes; but he stopped, didn't he and refused to answer? A. He never stopped nor refused to answer.

Q. Now, what did you say to him in supplement of what you have already stated here to induce him to continue answering questions? A. We said nothing to him to induce him answering questions at all.

Q. Didn't you say that it would be easier for him if he went on and told his story? A. Repeat that, please.

Q. (The stenographer then read the pending question as above.) A. I don't remember.

Q. Do you remember Mr. Titus saying to him: "You tell us; you won't get bothered; you will get the best of this?" A. I never heard Titus say it.

Q. Did anybody else say it there? A. No, sir.

Q. Well, what did you say to him, just exactly, and what were your words, Mr. Taylor, to get him to talk? A. We asked him if he knowed Jennie Bosschietter, and if so, if he had seen her on the night of October 18.

Q. Well you reached the point where he told you you knew that he knew nothing about it, didn't you? A. We reached the point where he told us he did know and had seen her.

Q. Wait; didn't you reach the point where he told you he knew nothing about her that night? A. Yes, sir; he did say that at one time.

Q. How did you get him to go on and change that notion? What did you say to him then? A. We told him that we knowed different.

Q. Go ahead. A. We told him that we knowed different, and that we had been talking to a man that was with him that night.

Q. Go ahead. A. Finally the man did say he was with her.

Q. What did you say? Never mind what he said.

*Mr. Emley:—*He just told you.

Q. What did you say? A. If I remember quite right, we told him that we had had the hackman. And he had told us the whole story.

Q. What did you say? A. That is just what I said.

Q. Yes; well, did you say anything else to him? A. Oh, yes.

Q. Well, what else did you say to him before he went on and talked with you any further on the subject? A. We asked him if he had been with her.

Q. No, no; but before he went on and talked, what did you say to get him to continue to talk on the subject? Did you say this, Mr. Taylor—did you advise him when you took him from the house and he was under arrest?

A. No, sir; he never knowed he was under arrest.

Q. Why didn't he? A. Because he wasn't under arrest.

Q. You had him in custody, didn't you? A. He hadn't been placed under arrest.

Q. Who seized him? A. I went to the house for him.

Q. Where was he at the time you seized him? A. He was in bed.

Q. You went into the house, didn't you? A. Yes, sir.

Q. And waited in the room until he dressed? A. Yes, sir.

Q. And you refused to leave until he dressed and went with you? A. I wasn't asked to leave.

*Mr. Emley:—*This is not cross examination.

Q. How many officers were in the room with you waiting for him waiting until he dressed? A. One.

Q. Who is he? A. Officer Bogertman—part of the time.

Q. Was he in uniform? A. Yes, sir.

Q. What officers were outside waiting for you to come out with the man? A. Officers Titus, Lord and McInerney.

Q. And then when you came out with the man, how did you get to the station house with the prisoner? A. We walked over to the box and sent a call for the patrol wagon.

Q. Then you put him in the patrol wagon there? A. Got into the patrol wagon with him.

Q. Hadn't you told him up to that time that you wanted him and that he must go with you? A. Told

him that I wanted to have a talk with him about this case.

Q. You considered him under arrest, did you not; you would not have allowed him to escape if he wanted to go?

A. Oh, I guess not.

Q. Why wasn't he under arrest then? A. Well, he hadn't been placed under arrest.

Q. Then you got him to the station house and took him into this room and started to talk with him on this subject; did you notice what his condition was? A. Why, he was all right.

Q. Was he excited in any way? A. Not at all.

Q. Not at all, eh? A. As cool as could be.

Q. Did you apprise him that anything that he might say to you on the subject might be used against him?

A. No, sir.

Q. Used against him? A. No, sir.

Q. Did you say to him that what he said to you would be beneficial to him? A. I don't remember.

Q. Didn't you say that it would be a help to him? A. I don't remember.

Q. Did anyone say that there? A. I can't say.

Q. Will you say they did not say so? A. I can't say that.

Q. And wasn't it, Mr. Taylor, because of that remark that he went on talking to you after he had reached the point where he had told you that he knew nothing about her whereabouts at night? A. Until after we told him who we had been talking to, then he told us all.

Q. And didn't you add to that that it would be better for him to do so? A. I don't remember.

Q. Did you say to him at that time, anything about having another prisoner in custody—or the defendants in custody? A. I did not.

Q. Did anybody else say that the other men had been there and told their story? A. No, sir; there was no story told by—

Q. Did any of the men say that any of the other prisoners had told anything? A. They couldn't say that, because it hadn't been told.

Q. I understand, but that did not prevent them from saying it. Was that said? A. No, sir; it was not said.

Q. Did you say to him at the time that Kerr and McAlister were down stairs? A. I don't think I did.

Q. Did any of the other officers say that to him? A. I don't remember.

Q. Can you remember any of them saying "we know you are not in this much; you tell us, you won't get bothered, you will get the best of this"? A. Oh, no; nothing said that way.

Q. Well, what was said by Mr. Taylor—yourself, or Mr. Titus, in regard to the matter which caused him to change and go on and talk to you on the subject after he told you he knew nothing about the case? A. What was said?

Q. Yes, what did he say to him that enabled him to go on and talk to you? A. Well, unless it was us telling him that we had the hack driver and that the hack driver told us.

Q. And what else? A. That's about it.

Q. And that it would be beneficial for him to tell all? A. No, sir; I don't remember of saying that at all.

Q. Well, that was your object? Your object was to get a get a story from him, wasn't it? A. Not at all—

Mr. Emley :—Wait a moment.

The Court :—He asked you whether or not that was your object, to get a story from him. That is the question which is put to him. That is the question put to you. Was it?

The Witness :—Partly.

Q. What else was your object? A. I am telling you.

Q. No; just answer the question.

The Court :—Go on and tell your object.

A. There was another man; we didn't know that one; I don't know any more than that, and when he got through telling us that is all that I did know.

Q. Your object was to get his story and to find out; the other men had their way of finding out? A. The other men did.

Q. And for that reason you pressed him for an answer? A. I didn't press him at all.

Q. Did you caution him in any way as to what you were asking of him? A. Not at all.

Cross Examination by Mr. Scott :—

Q. Mr. Death when he was first brought into that room was asked by you about this affair? A. He was asked by me if he knew this Jennie Bosschietter and had seen anything of her on the night of October 18th.

Q. He went on and answered your questions for some time? A. Not for very long.

Q. About how long, for five or ten minutes? A. Yes, sir.

Q. And was one of the officers taking down what he had to say? A. I guess we were all taking down.

Q. You were writing with the others, writing at the same time? A. Yes, sir.

Q. When he finished answering your questions, told his story, did you say to him that he was lying, that he wasn't telling the true story; did you say that to him? A. No, sir.

Q. Did any officer say that to him? A. I don't think they put it that way.

Q. Just put it the way that it was put. A. I think it was said to him: "Do you mean to tell us you weren't with her on Thursday last; don't you know anything about her?"

Q. You told him you had the story from the cabman? A. We said that we had the cabman.

Q. Had you his story at that time? A. We did.

Q. When do you say that this man was arrested? Tell me about what time of the day. A. 2.18.

Q. What day? A. Tuesday morning.

Q. Didn't you also tell him you had the story of McAlister and Campbell? A. I do not know.

Q. Didn't you tell him that? A. No, sir.

Q. Didn't any of the officers? A. No, sir.

Q. Now, Mr. Taylor, you say under your oath that you nor any of the other officers, within your hearing there, did not say to this man, after he had told his story, that he wasn't telling the truth, and that it would be better for him to tell the truth? A. I don't remember hearing that at all.

Q. What do you mean by saying, "you don't remember?" A. I mean to say that I do not remember that being said.

Q. You remember everything else? A. Yes.

Q. When you say you don't remember, do you mean to say you didn't hear it, or you don't recall? A. I didn't say it.

Mr. Emley:—May I proceed?

Mr. Scott:—I object to any statement made to these officers by Mr. Death at that time. I think the law is especially delicate about confessions, and I think in this case we are to judge in a sense from the witness says, and from the whole atmosphere, that the confession was not a voluntary confession, such as

the law requires it to be. There was no caution. It must be a free and voluntary confession without any inducement held out whatsoever. Furthermore. If the court rules that he can be permitted to give testimony as to what this man said, we claim the right to produce the man himself upon the stand to testify whether his fears or hopes were raised.

The Court:—I do not feel satisfied that the confession was a voluntary one in the legal sense, to entitle the prosecution to put it in. I am not entirely satisfied on that point.

Mr. Emley:—With great respect to your honor's ruling; I have followed this witness' answers very carefully, and I fail to see where there is the slightest suggestion of coercion of any kind. If I remember right, I recall distinctly, that there was nothing said to him in the way of a promise, but rather, that he said that although the defendant at first did refuse and hesitate to answer, yet, that change on the part of the defendant from that purpose was voluntary on his part, free from every appearance of coercion, as far as I can see. The fact that this witness said to him that he had seen the cabmen and had his story—which was true, as he swears,—was a proper one under the circumstances, was the first thing under the circumstances, one would naturally think of and naturally say, and there was nothing in that, of a moving cause, in the change, on the part of this defendant. I do not think the courts have gone so far as to hold that statements of that kind must be construed as one of coercion preceding the confession.

The Court:—The rule is the burden rests upon the State to satisfy the Court that the confession was a voluntary one. There is so much at present that modifies the fact of its being a voluntary confession of the prisoner, especially when he is in custody, and with the officers of the law about him, and I do not feel satisfied that what Death said without caution was a voluntary confession. I do not think I am ready to take it to be otherwise. Taking

all of the circumstances under consideration, I do not think the State believes that his alleged confession should be laid before the jury at this stage of the case.

Re-direct Examination by Mr. Emley:—

Q. When you left Mr. Death what became of him? A. Taken down stairs and locked up.

Q. When you and your three colleagues left him to go out of the station house, what became of him then upon your leaving him? A. He was left in charge of Officer Perry.

Q. Who is Officer Perry? A. He is one of the night reserves at the police station.

Q. So, Mr. Death, when you left him was left in his care? A. And Sergeant Hargraves.

Q. And Officer Perry? A. Yes, sir.

Q. Where did you and the three other police detectives go? A. To the corner of Broadway and Paterson street.

Q. Did you go there for the purpose of finding another of the defendants? A. Yes, sir.

Q. Which one? A. Andrew Campbell.

Q. And did you find him there? A. Yes.

Q. What did you do with him? A. Placed him under arrest.

Q. Where did you take him? A. To the police station.

Q. Where was he received at the police station? A. In the private office.

Q. By whom? A. By officers, Lord, Titus, McInerny and myself.

Q. When he was received in the office by you four men what conversation, if any, occurred between himself and you, or any of the officers?

Objected to.

*The Court:—*I think we should have the preliminary conversation only at this stage.

Q. What conversation was had there by you?

*Mr. Dunn:—*I object to that.

Examination by the Court:—

Q. Referring to what was said first by you, or by you in his presence or by the others? A. We asked him, where he lived, I think, asked him what he worked at.

Q. Were these the first questions put to him? A. I think they were.

Q. Some further questions? A. Yes; and he was asked

if he knew Jennie Bosschieter, and if so, if he had seen her on Thursday last.

Q. Any further questions put to him that you recollect? A. Yes; we asked him finally if he had been with her on the night of Thursday the eighteenth.

Q. Did he answer this question? A. He did.

Q. Was anything more said by you before he answered these questions, those you have now related, so far as your recollection go? A. There might have been, but I don't remember.

Q. So far as your recollection goes you have told us everything that was said to him before he answered these questions with regard to his whereabouts on the night of the eighteenth so far as your memory goes, have you? A. He did tell us that he had been on Main street.

Q. I am not asking what he told you; I am asking you whether you have told us here everything that was said to him before he gave you anything of his whereabouts on the evening of the eighteenth? A. We did ask him if he had seen Death on that night, and he said, "yes."

Q. I do not wish you to answer what he said; I am trying to get out what you said or what anybody else said in his presence? A. We then asked him if he had seen Campbell or Kerr.

Mr. Dunn:—This is Campbell.

The Witness:—I mean McAlister and Kerr.

Q. Anything more? A. Previous to his telling us?

Q. Yes. A. I can't remember; might have been; I don't remember.

Cross Examination by Mr. Dunn:—

Q. After you had asked him these preliminary questions you recollect that he said to you that he didn't know anything about Jennie that night, and that you replied to him, "what is the use of your saying that, you know yourself; Death told us that same story; we know all about it; Mr. McAlister and Kerr, the hackman, and Death, all told the true story about this affair, and we know that you don't tell what you know?" A. That was not said.

Q. Did he reach the point in the response to your questions where he said that he had, or didn't know anything about Jennie Bosschieter that night? A. He did.

Q. Didn't you say to him that the story he told was similar to the story that Death before had told you? A. I don't think he did.

Q. Didn't tell the same? A. I don't think it was.

Q. Didn't Death, hadn't Death, said to you, and Campbell too, that he and Death separated each from the other on the way home, and didn't know anything about it that night? A. Yes; that they separated on the corner of Broadway and the bridge.

Q. What was said to him after he reached that point in that story where reference was made to your getting the story from the other men? A. I think he was told that we had been talking to Campbell, and to Death, and that he had told us the whole story; we also told him that we had the hackman, and that we knew the hackman's story.

Q. What else did you say to him? A. And that the hackman had told us about the road they had taken—

Q. Never mind about going into details; what did you say to him upon the point as to his telling it; that it would be a benefit to him to tell his story right? A. I do not know I said anything.

Q. Will you say under oath that you didn't say that it would be beneficial to tell his story in regard to it? A. No, sir; I won't say that.

Q. Because some of them might have said it? A. Some of them might have said it.

HENRY TITUS, a witness sworn on behalf of the prosecution, testified as follows :

Direct Examination by Mr. Emley :—

Q. Are you one of the four men who were charged with the care of these men upon their arrival at the station house? A. Yes, sir.

Q. I am referring now to McAlister, Kerr, Campbell and Death? A. Yes, sir.

Q. And were you there when they were severally brought in? A. I helped them in.

Q. And were you there when Death was brought in? A. Yes.

Q. Where was he taken when he reached the station house? A. He was taken in the back room, the room which is cut off from the chief's room by folding doors.

Q. What did you take him there for? A. To have a talk with him.

Q. Was that a private room used by you for that purpose? A. Yes, sir; for our business.

Q. Was there anybody else present there except him and you four? A. I don't think there was.

Q. And did you have a talk with him? A. Yes, sir.

Q. Who? A. The four of us.

Q. What did you say to him?

Mr. Dunn:—Now, one moment. We object to this. Was Mr. Taylor one of the four just on the stand? A. Yes, sir.

The Court:—Why do you object?

Mr. Dunn.—Because the same conditions exist there as existed when Titus was present.

The Court:—I am trying to satisfy myself just what those conditions were. The prosecutor, I presume, is offering this evidence with the idea of satisfying me that the alleged confession of those prisoners was voluntary. That is a question of fact addressed to the Court, and I have to hear testimony on that subject. Mr. Taylor's evidence did not entirely satisfy me. Perhaps when all four of these men have been examined I will be entirely satisfied. Go on, now Mr. Emley.

Q. What did you say to him, referring to the beginning of the conversation, if there was any? A. We asked him if he knew Jennie Bosschieter.

Q. What else did you ask him? A. We asked him whether he had been with her Thursday night.

Q. What else? A. And where he had been; hadn't he been out riding with the four of them.

Q. Go on. A. Then we told him what we knew.

Q. What did you tell him?

Mr. Dunn:—That won't do.

The Court:—I don't see how I can pass upon this question of fact unless I know.

The Witness.—We told him we knew just what had transpired that night.

Q. And that was so? A. That was so. We told him where they had been, how they went, and everything from beginning to end. And then he made a remark.

Q. Is that all that was said to him? A. That was all.

Q. And at the conclusion of those statements made by you to him, did he then say whatever was said to you? A. Yes, sir.

Q. Upon the subject? A. Yes, sir. We could hardly stop him then, Mr. Death.

Q And did he have any hesitation in saying anything that was said to you there? A. Not a bit.

Q And did he make any terms or conditions of any kind upon which the statement was made? A. Nothing of the kind was ever mentioned.

Q Was there anything said to him about it being better for him or worse for him? A. Nothing of the kind. We said all we wanted was the truth.

Q That was all? A. That was all. We told him that we knew what we were talking about when we told him.

Q Which was true, was it? A. Yes, sir.

Q And you told him what the truth was, you said? A. Yes.

Mr. Dunn :—That is hardly fair.

Cross Examination (on the preceding point) *by Mr. Dunn* :—

Q You recollect that evening when Mr. Death was brought into the rear room of there being some revolvers lying there on the table—three revolvers? A No, sir; there wasn't three revolvers, because I had mine in my pocket, and I don't know whether there was any or not; I couldn't say. There might have been one laying on the other table.

Q Didn't he sit by the table? A. Yes, sir; he did, right underneath the clock.

Q Do you remember making a remark to him as he sat down there "You needn't bother shooting yourself with those revolvers; they are not loaded." A. No; I don't know as I did, and I don't think I did make any such remark as that.

Q It is a fact that if the revolvers were there they were not likely loaded, were they? A. That I can't say. I don't think there was any revolvers there. I wouldn't be positive, but I am pretty sure there was not any. There might have been one laying on that other desk.

Q Did you make the remark about them, do you recollect that? A. About what?

Q About the revolvers? A. I don't know as I did. I possibly might have done it; I won't say that I didn't.

Q What was the remark you made in regard to them; as you recollect it? A. What?

Q The remark in reference to the revolvers? A. If I made a remark I don't recollect it. I say it might have been such a thing that I did, but if I did I don't recollect it.

Q After Mr. Death was brought in there, you started

to ask him questions at once, did you not? A. I don't think I did. I sat one side at the desk.

Q. Who was asking the questions principally there?

A. Well, there was Lord and McInerney and Taylor, and occasionally I would ask a question. I think it was the latter part of that inventory that I asked questions.

Q. Do you recollect, Mr. Titus, after Mr. Death was in there a little while some questions had been asked of him by different ones of you, you and Mr. Taylor and others—do you remember that he reached a point in answer to one of your questions where he said that he knew nothing about Jennie Bosschietter on the night in question? A. If my recollection serves me right, I think he said he didn't see her.

Q. But do you recollect of his telling you a story where he and Campbell were together in the early part of the evening and each separated and went home? A. Yes, sir; I do; he left Campbell at half past ten o'clock; that is what he said.

Q. And went home? A. Yes.

Q. And there he stopped and said he knew nothing about Jennie; didn't he, at that point. A. At that point; there is where he turned, there is where we commenced to tell him what we knew about the case.

Q. Now then, at that point, do you recollect saying this "What's the use of lying about this? We know it all?" A. No, sir.

Q. What did you say to him? A. If there was anything said it was said there was no use telling us that because we knew better, and then we commenced to tell him, which one it was I don't know—but we commenced to tell him from the starting, from the Saal's saloon, hiring the hack—

Q. Just listen a moment. Do you recollect right at that point of the conversation of Mr. Taylor making a remark substantially like this "We want you to tell us everything; we'll make it easy for you, and you won't be sorry?" A. There was nothing said like that.

Q. Do you remember anything being said like this? "It will be better for you to tell us everything about this?" A. No, I don't think there was anything said like that, because—

Q. Now, he had reached the point where he was denying everything in regard to the matter? A. Yes, sir.

Q. What did you say to him that caused him to— A. I tried to tell you that but you cut me off.

Q. Did you make any such suggestion as that to him, that it would be beneficial for him to go on and tell it?
A. No, sir; we didn't.

Q. While he was persisting in the proof of the story which he had related to you, up to that time, why did you press him then to tell you a different story and to enlarge upon it? A. We didn't press him.

Q. There was nothing; no pressure brought to bear upon him whatever? A. We told him what we knew.

Q. Didn't you also tell him—you particularly making the remark—substantially as follows: "You tell us. You won't get bothered. You will get the best of this." A. No, sir; there was nothing said about this, because we knew very well from what had been said to us that there was no chance of one man not being bothered and the rest getting loose.

Q. But did you tell him that? A. No, sir; I didn't tell him that.

Q. Did you make any suggestion that it would be better to change the story, that he had already told you and tell a different story? A. No, sir; I did not, nor any of the others.

Q. What was your object in asking him to go and tell you? A. We didn't ask him to go on. We told him we knew better; we knew it was not so, what he was saying, and we knew just where he had been; and then we commenced telling him about the hiring of the back. We told him the whole story from the beginning to the end.

Q. Then didn't you suggest, saying it will be better for you if you just come out and tell it? A. No, sir; we did not.

Q. Did any of the officers there? A. I said we did not.

Q. I know "we" and there were four of you? A. Yes, sir; and I include the whole four when I say "we."

Q. Each one of you talked some at different times? A. Yes, sir.

Q. You heard what Mr. Taylor said a little while ago in regard to this? A. I did not hear it all. I was in the back part of the room.

Q. He said he was not sure but something of that kind occurred.

Mr. Emley:—Hold on.

Q. Do you also remember saying this to Mr. Death, "You put us to quite a lot of trouble, but we got you at last?" A. No, sir; I don't.

Q. After you got through with the interview? A. No; I don't think that word was said, nor anything like that expressed.

Q. Was anything said at all to him as you were passing out of the room to go off after Mr. Campbell? A. We might have said, "Well, it has been a lot of trouble we have had in trying to unravel this case," or something similar to that.

Q. Now, you were very anxious, were you not, to have this interview with Mr. Death? A. No; no more anxious than we generally are. The only thing we was after more than anything else was to find out who the fourth party was.

Q. So that you ascertained that from Mr. Death? A. Yes, sir.

Q. For that reason you were quite anxious that he should go on and talk about the matter, were you not? A. We were perfectly willing that he should do so, and we were not putting anything in his way to stop him.

Q. Did you suggest to him that he was under arrest and that he must understand that anything he said in response to the questions you were putting to him might be used against him? A. No, sir; we did not.

Q. You gave him no warning of any kind? A. Never said nothing to him about anything of that kind.

Q. But presented to him that these other persons had told you certain things. Do you remember telling him that Kerr and McAlister were down stairs? A. I think that was said, that they were down stairs.

Q. Didn't you say that McAlister had confessed? A. No, sir; he did not.

Q. Didn't you say so? A. No, sir; I did not; no, sir; nor he didn't confess, neither did Kerr.

Q. And that it would be better for him to tell his story? A. No, sir; there was nothing said to him about that whatever that it was anything better at all.

Q. Was it said that it would be beneficial for him to tell the correct story? A. No, sir. What was said was that all we wanted was the truth; to tell us the truth and that was all we wanted; and when he commenced to tell the story we let him go on, and he said something that we knew was not true, and then when he got through, the last of it was where he denied being out riding with those four men; and then we up and told him what we knew about the case from the beginning to the end. And then he said—(interrupted) Never mind.

Q. Then didn't you suggest to him in view of those facts which you had related to him he could see it would be better to tell the true story? A. No, sir. There was nothing said to him. He perceived it.

Re direct Examination by Mr. Emley:—

Q. I believe what was said there was written down by you in Mr. Death's presence? A. Part of Mr. Death's was.

Q. There where he was, was he so that he could see you writing it down, as he spoke? A. It was written down by two or three of us.

Q. He saw you writing it down? A. Yes, sir.

Q. As he spoke it? A. Yes, sir.

Q. Word for word? A. I won't say word for word.

Q. Well, he saw you writing it down? A. Yes, sir.

Q. And did he make any objection to that? A. No, sir.

Q. Did he show any hesitation at all to you in relating his story? A. No, sir.

Re-cross Examination by Mr. Dunn:—

Q. He did not have any opportunity to make objection?

A. No, sir.

Q. You started with a pad and pencil asking him his name and the names of his family, and how old he was?

A. No, sir; I did not.

Q. Who did? A. It wasn't that way.

Q. How were they asked? A. He was asked where he lived; and he said 30 Percy street.

Q. So they started right in? A. Yes, sir.

Q. And kept on asking questions from that time on down? A. Well, yes.

Q. He did not know what you were writing, or what you were not writing? A. He could judge, from the way the question was asked. There were two or three men writing.

By Mr. Scott:—

Q. Did you ask him to sign the papers? A. No, sir.

Q. Did anyone ask him to sign them? A. No, sir.

Q. That is all.

OFFICER McINERNEY, a witness produced in behalf of the prosecution being duly sworn, testifies as follows;

Direct Examination by Mr. Emley:—

Q. You are one of the four chief detectives or detective sergeants here? A. Yes, sir.

Q. You were present on October 22nd, when Mr. Death was brought in there? A. Yes, sir.

Q. Where did you take him when you brought him in? A. Up stairs.

Q. To what room? A. To our private room, back of the chief's office.

Q. That is the nearest room, used by you officers when men are brought there? A. Yes, sir.

Q. Who was present there with you and Death? A. Sergeants Lord, Titus and Taylor.

Q. You four? A. Yes, sir; and Death.

Q. What did you do when you and Death got into the room there? A. Well,—beginning with the first incident, when we reached the room?

Q. He and you four? A. We went into the last room and there is a large round table in the centre. Death sat to the rear of the building, I sat right opposite.

Q. When you sat down what did you say? A. We talked the matter over for a while, and finally asked him where he lived, and the number of his residence, and he told us. I asked him if he knew Jennie Bosschieter, and he said he (interrupted)

Q. Never mind that, tell us what you did? A. Well, I finally told him after he talked a little while, I says, now Death, I don't believe what you are saying.

Q. Did you tell him why you didn't? A. I told him what we knew.

Q. That is, what you had heard? A. Yes, sir.

Q. Did you tell it in detail? A. Yes, sir.

Q. That is, what you had heard with reference to the transactions of this night? A. Yes, sir.

Q. And you said you told him that in detail? A. Yes, sir.

And when you had told him that, then what? A. Then he started to tell us.

Q. Directly? A. Directly; yes, sir.

Q. And was that all the conversation that intervened after that occurred in between, what you had told him and his resumption of his story? A. Yes, sir; until he started to tell his story.

Q. And from that point, when he started to tell his story did he proceed continuously with it until the end?

A. Well, different ones of us asked questions.

Q. Different ones of you asked him questions? A. Yes, sir.

Q. While he proceeded to tell his story? A. Yes, sir.

We particularly wanted to find out who the fourth man was, and when we found out who the fourth man was we wanted to quit right there.

Q. You quit then? A. Yes, sir.

Q. What he said was willingly said? A. Yes, sir; willingly.

Q. There was no threat or offer or anything of the kind made? A. No, sir.

Cross Examination by Mr. Dunn:—

Q. When he reached this point where you suggested to him that he was not telling the truth about this transaction what was the language in which you expressed that idea to him; can you recall it? A. Well, I told him simply that he was not telling the truth, and we knew better, and then related our story of what we knew to him.

Q. Didn't you also suggest to him, you or some other one, "what is the use of lying about this; you might just as well tell us the correct story." A. I cannot give the exact words, but I told him he was not telling the truth.

Q. Didn't you tell him he might just as well tell the correct story of the matter? A. No, sir; I don't think we did.

Q. Didn't you tell him he might just as well tell you the correct story, and that it would be better for him? A. No, sir. I don't think we did.

Q. Well, wasn't that the impression you wanted to convey to his mind?

Objected to. Question allowed.

Q. Wasn't that the impression you wanted to convey to his mind, when he was telling you the wrong story; that he was telling you the wrong story, and that it would be better for him if he told you the correct story? A. Well, he was telling us the wrong story.

Q. I know. But didn't you tell him that it would be better for him to tell the correct story? A. Well, I don't know.

Q. Was not that your object? A. We wanted to find out who this fourth man was.

Q. But with regard to the rest of the transaction, wasn't that so; was not that your idea, Mr. McInerney? You resented and refused to accept his explanation to that end. When you told him you did not believe him, was not that done for the purpose of impressing upon him the idea that it would be better for him to tell a different story from what you knew to be untrue? A. Our

object was to find out who the fourth man was, and we did so.

Q. And it was your first object to try to get him to explain the difficulty? A. Well, he explained what we wanted.

Q. And didn't you tell him it would be better for him—(interrupted) A. No, sir; we did not. We told him to tell the truth, and told him what we knew, and then he told it to us.

Q. Did anyone else take part in the argument to try to get him to tell what you wanted? A. Two of us.

Q. Didn't any of them tell him it would be better for him to tell the truth? A. I told him to tell the truth.

Q. You didn't tell him it would be better for him? A. No, sir.

By Mr. Emley:—

Q. You didn't? A. No, sir.

By Mr. Scott:—

Q. You say you were anxious to find out who this fourth man was? A. Yes, sir.

Q. And when you first asked him who it was, did he tell you? A. Yes, sir.

Q. He answered that question at once? A. Yes, sir.

Q. In order to get him to tell you who the fourth man was, didn't you tell him that his case was not as bad as the case of the fourth man, and you should not hesitate to tell his name? A. No, sir. No; he told that name willingly. He told us where he lived and where he worked.

Q. Did you not tell him that if you knew where the fourth man was it would be better and make his case lighter? A. No, sir.

Q. Not any of them? A. No, sir. I did not hear that word used.

Q. What word? A. Well, you know.

Q. You don't know now. After he told his story and he related the whole affair to you that night—(interrupted) A. No, sir; we did not stay long enough. As soon as we knew who "Andy" was we quit.

Q. You got the whole story from him? A. No, sir. We got more from him at half past six in the morning.

Q. You say you quit as soon as you found the fourth man, and you say he answered that question at once and willingly? A. No.

Q. Was that at the beginning? A. No, sir.

Q. He told you that story afterwards? A. Yes, sir.

Q. When he told you this story about the night of the 18th, and you told him it was not the truth and that he knew better, what did he say in answer to that? A. Well, he told us the truth then.

Q. He simply went on and related the facts? A. Yes, sir. He answered the questions put to him.

Q. He related to him a different story from the story told in the first place? A. Yes, sir; by far.

Q. Did you say that neither you or any of the other officers there tried to persuade him to tell that second story? A. We didn't persuade him; no, sir.

Q. Didn't you hold out any persuasion at all? A. No, sir; we did not.

Q. Or inducement? A. No, sir.

Q. Did not you say to him that it would be better for him to tell the real story? A. No, sir.

Q. Will you say that you did not tell him that it would be better for him to tell the real story? A. Yes, sir; I did not say that. I want to explain about that revolver. That was my revolver that you referred to, the revolver on the table.

Q. Who was it made the remark about suicide, in connection with the revolver, "You need not commit suicide, because that revolver is not loaded?" A. I took it out of my pocket and laid it down on the desk.

Q. What remark did you make? A. None. Titus said, "You cannot commit suicide, because this revolver is empty."

Q. Did Mr. Titus say that? A. I think something was said about a revolver being used. There were two little revolvers on the desk; they were stolen property; and there was some other property on my desk.

Q. Did Mr. Death sit down at the desk where those revolvers were? A. No, sir; the table was here (indicating) and my desk was there (again pointing).

Q. Was he looking at that—(interrupted) A. You could see them, coming through the double doors.

Q. Was he looking at that when Officer Titus made the remark? A. I think he was. I think he saw me take it out and put it on the desk.

Q. To frighten him? A. No, sir; it was not done for that purpose.

Q. Well, did it? A. No, sir. I don't think he was frightened from that.

Q. When you took it out of your pocket and laid it on

the table what remark was made? A. I don't know. There was some remark made.

Q. Was there any remark made of suicide. A. No, sir. I cannot say there was.

Q. Was there anything said about shooting yourself? A. Me shooting myself?

Q. No. Nothing was said by Officer Titus about Death shooting himself with a revolver? A. No, sir.

Re-Direct by Mr. Emley :—

Q. You just said something here for the first time about what took place later, about six o'clock in the morning, what you got out of him at six or half past six in the morning? A. Well, about half past six in the morning we came out of another room on the same floor, a private room of the Chief, and Death was then in this room still with Officer Perry, and I went over to Death then, and I asked him if he had connections with her.

Objected to.

Q. That is all.

WILLIAM H. LORD, a witness produced in behalf of the prosecution, being duly sworn, testifies as follows :

Direct Examination by Mr. Emley :—

Q. You are the fourth of these four men referred to here? A. Yes, sir.

Q. Give us here your recollection of what took place when Mr. Death was brought to the station house on the night of October 22nd? A. Something after two o'clock, on the 23rd we took him upstairs and sat him down by the big round table there. McInerny was in front of him, Titus and Taylor to my left, and I sat to the right; and we commenced to question in regard to his age, where he lived, and so forth; and he told us. And we next commenced to question him in regard to who was with him on Thursday night, the 18th of October, and he told us. We asked him did he see Jennie Bosschietter; he said he did—(interrupted)

Q. Never mind about that. A. Then we asked him where Campbell lived, and he told us where Campbell lived. We did not do much talking after that because we quit and went for Campbell.

Q. Well; before he spoke to you about the transaction of October 18th, what did you state to him to bring forth those statements from him? A. Nothing, except what I have just said.

Q. Nothing except what you have just said? A. Just what I have just said.

Q. He did refuse and deny in the first place that he had any part in that transaction? A. First off; yes.

Q. Did he afterwards change that story of his from after you had told him what the hackman had said? A. Yes, sir.

Q. What else did you tell him? A. We told him we knew.

Q. Just previous to when he changed his story? A. We told him we knew the truth of the story; that we had the hackman, and we had got the whole story, and the whole line they had gone over.

Q. And did you relate it to him? A. We related the whole thing to him.

Q. After the relation of that story to him, what was the next thing? A. He made—

Mr. (M.) Dunn :—One moment ; he didn't ask you what you said.

Mr. Emley :—I asked him what was the next thing. A. He told—

Mr. Dunn :—One moment ; I don't want that answer.

Mr. Emley :—You need not tell what he said.

The Court :—The answer that he was going to make was proper enough. He then went on to make a statement.

The Witness :—To make a statement ; yes, sir.

Q. Was there anything said by you or by any of these men there which would have afforded him any reasonable ground for hope or fear, or anything of that kind?

Mr. Dunn :—That is objected to by the Court.

Q. Was anything said in the way of promise or threat? A. Not to my knowledge ; there was not.

Q. Was anything said to him to induce him to tell a story which he was not willing to tell? A. No, sir ; not till the time when the hackman's story was told. When we told him what the hackman had told us, why then he come out.

By Mr. Emley :—

Q. Was there anything done or said to him in the way of intimidation of any kind by reference to a pistol or fire

arm, or anything of that kind? A. I didn't hear such a thing.

Cross Examination by Mr. Dunn:—

Q. There was some fire arms there on the table by which he was seated, wasn't there? A. Well, Mac always leaves his gun out on the desk. When he comes in he takes it out always—always does when he comes in, and lays it on the desk.

Q. Did he lay it there with some determination or expression? A. No, it lay on the further side of the desk from where Death was.

Q. Well, he put it down in a way to attract attention by putting it down, didn't he? A. Well, I never took any notice because he always does it and I was accustomed to it. I must be used to it, I never took any notice of it. I knew it always was his custom for him to take out his revolver and put it there when he comes in.

Q. A person under arrest might be impressed with it?

*The Court:—*Don't argue with the witness.

Q. Where there not other revolvers on the table in the centre of the room? A. I think a couple of little toy revolvers there, I won't be positive about it though.

Q. As he walked into the room and took his seat there, did you hear Officer Titus remark in language substantially as follows: "You need not bother shooting yourself; the revolvers ain't loaded." A. I never heard that remark made.

Q. Will you say there was no remark made concerning the revolvers? A. I don't remember hearing such a remark made.

Q. Now, after asking him some questions as to where he lived and what his business was, you learned right away that he and Mr. Campbell were together that night, didn't you? A. Yes, sir.

Q. Then, after you learned that, you learned when they went home, didn't you? A. Yes, sir.

Q. And you also learned that they hadn't anything to do with the case, from them? A. Yes, sir; according to his story.

Q. Yes, now then, after that statement was made, do you recollect what you said to him, if anything? A. I didn't say nothing; it was Officer McInerney said, "You are not telling the truth."

Q. Was he quite emphatic in the way that he expressed

that remark ? A. No, only just sat there and says, "Death, I don't think you are telling the truth."

Q. Didn't he tell him "I know you are not telling the truth?" A. No, he says "You are not telling the truth."

Q. How far was Mr. McInerney at the time seated away from where Mr. Death sat? A. Just like across the table, that's all.

Q. Death was on one side of the table and McInerney on the other? A. On the other.

Q. Did Mr. McInerney make any expression or gesture when he made this remark to Mr. Death? A. No, sir.

Q. Now then, after that remark was made that he wasn't telling the truth, what, if anything, was said by Mr. Mac as to what Mr. Death should do under the circumstances? A. Nothing was said. We then told him what the hackman had said.

Q. Yes, and wasn't it also suggested to him there by some "What is the use of your lying to us?" A. No.

Q. And "We know it all." A. We told him that we knew better.

Q. That you knew better; wasn't it said to him by Mr. Titus "What is the use of lying about this? We know it all?" A. No, sir; I don't remember such a thing being said.

Q. Do you remember Mr. Titus saying this to him, "We have got the others here; we have got them here, and they are down stairs now, and you want to be sure you are telling the truth because we have got them here?" A. No; I remember Titus saying that we had McAlister and Kerr down stairs. I think that remark was made. I would not—

Q. When Mr. McInerney made this remark to him, did you make any remark to him also— A. No, sir.

Q. (Continuing). In regard to information? A. No, sir.

Q. Didn't you understand that it was Mr. McInerney's object to impress upon Mr. Death that it would be better for him to tell a different story than that which he had told? A. No, I don't think so, because we had information enough really without.

Q. Didn't you understand this, that it would not be well for him—that he impressed on Mr. Death that it would not be well for him to continue sticking to the story which he had told? A. No, sir; I didn't think so.

Q. What was the object you had in plying him with further questions? A. We didn't ply him with any ques-

tions after we had found out where Campbell lived. Our principal object was to find out the fourth man, and as soon as we found out the fourth man we quit almost immediately after that. There might have been a few questions asked after.

Q. Do you remember Mr. Taylor making this remark, or substantially as follows: "We want you to tell us everything. It will be better for you and you won't be sorry?" A. No, sir; I didn't never remember such a language being used.

Q. Well, you say it was not used there? A. Well, I couldn't say so, because I didn't hear it.

Q. No; now then, the idea that you wanted to impress on Mr. Death was to change his story, wasn't it, Mr. Lord? A. We told him the story as we had it and he then out and told us.

Q. Never mind what he did. You wanted to impress upon him the idea of changing his story; and he reached the point where he said he wasn't with the girl? A. Yes, sir.

Q. And you wanted to impress on him the idea of changing that, that it would be better to change it? A. Wanted to lead him into the—

Q. Didn't you also want to impress him that it would be beneficial for him to change? A. No, sir.

Q. How did you expect to get him to change it? A. We told him our story, what we had.

Q. Did any one of you then and there from the time that you went into that room down to the time you separated from Mr. Death say to him, "Now, Mr. Death, we are going to take down whatever you said to him, and it may be bad for you and it may be good for you; it may be used against you, whatever you say. You can talk to us, or you need not talk to us; you can answer our questions, or you needn't answer them, but you must take the consequences, if you do answer them." Was any suggestion like that made? A. No, sir.

Q. You simply started in to ply him with questions and take down such notes as you could, as what he said? A. Just what he said.

Q. When he told you the first story you were not satisfied with it and pressed him to tell a different story? A. We told him what the hackman told us, and that then he could suit himself.

Q. You then told him it was better for him to tell a different story? A. No, sir.

Q. What was the thing you said to him ? A. We said—Officer McInerney said—to him “You are not telling the truth, and that we had the story of the hackman that was out with them, and we out with that and read it to him and told every route where they had been and what was done and all about it.

Q. And then you asked him some questions ? A. Yes, sir.

Q. And that was all ? A. Yes, sir.

By Mr. Scott:—

Q. Were all the officers in uniform ? A. No, sir.

Q. Who were ? A. We do not wear the uniform.

Q. Was any one of the four in uniform at that time ?
A. No, sir.

Q. Not one ? A. No, sir.

Q. Had your badges on ? A. We had a badge; yes, sir.

*The Court:—*I am disposed to receive this statement of the prisoner.

*Mr. Scott:—*We object to it.

*The Court:—*That is all you propose to do ? Do you propose to do anything but object to it ?

*Mr. Scott:—*We can't do anything further if the court is going to allow it in, but it seems to me it still does not come within—

*The Court:—*I am not prepared to say you cannot do anything further. Have you any evidence to introduce ?

*Mr. Scott:—*Oh, yes; we want to put the two persons concerned on the stand, to tell—

*The Court:—*I am dealing now only with the alleged statement of Death.

*Mr. Scott:—*One of the officers was examined as to Campbell.

*The Court:—*I am ready to hear any evidence on the voluntary confession—any evidence you have to offer.

*Mr. Scott:—*Then we will call the defendant Death.

WILLIAM A. DEATH, a witness sworn on behalf of the defendants, testified as follows :

Direct Examination by Mr. Dunn:—

Q. What time were you arrested on Monday night by the officers ? A. Half past twelve.

Q. And at that time where were you? A. My residence, 30 Percy street.

Q. Had you gone to bed? A. Yes, sir.

Q. Who was the officer who came to make the arrest?
A. Detective Lord—no, Detective Taylor and a policeman.

Q. Yes. Where were these officers when you first saw them? A. They were in the kitchen.

Q. How did they get into the kitchen? A. They came and knocked at the back door and my mother-in-law got up and let them in and then came and waked me up, or waked my wife up first, and she says: "There is a man outside wants to see you, go on out." So I went out.

Q. Who was in the kitchen then? A. Taylor and this policeman.

Q. What did they then say to you? A. "Said you are under arrest, come with me."

Q. What did they say in regard to your dressing or not dressing? A. He said "Hurry up; what are you doing in there, taking a year."

Q. After you got dressed what did they do with you?
A. Took me down the back stairs.

Q. What else did they do? A. Out through the gate.

Q. When you got out there, who did you find? A. The stoop was lined with detectives.

Q. Who else was there? A. Titus, Tom Mac and Billy Lord, and they all got around me and worked me over to the patrol box and worked the patrol box and took me to the station house.

Q. Now what did they say to you when they got you out there by the alarm box—by the telephone patrol box? Anything while waiting? A. No, they did not say anything then, only asked me whether I wanted to walk or ride down, and they decided that between themselves—guess we had better ride down.

Q. And the patrol wagon came and took you to the station house? A. Yes, sir.

Q. When you got down to the station house, what room were you taken into? A. I was taken upstairs into the room right off the old recorder's court.

Q. Tell us what you observed as you entered into that room. A. Walked into the room and I looked around and there was three revolvers over on the table, on my right hand side. I sat down between the two tables with my back to the wall facing out to the Chief's office.

Q. What remark was made to you in regard to these revolvers? A. By Titus.

Q. What did he say? A. He said, "Billy; you don't need to be afraid of them, don't try to kill yourself; they are not loaded."

Q. After Mr. Titus said that were some questions asked as to your residence and so forth? A. Yes, sir.

Q. Now will you state to the Court, after you gave an account of yourself and Campbell and before saying anything more in answer to questions, what Mr. Titus said to you in regard to what you had said to him—what he had said to you as to going on and telling your story? A. He says to me after I got through with the first story, "now, Billy, what's the use of your lying? You are not telling the truth, we know it all; we have got Mac and Kerr down stairs, we have got their story; now tell us yours and we will make it easy for you," and Taylor joined in and says, "Yes, we will see you come out of it all right." That was Taylor.

Cross Examination by Mr. Emley:—

Q. You knew these officers before this night, did you not? A. I knew them by sight.

Q. You knew Titus, didn't you? A. Knew him by sight.

Q. You knew he was a detective? A. Yes, sir.

Q. Yes, and had known him for quite a good while? A. No, I can't say that I had.

Q. You had known him as a police officer quite a good while, hadn't you? A. No, sir.

Q. What? A. No, sir.

Q. How long had you known him at all? A. I guess about two or three years.

Q. You had known him during that time as a police officer, hadn't you? A. Yes, sir.

Q. And you had known the others as police officers, hadn't you? A. Yes, sir.

Q. For some considerable time before this? A. Yes, sir.

Q. So that when you went into the police station you knew perfectly well who these men were, didn't you?

A. I knew who they were; yes, sir.

Q. And when Officer Titus said to you, as you claim, "Don't be afraid, these pistols are loaded," you didn't fear any damage, did you from them or him? A. I didn't know what he meant; I was afraid when he alluded to that remark; it made me a little afraid.

Q. He spoke rather facetiously, didn't he? A. No, he spoke angry.

Q. Angry about that? A. Yes, sir.

Q. Then you say they began to question you? A. Yes, sir.

Q. And you in the first place told them a story which they did not believe, eh? A. Yes, sir.

Q. And that when Titus said, "Now, Billy, you are lying", is that right? A. Titus and Taylor both said it.

Q. You are lying; you are not telling the truth? A. Yes, sir.

Q. What else did they say? A. They said, "Tell us all you know, and we will make it easy for you."

Q. Didn't they tell you when they said, "You are not telling the truth," that we "have the hackman's story?"

A. They told me that they had McAlister and Kerr, and they knew it all, and had confessed, and we want to hear your story now; we will make it easy for you; we will make it easy for you, if you will only tell the truth." They didn't say a word about the hackman.

Q. Didn't they mention the hackman's story? A. No, sir.

Q. Didn't they have a paper there and read to you from the paper the hackman's story to you? A. They didn't tell me the hackman said it.

Q. They read a paper to you? A. Yes, sir; a paper.

Q. And that paper contained a statement, didn't it of where they claimed you had been on Thursday night? A. Yes, sir.

Q. Over this whole line of travel, didn't it—

Mr. Dunn:—We object to its being introduced in that way.

Q. Well, didn't it? A. Yes, sir.

Q. They started from Saal's saloon, didn't they, and followed Goffle road up to the Rock road?

Mr. Dunn:—We object to going into the details of it. He says they made a statement to him.

The Court:—The question is whether they said anything to him which would deprive his statement of a voluntary character. How am I to pass on that unless I know what occurred?

Mr. Dunn:—The prosecutor is taking what I do not think he intends to take, undue advantage, and getting some facts before the jury which are possibly contained in this statement.

The Court:—You have asked the witness in

regard to what they said to him; why should not the prosecutor find out all that was said to him by them? He is within his rights. Proceed, Mr. Emley.

Q. And that statement in writing which they read to you contained a detailed recital, didn't it? A. They didn't read it to me, they spoke it to me.

Q. Explained it to you, then; contained a complete detailed recital, didn't it, of everything where they claimed you had been on Thursday night? A. Where I had been riding.

Q. What? A. Where I had been riding.

Q. Spoke about your going out Goffle road, didn't it? A. Yes, sir.

Q. To the Rock road? A. I have just answered that question.

Q. You will answer it again, will you be kind enough? A. Yes, sir.

Q. And about your coming back through the Goffle road and going to Dr. Wiley's? A. Yes, sir.

Q. And down to Dr. Townsend's? A. Yes, sir.

Q. And then around by the dye works, down the Wagaraw road? A. Yes, sir.

Q. All these things were in that statement they then made to you, were they not? A. (No answer.)

Q. I understood you now to say they were? A. Oh, no.

Q. Didn't they tell you all these facts then? A. No, sir.

Q. These men? A. No, sir.

Q. When they explained what the paper contained they had? A. Told me some of them.

Q. And wasn't it then when they told you that you said to them you might as well tell the truth? A. No, sir.

Q. Eh? A. No, sir.

Q. Didn't you say they, after hearing what they had to say on the subject, that you might as well tell the truth? A. No, sir.

Q. And didn't you then proceed without any further conversation between them and you—A. No, sir.

Q. (Continuing) To relate the story which you finally told them? A. No, sir.

Q. What was it that induced you to tell the story to them? A. Do you want me to tell you from the beginning?

Q. No, what induced you to change your purpose and tell them this different story in the last part of your con-

versation? A. When they told me that I was telling a lie I made no reply until they asked me two or three times where I was and where I had been—"now, you tell us the truth, what you know about this, Billy, and we will see that you come out of it allright; we will make it easy for you." Those were the very identical words. I didn't say no more.

Q. What induced you to change your purpose and tell them a different story from what you told them at first?

A. Why, the offer they made me.

Q. What offer? A. The offer I have just stated to you.

Q. What was that offer? A. That they would see I came out of this thing—they would make it easy for me.

Q. How did you expect them to make it easy for you? A. They told me that.

Q. You knew perfectly well that they had no power to make you come out all right.

Mr. Dunn:—That is argument, if your Honor please.

The Court:—No, that is inquiry as to a fact. Go on, Mr. Emley.

Q. You knew that, didn't you? A. No, sir.

Q. Eh? A. No, sir.

Q. Did you suppose when they told you that, that it was in the power of these men to set you free? A. I did. He said it in a soothing way. "Now, Billy, we will see that you come out of this allright."

Mr. Emley:—That is all.

The Court:—Any further evidence on the subject, gentlemen?

Mr. Dunn:—Nobody else was present, your Honor.

The Court:—The prosecutor may put in evidence the statement the prisoner made at that time.

Mr. Scott and Mr. Dunn (Simultaneously): Your Honor will allow us an exception?

The Court:—Yes, sir.

HENRY TITUS, recalled, on behalf of the prosecution, then took the stand.

Mr. Scott:—I think the witness ought to be told beforehand that when he is relating any

conversation had with him by Mr. Death or Mr. Campbell, that he must not say anything that affects anybody but the person telling the story, so far as—

The Court :—Do you really advance that as a legal proposition, Mr. Scott?

Mr. Scott :—I do. That is my purpose, and that is what I am doing, your Honor. I simply make the request. That is all; I simply make the request.

The Court .—Well; proceed.

Direct Examination by Mr. Emley :—

Q. Now, officer Titus, I will call your attention directly to the time when you received Mr. Death with your associates, in your private office in the police station, on the morning of October 23rd, and ask you to take up at that point of time whatever was said by him or by you, or by any of the others then present relating to the transaction of the night of October 18th. A. When this confession was brought in there, when Mr. Death was brought in there, we were all laughing in a sociable manner, talking to each other. And when we sat down, I sat at the end of the table like this, and Mr. Death sat there (indicating.) There was a round table between our two desks, and he sat there under the clock; and I won't say whether Officer Taylor was over where his seat generally is. He sets on that side and I sat on this; and I think that he was writing. Now, I didn't put down everything that Mr. Death said, but I recollect putting down about him saying that he lived at No. 30 Percy street. The main object of talking to him was to find—

Q. Never mind the main object.

The Court :—Now relate the conversation as fully as you can.

A. Allright. And we ask him what he done, and if he knowed Bosschietter; he said he did. And we asked him where he was on that Thursday night. And he said he was with Andrew Campbell. And he told us where he went, and he left them, I think, I won't be sure, without looking at the paper—

Q. What paper are you referring to? A. What I put down.

Q. Where is that? A. It is in my pocket.

Q. Do you wish to refresh your recollection? A. I can

tell just what I did put down and and just what I recollected being said (produces paper.)

Mr. Hoffman:—If he can recollect without referring to it it would be better to do so.

The Court:—The Prosecutor is entitled to have him refresh his recollection by any memorandum that he made at that time.

Mr. Dunn:—Is that the memorandum that night?

Witness:—A. Yes, sir.

The Court:—That is the very writing that you made that night? A. Yes sir; the time is on it, at 2.18 in the morning. He said he was with Andrew Campbell on Thursday night on the corner of Main and Van Houten streets. Then he was asked where Andrew Campbell lived, and he said at the corner of Paterson street and Broadway. He was asked how old he was—how old a man Andrew Campbell was. He said about twenty-five. He was asked where he worked, and he said he was a book-keeper for John Hand, in John Hand's silk mill, at, I think. That is what he said, "I think." And then they commenced on Jennie Bosschietter again. Spoke to her, and she went on up the street. He said, "I was with Campbell until half past ten. Then I left him on the corner of Bridge and Broadway and I went home—down Bridge street and over the Arch street bridge, and so home." You don't want me to say anything about these other—

Q. Why, yes; go right on. A. I first saw McAlister standing before the drug store, and Kerr was with him. I saw them the next night. I am not sure where." "Me and Campbell saw Kerr and McAlister in Meyer's saloon on Saturday. I deny having been out riding with either of them in a hack." Now, then, there is where we told him what we knew.

Q. What did you tell him? A. We told him that we knew about them hiring a hack, and who went for the hack and who hired it and what they done in Saal's saloon, and about them carrying her out and where they met, where they went. At the time we didn't know about—

The Court:—Never mind what you did not

know. Just state what was said there that night.

Q. When you told him that, then what? A. Told him what?

Q. What you had heard? A. After we told him where they had been and what they done, then he opened out this way, with a smile—he says, “Well, she certainly had the dope thrown into her.” Or else he said, “She got the dope thrown into her.” Either said “had” the dope thrown into her, or she “got” the dope thrown into her. It was either one of them, but we were so excited about finding—

Q. Go on and tell. A. Now, then he told about it, and then we asked him who all had connection with her; and he said, he had connection with her, so did Campbell and McAlister; but he wasn't sure about Kerr. Now, they were all getting ready to go out and I said, “Hold on; I want one more thing out of him.” And I asked him did he see McAlister put anything in her glass.

Q. Go on. A. And he says, “We had been in Saal's about a couple of minutes when I saw McAlister put something in her glass.” And I asked him what it was, and he said it was knock out drops. I said, “How many times did you see him put it in?” And he says, “I seen him put it in two or three times.” Then we left.

Q. Where did you leave him? A. After we left him in the back room with Sergeant McInerney and Sergeant Hargraves.

Q. And you went then out after the fourth man? A. Yes, sir.

Q. And did you after that have any further conversation with Mr. Death about the matter? A. Not as I am aware of; not as I can recollect.

Cross Examination by Mr. Dunn:—

Q. Were you standing up when you made that last remark, Mr. Titus? A. I sat down. I sat down like this. And Taylor and them were there, and they were putting on their coats, and I says, “Hold on; I want to get that right.”

Q. They had gone out, hadn't they, some of them? A. No, sir; they had not; they were there.

Q. And were the doors closed to the room, still? A. For all I know the outside door was closed. I couldn't see it from where I was. I had my back towards the folding doors, and they were open.

Q. How long do you suppose you were in there altogether? A. Well, let me see. It was 2:18 in the morning when I commenced to write; and we went out from there after taking this down, and went to the corner of Paterson and Broadway, and there we was some time, quite some time, before we could get Mr. Campbell up. Before we could get Mr. Campbell up. And it was three forty-three when I commenced to talk to Mr. Campbell.

Q. Now, had you begun to put on your coat when this last remark was made? A. No, sir; I had not.

Q. Did you make a memorandum upon the paper at the time the remark was made? A. Yes, sir.

Q. Will you let me see the paper? A. I will let you see that paper. I don't want you to look at the other before I have it.

The Court:—The paper that you have used as a memorandum?

Mr. Dunn:—That is all I ask for.

(Witness passes one sheet to Mr. Dunn).

Q. Now, Mr. Titus, when Mr. Death refused to go on and relate anything about the details of this affair, did you suggest to him that he had better do it because the statement would be used against him? A. No, sir.

Q. Did you suggest to him that it might be beneficial for him to do it because it might be in his favor? A. No, sir.

Q. Do you mean to say that after he reached a point where he refused, and told you that he hadn't anything to do with these people that night, that by relating those circumstances which you have mentioned upon the stand, that he then went on and made answer to your questions?

A. He just opened the way that I told you.

Q. Did any of the other officers make any suggestions after he had reached that point and before he went on with the statement? A. No, sir; he opened right out.

Q. Now, you said something about "dope" throwed into her? A. Yes, sir.

Q. Does that appear as a memorandum upon your paper? A. No, sir.

Q. Why not? A. Why not—because when he opened out that way that was the first word that he said, and when he says she certainly had the dope throwed into her, and he commenced, and we all sat there just as if we were struck dumb, the way he went on. Then we commenced to ask him.

Q. Now, you say you are not certain whether he put it in that form or "She got the dope?" A. No, I said this, "I says I am not sure whether he said she certainly had the dope throwed into her" or he said, with a smile, on his face, "Well, she certainly had the dope throwed into her." He said she certainly got the dope throwed into her—whether it was "got" or "had" I won't be certain which.

Q. And then after you left him you didn't see him again until when? A. I couldn't tell you that, either. I don't think I had any conversation with him after that.

Q. He was locked up? A. When we came back.

Q. With Campbell? A. When we came back with Campbell I mean I didn't see him to have any conversation with him after that time, I don't think. I don't think I took him downstairs. I am pretty certain that I didn't.

Q. I suppose you were not a witness at the Coroner's inquest? A. I was subpoenaed there, but not called.

Q. You have gone over this with the officers of the State, this interview which you have just related to the jury? A. Well, I think some of them have got a paper written by themselves.

Q. Copied by you? A. No; I think that one of them—I think Taylor has got one.

Q. I am speaking of the officers of the State? The Prosecutor office? A. Oh, yes. They have seen it.

Q. Was it suggested to you in the going over it, were you interrogated as to whether or not any suggestion to the means which they had used—A. Yes, I was asked whether I had made any intimidation to him or used any reward for him, or anything of that sort, something to induce him to tell it, and I said "No."

Q. By intimidation, what did you understand them to mean? A. Why, to intimidate them, to frighten him.

Q. You thought you had not done that? A. I knew I had not, nor any one of the others.

Q. Had you done anything to allay his fear? A. Well, I didn't think he acted any way at all as if he was afraid of anything.

WILLIAM H. LORD, recalled, testified as follows:

By Mr. Emley:—

Q. I will ask you to state to the court and jury, please, the substance of your recollection of what was said at the interview between you and your associates and Mr. Death

at the police station on the morning of October 23rd? A. Well, we started in with to ask him where he lived, got the number of his house; description merely of it, and then we started and asked him where he had been on the night of the 18th of October. He told us—and we asked him if he saw Jennie Bosschietter on that night, Thursday night; and he said that he did, that she came up Main street and Campbell and Death stood there together, and she spoke to them both; and when she spoke she asked Death how he liked married life.

Mr. Dunn:—One moment. This is Campbell's answer.

A. No; this is Death's statement. Asked him how he liked married life.

Mr. Dunn:—She asked Mr. Death?

A. Yes, sir; She then went on up the street. That was the last, he said, he saw of her. We then told him what we knew. McInerney told him that he wasn't telling the truth. We then told him of his having the hack, the hackman he had, where they had went to Saal's saloon; and we knew who hired the hack and about them taking this girl from the saloon and placing her in the hack, conveying to this place on the Rock road; he looked; he remarked, he said, "well she had dope thrown into her" or something to that effect, I cannot say; he was asked what it meant, by Taylor, and he said, "knock-out drops."

Q. Go right on. A. Well, we learned in the meantime where Campbell is; he quit him, and went for Campbell; Titus just before that, or just before we started he said, "hold on, there is something I want to get" and asked him some question; I do not know just what that question was, and we quit.

Q. Do you remember what his answer was to Titus' question? A. No, sir; I could not say as to that.

Q. Do you remember anything more that he said then, beside what you have told us? A. No, sir; that is about it, that I can remember; there was a question asked as regards to who had connection with her, and he said, there was McAlister, himself and Campbell, but he didn't say that he was sure about Kerr.

Q. You heard him say that? A. Yes; I heard him mention them over; it just came to me; I think that was about the last question asked; I will not be sure.

No cross examination.

JOHN TAYLOR, recalled on behalf of the prosecution, testifies as follows :

Direct Examination by Mr. Emley :—

Q. Be kind enough to state to the court and jury what you remember of that conversation had, if any, at the police station between you and Mr. Death on the night of October 23rd; first come right to the conversation and tell us what it was. A. We asked Death if he knew Jennie Bosschietter, or if he knew anything of her whereabouts on Thursday last; if he could give us any information in regard to her whereabouts on Thursday the eighteenth of October; he said he knew Jennie Bosschietter and saw her, he saw her on Main street, on the corner of Main and Van Houten, and he said that Andy Campbell was standing with them at the time; I think I spoke to her." He said and went on up the street; we asked them if he saw Death or McAlister that night, and he said, "He saw McAlister and Kerr standing in front of the drug store that night; he said that was the last he seen of her, then he had left; he went home; left Campbell on the corner of Broadway and Bridge street, and went on down Bridge and went over the Arch street bridge and so on home; then he said I saw Campbell with McAlister and Kerr next—I do not know; that is just the way he put it, then, he started ahead, and he saw McAlister and Kerr in Meyer's saloon; there may have been a few words I can't remember, but any way we asked him if it was a fact that he was with her; he said "I deny it, as being out riding with them in a hack, or either of them;" then we told him that we all knew different; we told him what the hackman had told us, if it was not a fact that he was out with her and that he knew all about what occurred on Thursday night. The man sat back awhile and said, "Well, she certainly did have the dope put into her"

Q. What do you mean by that?

*Mr. Hoffman :—*That is asking the same thing as asked before.

Q. Then what? A. He said, "we went in Saal's a few moments, a few minutes," he see McAlister put some knockout drops into her glass; they had a few drinks there, the knockout drops were used two or three times, put into her glass two or three times; we hadn't been there very long; excuse me, I would like to take that back.

Q. You want to correct that? A. I want to correct it; yes.

Q. Correct it then. A. Then we asked him about—if he didn't have connections with her, he said, "Yes, I had connections with her; so did Campbell, and McAlister, but I don't know about Kerr;" we left him then in charge of Officer Perry and Officer Hargraves.

Q. And you then went out after Campbell? A. Yes; went out for Campbell.

No cross examination.

HENRY TITUS, recalled on behalf of the prosecution, testified as follows:

Direct Examination by Mr. Emley:—

Q. Mr. Titus, I will now ask you about what time you and the others returned to the police station with the defendant Campbell? A. When I started to write this (indicating) I think it was 3:43.

Q. (*By the Court*) Campbell was already in the station house? A. Yes, sir.

Q. Where was Mr. Campbell taken when he came there? A. Taken into the chief's private office.

Q. By the four of you? A. I think they went towards the office and I went with them, and some one said "Who will do the writing," and some one says "Hen, you'd better," and I says "all right," and I went back to my desk and got some paper and this is the paper (indicating); came back and sat down to the table.

Q. And was then that the time that the conversation between you and Campbell began? A. And the rest?

Q. Yes, begin then; now, in the beginning, when the conversation began, in the first place, relate what Mr. Campbell said to you and tell us what you said to him. A. I spoke to him, I think—of course, I didn't bring him to the station house, another officer, McInerney, Taylor, and Lord, they were somewheres else; they left me at Broadway and Paterson street.

Q. Come back to the station house. A. We asked him about living on the corner of Broadway and Paterson street, asked him about living there, but I didn't put that down; he says he has knowing of Jennie Bosschietter about a year; about a year says he saw her last Thursday night walking up Main street; Death and I stood at the corner of Main and Van Houten street, she was alone; then there was some more conversation and we told him about what we knew; that it would be better for him to tell us all about it; I cannot say, I cannot hardly recollect but he started to tell the truth—

Mr. Hoffman :—We object to the assertion of the witness that he started in to tell the truth.

The Witness :—Well, he started off to tell his story as I have got it here, I will not say the truth ; I will say as I got it here.

Mr. Dunn :—We object to the witness reading from the paper.

The Court :—Will you explain what the objection is; he is refreshing his memory by referring to this paper.

Mr. Dunn :—We object to what he is going to relate in regard to a voluntary statement by Mr. Campbell.

The Court :—You have it, as I understand it, the statement of Officer Taylor, Officer Taylor's testimony with regard to what happened, or was it Officer Titus who before told us?

Mr. Dunn :—Mr. Taylor.

The Court :—I thought it was Mr. Taylor. If you want to examine Officer Titus preliminary to the introduction of the paper you may do so.

Q. (*By the Court*) :—Were there present at the time that Campbell was brought there Officers Taylor, Lord, McInerney and yourself? A. Yes, and Sergeant Hargraves at the latter part ; at the latter half.

Q. From the beginning only four officers who were present when Death made his statement, were present when Campbell made his? A. Yes.

By Mr. Dunn :

Q. Now, Mr. Titus, do you remember when you took Mr. Campbell into this room and he made a statement to you, saying that he had gone home and parted with Mr. Death that night, and there stopped, what you said to him in regard to the story that he had told you? A. Well, I do not know as I do recollect that; I can't say that I do.

Q. Do you remember What Officer Taylor remarked to him at that time? A. No, sir; I do not.

Q. Do you remember this remark being made to him? Death told us the same story. A. Now, wait; Mr. Dunn.

Q. That is, Mr. Campbell? A. I understand. I understand I recollect after he had said part of his story that same word was said by some of us. "That is the same story that Death has told us."

Q. Do you recollect this further remark made at the same time, "we know all about it?" A. No, sir; I don't recollect that. It may have been said in this way "the story has been told; we have got it all, where you have been;" something like that; but, now, saying as you said it, there was nothing said that way.

Q. Were words used which were intended to convey to Mr. Campbell that you knew all about it? A. No, sir; we told him what we did know.

Q. Did you know all about it? A. We told him what we did know. We didn't say we knew all about it, but we told him what we did know.

Q. Was this also said, "McAlister, Kerr, the hackman and Death all told the true story about this affair, and it will go hard with you, if you do not tell what you do know."

A. No, sir; there was nothing of that kind ever said.

Q. Nothing of that kind ever said? A. There was nothing of that kind never said, never said to either one of them.

Q. And then did he not cease to refuse to talk? A. No, sir; he did not.

Q. And then do you recollect, Mr. Taylor, making a further remark to him that "all told them you took her down some to Saal's saloon and the four of you drove her away in the hack?" A. No, sir. We did not say it, for we could not, and speak the truth.

Q. But at that time—(interrupted) A. Now, McAlister and Kerr never said a word about anything.

Q. You had Death? A. Yes, sir.

Q. And you had the hackman? A. Yes, sir.

Q. Then you knew those facts at this time? A. We might have said those, and I have no doubt we did have them, and I know we did. McAlister and Kerr were down stairs. Something like that.

Q. Do you recollect saying something of the same kind in Campbell's case? A. I recollect it was made, but merely as a casual remark, not to intimidate.

Q. Yes. Do you remember this remark being made by you or anyone of the four about bringing her down to Dr. Townsend "We know it all?" A. Well; there was nothing said about Dr. Townsend in that sort of way. If there was anything said it was just told as we had it, and then Mr. Campbell told it.

Q. Now, wait; do you recollect that he stopped after he related this first part of his story and would not and did not go on until you had some conversation, is that

true? When he stopped and did not go on? A. Then when he stopped and would not go on, we told him what we knew.

Q. Do you recollect at this time of this remark being made "so you see we know it all, and it will go easier for you, because you are not in such a bad light in this case if you tell us all about it?" A. No, sir. There was nothing said about that. Mr. Campbell at one time said—(interrupted)

Q. One moment—what was your object in asking Mr. Campbell any questions that night? A. To see what he said about it, to see if it corresponded with the other.

Q. When he told you he had not anything to do with it what was the object of pressing it further? A. We did not; we told him all we knew.

Q. You did not tell him that it would be detrimental to him if he told you? A. Well, there was something said. He said "Oh, Mr. Titus, this is a hard thing," and I, knowing the young man, said it was. I have known the young man very well and so long and knew it was a bad job for him.

Q. Do you recollect of any suggestion then being made to Andy? A. No, sir; I do not; I said it was always best to tell the truth.

Re-direct Examination by Mr. Emley:—

Q. When did you say that? A. In answer to what he said to me.

Q. What was that? A. He said "Oh, Mr. Titus, it is a hard thing," and spoke about his mother.

Q. In what part of the conversation did that occur? A. That was at the start; he said it again when we were going out of the room; he said it again.

Q. Is that all you said to him? A. That was all; there was nothing said to him to induce him to tell the story or anything else, but just showed him we knew what we were talking about.

Q. And was it after that he told you what he had to say about it? A. Yes; he told me; he told this in answer to questions from all; I just merely put it down as I could catch it, as near right as I could get it; sometimes I would say "Hold on," and go on.

Q. In making that statement to him, "Just tell the truth" did you do it with any desire to have him say other than what was the truth?

Objected to and question overruled.

The Court:—I am not ready to receive that defendant's statement in view of this testimony. I suppose you have no witness to contradict what Mr. Titus has to say about it. I will accept that as being true and will decline to receive Mr. Campbell's statement.

WILLIAM E. PERRY, a witness sworn on behalf of the prosecution, testifies as follows:

Direct Examination by Mr. Emley:—

Q. You are a member of the police of the City of Paterson? A. Yes, sir.

Q. You are the officer in whose charge Mr. Death was left by the detective sergeants, I believe? A. Yes, sir.

Q. When they left the station house on the night of October 22nd to go for Campbell? A. Yes; morning too.

Q. Morning of the 23rd? A. Yes, sir.

Q. Where was he left with you? A. He was left in the private room of the detectives upstairs over the assembly room.

Q. Who else was present there with him and you? A. Sergeant Hargraves.

Q. How long did Sergeant Hargraves remain there? A. About 3:40 to 3:45 he sends the morning men out.

Q. And that left you and Mr. Death alone? A. Yes.

Q. And how long did you remain there alone with him after Sergeant Hargraves went out? A. Until 6:10 in the morning.

Q. Who placed you in charge of him as he was left by the others? A. Detective McInerney came down stairs about half past two, and said "Perry, I would like you to go upstairs and stop with Death until we go out and get Campbell," and I went up along with Sergeant Hargraves; at least he came up and went with me.

Q. You sat in the same room, the detectives' room? A. Yes.

Q. What, if anything, was said there between Death and you and Sergeant Hargraves after you assembled in the room?

Mr. Dunn:—We object to that.

Q. When you assembled in the room, was there anything said about the transaction of Thursday night at the time?

Objected to:

Mr. Emley:—I am asking if there was any-

thing said about the transaction the Thursday before.

Mr. Dunn :—I think that the witness might be cautioned.

The Witness .—Prior to going in the room the sergeant cautioned me not to ask this man anything concerning the case; after his injunction I went in the room with him; I should say, I was then ushered into the room, and the detectives were making preparations to go out, and Death was seated beneath the clock, Sergeant Hargraves to the right and I in front of him, and for twenty minutes not a word had been spoken, and things becoming monotonous, and I asked him if he had seen the parade, and he said yes.

Q. Referring to what? A. To the republican parade on Monday night, the night parade. He said, "Yes, but I didn't take much stock in it," or says, "I don't take much stock in that"; I said I think it is good for bringing money into circulation, buying the paraphernalia, oil, lamps, etc.; he said, "On, yes, it is good for that," and he says to the sergeant, "Did you take any stock?" and the sergeant said, "Yes;" then quite a good deal of time passed and he says, "I wish I had never come to the God damned country," and I said, "Where did you come from?" He said, I was born in Stratford-on-Avon, where Shakespeare lived; he wrote quite a lot of books, you have heard of him," I laughed it off, and said he had. The sergeant said I was born in England; the conversation was then taken up at that time between he and the sergeant respecting poachers, game poachers and kindred subjects until the sergeant went downstairs and left us together.

Q. You and he were alone? A. We were left alone.

Q. Go on now and describe preliminarily what occurred between you and he when you were left alone. A. When the sergeant went to go out of the room he closed the folding doors. Then we were quiet for possibly five minutes or so; there wasn't a word spoken by either of us; I reached over to pick up a pipe from the table opposite him; he lit a cigarette, he looked up to the clock and said, "What time is it?" I told him the time; it was somewhere around ten minutes of three, or somewhere around that time; I sat looking at him, and he leaned over and said,

"What do you think they are going to do?" I said, "I do not know anything about the case." I was told not to ask anything about it; he said it was that Jennie Bosschietter, that girl found over in Bergen at the mill; Kerr and Campbell, and that McAlister was in it. I said I didn't know the particulars.

Q. Is that so, didn't know the particulars? A. Yes; I didn't know the man when he was brought in; he wasn't brought before the desk and arraigned as a prisoner as they generally are; then he said that the four of them had been down to Saal's saloon.

Q. Was that after you said that you didn't know the particulars? A. Yes; I told him that I didn't know the particulars?

Mr. Hoffman:—I want to ask you if that was the conversation before he commenced tell of the affair at Saal's saloon; that answers the question.

By the Court:—

Q. Was that all the conversation that occurred between you before he began making that statement? A. Yes.

Q. Was that in answer to a question, when you were in conversation with him, what you have mentioned about his getting to make a statement about being in Saal's saloon? A. No, sir; I didn't ask any questions. He asked me if I knew what they would do to him; I did not ask any questions.

Q. Go on. A. He told me they were in the back room of Saal's and that they had three rounds of drinks, and that McAlister had given her two doses of knockout drops; they went out in the country and when they found the girl did not come out they did not know what to do, and they took her to the brook where they bathed her head or face, and then found that didn't do any good; then, it appears, he said, McAlister said, "Let us go to Dr. Wiley's, I think he can fix her up;" they drove then to Dr. Wiley's; but the doctor was not in; then he hesitated and I asked him where he went, and he said they went down to another doctor's, Doctor Townsend, I think he said, and the doctor looked at her and said, "She is dead;" "we wanted to take her in, but he would not stand for it, and we didn't know what in hell to do with her; so we drove out in the country, finally drove around near the feed house; and we lifted her out of the wagon, and McAlister carried her in his arms and dropped her about where she was found."

Q. Did he show you how it was done? A. He said that they "lifted her out of the wagon, McAlister lifted her out of the wagon and took her in his arms and carried to the spot where she was found." He said, "That son of a bitch McAlister is the cause of all of this—

Mr. Hoffman:—One moment now.

The Court:—Go on; I see no objection to it.

The Witness:—So he says, "My wife will be sweating, I told her when I went out of the house I would be gone only twenty minutes," and he said, "I guess it will be a damned long time, don't you think so?" I said, "I have heard more creditable cases than this; it is brutal; it is fierce." He said, "I am as nervous as hell." I said, "No occasion of being nervous if he hadn't taken any prominent part." "Well," he said, "I am naturally nervous." He made the remark afterwards he thought if they could have got Doctor Wiley that the girl would have been all right. About that time the detectives had come back; we heard them coming in the door upstairs and we quit.

Q. That is all he said? A. That is what was said at that time. Then I went down stairs.

Mr. Emley:—That is all.

The Court:—Cross-examine, gentlemen.

Mr. Scott:—No questions.

Mr. Hoffman:—No questions.

Mr. Emley:—I think I am prepared to rest the case.

The Court:—I suppose the defendants would rather not go on this evening.

Mr. Hoffman:—Rather not, your Honor; rather wait until to-morrow.

Adjourned until to-morrow (Wednesday) morning ten o'clock.

PATERSON, NEW JERSEY, Wednesday, January 16, 1901,
at 10 a. m.

Continuance of trial pursuant to adjournment.

Appearances as before.

Mr. Hoffman:—If your Honor please, we think be-

fore opening the case for the defense, we would like to examine a witness that was examined on the part of the state; we would like to examine him about something that we did not know anything about until last evening.

The Court:—What is the purpose of the examination?

Mr. Hoffman:—We wish to confront him with a conviction.

The Court:—I decline to call him for that purpose.

Mr. Dunn:—May it please the court and gentlemen of the jury. Probably the most important duty of your lives is now to be performed during the progress of this trial. Probably the most solemn and sacred responsibility in the lives of the counsel in this case is now imposed upon them. The case is a sad one because it involves the loss of a human life. It is sad because of the youth of the deceased, and the youth of the accused; and because of the bereavement which has fallen upon the household of the deceased, and sad because of the disgrace and humiliation which is coming to the defendants, their families and their friends. No one more than these defendants and their counsel standing here in defence of their rights and their liberties, deplore the death of this young girl. But we are called to deal with a criminal charge. Nothing that the State can do, nothing that this court can do, nothing that I can do or that these defendants can do can recall or restore her; but, in consequence of her death, we are brought here to adjudicate and determine whether or not the defendants standing at the bar have been guilty of a crime of which they should be convicted. In the ascertainment of that result, in determining and deciding that question, it is not the court, it is not I who pass judgment, but it rests with you after listening to the evidence that shall be adduced before you; and while this case is serious to these defendants because of the terrible consequences in which a conviction would involve them; nevertheless, in dealing with it, let us deal with it as the law says we shall; let us withhold our judgment until we hear the evidence. No matter what may have been said by the learned and able prosecutor in his address to you at the opening of this case, forget any sentiment that may have been expressed, or thought that may have been formed at that time; forget them because the law says that every man accused shall be deemed to be innocent until his guilt is proven. Therefore it behooves you at the outset of this case, to approach

it with minds unbiassed and unprejudiced, from the realization and feeling that you are called upon to perform a solemn duty, a duty which may compel these defendants to forfeit their lives, or may restore to them their liberty. It is in consequence of the serious character of the case, and of the important and serious result that may follow, that it is necessary for us to watch every movement during the progress of this trial, to listen attentively to the testimony as it shall be adduced, and to hear the story of these defendants before we shall determine whether or not they are guilty or are innocent. Do that with minds unprejudiced, and, in approaching the case of the defendants, do it with a feeling open and ready to be convinced of the truth of this matter.

Let me briefly outline to you what our answer is to these charges; and first what are the charges as the case now stands against the defendants, which they are called upon to answer?

There are two counts in the indictment; one count charging the commission of rape, and that while attempting to commit or having committed that rape, the death of Jennie Bosschier ensued. That is the first count in the indictment, as it has been submitted to you on behalf of the State. In regard to that count we will show you that we are not guilty, positively, surely and certainly. We deny that we committed any rape, and the State has proven to you that her death did not result from rape, nor in the commission of attempting to commit a rape.

What is the second count in the indictment? It is that we wilfully and with malice aforethought murdered this girl, and therefore the State claims that we are guilty. In answer to this count we will contend that the testimony which we will adduce before you in regard to this transaction, will satisfy your minds that under this count we are not guilty.

Now, what will be the facts that will be detailed to you? I will briefly outline them so that, as they are produced before you upon the stand, you can follow each one of them in its orderly turn. In the first place, Andrew Campbell is not a chum of William Death, nor a chum or friend of Mr. McAlister, William Death, is not a friend or chum of Mr. McAllister, nor of Mr. Campbell, nor of the other defendant who is not here on trial but is indicted in this same indictment. Let us take this night of the 18th of October.

Andrew Campbell for six or seven years has been employed as a bookkeeper in the silk mill of John Hand & Sons at Lake View, and he was interested in some athletic exhibitions in this city. After returning that evening from his work, and going to his home, he had an appointment with a young man by the name of Barton, who lived up on Pearl street; he left his home and went to see him about eight o'clock; he left Barton's home shortly after eight o'clock, as he had another appointment with Mr. Thomas Dugan, one of the reporters sitting here at one of the tables, at Meyer's saloon at the corner of Ellison and Washington streets. He went there about half past eight to see Mr. Thomas Dugan. As he approached the saloon—coming down from Pearl street—as he approached the saloon standing on the outside was William Death, one of the defendants in this case. He asked Mr. Death if he had seen Mr. Dugan; he replied to him that he had not. "Let us go inside," he said, and they went inside to see if Mr. Dugan had been there. While in there they found that he had not been there, and they had a drink at the bar, and coming out a remark was made by Mr. Campbell. "Suppose we go down Main street and come back; I have an appointment, and he will probably be here a little later." They walked down Main street and they went down as far as the corner of Van Houten and Main and there stopped and stood there for a moment, and as they stood there, Jennie Bosschietter approached, coming up Main street. Mr. Campbell had met her about a year before; Mr. Death had known her probably longer, two years I think. She spoke to both of them, and as she passed by Mr. Death she said to him "I got something to say to you. How do you like married life? I will be back in a little while." She passed up the street, and when she came back she stopped in front of Kent's drug store on the curb and beckoned for Mr. Death to come where she was. He did so, and stood there talking to her, and she said that she had a lot she wanted to tell him; and he suggested that they go somewhere and have some refreshments. And she says "well, I don't know." "Well," he says, "I don't know either. I am married; I better not be seen walking along with you," and he called Mr. Campbell, who stood nearby, over to him, and he says "Andy, will you escort Miss Bosschietter down to Saal's saloon, she wants to tell me something, and I don't like—I am married now—I don't like to be seen walking along the

street with a girl, and I wish you would do that." "Well," he said, "I have got an appointment with Mr. Dugan," and, he said, "I don't know whether I will be able to make that appointment or not." "Oh, yes," he said, "That will be all right; we will get back in time," And as Mr. Campbell approached Miss Bosschietter pulled the little scarf pin that Death had in his neck out, and she says "Now you have got to come, because if you don't you won't get this back until you do come." And with that Mr. Campbell and the young lady passed around the corner of Van Houten and Main streets, to Church street, down Church to Broadway, and down Broadway to Bridge, Mr. Death saying that he would go down, followed after. Mr. Death, as I understand, went down Main street to Broadway and down Broadway, to Washington, and down Washington to Fair, through Fair to Bridge, and so arrived at the place ahead of them.

As Mr. Campbell and Mr. Death first walked down Main street they noticed Mr. McAlister and Mr. Kerr standing by Kent's drug store, but simply bowed to them as they passed by and had no conversation whatever with either of them; nor did the young lady have any conversation with any or either of them, and there was nothing said between Campbell and Death and Miss Bosschietter and the other parties while there. Whether McAlister and Kerr, were still there when Mr. Campbell and Mr. Death passed down the street we don't know, because the parties were entirely distinct and separate and had no connection whatever.

On the arrival at Saal's saloon on the corner and going down Miss Bosschietter kept looking back to see if she could see Will, and remarking as she went along, "I don't know whether he is coming; I don't see anything of him." And Mr. Campbell remarked to her that probably he had gone another route and might be walking faster than they, and might get there ahead of them. And so it was. When they arrived at the saloon on the corner of River street and Bridge street, there was Mr. Death, who walked up and spoke to them; and the three, as has been testified to, passed into the River street entrance and on into the back room, which is shown upon the diagram, a small room in the rear there, 8x10, I think the testimony was; and there they sat down, and after being there a little while Mr. Death suggested that he had no money, and asked Mr. Campbell if he wouldn't lend him some; and Mr. Campbell says "No, never mind; I will

order the drinks, what will you have?" He said he would take their orders. Miss Bosschieter called for a milk punch, Mr. Death for a beer, and Mr. Campbell decided to take cider, and went out into the bar room. He had probably been in the back room six or seven or eight minutes, and went out into the bar room to give the order at the bar. And as he did, and approached the bar, Mr. Saal was there. Mr. McAlister was by the bar drinking with a Mr. Dordoni, and Mr. McAlister said, "Hello, Andy," and spoke to him. And Andy says "What are you doing down here?" I don't remember what response Mr. McAlister made, but he invited Mr. Campbell to have something to drink with him. And he says "No, I am with a party." And with that he gave his order to Mr. Saal. Mr. Saal said they hadn't any milk to make a milk punch, and then he says, "wait a moment, and I will go back and see what the parties will have instead." And he did so. And then Miss Bosschieter said she would take a cocktail, and he came out and substituted the order of a cocktail for the milk punch. These drinks were prepared and placed on a tray, and after some conversation there in the barroom, and the talk with the different persons there, Mr. Campbell took the tray and went into the room and set it on the table, and sat down in the little room, the three of them, Death, Campbell and Miss Bosschieter, then took their drinks.

He then told them that he had met Mr. McAlister out at the bar and that Mr. McAlister had insisted upon paying for the treat, and wanted to know if there would be any objections if he invited him in. Miss Bosschieter said "No." She says "I haven't got much work where I am now, and I may get out of work, and I may get a job of Mr. McAlister; he is a good fellow. Invites him in," she knowing him before. And then they had their drinks. And after that one of the boys went out and invited Mr. McAlister to come into the room. Mr. McAlister went in there. After being in a little while he ordered a round of drinks and in that round of drinks Miss Bosschieter took a glass of absinthe, and I think Mr. Campbell took cider, somebody took seltzer, and I don't remember what the others took.

After that was over, the parties sat there chatting and having a jolly time, everybody being in good spirits and cheerful. Then the bell was rung by Mr. McAlister; the young lady said she didn't feel very well and he suggested she would probably have a little champagne and it would

revive her ; Mr. Saal came in, and he gave the order for the bottle of champagne, and, as Mr. Saal told the story here, the bottle of champagne was served in the room and Mr. McAlister poured out the wine into the glasses for the different persons. Afterwards Miss Bosschietter did not revive and improve, but seemed to grow more intoxicated and drowsy, and they being in a small room there it was suggested by Mr. McAlister that probably the best thing to do would be to get her out in the open air, because if she remained in the room there she might get worse than she was. And with that idea in mind a hack was sent for and Miss Bosschietter was escorted—not carried, as stated, by Mr. Sculthorpe by four people—but escorted by Mr. Death and McAlister. Mr. Death and Mr. McAlister, one on either side, escorted Miss Bosschietter and assisted her out to the carriage and helped her in the carriage. Mr. Kerr had come down with the hack, and Mr. Campbell and Mr. Kerr went out ahead and in advance of Miss Bosschietter, Mr. Death and Mr. McAlister, and went on across the street, across Bridge street to Governor street, which is opposite the Bridge street entrance to this place, and went on up Governor street to Paterson street which is the first street above Bridge street, and across Governor street, intending to go home.

The hack overtook them at the corner of Governor and Paterson streets, and Mr. McAlister said "Ain't you going to get in and help us to revive her?" And Mr. Campbell remarked, "Do you think you need any assistance?" or some such remark as that; and he said "You get in and help us." And they then got into the hack and they drove further up, as the hackman says, intending to stop at Lee's place, driving out in the open air thinking to revive her by the time they reached there, and thinking it was best for her to take her out into the air as it seemed to be to them.

Finding Lee's place closed up, and that he had gone to bed, they then turned and drove up this Rock road, intending to go across to the Ridgewood road, and intending to come home that way. When they got across the railway track, and to this place spoken of, Miss Bosschietter began to get sick at her stomach and retched, and attempted to vomit; and Mr. McAlister, fearing that she might throw off on her clothing and on their clothing, said he thought the best thing to do would be to stop there and get her out of the wagon. They stopped and helped her out of the wagon and put her on the blanket, so that they

could assist her there and she would not soil their clothing nor her own. And when those men got around her there they did everything to assist her to vomit. She did vomit. They held their handkerchiefs under her mouth; one of them put his finger down her throat when she was in this retching condition, trying to vomit, to aid her to vomit, believing that the absinthe and stuff which she drank was making her sick. They patted her upon the back and they patted her upon her cheeks, and they rubbed her hands and they rubbed her ankles, and they worked her arms, and they did everything they could conceive it possible and proper for them to do there to assist in reviving this young lady. One of them says, "Now, probably if we had some water it would be better"; and Mr. McAlister says, "I know that there is a brook just down the road here; let us put her in the wagon and take her down to the brook." They did so. They went down to the brook, removed her from the wagon and they worked there with her again, and did everything they possibly could; they applied water to her head and neck and to her face, and to her wrists, and rubbed her hands and worked awhile on one side of the brook. Then they heard a wagon approaching, and they put her in their wagon and went over to the other side of the brook, and again worked upon her. Seeing that she was not improving under their efforts, one of them says, "Let's take her to a doctor; she does not respond to our treatment; let us get her to a physician; we do not seem to be able to help her." Then they started to Dr. Wiley's office with instructions to the hackman to go as fast as he could. They went there, and found, or were told, that the doctor was not in; and probably if he had been in as stated by Mr. Perry yesterday as was remarked to him by Mr. Death, probably if he had been in we would not have been here today. Then they went down to Dr. Townsend's office and Dr. Townsend came out and examined the girl and found that she was dead and so told them.

There was no rape committed on the hillside; and the hackman swore before the Coroner's inquest, as he admitted here, that he saw those men doing nothing except being over by this woman, and it was so dark that he could not see that they were doing anything. He testified here that he saw them using their handkerchiefs. They did, but not for the purpose which he stated, but for the purpose of wiping the saliva from their hands,

which they had got on them while this young girl was retching and trying to have her get rid of this vermouth and absinthe and other stuff which she had taken.

Now, gentlemen, after we had learned that she was dead, it is needless to say to you that we were thunderstruck and amazed; and when the hackman says that on the top of the hill Mr. Kerr was uneasy, undoubtedly they were all uneasy when they failed in their endeavor to get her to revive.

And when they got back down to Dr. Townsend's place and learned that she was dead, their hindsight naturally suggested to them now, "Why didn't you take her right over home?"

They were all excited, all unstrung, their minds were disconcerted, reason, you might say, almost dethroned, with this unexpected event on our hands. What is the best thing to be done? One says do this, and another says do that, and nobody thinking rationally, nobody thinking calmly, and that hackman never once suggested to take that girl home, he, who was not drinking anything, he whose mind was cool and calm, never once did the man make a suggestion as to what was best to do for the young woman. They drove on, and drove on, thinking and discussing what to do. They did not act and go on like criminals, seeking to hide a crime. They were agitated, and were wondering what was best to do, incompetent to judge what was best to do, incompetent to reason, because of the condition of their minds. They came on over by Alyea's ice house as it was getting along early in the morning. They were not seeking to lay this body in a concealed spot, not in a spot such as persons who had been guilty of a crime would be likely to seek. They did not take it down a little below to Dundee lake and deposit it there, where it would probably never be found. They did not cast it in the river where it might appear that she had been drowned. No. But they did what they thought was the best. They laid her body within fifty or seventy-five feet of a bridge that is more traversed than any other bridge in this county, the Wagaraw bridge; and they laid it in plain sight of Alyea's mills, so that probably inside of an hour, in the break of day, after the body had been left there, that body would be found and restored to her parents.

Now, gentlemen, we deny that we administered any drug to this girl. We deny that there was any commission of rape on this girl. We deny that we gave her anything

to drink for the purpose of getting her in an intoxicated condition that she might be unable to control her will, consent—or refuse.

These facts we will prove to you by the persons who were there, by the persons who knew. And while it has been stated here that certain admissions have been made by Mr. Death as to his having intercourse with this girl, yet it was not stated by Mr. Death where that intercourse occurred. In no statement before you, and under high Heaven could there be a statement, that anything was done to this girl as to carnal knowledge on that hilltop. Whatever intercourse Mr. Death had with this girl was had before she had a drop of drink and before she left Saal's saloon, and with her consent; and while it shall not be our purpose except to affirmatively attack the character of this girl, yet our acquaintance with her—our association with her—or the association of such of the defendants as did know her, in the progress of the trial and during the time they knew her, must necessarily be related to you, and then it will be for you to make your own inference as to whether the facts which have been said concerning this matter are true or false.

Therefore, gentlemen, we shall insist, if we establish these facts, that there never was any prearrangement among these defendants Campbell and Death, in the first place, to harm a hair in that poor girl's head, and so far as their mind was concerned, the intention of Andy Campbell was simply to escort her down there, and then to come back to meet Mr. Dugan. When they went down there this unfortunate condition occurred to this girl. It simply illustrates, gentlemen, that no matter who the man is, how true that old saying is, "We are all born and none of us buried;" and the accident with which these young men met that night might befall the son of the most innocent man that sits upon this jury, or the most innocent and inoffensive boy that any man of us may be the father of. But it won't do to say that such conduct makes a man guilty of murder in the first degree. It won't do to say that because I go out to assist in reviving a girl who is sick and who I know has been drinking with me and whose company I was satisfied to be in, because I feel that she is in trouble and I go out to aid and revive her and to bring her back so she may go home all right—it won't do to say, gentlemen of the jury, for one moment, that I am a criminal and that the stain of murder is upon my head. That is not so. I do not believe that there is a single one of you

—I do not believe that there is a living man who can read this testimony or hear it that can ever form an opinion that there was any intention on the part of Andrew Campbell and Will Death, or any of the other defendants, from the time that Campbell and Death met the girl, down to the time she expired on their hands, that there ever was a thought in their minds to harm a hair on her head.

This unfortunate occurrence, as I have said at the outset, is accidental and not criminal, and we also deny that her death resulted from chloral poisoning, or, so far as we know, from any other kind of poisoning—and we shall insist if we show these facts to you that we shall be entitled to a verdict at your hands that will vindicate us from this terrible and most serious accusation.

DAVID VERMEULEN, witness sworn on behalf of the defence, testified as follows :

Direct Examination by Mr. M. Dunn :—

Q. Mr. Vermuelen, what business are you engaged in?

A. I work for my father in the undertaking business.

Q. Did you assist in taking charge of the body of Jennie Bosschieter? A. Yes, sir.

Q. Did you assist in embalming the body? A. Yes, sir.

Q. When was it embalmed? A. On Friday night.

Q. Will you just explain to the jury what was done with the body in the way of embalming it? A. Well, we just injected fluid in the lung cavities, in the stomach and through the nostrils, and we tapped the blood; that's all.

Q. And about how much did you inject through the nostrils do you think? A. Well; I couldn't say how much; I couldn't say that.

Q. Well, how much did you inject into the body altogether? A. Two quarts.

Q. How much did you inject into the lungs? A. A pint in each lung.

Q. Now that left a quart remaining? A. Yes, sir.

Q. And that was injected through the nostrils? A. First a little of that quart was injected in the nostril.

Q. And the rest of it, where was that injected? A. In the stomach.

Q. (Exhibiting a card). Now I show you this card and ask you if that is their registered trade mark of the brand? A. It is on the tag; yes, sir.

Q. Do you remember seeing Mr. Vandenburg down at your place? A. Yes, sir.

Q. Did he get a sample of this embalming fluid from you? A. Yes, sir.

Q. Was that the same embalming fluid? Was that the same embalming fluid that was used in embalming Jennie Bosschieter? A. Well, I didn't fill the bottles, but it was taken from the same keg, from my brother's statement.

Q. It was the same keg? A. Yes, sir; that is what he told me; I wasn't there when he—

Mr. Emley :—Then I move to strike it out.

The Court :—It is stricken out.

Q. What is your brother's name? A. Tunis, the coroner.

Q. He is here, is he not? A. Yes, sir.

Q. Yes, under subpoena. Now what else was done in regard to the body? A. What do you mean?

Q. On Friday; in the way of treating of it? A. That was all that was done; we just embalmed.

Q. Were you present there at any time the autopsies were being performed? A. Not in the room.

Q. After the autopsy was performed—did you attend the funeral? A. No, sir; my brother conducted the funeral but I was at the house before the funeral.

Q. Were you at the grave? A. No, sir.

Q. Did you take the case to the grave? A. No, sir.

Q. Who did that? A. Well, my brother went and took the overbox away for the funeral.

Q. Were you at the establis—your establishment—when the overbox was taken out? A. No, sir.

Q. Do you remember of an order coming to your place later in the week? A. She was buried on Tuesday, wasn't she? A. Yes, sir.

Q. Do you remember an order coming to your place later in the week for some box that had been buried with the remains? A. Yes, sir—I didn't hear the order come, but I got the order from my father that I should open the grave.

Q. Did you? A. I didn't open it; I telephoned to the men to open the grave, on Thursday.

Q. When did you go up? A. I went on Thursday morning before twelve; before dinner.

Q. What did you do when you got up there? A. Raised Jennie Besschieter out of the ground, and the

grave digger was in the grave and he took the little box out of the centre of the grave and handed it to me; I set it on the grass and I turned around, and when I was turning my father pulled in with the buggy, and I took the box and set it in his buggy, and he went away, and I never have seen the box since.

Q. And you don't know what it contained? A. No, sir; haven't seen what was in it at all.

Q. That was buried in the bottom of the grave? A. Yes, sir; in the centre of the grave.

Q. What other brother was present there that night when Mr. Vandenburg got the fluid out of the keg? A. That is William.

Q. Who was present beside William? A. The fellow next door got me a lantern so I could see to get the fluid.

Q. Was there only one kind of fluid? A. No; there was another barrel of fluid.

Q. Was it the same kind of fluid out of which the Boss-chieter fluid was got? A. No.

Q. Didn't William say so that evening? A. He didn't know anything about it.

Q. Did he say that it was so? A. He didn't know anything about it.

Q. Do you remember taking off the keg and giving it to Mr. Vermeulen? A. I didn't take it off the keg; Mr. Vermeulen took it off himself.

Q. Did you see him take it off? A. Yes.

Q. Was there any other keg off which this was taken, the same kind of fluid? A. I don't know anything about that.

Q. Did you have any other in a keg there? A. Yes, we had a blue keg, we had App's, according to my brother's statement.

The Court :—No matter about your brother's statement.

Cross Examination by Mr. Emley :—

Q. Who do you say came over to see you, Dr. Vermeulen? A. Yes, sir.

Q. Is he here? A. There he sits right there with glasses on (indicating.)

Q. This gentleman here? (indicating) A. That is him; and the other gentleman next to him.

Q. Mr. Charles Dunn? A. Yes.

Q. When did they come, at night? A. Yes; it was night.

Q. After dark? A. Yes.

Q. How long ago? A. I don't know exactly; it might have been a week or so; I cannot remember exactly, about a week or a week and a half.

Q. Not longer than that? A. No, sir.

By the Court:—

Q. You spoke of injecting embalming fluid in the stomach? A. Yes.

Q. How did you do that? A. We made a puncture an inch and a half below the navel.

Q. By stomach you mean abdomen? A. Yes, sir.

Q. You do not mean the stomach into which the food passes? A. No, sir.

By Mr. Dunn:

Q. You do not know where it went? A. No, sir.

Q. The purpose is to fill up all the cavities? A. Yes; of course we didn't fill all her cavities.

Q. That is the purpose of the fluid? A. Yes, sir.

Q. Is that the only fluid, the O. K. fluid that was there, the one that was used. A. Do you mean at the present time?

Q. No, when he got there. A. Do you mean at the present time?

Q. When he got there. A. Yes.

Q. Was that the only keg that was there at the time Jennie Bosschieter was embalmed? A. There was a blue keg.

Q. A full keg was the O. K.? A. Yes, sir.

THOMAS J. DUGAN, a witness sworn on behalf of the defense, testifies as follows:

Direct Examination by Mr. Dunn:—

Q. What is your business? A. Newspaper reporter.

Q. Where you acquainted with Andy Campbell, the defendant? A. Yes.

Q. How long have you known him? A. Two or three years personally.

Q. Do you recollect about the time this struggle occurred in October? A. I do.

Q. Can you tell us whether or not you had any arrangement or appointment with Mr. Campbell on the night of the 18th of October? A. I had.

Q. Where? A. At Meyer's saloon in Ellison street.

Q. About what time were you to meet him? A. Between 8 and 9 o'clock.

Q. Did you learn that he had been there? A. I didn't get there until a few minutes after 9; I was told he had been there: I just came back from Orange and went directly home.

Q. So you didn't see him that night? A. No, sir.

Cross Examination by Mr. Emley:—

Q. Did you see him after that? A. No, sir.

Q. When did you see him after that? A. The following night, on the 19th of October.

Q. Where did you see him that night? A. Meyer's saloon.

Q. The body of this girl had been found? A. I think it had.

Q. After the following night, the 19th, did you see Mr. Campbell again? A. On the 19th I saw him by appointment.

WALTER C. McALISTER, one of the defendants, called in his own behalf, testified as follows:

Direct Examination by Mr. Scott:—

Q. You live in the city of Paterson? A. I do.

Q. How long have you lived in Paterson? A. All my life.

Q. Born here? A. Yes, sir.

Q. Where have you lived? A. Well; I have lived on Main street in the city.

Q. At home with your people? A. Yes.

Q. With whom? A. Father.

Q. Who else composed the family? A. Three sisters.

Q. You are the only son? A. Yes.

Q. In business in the city of Paterson? A. Yes.

Q. With whom? A. Father.

Q. What kind of business? A. Silk business.

Q. You were engaged in that business when you were arrested under this charge? A. Yes, sir.

Q. When were you arrested? A. I was arrested Monday evening; I don't recall the date; the Monday following the Thursday.

Q. Thursday was what date? A. The 18th.

Q. This was the 22nd? A. Yes, sir.

Q. Since that time you have been in jail? A. Yes, sir.

Q. Do you recollect the 18th of October last? A. I do.

Q. Do you remember where you were in the early part of the evening of October 18th? A. Yes, sir.

Q. Whereabouts? A. I was at Kent's drug store.

- Q. Been working that day at the mill ? A. Yes, sir.
- Q. Went home and got your meals ? A. Yes.
- Q. Got your supper at home ? A. Yes.
- Q. What time ? A. Well, about six o'clock.
- Q. After your supper you came where ? A. Strolled down town.
- Q. Kent's drug store ? A. Yes.
- Q. And stood there ? A. Yes, sir.
- Q. Whereabouts is this mill of yours ? A. Located on Garfield avenue, over the river.
- Q. How do you get to it usually ? A. I usually went through Bridge street, crossed Bridge street, and the bridge, the Arch street bridge rather, to Jefferson street and through Jefferson to Garfield avenue.
- Q. Going down Bridge street you reached the Arch street bridge ? A. Yes.
- Q. Arch street bridge touches Bridge on one side and Arch street on the other side of the river ? A. Yes, sir.
- Q. Do you know where Mr. Saal's place is ? A. Yes.
- Q. You know Mr. Saal ? A. Yes.
- Q. Known him for what time ? A. Known him for several years.
- Q. Accustomed to stop there ? A. Yes.
- Q. How often ? A. Well; I may stop there once or twice, two or three times a week.
- Q. Were you a customer ? A. Yes.
- Q. Went in there to get a drink occasionally ? A. Yes.
- Q. When you went down to Kent's on the 18th of October, what did you go for ? A. I had an engagement to meet Mr. Kerr there.
- Q. Anybody else ? A. No, sir.
- Q. Did you see him down there ? A. No, sir; he wasn't there when I got there.
- Q. While you were standing there and waiting for him, did you see Mr. Campbell ? A. Yes, sir.
- Q. Mr. Death ? A. Yes, sir.
- Q. How long have you known Mr. Campbell ? A. Well, I should say about a year.
- Q. A companion of his ? A. No, sir.
- Q. How long have you known Mr. Death ? A. Well; I have only known Mr. Death five or six months.
- Q. A comrade of his ? A. No, sir.
- Q. Accustomed to go out with him at all ? A. No, sir.
- Q. Did you see Jennie Bosschietter that night ? A. Yes, sir.

Q. About what time ? A. I don't recollect the time exactly.

Q. Where did you see her ? A. I saw her passing by the store, Kent's.

Q. Did you know her ? A. Yes.

Q. Very well ? A. Yes, sir.

Q. Before that time ? A. I hadn't been out since—two years and a half ago.

Q. Did you speak to her this night or she speak to you ?

A. No, sir.

Q. You simply noticed her ? A. Yes; she didn't see me.

Q. During what time did you leave Mr. Kent's drug store ? A. I do not remember, really.

Q. Haven't any idea as to the time ? A. No, sir.

Q. Where did you go ? A. I was in the vicinity of Saal's.

Q. You went down towards Saal's ? A. Yes, sir.

Q. Did you go into Saal's at that time ? A. No, sir.

Q. What time did you go into Saal's saloon, about ? A. After nine.

Q. Did you know whether Mr. Campbell, Mr. Death or Jennie Bosschietter were in there or not ? A. I did not.

Q. Had no idea they were in there ? A. No, sir.

Q. Did you know that they were going into there ? A. No, sir.

Q. When you went into the saloon, what did you go in for ? A. To have a drink.

Q. Did you meet any friends in there ? A. Yes, sir.

Q. Do you recollect any of them ? A. Mr. George Dordoni, a silk buyer.

Q. You hadn't met him before that time ? A. No, sir.

Q. Did you have any drinks with him ? A. Yes, sir.

Q. Do you recall how many ? A. Three or four.

Q. Did Mr. Dordoni drink with you ? A. Yes, sir.

Q. Were there many people in the saloon at the time ? A. I do not remember ; there were a few people.

Q. There was a parade that night ? A. I do not remember any parade.

Q. But there were a few people in the saloon ? A. Yes, sir.

Q. Of this party, Campbell and Death, which one of them did you see first ? A. Campbell.

Q. Was he in the saloon at the time you first came in ? A. Yes.

Q. Where was he? A. Well, he approached me while I was at the bar.

Q. What did he say to you? A. "Hello Mac, what are you doing here?"

Q. What did you say to him? A. I told him I had an engagement—some business, came down to attend to it; I asked him to have a drink, and he said, "No, I am with a party."

Q. Did he tell you who it was? A. Yes; he told me who he was with; I asked him about that.

Q. What did he say? A. He told me he was with Miss Bosschieter and Mr. Death.

Q. Tell you where they were. A. In the side room.

Q. You had not known that they were in the saloon until that time? A. No, sir.

Q. Did you join this party? A. Later.

Q. At whose invitation? A. At Mr. Death's invitation.

Q. How long had you been in there before joining the party? A. Oh, I should judge fifteen or twenty minutes.

Q. You joined them there? A. In the the side room.

Q. In this side room? A. Yes.

Q. Did Miss Bosschieter know whether you were going or not? A. Yes, sir.

Q. What time was that? A. I had treated Mr. Campbell—Mr. Campbell came out and was ordering drinks for the party in the inside room, and I invited him to have a drink, and I said, "this will be on me," and when he went inside, I suppose he told them, and the invitation came out to join the party.

Q. He came out? A. He invited me in.

Q. How do you know that Miss Bosschieter knew you were going inside? A. When Campbell went in I suppose he told them.

Q. You saw Mr. Campbell ordering drinks for the side room? A. Yes, sir.

Q. Do you know what he ordered? A. I don't remember what he ordered.

Q. Who served the drinks? A. Mr. Saal.

Q. You do not recollect what they were? A. No; I do not know what his order was when he first came out; he came out twice.

Q. When these drinks were being served in the side room you hadn't yet gone in? A. No, sir.

Q. Tell us when you went into the side room? A. Why—they had—Mr. Death came out and ordered absinthe and two other drinks; I don't recollect; I think one was a

glass of beer, and the other cider; it was then I was invited in; that is when I went in at that time.

Q. Went in when these drinks were taken in? A. Yes, sir.

Q. Did you see these drinks partaken of by the party in the side room? A. No; I didn't follow immediately when I entered.

Q. When you entered you saw Miss Bosschieter there? A. Yes, sir.

Q. Did you speak to her? A. Yes, sir.

Q. She speak to you? A. Yes, sir.

Q. What did she say? A. She got up and approached me and threw her arms around my neck.

Q. She did, hey? A. Yes, sir.

Q. In what condition was she at that time? A. She was jolly full, what I call jolly full.

Q. Nothing more than that? A. No, sir.

Q. Did you sit down in this side room? A. Yes, sir.

Q. Where there any more drinks ordered? A. Yes, sir.

Q. Who ordered them? A. I did.

Q. What did you order? A. I proposed champagne, and I ordered a bottle of champagne when Mr. Saal entered.

Q. What kind of champagne? A. I ordered Mumm's, but he had nothing but domestic brand; I told him that would do; he brought it in with the cork in; I drew the cork and poured it into the glasses.

Q. Did Miss Bosschieter take any? A. Yes.

Q. How much did she take? A. Two glasses.

Q. Was she still jolly after she had taken that? A. No, sir; she was pretty full; I call it pretty full; didn't know what she was doing.

Q. How long did you stay in that room? A. Well, I don't remember; it was about ten o'clock when I came out.

Q. At the time you came out, you came out with Miss Bosschieter and Mr. Campbell and Mr. Death? A. Mr. Death and I went out, walked across the room to the Bridge street side.

Q. The Bridge street entrance? A. Yes, sir.

Q. Went through that entrance to the street? A. Yes.

Q. What condition was she in at that time? A. She was pretty drunk.

Q. Very drunk? A. Very drunk.

Q. Did she have to receive assistance in going out? A. We had to keep her from staggering; she could walk.

Q. You took hold of her and who else? A. Mr. Death.

Q. Now, Mr. McAlister, when you took her out the hack had been sent for to receive her, had it not? A. Yes, sir.

Q. And it was standing at the door at the time? A. Yes.

Q. Who helped her into the hack? A. Mr. Death and I took her into the hack.

Q. And you got in after? A. Yes, sir.

Q. During the time that she was in the saloon and while these drinks were being served, or at any time, did you put anything into her drink? A. I did not.

Q. Or into anybody's drink? A. No, sir.

Q. Did anybody else that you know of? A. No, sir.

Q. Now, when she got into the hack where was Mr. Campbell? A. Mr. Campbell had crossed the street.

Q. With whom? A. Mr. Kerr.

Q. Where did he go after he crossed the street? A. They started up Governor street; we overtook them.

Q. Which way did the hack go? A. Through Governor street.

Q. You overtook them at that point? A. Near the corner; the next corner.

Q. Near what corner? A. That would be Paterson.

Q. Corner beyond Bridge street? A. Yes, sir.

Q. Paterson street? A. Yes, sir.

Q. That is a long block away from Bridge street, is it not? A. Not very long block.

Q. What did you say to them when you came up to where they were? A. I said you had better get in here, hadn't you? They immediately came out and got into the carriage.

Q. Then where did you go? A. We drove out over the Goffle road.

Q. And do you recollect coming to Mr. Lee's place? A. Yes, sir.

Q. Did you stop there? A. They were closed.

Q. Was any attempt made to stop? A. Yes, sir.

Q. On the way out, in this carriage was anything done to this girl by any of you men? A. No, sir.

Q. What kind of a hack was it? A. Victoria.

Q. Open? A. Yes, sir.

Q. Covered top? A. Yes, sir.

Q. Open on the sides? A. Yes, sir.

Q. After you passed Mr. Lee's, which you say was shut up, where did you go? A. We turned off this road which leads over to the road at Ridgewood that comes out at Alyea's, the ice house. We started to cross there to come back home, taking a circuit.

Q. Where did you stop? A. We stopped—well, I don't remember the place we stopped.

Q. A place on the Rock road? A. Yes, sir; on the Rock road.

Q. And in what condition was Jennie at that time? A. Sick.

Q. Very sick? A. Yes, sir.

Q. Had she vomited any at that time? A. She wanted to vomit; that is why we stopped.

Q. And after you stopped, what was done with her? A. Well, I slapped her on the back to try and help her vomit.

Q. That was before you got out? A. No; that was after we got out.

Q. After you got out? A. Yes, sir.

Q. After you got out a blanket was taken out of the hack, was it not?

The Court:—Counsel's questions are rather leading, and they do not help us to get at the truth.

Mr. Emley:—I will try to avoid that.

Q. Just tell us after you got out of the hack what you did? A. Well, we spread the blanket.

Q. Just one moment. How near the roadside was that? A. Oh, it was very close to the roadside, as far as from me to you—you to me.

Q. In an open space? A. Yes, sir.

Q. Were there any houses around? A. No. We couldn't see any houses; it was dark, you know.

Q. Go ahead. A. And she wanted to vomit, but she could only vomit a little bit, you know; and I was slapping her on the back trying to get her to vomit more; and her face was covered with saliva, and that was all that was done. In the meantime the hackman was turning his hack around to take her back.

Q. As soon as she got out? A. Yes, sir; he immediately turned his hack.

Q. Did he move away? A. Yes, sir.

Q. Where did he go? A. I heard him make the re-

mark that he couldn't turn there very well, the road was too narrow, that he would go a little further.

Q. How far up did he go to turn around? A. Not very far. I should imagine fifty or seventy-five feet.

Q. Before he had started had she been laid up on the blanket? A. She requested to sit down; she was weak; she spoke.

Q. She spoke? A. Yes, sir.

Q. And then she was laid out upon this blanket? A. Yes.

Q. Now, Mr. McAlister, did you have any connection with this woman at that time? A. I did not.

Q. Did you at any time? A. No, sir.

Q. At that night? A. No, sir.

Q. Did any of these men that were with you have connection with her? A. No, sir.

Q. When did you put her back in the carriage? A. As soon as the hackman had turned around. We were not there five minutes.

Q. Who put her in? A. I don't remember; I may have helped to put her in; I don't remember.

Q. After she was put in where did you go? A. We drove back to town; first to a brook to try and revive her.

Q. Where was this brook? A. It is located a short distance from Lee's on the Goffle road.

Q. On the way back to Paterson? A. Yes, sir.

Q. What was done there? A. She was removed from the carriage and we bathed her face and head, and rubbed her hands; tried to revive her.

Q. Did she show any signs of being revived? A. Yes.

Q. At that time? A. Yes; but she didn't speak.

Q. How did she come to be put back into the hack? A. There was a carriage coming down the road.

Q. Then you put her back in the hack? A. Yes, sir.

Q. After that was done, what did you do? A. Well, we didn't understand her condition; she seemed to be in a bad condition, and we thought it was well to take her to a doctor.

Q. What doctor did you first go to? A. Dr. Wiley.

Q. Living where? A. On Ward street.

Q. Ward or Clark street? A. Ward.

Q. Was he in? A. No, sir.

Q. Where did you go after that? A. To Dr. Townsend's.

Q. Did you find him in? A. Yes, sir.

Q. Did he examine this girl at this time? A. Yes, sir.

Q. At whose request? A. Well, Mr. Kerr and I called the doctor. The doctor came to the door; Mr. Kerr and I were there.

Q. What did he tell you about it? A. He said that she was dead.

Q. Said so? A. Yes, sir.

Q. Now, after he announced that she was dead what was done then? A. Well, we started then over the same route with the exception of going further than the Red Mills.

Q. Before you went to the Red Mills, did you go in the vicinity of her home? A. Yes, sir.

Q. Before you went to the Red Mills, did the hackman drive towards her home? A. That was in our route to the Red Mills; yes, sir.

Q. How near to her home did you come? A. Four or five hundred feet.

Q. Did you know where she lived? A. Yes, sir.

Q. Where you going to take her home? A. Yes, sir.

Q. Why didn't you? A. There were men on the street. Our intention was to leave her on her stoop.

Q. So that when you saw these men on the street, what did you do? A. We didn't stop. We continued and crossed the Hillman street bridge; we turned around at the gas house. Her house is a short distance from the gas house.

Q. Where did you go then? A. We crossed the bridge and out the Goffle as far as what is called the Red Mills, and near Alyea's. There we thought it would be a good place to deposit the girl, as she would be quickly found; and we helped her out, lifted her out of the carriage, and laid her at the side of the road.

Q. What then? A. We got in and drove home.

Q. That was the end of it? A. Yes, sir.

Cross Examination by Mr. Emley:—

Q. How old do you say you are? A. Thirty.

Q. How long have you been engaged in business? A. About ten years.

Q. During all that time with your father? A. Yes, sir.

Q. What has your business been for the last ten years? A. Silk.

Q. What department of the silk business? A. Silk drawing.

Q. Where was your place of business? A. On Garfield avenue.

Q. Where is Garfield avenue? A. It is the other side of Passaic river. The most direct route to my mill is through Bridge street across Arch street bridge, through to Jefferson street.

Q. It is on the other side of the river then? A. Yes.

Q. And in reaching your mill you were in the habit of passing Saal's saloon frequently? A. Yes, sir.

Q. And you were also in the habit of stopping in there?

A. Yes, sir.

Q. Occasionally and getting a drink? A. Yes, sir.

Q. And in that way you knew Mr. Saal very well?

A. Yes, sir.

Q. And he knew you? A. Yes, sir.

Q. You have been leading for some time rather a sporty life?

Mr. Scott:—I object to that question.

The Court:—Does counsel think that is important?

Mr. Emley:—Well, it may lead to a line of examination that will be proper. This of itself is of no particular consequence.

The Court:—Get to the part that is of consequence.

Q. You say that you have known Jennie Bosschietter for some time? A. Yes, sir.

Q. How long have you known her? A. Two and a half years.

Q. Two and a half years? A. Yes, sir.

Q. And you say you were in the habit of going out with her occasionally two and a half years ago? A. Yes, sir.

Q. But that you had not been out with her during that time? A. Not recently.

Q. Within the last two years and a half? A. No, sir; no, sir.

Q. Had you made any effort during that time to go out with her? A. No, sir.

Q. Don't you know, as a matter of fact, that during that time she had refused to go out with you? A. No, sir.

Q. Did she ever refuse to go out with you? A. No, sir.

Q. Did she ever say to you that your friendship was not desirable to her? A. No, sir.

Q. Or anything to that effect? A. No, sir.

Q. But you had been, comparatively speaking, strangers

for the last two years, had you not? A. Why, no; I would see her occasionally on the street and she always bowed very pleasantly.

Q. You never had been out in her society? A. Not of late; no, sir.

Q. So you saw her on Main street in front of Kent's drug store, you say? A. Yes, sir.

Q. You never had been out in her society? A. Not I; no, sir.

Q. And you say you saw her on Main street, in front of Kent's drug store? A. Yes, sir.

Q. And she was going in which direction? A. Up the street.

Q. You think that was after nine o'clock? A. No, sir; before nine.

Q. How much before nine was it? A. I could not say positively.

Q. Did you see her again after that? A. Yes, sir; later in the evening.

Q. I mean, on Main street? A. No, sir.

Q. Which way did she go, do you say, then; up the street, when you first saw her? A. Yes, sir.

Q. And you were then you say at Kent's drug store with Mr. Kerr? A. Yes, sir.

Q. How long had you been standing there with him? A. Well, that I do not know. We got down town about half past eight, as near as I can recollect.

Q. And joined you there? A. Yes, sir.

Q. I understood you to say you had made that arrangement beforehand? Yes, sir.

Q. You had an engagement? A. Yes, sir.

Q. For the evening? A. Yes, sir.

Q. What was the engagement?

Mr. Scott.—Objected to as irrelevant.

Question allowed.

Whereupon the counsel for the defendant placed an exception to the ruling of the court, and the same is allowed and is sealed accordingly.

A. To see the young ladies, Mr. Kerr and I.

Q. Where? A. At Arch street bridge.

Q. What time? A. Between half past eight and nine o'clock.

Q. What time between half past eight and nine o'clock?

A. No especial time.

Q. Who were they? A. I do not care to mention their names—

*By Mr. Scott :—*I object to the question.

The question is allowed by the court.

Whereupon the counsel for the defendant raised exception to the ruling of the court, and the same is allowed and was sealed accordingly.

A. They are people I know pretty well. I do not care to mention their names.

Q. I want to know. A. I decline to answer.

Q. I still insist upon your answer to the question? A. (The witness does not reply.)

*By the Court :—*It is your duty to answer.

*By the Witness :—*I do not care to mention their names.

*By the Court :—*It is your duty to answer.

*By the Witness :—*I refuse to answer.

Q. Is it because you do not remember who they were?

A. No, sir.

Q. You do remember who they were? A. Yes, sir.

Q. You know now who they were? A. Yes, sir.

Q. And you remember their names now? A. Yes, sir.

Q. Upon what grounds do you refuse to answer that question? A. They are people who are very respectable people, and I do not care to draw them into this case.

Q. How does that draw them into this case? A. Any mention of them—

Q. Was there anything wrong about your engagement to meet them on Arch street bridge? A. We were going out for a ride.

Q. Was there anything wrong about that? A. No, sir.

Q. Then why do you object to tell the names of these ladies? A. Because, as I said, I do not care to bring them into this case.

Q. Does that, the mention of their names, bring them into this case? A. To a certain extent; and notoriety.

Q. Notoriety? A. Yes, sir; I do not think it would do them any good.

Q. Well; did you and Mr. Kerr meet them there? A. No, sir; we were late.

Q. Did you go there? A. Yes, sir.

Q. Did he and you go there together? A. No, sir.

Q. Where did you and he go? A. I went alone.

Q. Where did he go? A. To Hofgesang's.

Q. Where is Hofgesang's? A. At the corner of Railroad avenue and Market street.

Q. What did he go there for? A. To wait for me; until he heard from me.

Q. To what effect? A. He was late in getting down, and it was after nine when I got to the bridge, and we were not sure whether the people would be there, and we were going to take them for a drive, and I suggested that he go to Hofgesang's and wait there until I telephoned to him; we did not want to hire the rig until we found out they were there.

Q. You knew where they lived, didn't you? A. Yes, sir.

Q. And you had an engagement with them? A. Yes; sir; but not at their house.

Q. On the bridge? A. Yes, sir.

Q. Why didn't you make your engagement to meet them at their house, and take them from there?

Objected to by Mr Scott.

The question is allowed by the court.

Whereupon the counsel for the defendant prays an exception to the ruling of the court, and the same is allowed and is sealed accordingly.

A. I do not know of any reasons for that. They suggested that. We had been out with them before.

Q. They suggested that? A. Yes, sir.

Q. And when so you and Kerr left Kent's drug store, he going to Hofgesang's saloon, and you to the Arch street bridge, you parted with the expectation of meeting again?

A. Yes, sir.

Q. Where? A. He was to bring—(interrupted)

Q. Where did you expect to meet Mr. Kerr again? A. In case I did not meet the girls—(interrupted)

Q. When you parted at Kent's drug store, he going in one direction and you another, where did you then expect to meet him again? A. I expected him to come down to the bridge?

Q. The Arch street bridge? A. Yes, sir.

Q. And from there you intended to leave on your carriage riding? A. Yes, sir.

Q. Well, you found that the girls had gone; what did you do? A. I started back uptown.

Q. Where did you go? A. I stopped in Saal's on the way up.

Q. What time do you think that was? A. I could not say the exact time. It was after nine.

Q. It was close to ten, wasn't it? A. No, sir; it was about sometime after nine.

Q. Around half past nine? A. It could not have been as late as that. I did not wait long on the bridge.

Q. What did you stop in Saal's for? A. To have a drink.

Q. Well; did you have a drink? A. Yes, sir.

Q. Whom did you drink with? A. Mr. Dordoni and a friend.

Q. Did you know him? A. Not until Mr. Saal introduced me to him.

Q. Did you know his friend? A. I was introduced to his friend.

Q. So you and he and the friend had a drink at the bar? A. Yes, sir.

Q. Who served you? A. Saal.

Q. Was he behind the bar? A. Yes, sir.

Q. Was there a woman there at that time? A. I do not remember seeing any woman.

Q. Do you know if Mrs. Saal was there at that time? A. No, sir.

Q. Do you know Mrs. Saal? A. Yes, sir; when I see her.

Q. After you had had the drink at the bar, what did you do then? A. We had several drinks.

Q. When did you expect to meet your friend Kerr again, and where? A. Well, it was immaterial. He would wait there until he heard from me.

Q. How long had you expected to keep him waiting there for a telephone message from you? A. I did not calculate the time.

Q. When you went in Saal's saloon you knew then that you did not need the hack? A. Yes, sir.

Q. And you knew that he was waiting for you? A. Yes, sir.

Q. Then why didn't you send word to him? A. I told you I was drinking with these people. In fact, I forgot Kerr for the time.

Q. You did not think about him again until you needed his services for the assistance of this girl? A. Yes, sir. (The witness nods assentingly).

Q. Well, you say you were drinking at the bar. Who

did you see first of these other two friends? A. Mr. Campbell.

Q. Where did he come from? A. From the side room.

Q. Which side room was that? A. Well, he came from the back of the saloon. That would be this room here, the sitting room (indicating on the diagram).

Q. How long had you been there when Campbell came from the side room? A. I had not been there long.

Q. Cannot you give us some sort of an idea as to how long? A. Well, I had not been there only a few minutes. I guess he came out while I was there drinking the first round with those two men.

Q. You had been occupied some little time when he came out? A. I had ordered the drinks, and was drinking.

Q. So he came out directly after that from the side room? A. Yes, sir.

Q. You were somewhat surprised to see him there? A. Yes, sir.

Q. And said, "Hello, Campbell, what are you doing in here?" A. He spoke to me.

Q. Making that statement to you? A. Yes, sir.

Q. What did you say? A. I said, "Have a drink?"

Q. What you say? A. That I had a little matter on in that neighborhood, and was on my way back.

Q. What sort of a little matter? A. This engagement with those two girls.

Q. Did you tell him that? A. Yes, sir.

Q. And did you tell him Kerr was engaged together with you? A. Yes, sir.

Q. And did you tell him that Kerr was up at Hofgesang's waiting for you? A. Yes, sir.

Q. You told him all that? A. Yes, sir.

Q. And you asked him to take a drink? A. Yes, sir.

Q. He had a drink at the time? A. No, sir; not at the bar.

Q. What did he do? A. He went in the back room, and then came back again.

Q. Where did he go? A. To the side room.

Q. How long was he talking to you before he went back to the side room? A. Very few minutes.

Q. Did he take anything back with him? A. Not the first time.

Q. How long was he gone before he returned to the bar room? A. He came right back.

Q. Do you know what he went in there for? A. No, sir.

Q. Did you know there were others in the side room?

A. Well, I imagined there was some one in there; yes, sir.

Q. Why did you imagine there was some one in there?

A. Well, Mr. Campbell had told me there was some one with him.

Q. When did he tell you that? A. The first time he came out.

Q. How did he come to tell you there was some one in there? A. He volunteered it; in fact, he told me who was there.

Q. He told you who was there? A. Yes, sir.

Q. That was who? A. William Death and Jennie Bosschieter.

Q. Both of whom you knew? A. Yes, sir.

Q. And didn't he invite you at the first interview to come in with him, on your first meeting in front of the bar? A. No, sir.

Q. What did he do then, when he came out from the side room the second time? A. Well, he ordered drinks for those inside.

Q. What drinks did he order? A. I recollect there was a Manhattan cocktail. I am not sure what the others were.

Q. You remember the cocktail? A. One beer, and a glass of cider.

Q. One beer and a glass of cider? A. Yes, sir.

Q. Was there a glass of milk? A. No, sir; I had seltzer and milk.

Q. There were four drinks ordered by Campbell? A. No, sir.

Q. How many drinks did he order? A. Three.

Q. How many drinks were served upon Campbell's order and placed upon the waiter? A. Three.

Q. Only three? A. Yes, sir.

Q. And they were what? A. They were cocktail, beer and cider.

Q. Cider? A. Yes, sir.

Q. You got a glass of milk. You took a drink there, did you? A. With Mr. Dordoni and his friend.

Q. So your drink didn't go into the side room? A. No, sir.

Q. All that were sent in were on the waiter? A. Yes, sir.

Q. And they were carried by whom? A. Mr. Campbell.

Q. Mr. Campbell? A. Yes, sir.

Q. What did he say when he left you? A. Well, Mr. Campbell had told me—

Q. No, when he left you there with these drinks in his hands, what did he say to you? A. Didn't say anything to me.

Q. Nothing? A. No, sir.

Q. Had he then invited you to come in? A. No, he hadn't invited me then to come in.

Q. No? A. No, sir.

Q. You had offered to pay for this round of drinks, had you not? A. Yes, sir.

Q. And it was after he went into the room and told his friends that fact, that he came out and invited you in, wasn't it? A. He came out later and invited me to come in; yes, sir.

Q. You said you offered to pay for the round of drinks and he went in and stated that and then upon their insistence he came out and invited you in; was that the way of it? A. I didn't quite catch that question.

Mr. Scott:—How does he know what was stated in the side room?

Mr. Emley:—I don't know.

Q. You remained then in the bar room? A. Yes, sir.

Q. You are sure about that? A. Yes, sir.

Q. How long was Campbell absent from the bar room after going away with the three drinks before he came out again? A. Well; that I don't recollect.

Q. Can't you give us any sort of an idea? A. No, sir; I wasn't following his movements at all.

Q. You were sufficiently interested in him and his party to pay for your round of drinks, weren't you? A. Well; I was paying for everything that night.

Q. Oh, you were paying for everything? A. Yes, sir.

Q. And you paid no attention to his absence from the bar room? A. No, sir.

Q. But after a while he did come out and invite you in, didn't he? A. Yes, sir.

Q. And then did you go? A. No, sir.

Q. Didn't go? A. Not right away; no, sir.

Q. How soon did you go? A. I went in after Mr. Death came out.

Q. After Mr. Death came out you went in? A. Yes, sir.

Q. What did Mr. Death come out for? A. He came out to give the order.

Q. What for? A. Drinks.

Q. What did he order? A. Well, he ordered—I [am not sure what he ordered; I couldn't say what he ordered.

Q. You can't tell? A. No, sir.

Q. Was there a cocktail there? A. I don't remember.

Q. Did he order anything for you? A. No, sir.

Q. Nothing? A. No, sir.

Q. How many drinks did he order? A. He ordered three drinks.

Q. Who served them to him? A. He took them in himself.

Q. Who served them to him? A. Saal.

Q. Mr. Saal? A. Yes, sir.

Q. He was behind the bar and you still standing there? A. Yes, sir.

Q. And Death came out and ordered these drinks? A. Yes, sir.

Q. And he carried them into the side room? A. Yes, sir.

Q. Leaving you still standing by the bar? A. Yes, sir.

Q. After his disappearance when did you next see him again? A. I went right in after.

Q. You went right in? Yes, sir.

Q. He invited you in at the time he went away with the drinks? A. Yes, sir.

Q. You paid for that round of drinks also, I believe? A. That I don't remember.

Q. Well, you were paying for everything, weren't you, pretty near everything that night? A. Yes, sir.

Q. And the likelihood is that you paid for that too? A. That I couldn't say.

Q. You don't know? A. No.

Q. Well, had you said anything yet to him or to Campbell about your friend Kerr who was waiting for you? A. Yes, sir; I told Mr. Campbell when I first went in.

Q. Had you said anything further than that to them? A. No, sir.

Q. Had you sent word then to Mr. Kerr? A. No, sir.

Q. You had not sent word to Mr. Kerr until after you went into the side room? A. No, sir.

Q. It was after that you telephoned to Mr. Kerr, was it? A. Yes, sir.

Q. Are you sure about that? A. Yes, sir.

Q. Wasn't it before you went into the side room? A. No, sir.

Q. How long had you been in the side room before you left there to telephone to Mr. Kerr? A. I am not sure of that; probably twenty or twenty-five minutes.

Q. Twenty or twenty-five minutes? A. Or Thirty minutes, I am not sure.

Q. Was it as long as that? A. Well, I do not know how long it was.

Q. Well, as near as you can tell? A. I am not sure.

Q. You are not sure? A. No, sir.

Q. Well, you kept Mr. Kerr waiting, didn't you? A. Yes, sir.

Q. Considerable time after your disappointment in not meeting your friends on the bridge? A. Yes, sir.

Q. You had ample opportunity to send him word, had you not? A. Yes, sir.

Q. Did you telephone to him more than once that night? A. I didn't telephone to him at all.

Q. How did you send him word? A. By telephone.

Q. Oh, you didn't telephone at all? A. I did telephone once.

Q. Did you telephone more than once? A. No, sir.

Q. That was all? A. Yes, sir.

Q. And that you say was after you had been in the side room, you think twenty minutes to half an hour? A. I couldn't say about the time; I am not sure.

Q. Well, for some considerable time? A. Between nine and ten; yes, sir.

Q. Now, when you went into the side room, who did you see there? A. Mr. Death and Jennie Bosschieter.

Q. Who else? A. Mr. Campbell.

Q. And they were drinking what? A. Well, I don't know what they were drinking, she was—

Q. Were they on the second round of drinks. A. Yes, sir.

Q. That was what they were doing then, wasn't it? A. Yes, sir.

Q. And when you went in there you were without a drink? A. I was smoking.

Q. You were without a drink? A. Yes, sir.

Q. So that in the first place upon your joining them in the side room they three were drinking alone, is that so?

A. Yes, sir.

Q. And they were drinking the second round of drinks?
A. Yes, sir.

Q. How soon after you went into the side room was it before another round of drinks was ordered? A. How is that question?

Q. How soon after you went into the side room was it before another round of drinks was ordered? A. Immediately.

Q. Immediately? A. I ordered a round; yes, sir.

Q. How did you do that? A. Ordered a bottle of champagne.

Q. How did you do that? A. Pressed the button.

Q. There is an electric button there, isn't there? A. Yes, sir.

Q. That rings a register over the bar? A. Yes, sir.

Q. And you ordered it by means of that button and register, did you? A. Yes, sir.

Q. And in answer to that call, what transpired? A. Mr. Saal answered that call.

Q. Mr. Saal in person? A. Yes, sir.

Q. And he came in the room where you were? A. Yes, sir.

Q. And what were you engaged at then? A. Talking.

Q. Sitting down? A. Yes, sir.

Q. Around this round table? A. Yes, sir.

Q. How did you sit, do you remember? A. Well, I don't, I think—well, I sat this side of the table and Miss Bosschietter sat over here, and Mr. Death next to her and Campbell at my left.

Q. And were you served with a bottle of champagne?
A. Yes, sir.

Q. Then a glass was also served for you, wasn't it? A. Yes sir.

Q. Four glasses and a quart bottle of wine? A. Yes, sir.

Q. Great Western? A. Yes, sir.

Q. And you all had a portion of the bottle—a portion of that, I believe? A. We each had; yes, sir.

Q. Two glasses apiece? A. Yes, sir.

Q. How long were you occupied with the bottle of champagne? A. Why, I couldn't say; we weren't there long.

Q. No, I know you weren't very long; but five minutes or ten minutes? A. Five or ten minutes.

Q. Fifteen minutes? A. Five or ten minutes.

Q. That is as near as you can tell? A. That is as near as I can tell.

Q. When was it you sent word to Kerr? Was it before or after you had drank the champagne? A. After.

Q. After? A. Yes, sir.

Q. Had the champagne all been drunk before you sent for Kerr? A. Yes, sir.

Q. All? A. Yes, sir.

Q. And then you say you sent for him because of Jennie's condition? A. Yes, sir.

Q. And that you say was a condition of inebriety, do you? A. Yes, sir.

Q. She was drunk? A. Yes, sir.

Q. Did you observe anything unusual in her manner when you first met her in the saloon? A. Well, she was—

Q. Jolly, I understood you to say? A. She was drunk.

Q. Jolly is the word you used, I think? A. Yes, sir; jolly drunk.

Q. You say she rose up upon your entrance to the side room and threw her arms around your neck? A. Yes, sir.

Q. How long did she remain in that position? A. Only a minute.

Q. And then dropped away and resumed her seat? A. Yes, sir.

Q. Did that seem to be a natural movement on her part or a movement resulting from drink? Could you tell? A. Well, I couldn't tell you why she did it.

Q. How did it impress you, that she was then under the influence somewhat of drink? A. She was under the influence of drink; yes, sir.

Q. Yes, but not bad? A. Well, she knew what she was doing.

Q. She could stand up and walk around and throw her arms around your neck? A. No; didn't do any walking around; she simply got up and came to where I was, and that was only a step.

Q. Her condition did not excite any anxiety then, did it in your mind? A. No. No.

Q. Eh? A. No; there was no—

Q. She had then had these two drinks as I understand, this first and second round of drinks? A. Yes, sir.

Q. And that's all? A. That is all that I know of.

Q. The champagne had not been ordered then? A. No, sir.

Q. And then this stage of further intoxication came on her after she had drank the two glasses of champagne,

did it? A. No; when we entered she seemed to get in bad shape quickly.

Q. Bad shape quickly? A. Yes, sir; she was getting pretty drunk.

Q. Tell us how she acted when you went in there that made you say she was in bad shape? A. Well, she was—I can't just describe how she was, but she was good and drunk. She was drunk.

Q. What did she do? Tell me what she did? A. Well, when I first went in she got up and came over.

Q. Yes; what did she do? A. Threw her arms around me.

Q. What else did she say or do? A. She went back to her chair.

Q. And sat down? A. Yes, sir.

Q. And remained sitting? A. Yes, sir; but in doing that she staggered.

Q. Staggered? A. Yes, sir; staggered.

Q. And it was her stagger that made you think she was "good and drunk?" A. Well, no; everything about her showed that she was drunk.

Q. What about her showed that she was drunk? A. Acting foolish and jolly.

Q. Did she seem to be under some excitement? A. No; it was just—

Q. Any loud laughing? A. Yes, sir; at the time there was.

Q. Or noisy talk? A. Yes, sir; at times.

Q. Rather a hilarious mood, she was in? A. At times she was.

Q. At first when you went in? A. She was jolly; yes, sir.

Q. And from that she afterwards passed into a different mood, didn't she? A. Yes; she kept getting fuller and fuller every minute.

Q. And a change was observable in her, wasn't it? A. Yes, sir.

Q. And laterally, how did she seem? A. Well, it was what I would say paralyzed drunk.

Q. She quit talking, didn't she? A. No, sir.

Q. Eh? A. No, sir.

Q. Didn't she entirely stop conversation towards the last? A. No, sir. No, sir.

Q. She left off her laughter? A. No, sir.

Q. She didn't get up and move around, did she? A. No, sir.

Q. She sat still in her chair? A. Yes, sir.

Q. Until the carriage came and she was led out to that?

A. Yes, sir.

Q. Well, you say then that you ordered this carriage to do what? A. Well, Mr. Death had taken the young lady down there as I understood, and he wanted to get her home and he didn't know how he was going to get her home in that condition. I then told Death about this arrangement I had with two girls and how I had left George waiting at the Hoofgesang's, and that I would telephone to George, and if he was there he could bring the rig down and we could take her out and let her get the air and sober her up.

Q. And that was why you sent for the rig, was it? A. Yes, sir.

Q. Kerr was there then waiting for you, was he? A. When I telephoned; yes, sir.

Q. And soon came down with this rig? A. Yes, sir.

Q. Where were you when Kerr came? A. I was in the room.

Q. Were the rest of you in the room too? A. Yes, sir.

Q. How did Kerr come in? A. He came in on River street side.

Q. Through the hallway leading from the River street entrance? A. Yes, sir.

Q. And he made the announcement that the carriage was there, did he not? A. Yes, sir.

Q. What did you do then? A. I said better take it around at the Bridge street side.

Q. You told him that, that it better be taken around to the Bridge street side? A. Yes, sir.

Q. What for? A. Well, in the route that we had thought of that was the most convenient way to start out.

Q. You had then agreed where to go? A. We decided to drive out the Goffle road.

Q. You had? A. Yes, sir.

Q. When did you decide that? A. In the room.

Q. Before or after Kerr came? A. Before.

Q. So that everything was arranged when the carriage arrived was it—where to go? A. We were not sure. I suggested that drive.

Q. Then it was because of that arrangement you say that you had the carriage brought around on the Bridge street side? A. Yes, sir; to start out Governor street.

Q. Who had the carriage brought around there? A. Who ordered the carriage around?

Q. Yes, sir. A. Mr. Kerr went out.

Q. He went out the River street side? A. Yes, sir.

Q. And ordered the carriage around? A. Yes, sir.

Q. And he came around by Bridgestreet? A. Yes, sir.

Q. And Kerr after doing that came back through the River street hallway to the room where you were? A. No, sir.

Q. Didn't he? A. Not through the River street.

Q. How did he come back? A. He came back from the side the hack was on.

Q. Then how soon was it before you moved out to the carriage? A. Immediately.

Q. Immediately; how did Jennie get out? A. She walked out with Mr. Death and I.

Q. Could she walk? She could walk, but we had to support her.

Q. You had to support her? A. To keep her from lurching.

Q. Do you think then she knew where she was going? A. She knew she was going for a drive.

Q. She did know that? A. Well, it was—she made the remark just before we got into the carriage, "now for a drive."

Q. "Now for a drive"; is that the first she knew, when she saw the carriage, that she was going for a drive? A. No; she knew she was going for a drive.

Q. How did she know? A. She heard us talking.

Q. In the room? A. Yes, sir.

Q. About going for a drive? A. Yes, sir.

Q. What did she say in there about that? A. Well, she didn't say anything. We were all there.

Q. She made no objection to that? A. No; no objection.

Q. So when you got out on the sidewalk, she said, "Now we are going for a drive," is that right? A. Well, she mumbled that.

Q. And you and Death put her in the carriage? A. Yes, sir.

Q. On the back seat? A. Yes, sir.

Q. And you sat one upon each side of her, didn't you? A. Yes, sir.

Q. And that was your position out Goffle road, wasn't it? A. Yes, sir.

Q. All the way? A. Yes, sir.

Q. And Kerr and Campbell were overtaken, you say on Governor street? A. Yes, sir.

Q. And they got in and occupied the seat in front? A. One with the driver, and there was a seat in front of us.

Q. Who sat upon that seat in front of you? A. Kerr.

Q. And where did the other man sit? A. Campbell sat up with the driver.

Q. Was there room on the driver's box for more than one man? A. Well, the driver and Mr. Campbell.

Q. I say: was there room for more than one man on the driver's box? A. Yes, sir.

Q. And in that position, did you drive all the way out to Charlie Lee's? A. Yes, sir.

Q. How far was it your purpose to go that night? A. We were going to take in the circuit.

Q. Take in which? A. The circuit.

Q. Which circuit? A. Through the Rock road to the Ridgewood road and back to Paterson by way of Alyea's.

Q. Yes; you thought that would supply her with air enough to revive her, did you? A. That would take an hour and a half or two hours.

Q. Longer than that; wouldn't it? A. I don't know; I have often driven it.

Q. The Rock road is a very rough road, isn't it? A. Not so very rough.

Q. Well, it is a by-road; it is not an improved road? A. It is not a macadam road.

Q. A little frequented road, is it not? A. Well, I don't know how much it is travelled.

Q. You had been over it before? A. Yes, sir; time and again.

Q. And you know what sort of a road it was then? A. It wasn't a very bad road. There was a hill or two. It is a country road.

Q. It is not a main thoroughfare? A. No, sir.

Q. Like the Goffle Road and the Ridgewood Road? A. No, sir.

Q. So, it was your purpose to go around the block? A. Around that circuit; yes, sir.

Q. And that is about how far? A. Oh, I have no idea how far it is.

Q. Ten or twelve miles? A. No, no; four or five miles. I should say.

Q. You thought by the time you should get back that Jennie would be all right? A. We thought she would be in better shape.

Q. Well, did it occur to you that perhaps it would be better to take her home? A. When?

Q. When you started out from Saal's? A. She was in no condition to take home. Mr. Death didn't think she was in any condition to take home; he didn't want to take her home in that condition.

Q. He didn't want to take her home in that condition? A. No, sir.

Q. That was the reason you didn't want to take her home? A. Yes, sir.

Q. You all knew where she lived? A. I knew where she lived.

Q. You didn't say anything to Mr. Saal about her condition? A. I don't remember whether I did or not.

Q. You didn't call in his aid or assistance? A. It wasn't necessary.

Q. You didn't do it, did you? A. No, sir; it wasn't necessary.

Q. You knew that Mr. Saal lived just above and had an apartment there, didn't you? A. I knew that; yes, sir.

Q. And that if a girl were in distress there she might have care right at hand? A. She wasn't in such bad shape but what we thought an hour or two would sober her up.

Q. And that is why you took her out? A. Yes, sir.

Q. Well, what did you stop at Charlie Lee's for when you got up the Goffle road? A. We didn't stop at Charlie Lee's; it was closed.

Q. Didn't you ask the driver if Charlie Lee's was open? A. There was some talk as to whether Charlie Lee was open or not; but when we got near Lee's it was dark.

Q. Wasn't that your purpose, to stop at Charlie Lee's? A. Yes, sir; just to have a drink.

Q. Oh, just to have a drink? A. Yes, sir.

Q. You thought Jennie hadn't had enough? A. She had enough; but we could drink a little more.

Q. You could drink a little more; so you didn't get a drink at Charlie Lee's? A. No, sir.

Q. But turned through this Rock Road? A. Yes, sir.

Q. Had Jennie said anything on the way up there? A. Well, she spoke once or twice.

Q. What about? A. Just mumbled out something, I—

Q. Did she speak audibly so as to be heard and understood? A. She spoke when we lifted her out of the carriage.

Q. No, no; I mean before that. On the way up from Saal's saloon? A. We didn't pay any attention. She seemed to be sleeping.

Q. And rested her head on the back of the carriage seat, didn't she? A. Yes, sir.

Q. In a reclining position? A. She leaned back on the cushion—

Q. All the way up there? A. Yes, sir.

Q. She didn't move all the way up there? A. Oh, yes.

Q. Did she get up? A. Straightened herself up.

Q. Straightened herself up when? A. She straightened herself up and sat upright for a few minutes, and then—

Q. What did she say at those times? A. She mumbled—I couldn't understand what it was. I don't recollect what it was.

Q. Could you understand what it was? A. A few words; yes, sir; but I don't remember what they were.

Q. You don't remember what that was? A. No.

Q. Did you say anything to her, any of you? A. No; we were all laughing and joking.

Q. All laughing and joking? A. Yes, sir.

Q. What were you laughing and joking about? Jennie? A. Oh, no.

Q. And her condition? A. We didn't do anything wrong.

Q. What was there to make you laugh and joke? A. There was stories told.

Q. By whom? A. By all of us; different remarks.

Q. Were you talking among yourselves in going up there? A. Yes, sir.

Q. What was the conversation between you as you went up Goffle Road? A. I don't remember what it was now.

Q. Can't you tell us anything about it? A. No, sir; I don't recollect now.

Q. Nothing about it? A. No, sir.

Q. So you didn't turn into the Rock Road for the purpose of taking Jennie out of the wagon? A. No, sir.

Q. That was only on the way round the circuit? A. When we found that she was sick; yes, sir.

Q. I see. You went through there only to complete the circuit and get back to Paterson? A. Yes, sir.

Q. Then after you had her out upon the blanket and where she vomited and you put her back again, what changed your mind and made you turn around and come back this way? A. We wanted to get to the brook.

Q. You wanted to get to the brook? A. Yes, sir.

Q. Why did you want to get to the brook? A. For water

Q. What for? A. To revive her; she was sick.

Q. She had been sick all the way up, hadn't she? A. No, sir.

Q. You had passed the brook just presently, hadn't you? A. Yes, sir; but she showed no signs of being sick.

Q. You say she could not sit up or talk? A. She sat up once or twice on the way up.

Q. Why didn't you when you passed the brook on the way up stop and get water to revive her? A. She wasn't sick.

Q. Wasn't sick? A. No, sir.

Q. It was because she was sick that you wanted the water? A. Yes, sir.

Q. Not because she was stupid with drink? A. After she vomited she seemed to feel better, and we thought—

Q. Where was it she first began to show signs of vomiting? A. Just where we stopped.

Q. Just where you stopped? A. Yes, sir.

Q. Then you say you took her out? A. Yes, sir.

Q. And put the blanket under her and laid her upon the blanket? A. No; she stood up; and then we lay her on the ground; yes, sir; after she tried to vomit.

Q. Laid her on her back? A. No, in a sitting position.

Q. Did she—A. She tried to vomit before she sat down.

Q. Did she do so? A. Just a little.

Q. Just a little? A. Yes, sir. I didn't notice that she vomited—

Q. And that was all of it? A. Yes, sir.

Q. That was all of it? A. Yes, sir.

Q. No other sign of sickness there? A. No, sir; only vomiting; that was all.

Q. And that was the little you have spoken of—the saliva upon her mouth? A. Yes, sir; I didn't see her vomit.

Q. Did you see anything on her clothing in the way of vomit or anything of that kind? A. Not on her clothing.

Q. On your clothing? A. No, sir.

Q. How long did it take her to do that? A. To vomit?

Q. Yes, sir? A. Oh, several minutes

Q. And then did you directly put her back in the wagon? A. As soon as the hackman turned around.

Q. How long do you think you were in there—in the woods? A. A few minutes.

Q. Not over five minutes? A. While the hackman turned around; that was all.

Q. While the hackman turned around, and then you say you came back around down the brook? A. Yes, sir.

Q. And took her out there again? A. Yes, sir.

Q. What for? A. To revive her. She was asleep then.

Q. How did you take her out? A. Lifted her out.

Q. Who lifted her out? A. That I don't remember; I may have helped; I don't recollect.

Q. You lifted her out up in the woods? A. Why I helped.

Q. Who else helped? A. I don't know, I am sure.

Q. What is the reason you don't know? A. I was there, but I don't recollect.

Q. Why don't you recollect who lifted her out of the wagon in the woods? You remember that you helped do it? A. Because I don't. I was there and I may have helped; I am not sure.

Q. You were anxious and interested about her, weren't you? A. Yes, sir.

Q. Did Death and Campbell help lift her out? A. Well, I am not sure; I don't know whether they did or not. We got her out.

Q. They assisted you in your effort to revive her? A. We were all together.

Q. And Mr. Kerr as well? A. Yes, sir.

Q. All of you were around there? A. Yes, sir; all together; helping her out and in and attending to her.

Q. And the same way down by the brook? A. Yes, sir.

Q. And how long do you think you were at the brook? A. Oh; some little time.

Q. Well; about how long? A. Well, I couldn't say; I don't know how long; we were there some time.

Q. Fifteen minutes? A. I couldn't say as to the time.

Q. Ten minutes? A. I wouldn't want to say.

Q. You are not sure? A. No, sir.

Q. You were disturbed by a wagon, I understood you to say? A. Yes, sir.

Q. You testified, as I understand you, heard a wagon? A. Coming down the road.

Q. And when you heard the sound of a wagon you put her back in the wagon? A. Yes; we put her back in the wagon.

Q. Why did you put her back in the wagon because you heard the sound of a wagon coming? A. I did not

think it would look very well to be found there with a drunken girl.

Q. Did you consider her welfare above any consideration of this wagon? A. Well, it was only like driving around the corner; there is a branch of the road there; I will show you if you let me on the map.

Q. You mean the Sicomac road? A. It is a road just before you get to the brook.

Q. There is a corner, that is where one road turns off, and there is the Goffle road you come down to the left? A. Yes; and there is a road across and you go out to the hill.

Q. When you say you heard the wagon coming you had just put her back into the wagon, and that is the reason you did that? A. Yes, sir.

Q. Just because you heard a wagon coming you put her back in the wagon? A. Yes.

Q. You were standing by the roadside? A. Yes, sir.

Q. This wagon was going towards East Durham; do you remember? A. That I do not remember.

Q. Going towards Midland Park? A. I could not say.

Q. Put her in the back of the wagon? A. Yes.

Q. Then you started directly down towards Paterson? A. Yes.

Q. Who suggested to go to the doctor? A. One of us; I do not recollect now who it was.

Q. Where was it suggested? A. By the brook; I may have suggested.

Q. Why did you suggest going to the doctor? A. She didn't seem to revive when we bathed her; so we thought it best to go to the dootor,

Q. When was that? A. When we couldn't revive her at all; she didn't speak.

Q. You could hardly expect to revive her when you say she was so drunk when she was brought from Saal's saloon? A. We thought she would be able to speak.

Q. And wasn't she able to speak? A. Only mumbled.

Q. What did she say? I thought a moment ago you said she couldn't speak? A. I said she just mumbled.

Q. Did I understand you to say she spoke up in the woods? A. Yes.

Q. When was that? A. When we lifted her out of the carriage?

Q. Yes. A. Something was said.

Q. What did she say? A. I forget now.

Q. You do not know what it was ? A. I can't say now.

Q. You understood it at the time ? A. Yes.

Q. But forgotten it since ? A. Yes, sir.

Q. You do not remember what it is now ? A. No, sir.

Q. Did she say anything when you put her in the seat in the carriage ? A. Moaned.

Q. Just moaned ? A. Yes; she was sick.

Q. Did I understand you to say that she said something up in the woods just for a moment ? Do I understand you to say she spoke up in the woods ?

Mr. Hoffman :—There was nothing said about woods.

Mr. Emley :—I mean the Rock road.

Q. Did you hear her say anything when you were up by the Rock road ? A. Yes; I heard a noise. She was moaning. She said something like that she was sick; she said that she was sick.

Q. You heard her say that she was sick up by the Rock road ? A. Yes.

Q. And did she ask to be taken home, or anything of the kind ? A. No, sir.

Q. Then you recollect that she simply said that she was sick ? A. Yes, and wanted to vomit.

Q. She knew where she was then ? A. I don't know she did; I don't think she did.

Q. After you left the brook was she still seated in the back seat between you and Death ? Yes.

Q. Her head back ? A. Not between Death and I then.

Q. Who had the seats on the back seat then ? A. Mr. Campbell and I.

Q. Campbell and you rode by the side of her from the brook ? A. Yes.

Q. What did you do to revive her, besides bathing her ? A. Rubbed her wrists, bathed her neck and face.

Q. Did you drive then directly to Dr. Wiley's ? A. Yes, sir.

Q. You went back over the Goffle road the same way ? A. Yes; East Main street over the Straight street bridge.

Q. Through East Main street to North Straight street ?

A. I cannot remember we went through North Straight—we went through North Straight, cross the Straight street bridge to Dr. Wiley's and came up Paterson street.

Q. Directly to Dr. Wiley's ? A. Yes.

Q. What did you do when you got there? A. Got out and rang the bell.

Q. Who got out? A. Kerr and I.

Q. You and Kerr? A. Yes.

Q. Why did you and Kerr get out and call for the doctor? A. I don't remember any reason why we should get out.

Q. This girl was Campbell and Death's friend? A. Death was a little bit full.

Q. He was a little bit full? A. Yes.

Q. Was he when he left Saal's saloon? A. No; he had been drinking a little.

Q. Where did he drink after leaving Saal's saloon? A. He hadn't.

Q. You say he was drunk when he left Saal's saloon? A. Yes.

Q. Did he show that he was drunk? A. No; he didn't show that he was drunk.

Q. And that is the reason that you and Kerr got out and called on the doctor because he was a little bit full? A. No, sir.

Q. Why then did you get out? What was the reason that you was interested in this girl? She was Campbell and Death's friend? A. Because we thought it was necessary for some one to get out.

Q. And that is the only reason you have for your and Kerr's getting out of that wagon and calling on the doctor because Death was a little bit full, and you thought some one had to get out? A. Yes.

Q. From there you went to Dr. Townsend's? A. Yes.

Q. Then you learned she was dead? A. Yes.

Q. Then what did you do? A. Then we started to take her home.

Q. Leave her on the door step? A. Yes, sir.

Q. I so understood you to say? A. Yes; when we got to the gas house we noticed some people.

Q. People where? A. Down near her house; we didn't want to go down there and continued on down across the bridge.

Q. Why didn't you want to go down there when you saw these men? A. We didn't want to be seen.

Q. Why not? A. We were frightened and nervous.

Q. At what? A. The state of affairs.

Q. What state of affairs? A. The girl was dead.

Q. You hadn't anything to do with that? A. No, sir.

Q. And that was the only reason that you didn't take

her home? A. Nothing more but frightened at the condition of things.

Q. So you didn't go to her home but went across the Hillman street bridge in order to escape observation? A. Yes, sir.

Q. And your further road after that that night was taken with a view of escaping observation? A. Yes; we didn't want to be seen.

Q. You left her by this roadside where anybody could see her? A. That I don't know.

Q. From there you went around the Morlot bridge and came to your home by Seventeenth avenue? A. Yes.

Q. You did that so nobody might not see you? A. No.

Q. Why didn't you go over the Wagaraw bridge instead of the Morlot's? That was on your way home. A. That was out of the way.

Q. It was right at hand by Alyea's mills? A. Yes; it is very little out of the way to get to my home; I live on the East side, and it would bring me out in that neighborhood.

Q. You mean to say that it is out of the way to go right by Wagaraw road bridge where you left this girl? A. There is a more direct road.

Q. The Wagaraw road is a more direct road? A. Yes.

Q. Why didn't you go that way? A. I don't know why not.

Q. Why did you not go the most direct road to your house? A. I don't know but that I did.

Q. Was the reason that you didn't go that way because you didn't want to be seen? A. I didn't want to be seen.

Q. Didn't somebody say when it was suggested to go that way "no; drive by Thirty-third street bridge." A. No, sir; nothing was said of that kind—"Continue right on straight."

Q. Then you continued on until you came to the armory? A. Yes.

Q. Gave the hackman ten dollars there? A. Yes.

Q. You left him there? A. Yes.

Q. Didn't you ask him to say nothing about what transpired? A. Yes.

Q. Why, if you left this body over the roadside where it might easily be seen why were you so particular to ask the hackman to say nothing about it? A. As I say, we were nervous and frightened.

Q. I understood you to say that the object in leaving

the body by the roadside near the Wagaraw bridge was that it might be seen? A. Yes.

Q. Why then, were you so particular to have the hackman say nothing about it? A. I didn't want to be connected with anything that had transpired.

Q. Why didn't you want to be connected? A. I didn't; we were frightened and nervous.

Q. Tell me what you were frightened at? A. The dead girl.

Q. At the dead girl? A. Yes.

Q. You went to Mr. Saal's the next morning to see him? A. Yes.

Q. And you told him that he must say nothing about it? A. No, sir.

Q. Didn't you? A. No, sir.

Q. You told him the girl was dead? A. Yes.

Q. Didn't you say that in case a reward was offered he should refuse to say anything about it? A. Yes.

Q. You said nothing to anybody except Mr. Saal until the following Monday night? A. No, sir.

Q. Do you know anything about a bottle being thrown out of the wagon on the Rock road? A. No, sir.

Q. Do you know what became of Jennie's drawers? A. No, sir.

Q. Don't you know? A. No, sir.

Q. They weren't taken off by you? A. No, sir.

Q. Nor any of your party? A. Not that I know of.

Q. Were they on her when you left her by the roadside? A. I don't know.

Q. You cannot explain in any way the fact of her missing drawers? A. I don't know anything about the drawers; no, sir.

Q. (*By Mr. Scott*) At the Rock road did you or did you see anybody wiping his private parts while you were there? A. No, sir.

WILLIAM A. DEATH, one of the defendants called in his own behalf, testified as follows:

Direct Examination by Mr. M. Dunn:—

Q. How old are you? A. Twenty-four.

Q. Where do you live? A. 30 Percy street.

Q. Married or single? A. Married.

Q. How long have you been married? A. Five or six months.

Q. Lived with your wife? A. Yes, sir.

Q. What business were you engaged in last October?
A. Advertising solicitor.

Q. Your father living? A. Yes, sir.

Q. Mother? A. No, sir; mother is dead.

Q. What does your family consist of? A. Only myself and wife.

Q. I mean your father? A. I have got a stepmother and two children besides.

Q. Boys or girls? A. One boy and a girl.

Q. You know Mr. McAlister? A. Yes, sir.

Q. How long have you known him? A. Two or three months.

Q. Were you a comrade of his? A. No, sir.

Q. You knew Mr. Andrew Campbell? A. Yes, sir.

Q. How long have you known him? A. I have known him about two years.

Q. Were you, in any sense a comrade of his? A. No, sir; I went out with him occasionally, that is all; I was no comrade.

Q. Prior to canvassing for advertisements, what did you do? A. In the silk mills; weaver in the silk mills.

Q. And before that? A. I worked in the silk mills nearly all my life; twelve years.

Q. Went away from the state a portion of the time?
A. Yes, sir.

Q. Where? A. Down South with the Second Regiment.

Q. You are a member of the Second Regiment in the recent war? A. Yes.

Q. When did you return from there? A. Came home in the Fall when I was mustered out.

Q. And since that time have you been engaged in the silk and soliciting advertisements? A. Yes, sir.

Q. Now, do you recollect of meeting Andrew Campbell on the night of the 18th of October? A. Yes, sir.

Q. When did you meet him? Was it Thursday night?
A. Yes, sir.

Q. Where did you meet him? A. At the front of Meyer's cafe on Ellison street.

Q. Near the corner of Washington street and Ellison?
A. Yes, sir.

Q. And did you have any appointment to meet him there that night? A. No, sir.

Q. What direction did he come from when you saw him? A. He was coming down Ellison street.

Q. That is from the direction of the First National bank towards Meyer's cafe? A. Yes, sir.

Q. And where were you standing at that time that he first spoke to you that night? A. In front of Meyer's.

Q. Do you recollect what he said to you? A. Yes sir.

Q. State it. A. He said he was looking for Tom Dugan. He had an appointment with him; some athletic club that they were both interested in; I don't know what it was.

Q. Did he ask you anything in connection with it? A. He asked if I had seen Dugan around there.

Q. Then what occurred between you? A. I told him no; I seen him that afternoon. And he asked me to go and have a drink.

Q. Did you do so? A. Yes, sir.

Q. When you went in what, if anything, did he do besides taking drinks? A. I think he asked the bartender whether he had seen Tom Dugan or not.

Q. Now, have you any idea about what time that was? A. I should judge it was around half past eight.

Q. Was Mr. Dugan there? A. No, sir.

Q. What then was said or done by either of you? A. Andy said, "Come on out and take a walk down Main street."

Q. Did you do so? A. Yes, sir.

Q. Just describe to us where you went. A. Walked down to the corner of Main and Van Houten streets; stood there on the corner.

Q. And as you passed down the street, did you observe anything of Mr. McAlister or Mr. Kerr? A. Seen them standing in the doorway.

Q. Where? A. By Kent's.

Q. Did you have any conversation with them? A. No, sir; said good evening to them.

Q. Did Mr. Campbell have any conversation with them? A. No, sir.

Q. How far beyond where they were standing did you continue walking? A. To the corner.

Q. Before you stopped? A. Just to the corner; that is all.

Q. Now then, while standing there, what happened? What occurred while you stood there? A. Jennie Bosschietter came up the street.

Q. Had you known her before? A. Known her for about two years.

Q. And what had been the nature of your acquaintance?

A. We had been very friendly; I had been out with her several times.

Q. And had met her at different times? A. Yes, sir.

Q. When had you last seen her prior to this evening of the 18th of October? A. I can't recollect seeing her last; I hadn't seen her in quite a while.

Q. When she came to where you were, state what, if anything, was said between you. A. Said good evening.

Q. Anything else? A. Yes, sir.

Q. State it. A. She said she was going up the street; she would be back in a minute; she wanted to see me.

Q. Where then was Mr. Campbell standing? A. He was standing alongside of me.

Q. Then what next happened, as to Jennie? A. She came back shortly and stood out at the curb by Kent's.

Q. What did she do while standing there? A. She nodded for me to come up; so I walked over to her.

Q. Did you do so? A. Yes, sir.

Q. And what transpired there between you? A. She said she wanted to see me, she wanted to have a talk to me.

Q. And what suggestion, if any, was made there by you or her? A. I told her if I wasn't married I would take her down to Saal's. At that she grabbed my pin out of my tie and she said, "If you don't come I won't give you your pin."

Q. What then did you do? A. Well, I didn't want to walk with her on account of being married.

Q. Did you tell her so? A. Yes, sir.

Q. What did you do? A. I called Andy Campbell up.

Q. What was said then between you? A. Andy complimented her on her appearance. I explained to Andy—"Andy" I said, "Jennie wants to talk to me, and I don't want to walk with her. Will you take her down to Saal's?" He said, "Yes." He had an appointment with Tom Dugan. I said, "We will get back in time for that."

Q. What then occurred? A. Andy walked off with the girl.

Q. In which direction did they go? A. Down Main street.

Q. Down Main to where? A. Van Houten.

Q. And then which direction? A. Turned up Van Houten.

Q. And then where did you go? A. I went right down Main street.

Q. To where? A. Broadway.

Q. And thence where? A. Down to Washington street, down Washington to Fair, down Fair to Bridge, and down Bridge to Saal's.

Q. Now, did you get there before they did? A. Yes, sir; I got on the corner before they got there.

Q. At the time that they arrived there, where were you? A. Standing on the corner.

Q. Which side of Bridge street did they come down?

A. On the right—on the left hand side coming down.

Q. And was any remark made there by Jennie to you as she met you? A. I said; "I see you got here." That is all.

Q. Anything else said? A. No; we turned around the corner to the side room; and in going in the door she says to me: "Why did you marry her? Why didn't you marry me?" I made no answer there; had the door open and I walked into the back room, both her and I and Campbell.

Q. Now, at that time as you walked into the back room, had you seen anything of McAlister? A. No, sir.

Q. From the time you saw him in front of Kent's drug store? A. No, sir.

Q. After going into the back room what was done in there? A. She told me I didn't answer her question. I told her I didn't think we thought enough of each other.

Q. Yes; and what was done in reference to drinks, if anything? A. We sat there talking a short while.

Q. The three of you? A. Yes, sir; I asked Andy for the loan of a dollar; I didn't have enough to treat; I had a matter of ten or fifteen cents, I guess. He says, "No, I will treat." He says, "What will you have?" The girl called for a milk punch and I called for a beer, and I think Andy had cider.

Q. And what was then done with regard to getting that drink? A. Andy went up to get the drinks; got up and went out of the room to get the drinks.

Q. Now, what door did he go out of, do you recollect? A. No, sir; I think he went out of the door leading into the barroom.

Q. Leading to the billiard room and then into the barroom? A. Yes, sir.

Q. Well, when he went out, was he gone long before he returned? A. No, sir.

Q. What happened on his return? A. He came back and says, "They haven't got no milk, Jennie." What will you have? She says, "I will have a cocktail."

Q. Then did he go out again? A. Yes, sir.

Q. And how long did he then remain away before returning? A. I don't know; I should judge about five or ten minutes. I don't know how long it was.

Q. And then when he came back, what did he bring with? When he came back after going out after the cocktail, what did he bring? A. He brought the drinks in.

Q. How did he bring them in? A. Came in the back way with them.

Q. By the back way you mean what? A. Came in the other side door.

Q. And what drinks did he have? A. Had the cocktail and the beer and the cider.

Q. Now, when those drinks were brought in what was done with them? A. Well; we sat down and we started to drink.

Q. Then did you all drink? A. Yes; the three of us there.

Q. And at that time what, if anything, was said by Campbell in regard to meeting anybody? A. Campbell said he had to meet Dugan.

Q. But I mean, did he say anything about having met anybody? A. Yes; when he came in he said "Walt McAlister is outside. These drinks are on him."

Q. Then what was further said? A. Jennie said, "Bring Walter in; he is all right. If I lose my job probably he will give me one in his mill."

Q. And what then was done in regard to that suggestion? A. Well; Andy sat there, and I asked him for the money to treat. He hadn't given me any yet. And he had six dollars in quarters. So he wanted to get these quarters changed into bills. He says, "Take this money, and order what you want, and get bills for the quarters." So I asked Jennie what she would have. She said she would have absinthe frappe.

Q. What else? A. I forget what I had. I think I had whiskey.

Q. What did Andy have? A. I think Andy had cider or a cigar, I am not sure which.

Q. What did you do after that was decided on? A. I went out for the drinks.

Q. And whom did you see out there? A. Seen McAlister and two other gentlemen there at the bar.

Q. And what did you do, what conversation, if any, did you then have with McAlister? A. I told Mac,

"Come on inside." I said, "You are welcome; the girl said you could come in." So he came on in.

Q. Did you get the drinks then before he went in? A. Yes, sir. Mr. Saal made the drinks, put them on a tray, and I took them in.

Q. And when those drinks were taken in by you, did Mr. McAlister accompany you in? A. Yes, sir.

Q. Now, when he got in the room there, what then occurred, if anything, in the room, in regard to drinks or anything else? A. Sat down and started to drink.

Q. And did she drink the absinthe? A. Yes, sir.

Q. And each of you had your drinks? A. Yes, sir.

Q. Was there anything else ordered to drink after that in there? A. Well, McAlister bought a bottle of champagne.

Q. When he got in the room there, what then occurred if anything in regard to taking the drinks, or anything else? A. We sat down and started to drink.

Q. And who was drinking absinthe? A. Jennie.

Q. And each of you the other drinks? A. Yes, sir.

Q. How long was it—first, was there anything else ordered to drink? After that another round? A. McAlister bought another bottle of champagne.

Q. Do you remember what kind of champagne it was? A. I think Great Western.

Q. And how did he give the order for that bottle of champagne? A. He pushed a button and Saal came in, and he says bring us in a bottle of wine.

Q. What did Saal do in pursuance of the order? A. He went out and brought in the wine.

Q. Did he bring in the wine first or the glasses and wine together? A. I think he brought in the glasses and the wine together; I am not sure of that; I think he did.

Q. Who uncorked the wine? A. I think Mr. Saal; no; Walter did; Walter, I think.

Q. How many glasses did he drink? A. Four.

Q. Who poured out the wine? A. Walter took the wine and poured it out.

Q. And did Jennie and the rest of you drink? How many glasses did she drink of wine? A. Two or three glasses of champagne.

Q. And at that time what was her condition? A. She was drunk. I cannot exactly say drunk. She acted funny to me. I did not know what was the matter with her.

Q. And when Mr. McAlister first went into the room,

did anything transpire between Jennie and him? A. Yes, sir.

Q. What? A. She put her arms around his neck.

Q. Now, after that; after drinking the wine, did she get better, or more intoxicated? A. Well, she got worse.

Q. It did not seem to do her any good? A. No, sir.

Q. What was done then in regard to her? A. We did not want to take her home in that condition. She was drunk; and Walt says, "I will telephone down to George Kerr and get him to bring up a hack." I said where is George Kerr? And then he told me, he said, he would telephone to him Hofsgang's to come down there with a rig and pick her up for an airing.

Q. And what was said in regard to the advisability of doing that? A. I don't remember what was said.

Q. As to whether that would be beneficial or otherwise? A. Nothing; they said it might make her feel all right; I did not realize, you know, what was the matter with her.

Q. Did the rig come? A. Yes, sir.

Q. And what was done with Jennie in the way of taking her to the rig? A. She walked out with Walter and I.

Q. Did she have to be carried out? A. No, sir.

Q. Did Kerr and Campbell take hold of her at all in going out? A. I didn't see Kerr; Campbell went out with her though; I did not see Kerr at all.

Q. And did Campbell go out of the door in advance of Jennie in going out with you? A. Yes, sir.

Q. And where did Campbell go then? A. I think he went across the street, across Paterson street to Governor street, and turned up Governor street.

Q. After you had helped Jennie into the hack in what direction did the hack go? A. Up Governor street.

Q. And did you afterwards overtake Kerr and Campbell? A. Yes, sir.

Q. Where? A. Near the corner of Paterson street.

Q. State what, if anything, occurred or was said there by anybody. A. Walter says: "Come on; get in the carriage;" he says: "Help us revive her."

A. And did your carriage stop and let them in? A. Yes, sir.

Q. And then where did you go? A. I don't know the roads we took; I don't know those roads hardly.

Q. Did you drive on out in the country then? A. Yes, sir.

Q. On the way out how was she? A. Well, she was

sleepy; I didn't hear her say very much; she was very sleepy.

Q. And do you recollect stopping on the Rock road, about Lee's place? A. Yes, sir.

Q. Why did you stop there? A. She started to vomit in the carriage.

Q. And what did you do in regard to her then? A. Jumped out.

Q. What else? A. Got a hold of her and pulled her out—; well, assisted her out.

Q. What did you place her on? A. A blanket.

Q. In what position? A. We laid her down on the blanket and Campbell stuck his finger down her mouth and tried to make her vomit; it didn't do much good though she did vomit a little.

Q. She did vomit a little? A. Yes, sir.

Q. What did you do besides helping her, besides that? A. We were working her arms up and down, and rubbing her legs and trying to get her clothes undone around here (indicating the neck); I think she had on one of those ribbon ties; I am not sure; I think she had.

Q. And did she vomit some there? A. Yes, sir.

Q. And you did what. What did she vomit on? A. Yes; on our handkerchiefs. We held them up to her mouth.

Q. Yours and whose? A. And Campbell's and McAlister's.

Q. And then after that did she seem to rally or improve? A. No, sir; she seemed to get more sleepy.

Q. Now, while she was trying to vomit there, did she seem to have stress or pain, in trying to vomit? A. Yes, sir.

Q. And did she moan? A. No, she didn't moan. I don't know whether you would call it a moan or not. I heard her act like a woman that was full. There were sounds came from her, that's all. I could not say whether it was a moan or not.

Q. Well, did she act as a person who was sick? A. She wanted to vomit; yes, sir.

Q. Did she act as a person who was sick and wanted to vomit? A. Yes, sir.

Q. And when she would try to vomit, and afterwards did not revive, what was then done or suggested? A. To take her down to the brook.

Q. What for? A. To revive her.

Q. Did you take her to the brook? A. Yes, sir.

Q. Tell us what you did down at the brook. A. We

took her down there and took her out of the wagon, and in a minute or so we heard a wagon coming, and so we put her in the wagon and took her over to the other side of the brook; and I went down to the brook and wet my handkerchief several times and we were bathing her, and then I put it around her head; and then I got Mac's handkerchief and went down to the brook with that several times, and we put that around her head, trying to revive her.

Q. Did she revive there, did she improve? A. No, sir; she didn't seem to.

Q. After working with her in that respect, what was next decided to be done? A. Well, it was decided to go to a doctor.

Q. What was done with Jennie then? A. She was taken to a doctor.

Q. In regard to taking her off the ground what was done? A. She was taken up and put in the carriage.

Q. Then where did you go? A. To Dr. Wiley.

Q. And what, if any, were the instructions given to the hackman as to getting there? A. He was instructed to drive as fast as possible.

Q. And did he drive fast? A. Yes, sir; he drove as fast as he could; I would not call it fast, because the horse could not go very fast.

Q. After you got to Dr. Wiley's house—that was on Ward street? A. Yes, sir.

Q. Did you find him? A. No, sir.

Q. And what then did you do? A. Drove down to Dr. Townsend's.

Q. And when you got to Dr. Townsend's did you find him? A. Yes, sir.

Q. Well; what did you learn there? A. Well, Walter McAlister and Kerr went up the stoop; I do not know what they said, but anyway the doctor came down and looked at the girl; he examined her; I was sitting up on the seat at the time; I got out at first and when he came I got on the seat where the driver sat; he came down and felt her head, and felt of her chest and felt of her pulse, and said: "Boys, she is dead; I cannot do anything for you."

Q. Yes? A. Well, we did not know what to do then; we were all excited and did not know what to do or where to turn.

Q. What did you do? A. Well, we decided to go down

by her home, and if no one was around, to leave her on the stoop.

Q. And what did you do? A. We drove down there, and I think there was a watchman there; some one seemed to be coming, and we got scared and took her over this bridge; I don't know which bridge it was, and laid her alongside of this ice house; I don't know the lay of the land; I don't know the lay of the country around there.

Q. And then where did you go from there? A. We drove away.

Adjourned for recess.

AFTER RECESS.

Q. After placing the body alongside of the icehouse, where then did you go? A. Went home.

Q. And you were arrested when? A. The following Monday evening.

Q. When you were arrested and taken to the station house what room were you taken into? A. The room right back of the old recorder's court, upstairs.

Q. Did you there have any conversation with Officers Titus, and Lord and Taylor? A. Yes, sir.

Q. Before having any conversation with them in regard to this case, what, if anything, did they say to you in regard to making a statement?

Mr. Emley:—I object; it seems to me that was all gone into yesterday and ruled upon by the court.

The Court:—So it was; is there anything further, Mr. Dunn?

Mr. Dunn:—No, sir; except to have it get to the jury.

Q. You heard Mr. Titus' testimony in regard to you yesterday? A. Yes, sir.

Q. It was stated here that you spoke of Jennie getting dopy, and that Mr. Taylor, or one of the officers, asked you the question: "What do you mean by dopy?" and you replied: "Knockout drops;" did you make that statement.

Mr. Emley:—I object to that because it contradicts what he said yesterday; I understood him to say that the statement which Officer Taylor swore to was made by him, but made by him with the expectation that it might better his case.

The Court: It wasn't asked of him as to what statement was made to the officer; it was limited to the preliminary question as to whether the officer's statement should be received or not.

Mr. Dunn:—Mr. Stenographer, will you please read the question.

The stenographer thereupon reads the following:

Q. It was stated here that you spoke of Jennie getting dopy and that Mr. Taylor, or one of the officers asked you

the question : "What do you mean by dopy," and you replied: "Knockout drops;" did you make that statement?

The Witness :—A. No, sir.

Q. By dopy did you mean knockout drops? A. No, sir.

Q. Did you use the word dopy? A. Yes, sir.

Q. Explain what you meant? A. I said she was dopy after she got the absinthe.

Q. The officer also said that he asked you who had connections with her, and that you replied that you, Campbell and McAlister, but you weren't sure about Kerr; do you remember making that statement? A. No, sir; I didn't make it; they asked me who was connected with the affair and I told them.

Q. Up there on the hillside, what they call the Rock road, did you, or any member of the party, have intercourse with Jennie Bosschietter? A. No, sir.

Q. Did you, or any other member of the party—did you yourself, and did you see any other member of the party use their handkerchiefs in walking away from the girl on their person? A. No, sir.

Q. Wiping their persons? A. No, sir; the only time I saw was when McAlister was wiping his fingers off; he stuck his fingers in her mouth there to make her vomit and he took out his handkerchief and wiped his hand off; that is the only time that I saw.

Q. Did you, or any other one of the party there, in your presence or hearing, ask the hackman to go to the girl? A. No, sir; I didn't say anything to him.

Q. Did you hear any one else say that? A. No, sir.

Q. Did you say to him, at the same time that it is alleged, that you invited him to go to her, that she was tight? A. No sir; I did not.

Q. Did you, that night, put anything in her drink or know of anybody else who put anything in her drink before she left the saloon? A. No, sir; I didn't see anything put in her drink at all.

Cross Examination by Mr Emley :—

Q. When were you married? A. I don't recollect the date.

Q. You recollect your birthday? A. Yes, sir.

Q. What is it? A. Twenty-four years old, sixth of last June.

Q. Where were you married? A. Paterson.

Q. By whom? A. Dominie Gallaway.

Q. At his residence ? A. Yes, sir.

Q. Do you know what month it was in ? A. September, I think.

Q. Of last year ? A. Yes.

Q. In the early part of September ? A. The early part of September.

Q. So that on the 18th of October you had been married only about four weeks ? A. I had been married four or five weeks, I guess.

Q. And had you seen Jennie since your marriage until the night of the 18th of October ? A. No, sir; I hadn't seen her.

Q. Hadn't seen her at all ? Not until that night.

Q. How did she know you were married ? A. She must have been told.

Q. That is the only way you can explain it, how she knew ? A. Yes.

Q. You say that when you met her in front of Kent's she took a pin from you ? A. Yes.

Q. Where did she take it from ? A. From my necktie.

Q. Right on the street ? A. Yes.

Q. What sort of a pin ? A. A small pin with little diamonds, chips; I can tell the pin if I saw it.

Q. What did she do when she took it from you ? A. Pinned it on her dress.

A. And did she wear it there, when she went away from you ? A. Yes, sir.

Q. And did she wear it when you met her again in the saloon ? A. Yes, sir.

Q. Did you see it there ? A. I didn't see it—I knew she had it.

Q. On her dress ? A. Yes, sir.

Q. Why didn't you remove it then ? A. I didn't think of it at the time.

Q. Why not ? You could have done it without her knowing anything about it. A. I didn't want to hurt her feelings.

Q. She wouldn't know if you had taken it ? A. Yes.

Q. Wasn't she in such a condition, stupified from drink, that you could take the pin from her without her knowing it ? A. I couldn't say that about it.

Q. Did she wear it on her dress when you took her out of the saloon ? A. As far as I know she did.

Q. Is that the pin (indicating) ? A. That is the pin.

Q. What did you say she said to you there in front of

Kent's drug store? A. She wanted to see me, she wanted to have a talk with me.

Q. What did she say she wanted to talk about? A. She didn't say what she wanted to talk about.

Q. Did she say she wanted to see you? A. No, sir.

Q. And you suggested to go to Saal's saloon? A. I told her I would take her down there if I wasn't married.

Q. And what did she say to that? A. She took my pin out. "If you don't go I will keep the pin."

Q. And then you called Campbell, did you? A. I told her I will call Andy over and ask him to take you down.

Q. And you did that because you didn't want to be seen on the street with her? A. Yes, sir.

Q. And that was because you were a married man? A. Yes.

Q. You had been talking with her on the street? A. I had; I didn't want to walk with her; I didn't want to walk with her.

Q. And that was the cause more than anything else that you didn't go with her? A. Yes; because I was a married man.

Q. What of it? A. I didn't want to be scolded, if she had known I was walking with a woman on the street.

Q. Who? A. My wife.

Q. You were afraid your wife would scold you? A. Yes.

Q. How did you expect your wife to know about that? A. Some one might see me walking with her.

Q. You had never walked the streets at all since your marriage with any girl? A. I did not; I can't recollect that I have; I have stood and talked with them.

Q. Didn't it occur to you that your wife might find out about meeting her down in Saal's saloon? A. No; it didn't occur to me then; she couldn't see me on the inside.

Q. You joined her there at Saal's saloon on the street and walked around the corner? A. Yes; when I got around the corner.

Q. So, the only reason that you didn't go with Jennie that night from Kent's drug store? A. Yes.

Q. Was that the only reason? A. She had my pin and I wanted to get that; at that time I did.

Q. And another reason was you wanted to see her at Saal's saloon to get your pin? A. To see what she wanted.

Q. You wanted to get your pin? A. Yes, sir.

Q. I will ask again when you met her down at Saal's sa-

loon why didn't you take the pin away from her? A. I did not like to take it from her.

Q. Why not? A. Because I thought she might get mad.

Q. After you went into the saloon, you and she and Campbell, who went out first, into the bar room first? A. Andy went out.

Q. And it was Campbell who ordered the first drink? A. Yes, sir.

Q. What did you say they were? A. A milk punch, beer and cider.

Q. I thought you said here this morning that he came back and said they hadn't any milk? A. I did; and she called for a cocktail.

Q. You said he had ordered a milk punch? A. There was no milk.

Q. Why did you say that he ordered a milk punch? A. He came back and said there was no milk.

Q. He didn't serve you with any milk punch? A. No, sir.

Q. What else did he order after that? A. A cocktail.

Q. What else? A. Nothing.

Q. What did you and he take? A. I had some beer and he had cider.

Q. He brought in a cocktail, beer and cider? A. Yes.

Q. Was that the first drink you had? A. Yes, sir.

Q. Didn't you have a drink before that? A. No, sir.

Q. You are sure about that? A. Yes, sir.

Q. Who drank the cocktail? A. Jennie drank it.

Q. You hadn't seen McAlister then yet? A. No, sir.

Q. After that, another drink, I understood, was ordered? A. Yes; another drink.

Q. You went out and ordered that? A. Yes, sir.

Q. And then you met McAlister? A. Yes; I met him out there.

Q. And then you told him that you had some friends in the side room? A. No, I didn't tell him.

Q. Well, didn't he have a drink with you when you went out there? A. No, sir.

Q. He paid for the drink before ordered? A. No, sir; Campbell told him who was there, he went out first.

Q. When you went out first, didn't McAlister pay for that round of drinks? A. No, sir; I had six dollars in quarters.

Q. Did you pay for it? A. Yes, sir; I think I paid for it; I am not positive; I know I had six dollars in quarters,

and got Mr. Saal to give me bills for them, and went back to the room.

Q. What did you order? A. There was absinthe frappe ordered; I cannot say whether I had whiskey.

Q. You do not know what you had? A. No, sir; I think I had whiskey.

Q. What do you mean by absinthe frappe; a glass filled with cracked ice? A. No, sir; there was no ice.

Q. Wasn't it filled with cracked ice and absinthe poured on it? A. I didn't see any ice.

Q. What do you mean, clear absinthe? A. Yes, a yellow color.

Q. She drank that? A. Yes, sir.

Q. She had drank a cocktail? A. Yes, sir.

Q. Second time she told you to bring absinthe? A. Yes.

Q. Did you bring it to her? A. Yes, sir.

Q. Was she sober? A. Yes; she was for five or six minutes after.

Q. Then she began to get drunk? A. No, sir; she began to feel jolly.

Q. Showed some little excitement? A. Yes, sir.

Q. How did she show that? A. Got up and kissed us, and threw her arms around my neck and sat in my lap.

Q. How long did that last? A. She did it several times.

Q. Was she still in that mood when you ordered champagne? A. I didn't order any champagne.

Q. When the champagne was ordered? A. Yes; she was sitting down then.

Q. She had become quieter then? A. No; she was sitting down.

Q. Yes; I say sitting down quieter before the champagne was ordered? A. Yes; comparatively quiet.

Q. When McAlister came in he ordered champagne? A. Yes.

Q. And when the champagne was ordered you all drank two glasses of it? A. Two or three glasses; I think.

Q. Do you know how many the rest drank? A. Yes; a round two or three times.

Q. How long was it after she drank the champagne before she began to get dopy as you said here? A. Right away.

Q. Right away? A. Yes; five minutes, I cannot exactly tell the time.

Q. Within five or ten minutes, do you think? A. I could not say; I am not positive.

Q. What did you say five minutes just now for? A. I am not positive; I made a mistake; I am not positive.

Q. What was her condition then, when you say she became dopy? what do you mean by that? A. She seemed to go all to pieces after she drank the absinthe.

Q. How did she go to pieces? A. She didn't seem to have any life.

Q. Closed her eyes? A. No, sir; sat there talking.

Q. Still talked to you? A. Talked a little, not much.

Q. And she did seem to have no life? A. She had life all right; she wasn't dead.

Q. I know she wasn't dead, but seemed to be dead? A. Seemed to be all right to me except she was drunk, that is the only way I can explain it.

Q. Was it then the suggestion was made to take her out and drive her in the air? A. Yes, sir.

Q. It was the time, after she had drank the champagne? A. Yes.

Q. She passed into this dopy state; that was the time she passed into this dopy state, when it was first suggested about taking a ride? A. Yes, sir.

Q. That was after the drink? A. Yes, sir.

Q. And had got into the dopy state, that is when the first suggestion was made about the ride, was it? A. Yes, sir.

Q. Did she talk much after that? A. No; she didn't say much.

Q. Did she say anything then to you or either of you when you were talking about taking her out and taking a ride? A. Yes; she wanted to go for a ride.

Q. She knew enough then to understand what she was talking about? A. She says "now for the ride."

Q. That was not till you got out on the sidewalk, was it? A. When we got on the sidewalk.

Q. But in the room when you three were talking about taking her out, did she enter into that conversation in any way or seem to understand what you were saying or talking about it? A. That I couldn't say. I am not positive about that.

Q. But you made the call for the hack, and as soon as it came took her out, did you? A. No, sir; I didn't make any call.

Q. Well, as soon as the call was made—you knew about the call, didn't you? A. No, sir.

Q. You knew that McAlister had gone out to telephone

for a hack, didn't you? A. He told me he was going to telephone for George.

Q. He told you in the little room, didn't he? A. Yes, sir.

Q. And he went out for that purpose; you perfectly understood that? A. I didn't know where he was going at the time.

Q. You knew he was going to get a hack? A. Yes, sir.

Q. Then as soon as the hack came did you and Jennie and the others leave the saloon? A. No; I and Walter and the girl went out together.

Q. Where did Campbell go? A. He went out ahead of us.

Q. How far ahead of you? A. I couldn't say; I didn't notice. I know he went out ahead of us, and went across the street. I hadn't seen George yet.

Q. And where was Campbell when you got out on the sidewalk? A. He was on the other side of the street.

Q. Which street, Bridge street? A. Yes, sir; he was going up Governor street.

Q. You could see him, could you? A. I couldn't. I seen him on the corner.

Q. And were you then in the wagon when you saw him on the corner? A. No; I wasn't in the wagon. We were walking to the wagon.

Q. And you and McAlister helped Jennie in the wagon? A. Yes, sir.

Q. And she rode from that time until you reached the Rock road, and afterwards back to the brook, between you and McAlister; did she sit on the back seat? A. All the way there and back?

Q. Yes. A. No, sir.

Q. All the way there and back, as far as the bridge? A. I don't know whether she did or not; I couldn't say.

Q. You didn't get out anywhere along the road, did you, until you reached the Rock road? A. No, sir; we didn't get out.

Q. And when you left the Rock road she was sitting between you and McAlister, as she sat when she went up, wasn't she? A. I don't know. I know we were all in the wagon; I am not positive.

Q. Where were the other two? A. I think Campbell was sitting with the driver.

Q. And where was the other man? A. He was sitting in with us.

Q. On the front seat? A. No; he was sitting in the wagon.

Q. That was on the seat in front of you, wasn't it? A. There was only one seat there.

Q. Where did he sit, on the back seat with you? A. No; he sat inside.

Q. What did he sit on? A. I don't know what he sat on.

Q. Wasn't there a seat in front of you and behind the driver? A. The driver's seat and my own were the only two I noticed there.

Q. Well, this third man, whoever he was, sat facing you, didn't he? A. Yes, sir; he sat facing us.

Q. Sat in front of you, facing you; and you had no conversation going up the road with Jennie, did you? A. I don't remember whether I did or not.

Q. Don't remember whether you did or not? A. No, sir.

Q. Don't remember whether she said anything or did any talking? A. She spoke when she got outside of the saloon; that was the last I heard her speak.

Q. That was the last you heard her speak; and when you got up on the Rock road who took her out of the wagon? A. She started to vomit and we all assisted her out of the wagon.

Q. Who do you mean by "all?" A. Well; all that were in there.

Q. Who were they? A. I think there were George and myself—

Q. George who? A. Kerr; and myself and Walter and—

Q. You four then assisted her out? A. Yes, sir.

Q. To the place where the blanket was spread? A. No; we just assisted her out.

Q. How did she get to the place where the blanket was laid? A. She was led over there; she kind of staggered over there.

Q. Who led her over there? A. I had hold of one of her arms and Walter had the other, I think, or Andrew, I am not sure which.

Q. You are not sure which? A. No, sir.

Q. Did she lie down there herself, or did you lay her down? A. No, sir; she sat down.

Q. Herself? A. We assisted her.

Q. You assisted to put her down? A. Yes, sir.

Q. And she lay there on her back for some time, didn't she? A. She laid there just till she vomited; Andy put

his fingers in her mouth, and was working her arms and legs trying to revive her.

Q. How long do you think you were there? A. I couldn't say; about five minutes. Just while the hackman went up the road and turned around and came back.

Q. As soon as he came back after turning around you started back? A. Yes. Somebody, I think George, said we better take her where there is some water. We had just come by a brook, and we took her back there.

Q. He said you had just come by a brook. Take her back there? A. Yes, sir.

Q. And so you did? A. Yes, sir.

Q. How long do you think you were there at the brook? A. I couldn't say.

Q. Well, half an hour? A. I couldn't say.

Q. Can't give us any idea how long you were there? A. No, sir; I never carry a watch, so I couldn't give you no idea at all.

Q. And then you came on and drove across to Dr. Wiley's and Dr. Townsend's offices? A. Yes, sir.

Q. Well, McAlister then met you at Saal's saloon accidentally, didn't he? A. Yes, sir.

Q. You didn't say that to the police when you were taken in there Monday night? A. When I was taken in there?

Q. Yes. A. That he met me accidentally.

Q. Yes. A. I didn't tell him any different.

Q. Didn't? A. No, sir.

Q. Why didn't you tell him that? They were inquiring of you, were not they, about you and McAlister and the others? A. Yes, sir.

Q. Why didn't you say that then? A. I didn't want to be mixed up in this affair.

Q. Didn't want him to be mixed up? A. I didn't want to be mixed up.

Q. How would that mix you up in it, by saying there that you met McAlister accidentally? A. I don't know.

Q. And why didn't you tell this story about Jennie's drinking there to the police when you were there? A. I did tell them we had some drinks, I think.

Q. What? A. I did tell them we had some drinks.

Q. You didn't tell them what effect those drinks had upon Jennie, did you? A. No, sir.

Q. Why didn't you tell them that? A. I told them that she got dopy, that was all I told them—she got kind of dopy after the drink, the abinthe.

Q. Did you tell them that you took her out for a ride?
A. Yes, sir; I think I did.

Q. Not sure about that? A. No, sir.

Q. And she got sick on the ride? A. Yes, sir.

Q. Told them that, did you? A. (Witness nods his head.)

Q. Is that all you told them? A. Yes, sir.

Q. Did you tell the police officers on Monday night when you were taken in there the story of this transaction that you have told here, or any part of it? A. I told what I told you them.

Q. What you have told me here? A. Yes, sir.

Q. All of it? A. Yes, sir.

Q. Who did you tell that to? A. The detectives.

Q. Did you tell that to officer Perry? A. No, sir.

Q. Why didn't you tell it to him? A. Perry and I were left there after the detectives went out; I explained that to you.

Q. Why did not you tell this to him? A. Perry says to me—

Q. Did you tell him this story that you have told me now? A. I will tell you what I told him.

Q. Did you tell him this story—That is my question to you. Can't you answer it? A. No; I can't.

Mr Dunn:—I think the witness has a right to state what he said.

The Court:—He may have the right to state it, but he hasn't any right to do anything now except answer Mr. Emley's questions, if Mr. Emley objects.

Q. Why didn't you tell Mr. Perry the story that you have told here? A. Why? I was laboring under an excitement. I didn't know what I was saying.

Q. That was it? A. Yes, sir.

Q. Is there any other reason why you didn't tell it to him? A. No, sir.

Q. Have you ever told it to anybody else except your counsel from that time—this story that you have told here?

Mr. Dunn objected to the question as not cross-examination.

Objection overruled.

Q. Have you? A. Told what story.

Q. The story that you are telling here now? A. Yes, sir.

Q. To whom have you ever told that story, except your counsel? A. I told the police.

Q. Since then, I mean? A. No.

Q. So that since the night you were in the station house, aside from your counsel, this is the first time, isn't it, that you have told this story to anybody? A. Yes, sir.

ANDREW J. CAMPBELL, one of the defendants, being duly sworn, testifies as follows :

By Mr. Dunn :

Q. Where do you live? A. 157 Broadway?

Q. And did you reside there in October last? A. Yes, sir.

Q. What business were you then engaged in? A. Bookkeeper in a silk mill.

Q. For whom? A. John Hand & Sons.

Q. How long had you been engaged in that business? A. For about 6 years.

Q. As their chief bookkeeper? A. No; just one of the department bookkeepers.

Q. Do you live on Broadway with your family? A. No, sir.

Q. You are a single man? A. Yes, sir.

Q. Are your father and mother living? A. My mother lives; my father is dead.

Q. What other relatives have you? A. I have a little sister about 16 years old and a brother of 12 or 13, I believe.

Q. Do they live here? A. Yes, sir.

Q. The family has always resided here practically, have they? A. Well, for the last 17 or 18 years, I presume.

Q. Did you work anywheres prior to going to work at Mr. Hand & Sons? A. Yes, I worked for Mr. DeWitt C. Bolton and Mr. William J. St. Lawrence, and the Pearl (?) Soap company prior to John Hand & Sons.

Q. You recollect this night of October 18th? A. Yes, sir.

Q. Where were you working? Were you working on that day? A. I was.

Q. Where? A. At John Hand & Sons.

Q. And what time did you quit work? A. Six o'clock, I believe.

Q. And where did you go? A. Directly home on a White Line car.

Q. And what time did you leave home that evening?

A. Well, I don't remember what time it was, some time after supper.

Q. Where did you go? A. I went to Louis Barton's house on Pearl street beyond Carroll street.

Q. Who did you see there? A. I saw Louis Barton at his house.

Q. About what time was that? A. That was somewhere in the neighborhood of eight o'clock, I believe; perhaps a little after.

Q. And where did you go from there? A. To Meyer's cafe.

Q. What was your mission there? A. I had an appointment with Mr. Dugan.

Q. Mr. Thomas Dugan, who was on the stand this morning? A. Yes, sir.

Q. Did you meet him? A. No, sir; I did not.

Q. Whom did you meet there? A. I met Will Death right on the curb outside the cafe.

Q. How long before that had you known Mr. Death? A. I should say perhaps a year. I don't know just how long, I had known him. Perhaps more than a year.

Q. Was he a chum or companion of yours? A. No, sir.

Q. And what did you have to say or do with Mr. Death at that point? A. I just simply made inquiries for Mr. Dugan. I asked him if he had seen him in that vicinity, and he said no. And I believe I asked him to come in and have a drink when I would inquire of the bartender as to whether Mr. Dugan had been around there, or at the saloon.

Q. Did you do so? A. Yes, sir.

Q. And what did you learn? A. Well, that Mr. Dugan was not there.

Q. And where did you then go? A. I suggested then that Death and I take a walk around the block and then return, expecting that Mr. Dugan would be there later.

Q. And where did you go when you started out for your walk? A. Down Ellison street to Main, and from thence to Van Houten street; and I stood on the curb right outside of the peanut stand on the corner of Van Houten and Main streets.

Q. And while standing there did you see anybody coming, meet anybody? A. Yes, sir; I met—well I did not meet anybody, but this Miss Bosschietter in this matter walked up the street and remarked to Death, "I am going up the street a little way, Will, I will be back soon." H

would like to talk to you." And then she proceeded up the street.

Q. How long was she gone before she returned? A. A short time. I don't just remember when she returned.

Q. Where did she take her position on her return? A. Right outside Kent's drug store, looking south, down Main street.

Q. What did she do then? A. She looked at Death, inferring she would like to see him, as she said before going up the street at all.

Q. What did he do? A. He walked to her and was talking to her a few minutes. Perhaps it was not a few minutes; a short time.

Q. What was said in your presence? A. Death says, "Andy, Jennie has something to say to me, and of course you know I am married, and I would like to take her down to Saal's only I do not like to do it. I would be obliged to you if you would take her down there." And I stated to him "You know I have to meet Mr. Dugan tonight, and I would like to meet him very much;" and Will said then, he interrupted, and he said, "Oh, you will get back in time," and after that I walked with the girl up from Van Houten street to Church, thence to Broadway, and then down to Saal's saloon.

Q. As you approached in response to his call over to where he was talking to her, what, if anything, did you observe her doing to him? A. I was within hearing distance, and I saw her take the pin out of his tie and say, "I won't give you this back unless you go with me."

Q. Now, while you stood there talking to her, and then as you parted and left Mr. Death there, when did you next see Death? A. At the corner of Bride and River; at the Bridge and River street egress of Saal's saloon.

Q. On the way down there did Jennie do anything in regard to Mr. Death, or say anything in regard to him? A. She was anxious about his coming. She kept turning around and inquiring of me a couple of times as to whether I thought Will would come; and I related to her a little story about a fox and the crab that I had learned in my early school books; and eventually we got there and Will was standing at the entrance to Saal's saloon on the corner of Bridge street and River street; and we met him there.

Q. Upon your arrival there what was said, if anything, by her to Will? A. I believe Will said, "I see you are

here." I do not know whether she said anything then or not in response.

Q. And where did you go then? A. I went around to River street, to the River street entrance of the same saloon.

Q. To the Riverside door there? A. Yes, sir.

Q. And went in? A. Death opened the door and we all proceeded through the little stair with the light in there on the River street entrance, and then we advanced back to a lighted room, a side room, back of the billiard in the side room.

Q. The rear room indicated there (pointing to diagram)?

A. Yes, sir.

Q. How long did you then remain in that room before you or either of you went out of it? A. Well, I cannot remember; I don't remember just now. We sat in there a little while; I don't know how long, but Will said to me, "Andy, I am broke; lend me a dollar, will you and I will treat;" and remembering that I had taken her down there for her to have a word with him, I thought it was a good opportunity to let them speak together, and I said, "No, I will treat; what are you going to have?" So Jennie asked for a milk punch, Will asked for a beer I believe, and I of course concluded to take a cider.

Q. What next occurred in pursuance of those requests, did you do? A. I proceeded out to get the order filled. I went out to the bar.

Q. Whom did you see in the bar, if anybody, after you went out? A. Walt McAlister.

Q. The defendant here (indicating)? A. Yes, sir.

Q. What was said between he and you there? A. I was surprised to see him there, and said, "Hello, Mac, what are you doing here?" and he was at the bar with his back turned toward me and talking with two friends. I believe there were other two friends there. And he said, "Have a drink." I said, "No, I am just filling an order for drinks for my party inside;" and then I told Mr. Saal to make up a milk punch, a beer and a soda. And then Mr. McAlister resumed his conversation with those gentlemen. Mr. Saal called his wife, I believe, and had a word with her, and then said to me, "I have not got any milk." So I returned back to the room and said to Jennie, "I am sorry, Jennie, but Mr. Saal has no more milk." She says, "Well, bring me a cocktail." So I went out to the bar and exchanged the order and told Mr. Saal to make up a cocktail instead of a milk punch.

Q. Did he do so? A. Yes, sir.

Q. And what was done with those drinks? A. I took them from the bar right into the side room.

Q. After passing through the billiard room? A. To the entrance on the side.

Q. Was anything else said between you and Mr. McAlister before going back the second time with the drinks?

A. On the second time Mac says: "I am treating, Andy, have this round on me. I will treat all round;" and I said: "All right." So he says: "Who is your party?" I told him, "Will Death and Jennie Bosschier." And he says: "I had a date down here, Kerr and I, but they didn't show up, and I will be going up town soon; Kerr is waiting for me;" so I said: "Well, I will run up with you; I want to meet Mr. Dugan also;" and after that I left with the tray of drinks and brought them in myself because Mr. Saal had no other waiter there, and could not leave his bar, and he shoved the tray over to me.

Q. And when you took the drinks in what was said in the room? A. I laid the tray of drinks down on the table and remarked that I saw McAlister outside and that those drinks were on him; and Jennie says, "Why don't you bring him in? Mac is a good fellow; I wonder if he would give me a job if I lost mine?" and Death says, "Sure; why don't you ask him in? he is a good fellow." And so we sat down and drank the drinks.

Q. What was next done in the way of ordering more drinks? A. Well, I don't know how long it was, but Bill Death again asked me, and he says, "I want to treat myself now. What are you going to have?" So Jennie says she liked absinthe and whiskey; it was her favorite drink, and she says, "any way bring me in an absinthe;" and I ordered a cider; and Death had not said what he was going to take at the time. So Death proceeded out to get the drinks.

Q. Was anything said then in regard to McAlister coming into the room? A. I do not think anything was said at that time when he left.

Q. Now, what happened when you saw Mr. Death next? A. Mr. Death brought the drinks into the room and he laid them down on the table.

Q. What were the drinks coming for the second round? A. A glass of absinthe, I think it was, a whiskey and my cider; three drinks.

Q. And did you sit down and drink them, all three of you? A. Yes, sir.

Q. Now, what next occurred in the room, with any other person? A. I don't think McAlister came in with him. I doubt it. I think he came in a little later, while we were drinking. He may have come in a little before. I am not positive about that.

Q. Did Mr. McAlister finally appear in the room? A. Yes, sir.

Q. What happened when McAlister finally came in the room as to Jennie? A. Jennie seemed pleased to see him. She went to him and said, "Hello, Walter," and put her arms around his neck and seemed very familiar. She embraced him and kissed him; and then she sat down again.

Q. What did he do after he came in the room, in the way of ordering drinks or anything else? A. Well, the girl became intoxicated after she drank the absinthe. Death says, "I would not like to take her home in that condition. What do you think we had better do for her, Mac"; and McAlister says, "We had better get some champagne; that will liven her up, awake her, make her feel lively, sober her up; words to that effect. And he pressed the button and called Mr. Saal, the waiter, to furnish the champagne.

Q. And did Mr. Saal respond to that call? A. Yes, sir.

Q. And did he bring in the champagne glasses himself? A. Yes, sir; he brought both the champagne glasses and the bottle of champagne himself.

Q. Did he bring the glasses first, or the champagne and glasses together, or do you recollect? A. I don't remember.

Q. What was done after that, after the champagne was brought in? A. He brought the champagne in and laid it on the table and removed the net work off it with his own fingers, and McAlister opened the bottle.

Q. Worked the cork out? A. Yes, sir; worked the cork and opened the bottle.

Q. And what did he do with the bottle after the cork was out? A. He poured the champagne from the bottle into the glasses for four of us.

Q. And then what was done after your glasses were filled? A. We all drank.

Q. Yes, and did you have more than—did Jennie drink herself? A. Yes, sir.

Q. And did she make any remark in regard to it all? A. How?

Q. Did she drink more than one glass? A. Yes, sir; she drank two glasses, I believe.

Q. Now, did the rest of you drink? A. Yes; I had a glass, McAlister had a glass; and, I believe, Death had a glass.

Q. Now then after that what, if anything, occurred in regard to Jennie? A. Well; I don't think the drink of champagne had the desired effect.

Q. Yes? A. She didn't seem to get any better; and McAlister said: "If George is still waiting where I left him I will see if he can get a hack and take the girl out and perhaps sober her up before she goes home;" which he proceeded to do.

Q. And the hack came there? A. Yes, sir.

Q. Were you there when the hack arrived? A. I didn't see the hack.

Q. You didn't go out of the room? When did you go out of the room as to the time when Jennie went out to the hack? A. I didn't see Jennie go out to the hack; nor did I see the hack at all. I went up through Governor street.

Q. Which entrance did you go out? A. The Bridge street entrance.

Q. Did you go alone? A. No; I went with George Kerr.

Q. Went out through the Bridge street entrance? A. Yes.

Q. But you knew the hack was there? A. Yes, sir.

Q. And after you went out with Kerr what direction did you go? A. In an easterly direction up Governor street.

Q. Up Governor street towards Paterson? A. Yes, sir; towards Paterson.

Q. On which side of Governor street do you recollect did you go? A. A part way on the left or northerly side, and as I got up as far as White's old lumber yard I crossed over intending to go home, because I thought there were enough people with the girl to sober her up at that time.

Q. Who was then with her? A. Death and McAlister.

Q. And what happened, if anything when you got up to the corner of Paterson and Governor streets? A. When I got up on the corner of Paterson and Governor streets, on the easterly side of Paterson street, McAlister yelled at me, "Come here! Where are you going? Can't you help me sober her up? Can't you help me to bring her around? Get in the wagon here; we are giving her

an airing—drive her out and give her an airing,” and, of course, I jumped right into the wagon.

Q. What did Mr. Kerr do? A. He did likewise.

Q. Then where did you go from there? A. We went down Paterson to Fulton, up Fulton to Straight—

Q. Now, where were you riding, in this travel? A. Up to that time that we got to Straight street I sat facing McAlister, the girl and Kerr—or Death—with Kerr beside me, and I found there wasn't room enough there and I changed my seat and swung around and got up sitting beside the driver, facing the horse.

Q. And continued to ride there until what happened? A. Until this road I heard spoken of—

Q. Rock road? A. I believe it is the Rock road, it runs at right angles with the Goffle road, I believe.

Q. Now, when you reached that point where the wagon stopped on the Goffle road, did you understand why it stopped? A. Yes, sir; the girl, so one of the boys shouted out, wants to vomit. I didn't see the girl, because I was facing the horse.

Q. Tell us what you observed when you did have your attention attracted? A. Some one shouted out, “Help her out; we don't want to let her vomit over our clothes,” and they took her out of the hack at what you call the Rock road.

Q. What was done with her when she was taken out of the wagon there? A. She was brought over to where some one had spread a blanket—

Q. One of the party? A. One of the party, I believe. And she sat down with her shoulders and head leaned over this way (illustrating) so she would not vomit over her clothing.

Q. Now then, what part did you take in rendering her there assistance? A. When I noticed her effort for vomiting I proceeded to put my finger down her throat, to help her to vomit.

Q. Yes; did she vomit somewhat? A. Slightly; and I caught it on my handkerchief.

Q. Who else was assisting you while this was being done? A. I think all of them were assisting, holding her arms and so forth.

Q. All the boys were assisting there? A. Yes, sir.

Q. Was anything else done besides helping her and holding her in this position, to revive her there? A. Patting her on the back. And when we found that she could not vomit very much and that she begin to get sleepy some-

what, we proceeded to slap her hands and wrists and ankles, and her face and her forehead, in fact, every exposed part of her body, at that time.

Q. Yes; and after she got out of the wagon there what become of the wagon, did you notice? A. Yes, the driver said that the road was too narrow, some one suggested that they turn around—as soon as they attempted to revive her by slapping her hands, some one told him to turn around, to get some water, and as the road was too narrow there the hackman said that he would have to walk the horse up to where the road was wider, and when he came back we put her in the buggy or hack.

Q. Now then, Mr. *Campbell*, as to whether or not it was quite dark there? A. Yes; very dark.

Q. How far up beyond the point where you got out of the wagon—could you tell the form of the wagon—about how far he had to go, or did you watch? A. Didn't take any notice; we were busy slapping the girl's hands and—

Q. Have you any idea as to about how long you remained there working with her? A. No recollection; only the time was very short before he returned again.

Q. While she was there upon the ground, did any of the four persons who were in your party, including yourself, commit any assault upon her person? A. None whatever; by anybody.

Q. Were there any of your party there, either yourself or any of the others, whom you noticed using their handkerchiefs on their persons or private parts? A. No, sir.

Q. Did you hear any of your party or did you, yourself, go to the hackman and intimate to him or invite him to come and have to do with the girl there upon the ground? A. No.

Q. Now, after she did not revive there, what was done then with Jennie? A. The suggestion of taking her to where there was water was acted upon.

Q. Yes? A. Put her in the carriage and driven back to the place where we had passed near the school where there was a brook, and we all took her out and removed the fastenings at her neck, and unbuttoned some of the waist, I believe, and some one went for water and it was applied to all her exposed parts, her hands, and her head, and back of her neck, with the effort to revive her and sober her up.

Q. What movements, if any, of the arms were made to aid her? A. We had already used movements of respiration, pulling the arms forward and backward and side-

wise, and in different manner, at the Rock road, and we continued to do the same at the school, at the brook.

Q. And then after you took her out, as I understand, the first place along the Goffle road, was she then replaced in the wagon and taken around the curve on account of an approaching wagon? A. Yes, sir.

Q. And then what was done with her around on that part or side of the brook? A. We continued the same treatment we had been using at the brook.

Q. Now, while there, did she manifest improvement or not? A. No; she did not.

Q. And what was finally concluded by you to be done with her? A. I believe McAlister says: "We had better take this girl to a doctor," and the suggestion was acted upon and she was put in the hack and the hackman directed to drive to Dr. Wiley's.

Q. Did he do so? A. Yes, sir.

Q. And what then? A. We drove to Dr. Wiley's; McAlister and Kerr going to the door of the doctor's office and ascertaining there that he was not in. Then some of the party thought that he might be in the Bellevue Hotel, and, I believe, Mr. Kerr went to the Bellevue Hotel to find the doctor; he came back out of breath in a very few minutes and said he wasn't there; then the suggestion was made to go down to Dr. Townsend; so we proceeded to Dr. Townsend, Kerr and McAlister going to the office door; the doctor came down and went back again to put on some additional clothing; he came down to the hack, examined her head, back and front, her breast, heart and both wrists, and after examining her he drew a long breath, and said: "Boys, she is dead."

Q. After that then what was done? After you learned that fact what was then done? A. Well, we all got in the carriage then, McAlister and I on either side of the girl, and we were all very much confused, we didn't know what to do, and some one told the driver to proceed to her home. It was decided to put her on her stoop where she would be found, and as we drove down we saw some men on the road near the gas house or slaughter house, I don't remember which. I was in a very confused state of mind at that time, and the hack proceeded over the Hillman steet bridge, I believe, and then out to Alyea's mills, where some one said, "This is a good place where some early wagon will find her early in the morning," and we decided to leave her there, which we did.

Q. And she was taken out of the wagon and left there?
A. Yes, sir.

Q. Now then, where did you go from there? A. We drove straight down and went over that bridge, I believe, which leads into the street passing the East side park, and then we turned down one of the streets, I don't know which it was—because I was still in a confused state—and we went down one of the avenues, I don't know which avenue it was, but we eventually came to an open space near the armory. McAlister and Kerr got out of the hack, McAlister paid the hackman, I don't know what he paid him, and then we got out at Carroll and Market streets; as we got out the hackman, Mr. Sculthrope, said to both of us, "Do you think the doctor will tell anything about this?" and, of course, we were very much confused, and we replied not to him and walked away down home.

Q. Then you were taken into custody on Monday night, Mr. Campbell? A. The 22nd; I believe, Monday night.

Q. While at Saal's saloon, was there anything to your knowledge, outside of the drinks as served at the bar, put in anything which Jennie drank? A. No, sir; only the bottle of champagne, and that wasn't poured in at the bar; it was poured in by McAlister inside the side room—the sitting room.

Q. Did you see anything put in that but the champagne?
A. Nothing, except the champagne.

Mr. Dunn:—Cross examine.

Cross Examination by Mr. Emley:

Q. You remember the night that you went to the police station; don't you? A. Very well.

Q. You remember being present there after your arrival there with Officer Titus? A. Yes, sir.

Q. Officer Taylor? A. Yes, sir.

Q. Officer Lord? A. Yes, sir.

Q. And Officer McInerney? A. Yes, sir.

Q. You five were upstairs in their room, were you not?
A. Yes, sir.

Q. Altogether? A. Yes, sir.

Q. And you had some conversation there with them, did you not, with relation to this night? A. Yes, sir.

Q. You say now that you did not see anything put in her drink? A. I positively did not.

Q. Didn't you say to those four officers there at that time in discussing this case that McAlister had a bottle and you saw him pour some of its contents into Jennie's glass?

Mr. Dunn:—I object.

Mr. Hoffman:—I object.

The Court:—What is the objection to it ?

Mr. Hoffman:—This question, as I understand it; is devoted to what yesterday the State sought to put into this case, and it was ruled out because of reasons that we are all familiar with and well recollect. Certainly if it could not be put in affirmatively on behalf of the State, no basis now can be laid for a contradiction of this witness.

The Court:—How is this witness in any different position from any other witness ?

Mr. Hoffman:—My judgment is that that should have been proved on the affirmative case by the State, and if they could not get it in that way for good and legal reasons, it cannot be put in now on the cross examination of this witness. That is my objection. It is not cross examination.

The Court:—Your objection is not well founded. It is always permissible to discredit a witness, whether he is a party or a witness, by his statement upon another occasion, if he has told matters inconsistent with the evidence which he now is giving.

Mr. Hoffman:—Then the court allows the question ?

The Court:—Certainly.

Mr. Hoffman:—I ask an exception.

Mr. Scott:—Just a suggestion, your Honor; I understand from reading the question is as to the confession. I understand the law to be the reason why they are not permitted when fears are aroused is that they are not sure—

The Court:—That is not the reason.

Mr. Scott:—Of course, if your Honor says that is not the reason, I have some apprehension of doubt, but it is my understanding, and and I want to make that suggestion to your Honor. If that is true, this cannot be used to contradict what he says now, and he cannot be asked that question.

The Court:—That is not the reason, and if it were the reason it would not be of consequence. The matters which were offered yesterday were offered as affirmative proof against the parties, standing simply as defendant, but now he is in the position of a witness, and whatever might be offered in evidence in regard to any other witness for the purpose of discrediting him can now be offered with respect to this witness for the purpose of discrediting him; one of the legal modes of discrediting a witness is the introduction of statements made off the witness stand inconsistent with the evidence which he gives. It is in that aspect and in that aspect only, that this question of the prosecutor is now proper. I haven't any doubt about its legality; I will permit the question.

Mr. Scott:—And your Honor will allow me an exception?

The Court:—Certainly.

Q. (The pending question was read by the stenographer as above.) A. No, sir; the detectives asked me—

Mr. Emley:—Well; that's all.—

Mr. Hoffman:—Let him answer the question.

The Court:—Yes; let him answer fully.

The Witness:—The detectives asked me if I saw McAlister put anything into the drink from a bottle which he possessed, and I said, no; the only bottle that I saw McAlister use and pour from was the champagne bottle.

Q. Then you did say to them that McAlister had a bottle and poured some of its contents into her glass, did you? A. Champagne bottle.

Q. Did you say a champagne bottle? A. I said a champagne bottle.

Q. To them? A. Yes; sir.

Q. Then you said to them that McAlister had a champagne bottle and poured some of its contents— A. That was brought in by Mr. Saal; I said that was the only bottle that Mr. McAlister handled, as far as I saw.

Q. That is all you said to them in connection with McAlister about a bottle? A. In answer to their question—

Q. That is all you said to them on the subject; is it?
A. Yes, sir.

Q. Did you say to them at that time that McAlister had a bottle and poured some of the contents into Jennie's glass saying that would make her lively—

Mr. Hoffman:—In order to have the records straight, unless the former ruling and exception would cover this, but I think for prudential reasons I should object to this question also.

The Court:—I will allow the question.

Mr. Hoffman:—I take an exception.

The Court:—Certainly.

A. No; I didn't say that.

Q. Did you say to them either that McAlister at Kent's drug store made the suggestion that we go out with the girl?
A. No, sir.

Q. Nothing to that effect?
A. Nothing whatever.

Q. Nothing of that kind?
A. No, sir.

Q. "Go out with the girl and have a good time?"
A. No, sir.

Q. Nothing of that kind?
A. No, sir.

Q. Did you say either to them that you didn't know who hired the hack, because I knew McAlister hired the hack.

Q. You didn't say that?
A. No, sir.

Q. Did you say to either of them, that, I remember Kerr saying that the hack is here?
A. I remember that.

Q. Did you say that to the officers on that night?
A. Yes, sir.

Q. Did you say to them either that Death and McAlister put her in the hack?
A. I don't remember saying that.

Q. Do you remember whether he said that or not?
A. I don't remember; I may have inferred that they put her in the hack, but I didn't say that they put her in the hack.

Q. That is the only answer to your question?
A. Yes.

Q. Did you say either to them that the hack overtook me at Governor and Paterson streets?
A. Yes, sir.

Q. You said that to them?
A. Yes, sir.

Q. Sure about that?
A. Yes; Governor and Paterson streets.

Q. You said that to the officers?
A. Yes, sir.

Q. You said that to the officers?
A. Yes, sir; and—

Q. And that when Kerr and I got in, you told them that? A. Yes, sir.

Q. I am not asking you now whether that is so or not; did you tell the officers that? A. I understand you.

Q. I sat up with the driver; she sat in the back between Death and McAlister; did you tell the officers that? A. Yes.

Q. Sure about it? A. Yes, sir.

Q. When we got near Midland Park, did you tell the officers that? A. No, sir.

Q. "Near Midland Park, Mack told the driver to stop?" A. I do not know any Midland Park.

Q. Did you say anything to those officers like that? A. No, sir; I did not.

Q. About stopping, or about McAlister telling the driver to stop? A. I could not have said that; I didn't know where Midland Park was.

Q. Did you say that they lifted her out and laid her out on a blanket about 15 feet from the wagon? A. I do not remember saying that, sir.

Q. Is that your answer to the question? A. Yes, sir.

Q. Did you say this: "Mack said go ahead, Andy;" I said: "I don't care to take advantage of a girl in the condition she was in?" A. No, sir.

Q. You didn't say that? A. No, sir.

Q. Nothing of the kind? A. No, sir.

Q. Nothing to that effect? A. No, sir.

Q. Did you say this to them, "Then Mack said go ahead; the drink she had will only make her sleep for awhile?" A. No, sir.

Q. Nothing of that kind? A. No, sir.

Q. Nothing to that effect? A. No, sir.

Q. Did you say this, "Mack unbuttoned her drawers and then he took them off?" A. I could not have said that.

Q. You didn't say that? A. No, sir.

Q. Nothing of that kind? A. No, sir.

Q. Nothing to that effect? A. No, sir.

Q. Did you say this to the officer, "he said something about the damned string on the back; from his remark I assumed he couldn't get them off?" A. No, sir.

Q. Nothing of that kind? A. No, sir.

Q. Nothing to that effect? A. No, sir.

Q. Did you say this to them, "I assumed he got them off as I saw something white lying by her side?" A. No, sir.

Q. Nothing of that kind? A. No, sir; they asked me a lot of questions to that effect and I answered in the negative?

Q. You said nothing of the kind? A. Nothing to that effect; no, sir.

Q. "McAlister was the first one I saw on top of her?"

A. No, sir; I couldn't say that because I didn't see any one on top of her.

Q. You didn't say that or nothing like it? A. No, sir.

Q. Did you say, "Death was the next one I saw on top of her?" A. No, sir.

Q. Nothing like that? A. No, sir.

Q. Did you say to them that, Mac said, "Go ahead George, and George said, I am in no condition for anything like that?" A. No, sir.

Q. Nothing like that, nothing to that effect? A. No, sir.

Q. Did you say this to them, "Driver, have a piece, it is nice and tight?" A. No, sir.

Q. Nothing like that? A. No, sir.

Q. Nothing to that effect? A. No, sir.

Q. "That he said, I do not feel like it tonight?" A. No, sir.

Q. Nothing like that? A. No, sir.

Q. Did you say this to them, "Then something was heard going through the bushes and Death said, give me your gun, Mac; and Mac said I haven't any, and Kerr said, I guess it was only a rabbit?" A. They asked me that question, and I answered in the affirmative; I didn't say that to them; I answered in the affirmative.

Q. How did they come to ask you that question? A. I don't know; that question was asked me.

Q. Was anything said, or had there been anything said at that time to suggest to them that a noise had been heard in the bushes? A. They may have heard it from some one else, not from me; they asked me that question.

Q. They did ask you whether or not a noise had been heard in the woods? A. Yes; they did so.

Q. You said there had? A. Yes.

Q. And that Death had said, "Give me your gun, Mac?" A. Yes.

Q. And that Mac said, "I haven't any?" A. Yes, sir.

Q. That is true? A. Yes, sir.

Q. And that Kerr said, "I guess it is only a rabbit?"

A. Yes, sir.

Q. That is true? A. Yes, sir.

Q. And that you said to them in answer to that question? A. I said that in answer to their question; I simply said, "Yes."

Q. Did you say this to the police officer, "that Death and McAlister tore up the drawers and each one of them put a piece into their pockets?" A. No, sir.

Q. Nothing of the kind? A. No, sir.

Q. Nothing to that effect? A. No, sir.

Q. Did you say this to them? "After we left her where she was found, McAlister threw her combs and hairpins in the river while we were crossing over the Thirty-third street bridge?" A. "I answered that,—let us see—I may have answered that; I do not remember.

The Court:—You mean you may have answered that in the affirmative.

The Witness:—I may have said something to that effect.

Q. Is that true? A. Yes; I guess that is true; I believe they asked, what was done with the the combs and pins, and I said that someone had thrown them over the bridge.

Q. Is that true, that somebody threw them over the bridge? A. Yes.

Q. Who? A. I think McAlister.

Q. Are you sure about it? A. Yes.

Q. Which bridge was that? A. It was the bridge we crossed after we left the Alyea mill.

Q. That was the Thirty-third street bridge? A. Yes; leading to Morlot's mill.

Q. Which way did he throw them, to the right or left? A. I think to the right.

Q. And you so stated to the officers? A. Yes.

Q. "He threw them over the right hand side," that is what you said? A. Yes.

Q. That is right? A. Yes.

Q. And that is true? A. I believe it is.

Q. Did you say this to the officers; "when I got there"—referring to Alyea's grist mill—"Mack said, stop, this is a good place where she will be seen and we all took hold of her and lifted her out, and that Mac took her in his arms, and laid her down; being heavy she fell and I heard something strike when she fell back; "did you say that? A. I could not have said that, that I heard something strike; I didn't hear anything strike.

Q. Did you say that? A. No, sir.

Q. Did you say anything of the kind? A. I might

have said something to that effect with the exception of striking.

Q. The other part you did say except her head striking ?

A. I might have said it.

CONSTANT DORDONI, called and sworn in behalf of the defense, testifies as follows:

Direct Examination by Mr. Scott :—

Q. Do you remember the night of October 18th last ?

A. Yes, sir.

Q. Were you down in Saal's saloon that night ? A. Yes; I heard them mention my name, and it was Mr. McAlister, and he said, "How, do you do, Mr. Dordoni ? will you have a drink; and I said I will take a pony of beer," and then after a while they went out, then I don't know any more.

No cross examination.

CLARENCE CHRISTIE, called and sworn in behalf of the defendants, testifies as follows:

Direct Examination by Mr. Dunn :—

Q. Where do you live ? A. 164 Water street.

Q. Did you live in the same place in October last year ?

A. No, sir.

Q. Where did you live then ? A. 208 Water street.

Q. Do you remember the night of this occurrence to Jennie Bosschietter ? A. Yes; a little.

Q. Where were you on Thursday night, the night she was said to have gone out in the hack ? A. I was going through River street from Main, about half past ten, on the left hand side on River street.

Q. You were going down on the left hand side ? A. Yes; through Main towards the bridge.

Q. That was the same side as Saal's saloon ? A. No, sir; that was the opposite side.

Q. Did you see a hack in front of the Bridge street entrance of Saal's saloon ? A. Yes, sir.

Q. Tell us what you saw. A. I was going through River street, I got on the corner of Bridge and River, having a friend, looked up and saw a hack there, and a man just in the action of putting a woman in; he says to me, "look at that, look at that, what are they doing with that woman ?" I looked and saw him just in the action of lifting her in the hack; one man was standing outside, had hold of her by the legs, lifting her with his two hands,

and then I saw two hands come out of the hack like to lift her in; when they lifted her in the man on the sidewalk who lifted the legs in got in himself.

Q. The other one remained in the hack? A. Yes, sir.

Q. In which direction did the hack go from there? A. Around in Governor street.

CHRISTOPHER SAAL, recalled on behalf of the defendants, testified as follows:

By Mr. Dunn:—

Q. Have you seen Professor Vandenburg and this gentleman here, at your place of business, with Mr. Charles Dunn recently in regard to the obtaining of some champagne and some absinthe? A. Yes, sir.

Q. And a cocktail? A. Yes, sir.

Q. Was the cocktail made up for them from the same brand of liquor and in the same way that you usually make your cocktails? A. The same way I make them always.

Q. And the absinthe which you gave the professor a sample of, was that the same kind of absinthe as you had in your place in October? A. Yes, sir.

Q. And did you fix it the same way as you serve it? A. The same way; yes, sir.

Q. And the brand of champagne, the Great Western, was that the same kind of champagne as was served to Mr. McAlister the night the Bosschieten girl was there? A. Yes, sir.

Q. They were all delivered to this gentleman here—you recognize him as the man? Yes, sir.

Cross Examination by Mr. Emley:—

Q. When? A. I can't remember what time they were there.

Q. Was it yesterday or a week ago, or a year or what?

A. No; it was some days. I don't know if it was a week ago or longer.

Q. And did they have a drink there? A. They had a drink, yes; had cocktail himself.

Q. How many? A. Only one.

Q. Did you make it? A. Yes, sir.

Q. And then you made another one, did you, and they took that away? A. Took that in a bottle; I think.

Q. And they took away some absinthe? A. Yes, sir.

Q. How much champagne did they take away? A. Only a bottle.

Q. A quart bottle? A. Quart bottle.

Q. Great Western? A. Great Western.

CHARLES JAMES LAFFIN, a witness called and sworn in behalf of the defendants, testified as follows:

By Mr. Hoffman:—

Q. Where do you live? A. 1545 Madison avenue; New York.

Q. What is your profession? A. Physician

Q. How long have you been a physician? A. Since 1893.

Q. Where mostly have you practiced? A. Mostly in New York City. Before then I was out on the west coast of Africa.

Q. When did you graduate in medicine? A. 1893.

Q. At what college? A. The University of New York city.

Q. Have you had occasion in your practice to notice the effects of absinthe upon a human person? A. Yes.

Q. How large has been your experience with reference to that? A. With reference to absinthe alone?

Q. Yes, sir. A. I have seen two cases knocked out with it, paralyzed with it; and I have seen other people slightly under the influence of it.

Q. In your judgment, doctor, the usual absinthe that is administered for drinking purposes—trace if you can the effects of that. A. It would depend very largely, almost entirely, upon whether a person is accustomed to taking it or not.

Q. Take a person, say, that is not accustomed to taking it? A. Well, then; you have got to give me a few points. First, has the person got a full meal; is it on an empty stomach—

Q. Take it up with a person who has not had a full meal for some time before the taking of the absinthe. A. Feeling physically exhausted or physically strong?

Q. That I can't tell you. I want to get a general idea of the effect of absinthe upon the human system. You give a person a large dose of absinthe? A. Perhaps it will best illustrate if I tell you the striking cases I have seen.

Q. Just the general effect? A. The general effect, I should say, of a large dose on an empty stomach would be to cause a temporary excitation and increase the reflex followed by a complete collapse.

Cross Examination by Mr. Emley:—

Q. How long do you say you have practised in New York City? A. I have been in actual practice five years,

and I was in the laboratory a year before that in New York.

Q. What laboratory? A. The Loomis Laboratory.

Q. Chemical? A. No, bacteriological and pathologic.

Q. How long did you practice medicine down on the western coast of Africa? A. I was about two years there.

Q. About two years? A. Yes, sir.

Q. Did you practice on the natives down there? A. Natives and whites. I was the only physician in the neighborhood, and the hospital was mine that was there.

Q. What do you mean by a large dose of absinthe? A. I should say from an ounce and a half up.

Q. Up how, where? A. Up to two or three ounces. For a small person an ounce and a half is a very big dose. For a man of my build I should say it was a reasonably stiff dose.

Q. Suppose you were called to see a person in a condition of coma, who had taken a drink of absinthe and a large lot of chloral, how would you diagnose that case? A. If I had evidence of it too that both had been taken I would diagnose it as a double poison.

Re-direct Examination by Mr. Hoffman:—

Q. You said that one of the results would be collapse. Would anything follow the collapse? A. Would stand a good chance of dying, if they were not properly taken care of.

*The Court:—*Doctor, will you be kind enough to pour out of that water, leaving in the tumbler what you think is an ounce and a half (handing witness a tumbler of water.)

A. (After pouring out a portion.) There is almost an ounce and a half, I should say.

Q. That is almost an ounce and a half? A. Yes; in my judgment.

Q. You say that upon an empty stomach would be a large dose for a young woman? A. Yes, sir; unless they had been addicted to its use.

Q. A person not addicted, a young woman, it would be a large dose? A. Yes, sir.

Q. Would be likely to produce this excitation followed by collapse? A. I wouldn't use the word likely, but the chances are about even; might produce it.

Q. And suppose it were three or four hours after the

meal? A. The chances would be much greater of its producing that effect if the stomach were empty.

Q. And would the stomach be likely to be empty three or four hours after a meal? Ordinary meal? A. Ordinary meal, yes; about empty.

HORACE C. VANDENBERG, a witness called and sworn in behalf of the defendants, testified as follows:

By Mr. Hoffman:

Q. Where do live? A. In the City of New York at present.

Q. What is your profession? A. I am a graduate in medicine and also a graduate in law, and have practiced law, and formerly taught chemistry.

Q. Where did you graduate in medicine? A. Bellevue Hospital Medical college in 1886.

Q. And where did you teach chemistry? A. In the medical department of the University of the City of New York.

Q. How long did you make chemistry a special study or profession? A. I was connected with New York university from 1886 to 1893.

Q. Do you know Mr. Saal, who was present upon the witness stand here a short time ago? A. I met Mr. Saal in the City of Paterson, New Jersey, on the 2nd day of January.

Q. This year? A. 1901.

Q. In company with whom? A. Mr. Charles Dunn.

Q. And where did you meet him? A. In his place of business. I am not able to state the location.

Q. Did you receive anything from him there, and if so what? A. I received from him, first, two whiskey cock-tails that were prepared by him, Mr. Dunn calling for them. They were placed upon the bar, and then with a glass funnel that I had, the contents of those two glasses were turned into a bottle that I had previously prepared and a stopper placed in the bottle. I thereafter sealed that bottle before leaving the place.

Q. What else did you receive there, if anything? A. I received shortly thereafter absinthe frappe.

Q. What did you do, with that? A. I likewise placed that in a separate bottle and sealed the same.

Q. What else did you receive? A. I also received a quart bottle of Great Western champagne, upon the label of which was a revenue stamp or, rather, the revenue

stamp thereon bore the date of cancellation of March 22nd, 1899.

Q. What did you do with those three things? A. I took them to New York and to the laboratory of Dr. H. B. Galpin.

Q. Proceed and tell us exactly what you did with them and what results ensued. A. A mixture of these three substances obtained from Mr. Saal consisting of the cocktail, absinthe and champagne, was made; and that mixture was first treated with dilute hydrochloric acid. I had previously tested the hydrochloric acids. These examinations were made in the presence of and with Dr. H. H. T. Galpin.

Q. Go on, and tell us just what you found. A. And there after that mixture was treated with caustic potassium hydrate and two drops of anilin, and there was produced an odor similar to that of witch hazel.

Q. Proceed. A. Another portion of this substance was treated with beta naphthol in a small quantity of potassium hydrate solution, and this was heated gently, and the mixture of the cocktail, absinthe and champagne was added, and a color between a purple and a blue was produced at first, and after standing a few moments this color became blue. A third portion was treated with resorcinol in solution, and a few drops of caustic soda in solution. The mixture was added, and upon boiling for some minutes there was produced a yellow color, and yellow red color, and a yellowish green fluorescence.

Q. Go on. A. That constituted the tests that were made with those particular substances.

Q. Did you go further, Doctor, and have a residuum of anything? A. I did.

Q. State that process and what was the result? A. There was added some ether to this mixture, and it was shaken, and allowed to stand, and then shaken again and allowed to stand, shaken again and allowed to stand. Then the ethereal solution was drawn off, and a portion of that was allowed to evaporate spontaneously; and there were produced or there remained in the watch glass a white crystalline matter, together with some coloring matter. This residue was soluble in water, and also soluble in alcohol and also soluble in ether.

Q. Was there anything more done with these articles that you took from Saal's saloon than you have given to us now? A. Yes; in connection with something else.

Q. And what was that? A. I refer now to the embalming solution which I received.

Q. Did you visit Mr. Vermeulen? A. I did.

Q. With whom? A. With Charles Dunn, on the second day of January, 1901.

Q. And you saw there—A. I saw there a gentleman whom Mr. Dunn said was Mr. Vermeulen, an elderly gentleman.

Q. Was he the gentleman who has been upon the stand here? A. No, I think not; the father of that man. The father of the man that was upon the stand this morning.

Q. Proceed. A. And Mr. Dunn stated—

Mr. Emley:—Now, wait a moment.

Mr. Hoffman:—I only want to identify if possible this embalming fluid.

Q. Go on, Doctor. Counsel wants me to avoid the conversation that took place there.

The Court.—I suppose the conversation was part of the transaction.

A. Well; Mr. Dunn introduced myself to Mr. Vermeulen. Then Mr. Dunn stated the object of our call, and said or asked this question; did you have charge of the body of— Miss Bosschieter?

The Court:—You needn't mind about what he said on that subject; what did you ask him for?

A. The embalming fluid.

Q. Did you see from whence he took it? A. I took it personally.

By Mr. Hoffman:—

Q. Who gave it to you? A. I went in company with Mr. Vermeulen, who was upon the stand this morning, to a shed in the rear of their establishment, and there found or there was a keg which this Mr. Vermeulen—

The Court:—Never mind what he said about it.

Q. Was there anything upon that keg? A. There was.

Q. What was it? A. Trademark.

Q. I will show you a paper; was that the paper that you found upon the keg? A. That paper was upon the keg.

Q. How did it come from the keg into your possession? A. This corner was turned up thus, and this was pasted upon the keg; Mr. Dunn attempted to copy it, and Mr. Vermeulen said "Take the label," and with that he

handed the label to him; I have kept the same in my possession until within a few moments ago when I handed it to Mr. Dunn.

Q. How did it come from the keg into your possession?

A. This corner was up like that, and this was pasted upon the keg, and that was up, and Mr. Dunn attempted to copy it, and Mr. Vermeulen says "No, take the label." And he handed the label to me, and I have kept the label in my possession.

Q. And from the keg upon which this label was, and designated by Mr. Vermeulen did you get anything or not? A. I did.

Q. What did you get? A. I obtained about a quart of the embalming solution.

Q. And what did you do with it? A. I sealed it, and subsequently took it to New York.

Q. And then what did you do with it? A. Submitted it to analyses.

Q. Now go on, Professor, and state the mode of making your analyses and the results.

Mr. Emley objects. "I do not think that this substance referred to has been sufficiently identified to be of any relevancy in this case. This was taken from the keg a long time after the transaction."

By the Court :—

I think that is a matter for comment to the jury. I think the testimony is competent to go before the jury.

Q. Proceed and tell us what the embalming fluid you had in your possession was made of,—to put it crudely.

A. The embalming solution contained sodium arsenate, chloride of zinc, and some alum, and some methyl and ethyl alcohol.

Q. Go on in your own way and state what you think, and give us the results of your work. A. I then took a second portion of this original mixture of the cocktail, absinthe and champagne, and added to it a portion of the embalming solution, and I treated it in the manner I described of the others, and obtained practically the same results.

Q. Did you test the embalming fluid alone, without the admixture of the cocktail, absinthe and champagne compound? A. I tested a portion of the embalming solution and distilled that, and took the distillate, and upon the

application of a small amount of the alcoholic solution of the potassium hydrate and two drops of aniline. This was warmed and there was produced an odor which is similar to that given off by witch hazel.

Q. How about the color? A. In relation to the test with the resource in the test was similar.

Q. Similar to the test with the champagne, cocktail and absinthe admixture? A. Yes, sir.

Q. Did you go further with the embalming fluid alone, and get a residuum? A. Yes, sir. This mixture of cocktail, absinthe and champagne and the embalming solution was also shaken with ether, and the residue was obtained—(interrupted).

By the Court:—

Q. That you referred to before, by telling us that the mixture of the four ingredients had given you practically the same results as with the mixture of the three. The counsel is asking you about the embalming fluid alone.

By Mr. Hoffman:

Q. Without the admixture? A. The evaporation of the embalming fluid left a residue.

Q. What was that? A. Crystals of sodium arsenate, of zinc chloride and what I took to be alum sulphate.

Q. That was the residuum of the embalming fluid alone? A. Yes, sir.

Q. Doctor in your judgment, can it be told with any accuracy from the finding of say ten grains of chloral in a dead body, how much had been administered or taken to make the result of that number of grains there? A. No; I cannot. I think it would be pure speculation.

Cross Examination by Mr. Emley:—

Q. Where did you say you had been taught chemistry?

A. In the medical department of the City of New York, and under the direction of Prof. R. A. Whitthaus.

Q. To whom had you talked while in the medical department of the City of New York? A. The students of that medical department.

Q. Where? A. In the medical department of the City of New York.

Q. Where is that? A. That is at 410 East Thirty-sixth street, in the City of New York.

Q. Is there a department of that kind maintained in connection with the municipal government over there?

A. The medical department of the University of the City of New York.

Q. Oh, the university? A. Yes, sir.

Q. When did you teach chemistry there? A. From 1886 to 1893.

Q. From 1886 to 1893? A. Yes, sir.

Q. When were you with Dr. Witthaus? A. During that time that I have just stated, the whole of it.

Q. And you left him in 1893, I believe. A. Yes, sir.

Q. Why did you leave him, in 1893? A. I resigned my position there, having accepted the position in the Board of Health, of the City of New York.

Q. How long did you hold that? A. Until 1895.

Q. So you resigned when you left Dr. Witthaus? A. I did.

Q. Did you ever do any analytical work while you were with him? A. I did.

Q. Did you regular analytical work while you were with Dr. Witthaus? A. Yes, sir.

Q. Of what kind? A. Well; in the examination of embalming fluids.

Q. What else? A. Anything that may have been there for our work.

Q. Well, outside of embalming fluid, did you ever do any other work for him? A. Yes, sir.

Q. What upon? A. In the general laboratory work.

Q. Well, was your work upon those lines while you were with such satisfactory to him? A. I had no reason to believe it to be otherwise.

Q. Don't you know it was not satisfactory? A. No, sir.

Q. And don't you know it because of your incompetency to do that sort of work you left him? A. No, sir; I do not know it. And never heard it before.

Q. When did you become interested in this case? A. I received a letter from Judge Scott along the latter part of December. I do not recall the date. The letter invited me to come to the City of Paterson. I came here on, I think, the last Saturday in December, 1900.

Q. Do you know how Judge Scott came to know of you?

Objected to.

A. He stated that Mr. Dunn had spoken to him of me.

Q. Then you had seen Mr. Dunn, had you, before hearing from Mr. Scott? A. I had met Mr. Dunn some time ago.

Q. How long ago? A. I do not recall when I first met Mr. Dunn.

Q. You remember meeting Mr. Dunn here in Paterson along about perhaps the early part of November? A. Yes.

Q. Yes, after this occurrence was supposed to have taken place; November 16th, wasn't it? A. No, sir; I do not recall the date exactly, but it was in the early part of November.

Q. How had you happened to be in Paterson at that time, Mr. Van Denburgh?

Mr. Hoffman objects to the question upon the ground that it seems to him that there should be some limit to this sort of cross examination.

The Court:—There is no limit to that sort of cross examination.

A. I saw Mr. Dunn at that time.

Q. In connection with this case? A. Yes, sir,

Q. You came up here a stranger to see Mr. Dunn in relation to this case? A. I was not exactly a stranger. I knew him previously.

Q. Well, you had no personal acquaintance? A. I had met him.

Q. And you had a letter of introduction from a man named Howe? A. No, sir.

Q. Didn't you have a letter of introduction to a Mr. Dumont of this city? A. No, sir; I did not.

Q. Did you go to see Mr. Dumont of this city? A. Yes, sir.

Q. Before you had seen Mr. Dunn? A. No, sir; I think not.

Q. Are you sure about that? A. Yes, sir.

Q. Well; it was before you had heard of Mr. Scott? A. Yes, sir; some little time.

Q. And you went to see Mr. Dumont, didn't you, for the purpose of having him assist you in securing employment in this case? A. No, sir.

Q. Didn't you ask Mr. Dumont if he would not see the Prosecutor or Mr. Dunn, preferably the Prosecutor, with a view to having your services used in this case? A. I did not ask that question of Mr. Dumont.

Q. Did you ask him anything similar to that? A. No, sir.

Q. Did you refer to the Prosecutor in any way in your interview with Mr. Dumont? A. No, sir.

Q. Was there no reference at all? A. No, sir.

Q. What did you come to see Mr. Dumont for? A. Mr. Howe said that Mr. Dumont was a personal friend of his, and that he thought that Mr. Dumont was in some way connected with this case.

Q. And that is why you went to see Mr. Dumont? A. Yes, sir.

Q. You knew different from that, didn't you? A. No, sir; I did not.

Q. You were here on November 16th, the day these men were present and arraigned in Court here with their counsel, and knew who their counsel were? A. That is not the case; I was not present when they were arraigned in Court.

Q. Were not you present upon the arraignment of these men upon this indictment? A. No, sir.

Q. And when you were then here talking with Dumont, do you say you did not know then who their counsel then were? A. No, sir; and it was a long time prior to that; I was not here on the 16th. It was in the early part of November.

Q. Did you say when you were talking to Mr. Dumont that you did not know who the counsel were? A. I did.

Q. And you went to him supposing he was the counsel? A. Yes, sir.

Q. You learned differently from him? A. Yes, sir.

Q. He told you? A. He told me that Mr. Harding and Judge Scott were connected with the case. I did not see them. I did not see Mr. Dunn or Mr. Harding at that time.

Q. And didn't you ask Mr. Dumont to introduce you to those gentlemen, Mr. Scott and Mr. Dunn? A. No, sir.

Q. And didn't he decline to do so, stating that they were gentlemen, capable of attending to their own business and he did not want to interfere in the matter? A. No, sir; nothing of that kind.

Q. Nothing? A. No, sir.

Q. Did you go to Judge Scott and give as a reference the Union Laboratories Company of New York? didn't you? A. No, sir.

Q. You knew he wrote there? A. No, sir; this is the first time I have heard of it.

Q. You never were connected with that institution? A. No, sir.

Q. Or any other institutions of a similar kind? A. No, sir.

Q. You never have appeared in Court before, in a case of this kind, have you? A. No, sir.

Q. That is all.

The label which has been previously referred to in the testimony of this witness, and offered in evidence, is now marked by the official stenographer, Exhibit "D 1, F. J. M."

DEFENDANT RESTS.

OFFICER HENRY TITUS having been already sworn is now called to the stand in rebuttal.

Direct Examination by Mr. Emley :—

Q. Referring to the night of October 22nd and the morning of October 23rd, when Mr. Campbell was brought to the station house, and to the interview which was had then between you and him and the other three officers, I will ask you whether he said to you then that McAlister had a bottle, and that he poured some of the contents into her glass, and he said, "this will make her feel lively."

By Mr. Hoffman :—

I object to the question. It should be directed to the reply which the witness made to the question, and not beyond that.

By the Court :—

That assumes that the statement made by the witness with regard to the form of the interview was true, except with reference to the responses.

By Mr. Hoffman :—

My recollection is that the direction must be to the terms.

By the Court :—

The question put to the witness was did you tell Officer Titus so and so, and he either says I do not remember whether I did, or I did not, or I did; whether he says I do not remember, or whether he says I did not is unimportant. The direction will consist in proving that at that time he did make statements such as he was interrogated about, and which statements are inconsistent with the testimony that he gives upon the stand, not the testimony he gives with regard to that reply, but the testimony he gives with regard to the transaction

itself; that is the body of this inquiry, and the form in which the Prosecutor had framed the question is entirely legal.

By Mr. Hoffman :

I object to the, whole examination.

The question is allowed by the Court.

Whereupon the counsel for the defendants prays an exception to the ruling of the Court, and the same is allowed, and is sealed accordingly.

Mr. Dunn also asks an exception.

A. Yes, sir. he did.

Q. You can answer that ? Yes, sir; I did.

Q. Did you then at that time and in that immediate connection say anything about that bottle being a champagne bottle ? A. No, sir.

Q. And did he say to you then and there that at Kent's drug store McAlister made the suggestion that we go out with the girl and have a good time ? A. He did ; and something else connected with it.

Q. What was that ? A. I got another girl.

*Mr. Hoffman :—*The court please, I did not ask that at all.

*Mr. Emley :—*I asked him that.

*Mr. Hoffman :—*He wasn't asked that at all.

*The Court :—*If you wish, I will strike out that portion of it.

*Mr. Hoffman :—*I ask that, Your Honor.

*The Court :—*Very well, that portion—that is, the additional remark, will be stricken out. That will be eliminated from the testimony.

Q. Did he say—I think he admitted that that he didn't know who hired the hack, but he heard Kerr say the hack was there ?

*The Court :—*Then it is unnecessary to ask it.

*Mr Emley :—*Yes; that is my recollection.

*The Court :—*I see no objection to your asking it if you are in doubt.

Q. Did he say to you there : "I don't know who hired the hack, but I remember Kerr saying the hack is here ?" A. Yes, sir; that is what he said.

Q. Did he say to you there at that time, "Death and McAlister put her in the hack ?" "the hack overtook me

on Governor and Paterson streets ? A. Yes, sir.

Q. "Then Kerr and I got in ?" A. Yes, sir.

Mr. Dunn :—There is no contradiction of that.

Mr. Emley :—I am not sure of it.

The Court :—Then it is immaterial.

Q. "She sat in the back seat between Death and McAlister," did he say that ? A. Yes, sir.

Q. Did he say then, "When we got near Midland Park Mac told the driver to stop ?" A. He did.

Q. Did he say this, "They helped her out and laid her on a blanket about fifteen feet from the wagon ?" A. He did.

Q. And did he say, Mac said: "Go ahead, Andy;" and did he say this, "I said I didn't care to take advantage of a girl in the condition she was in ?" A. He did.

Q. And that Mac said, "Go ahead, the drinks she has taken will only make her sleepy for a while ?" A. He did.

Q. And did he say this, "Mac unbuttoned her drawers?" A. He did.

Q. "I believe he took them off;" did he say that ? A. No; he said, "I assume he did."

Q. He didn't say then, "I believe he took them off?" A. No.

Q. Did he say, "He said something about the damned strings on the back ?" A. He did.

Q. Did he say this, "From his conversation I assume he got them off ?" A. He did.

Q. And "I saw something white lying by her dress ?" A. He did.

Q. Did he say this, "McAlister was the first one I saw on top of her ?" A. He did.

Q. And that Death was next ? A. He did.

Q. And that Mac said "Go ahead George ?" A. He did.

Q. And George said, "I am in no condition for anything like that ?" A. He did, in those exact words.

Q. Did he say, "Some one said, 'Driver, have a piece' ?" A. He did.

Q. "It is nice and tight ?" A. Yes, sir.

Q. And he said, "I don't feel like it tonight ?" A. Yes, sir.

Q. Did he say this, "Something was heard going through the bushes, and Death said 'Give me your gun, Mac,' and Mac said, 'I haven't any,' and Kerr said 'I guess it is only a rabbit' ?" A. He did.

Q. And did he say this, "Death and McAlister tore up the drawers and each one of them put a piece in their pocket?" A. He did.

Cross Examination by Mr. Hoffman:—

Q. How long were you writing down that statement?
A. I couldn't tell you.

Q. Why not? A. Why, I didn't take notice of the time.

Q. Can you give me any approximate idea of the time?

A. Well, I think we got out of there somewhere near six o'clock. I won't be sure—out of the station house. I didn't look at the clock at that time.

Q. Well, when did you get in there? A. I don't know anything about that. Well, the time I started to take that down, I think was 4.43; it is down on the paper, whatever it might be.

*Mr. Emley:—*You wish the paper to refresh your memory from. (Passing witness a paper?)

*Mr. Hoffman:—*No matter, I am not asking about that. This is my examination, Mr. Emley.

The Witness:—(Referring to paper) 3.43.

Q. You were taking that examination how long? A. I couldn't tell you exactly, I think it was somewhere around six o'clock when I got out. We stayed in there sometime after that.

Q. (*By the Court:*)—After what? A. After we had taken the examination.

By Mr. Hoffman:—

Q. Two hours at least, is that right? A. I couldn't tell you to the exact point, whether an hour and a half—it might have been an hour and a half; I won't say what time it took us; I don't recollect; I didn't look at the clock.

Q. You were asking questions? A. I was writing and part of the time while I was writing some one would ask questions; I asked the first part of them, I know; I started off first, and then while I was writing then there were questions put in; you see that from the breaks in there (indicating same paper.)

Q. These questions were put in by other officers? A. By other officers and some by myself.

Q. Won't you answer my questions? A. Yes, sir.

Q. So that you asked questions; and how many other officers also asked questions? A. Well, Officer Lord, Of-

ficer Taylor, Officer McInerny and part of the time—the latter part, about half, I think, Sergeant Hargreaves was there.

Q. So that there were five of you officers asking this young man questions, is that right? A. At certain times.

Q. During the time you have spoken about? A. Yes, sir.

Q. From 3.45 to the neighborhood of six o'clock? A. Somewhere around that neighborhood when we left; I don't know how long it was that it took.

WILLIAM E. LORD, recalled by the State, testified as follows:

Direct Examination by Mr. Emley:—

Q. You are one of the officers who were present when Mr. Campbell was brought in the station house? A. Yes, sir.

Q. Do you remember whether or not at that time he said to you, or in your presence, "McAlister had a bottle, and he poured some of the contents into her glass, and he said, this will make her feel lively?" A. Yes, sir.

Q. Did he say that? A. Yes, sir; he did.

Q. Do you know whether or not he said, "That at Kent's drug store McAlister made the suggestion that we go out with a girl and have a good time?" A. He did say that.

Q. Do you remember whether or not he said, "I don't know who hired the hack, but I remember Kerr saying the hack is here?" A. Yes, sir.

Q. Did he say that? A. Yes, he did.

Q. Do you remember whether or not, he said, "Death and McAlister put her in the hack, and the hack overtook me at Governor and Paterson streets, where Kerr and I got in?" A. Yes, sir.

Q. Did he say that? A. Yes.

Q. Do you remember whether or not she sat in the back between Death and McAlister?" A. He said that.

Q. Do you remember whether or not he said, "When we got near Midland Park, Mac told the driver to stop, and they lifted her out, and laid her on a blanket about fifteen feet from the wagon?" A. He said that,

Q. All of that? A. Yes, sir.

Q. Do you remember whether he said this or not, "Mac said go ahead Andy and I said, 'I don't care to take advantage of a girl in the condition she is in?'" A. He said that.

Q. In that way? A. Yes; the same way.

Q. Do you remember whether or not he said this, "Mac said go ahead, the drink she has taken will only make her sleep for awhile?" A. He said that.

Q. Did he say this, "Mac unbuttoned her drawers?" Did he say that? A. Yes.

Q. "I believe he took them off, and he said something about the damned string in the back; from his conversation I assumed he got them off, as I saw something white lying by her dress?" A. Yes, sir.

Q. Did he say that and like that? A. Yes, sir.

Q. "McAlister was the first one I saw on top of her, Death was the next?" A. He said that.

Q. "Mac said "Go ahead George," and George said I am not in condition for anything like that?" A. He said that.

Q. Did he say this, "Some one said, 'Driver, have a piece, it is nice and tight, and he said no, I don't feel like it tonight?'" A. He said that.

Q. In that way? A. Yes.

Q. Did he say this, "That something was heard going through the bushes and he said, 'Give me your gun, Mac,' and Mac said, 'I haven't any,' and Kerr said, 'I guess it is only a rabbit?'" A. He said that.

Q. Did he say that "Death and McAllister tore up her drawers and put pieces in their pockets?" A. He did.

Q. Did he say, "That after they left the place where they had left the girl, and crossing the 33rd street bridge, Mac threw her combs and hair pins in the river, on the right side," is that so? A. Yes.

Cross Examination by Mr. Hoffman :—

Q. Do you remember the day when this interview took place? A. On a Tuesday morning.

Q. What day of the month and what month was it? A. The 23d of October.

Q. You didn't take any of this down yourself? A. No, I was present.

Q. What did you do when you were present? A. I asked questions sometimes.

Q. Any one beside yourself asked questions? A. We all did.

Q. What were you doing, sitting or standing? A. Sitting down.

Q. All through this examination? A. All the time.

Q. Since that time you have refreshed your memory by

having these notes written by Mr. Titus read? A. I read them over.

Q. How many times have you looked them over? A. I think once.

Q. When? A. I think Sunday,

Q. Last? A. Yes, sir.

Q. Is that the only time? A. Yes, sir.

Q. The only time which you looked them over for the purpose of refreshing your memory? A. Yes, sir.

Q. From your recollection, if you had not heard these notes read, you would not have remembered what Campbell said; they refreshed your recollection? A. These refreshed my memory, but I know he said just what he said in those notes.

Q. If you hadn't read those notes over what would have been the condition of your memory? A. It would have been brought to me by hearing it read.

Q. So you would have found necessary to have these notes read to you before you could tell what Campbell said?

A. No; I think I could have repeated a good deal of it.

Q. All of it? A. No, not accurately. I couldn't all of it.

Re-direct Examination by Mr. Emley:—

Q. Was there more than I asked you taken down in this statement? A. Yes, sir.

Q. Then you can possibly relate that statement with out referring to the statement? A. Yes.

Objected to.

Cross Examination by Mr. Hoffman:—

Q. Do you mean that, officer? A. Yes.

Q. Do you mean to say that you could have without reading the statement over testified to everything that was said there about which you have been asked here to-day? A. There may be something I could not tell about.

JOHN E. TAYLOR, recalled by the State, testified as follows:

Direct Examination by Mr. Emley:—

Q. You were present at the interview in the police station on October 22nd? A. I was.

Q. I will ask you the question, whether or not in that interview you heard Campbell say that McAlister had a bottle and poured some of the contents into her glass and said, "That will make her feel lively?" A. He did.

Q. Did he say then, "McAlister made the remark—

The Court (interrupting):—What are you now speaking about.

The Witness:—He said, "bottles."

The Court:—Did he say champagne bottle?

The Witness:—He didn't say anything about a champagne bottle at that time.

Q. Did he say McAlister, at Kent's drug store, made the remark and suggested that we go out with a girl and have a good time? A. He did.

Q. And that he didn't know who hired the hack, "but I remember Kerr saying the hack is here?" A. Yes, sir.

Q. Did you hear him say, "Death and McAlister put her in the hack, and the hack overtook me at Governor and Paterson streets, and then Kerr and I got in;" you remember him saying that? A. I do.

Q. Did you hear him say, "That she sat in the back with Death and McAlister?" A. I did.

Q. Do you remember him saying this, "When we got near Midland Park Mac told the driver to stop and they lifted her out and laid her on a blanket about fifteen feet from the wagon? Mac said 'Go ahead Andy' and I said I didn't care to take advantage of a girl in the condition that she was in? A. Yes, sir.

Q. Did you remember him saying, "Mac said go ahead, the drink she has taken will only make her sleep for a little while?" A. Yes, sir.

Q. Do you remember that he said, "Mac unbuttoned her drawers, I believe he took them off, he said something about the damned string in the back, and I assumed that he got them off, and I saw something white lying by her dress?" A. Yes.

Q. Did you hear him say then, "McAlister was the first one I saw on top of her and Death was the next?" A. Yes, sir.

Q. Did you hear him say then, "Mac said go ahead, George, and George said I am not in condition for anything like that, and did you hear him say, "Some one said 'Driver have a piece, it is nice and tight' and he said 'no, I don't feel like it tonight?' A. Yes, sir.

Q. Did you hear him say the whole of that? A. Yes.

Q. Did you hear him say this, "Something was heard going through the bushes and Death said, Mac give me your gun, and Mac said I haven't any, and Kerr said I guess it is only a rabbit?" A. Yes, sir.

Q. Did you hear him say this, "Death and McAlister took off her drawers, and tore them up, and put a piece in their pockets?" A. Yes, sir.

Q. You heard that? A. Yes, sir.

Q. Did you also hear him say that, "McAlister as they crossed the Thirty-third street bridge, McAlister threw her combs and hairpins into the river?" A. Yes, sir.

Cross Examination by Mr. Hoffman:—

Q. Did you ask any questions of him yourself? A. Yes, sir.

Q. How many in that interview did you ask? A. I cannot tell exactly.

Q. Cannot you give some idea about it? A. Might have asked a few.

Q. A few is so indefinite? If you can do better, do it please? A. I do not.

Q. Eight or ten or twenty? A. I do not think I asked twenty of them.

Q. Ten was it? A. Maybe several of them.

Q. Say ten; do you think you asked ten questions of him? A. I do not believe I did.

Q. Five? A. Probably I did.

Q. And these questions you asked of him were questions of fact that you wanted him to answer? A. If I asked him the questions, of course, he could please himself about that whether he answered or not.

Q. But that does not answer my question. The questions you asked of him were they questions relevant to the facts of this transaction? A. This case?

*The Court:—*Yes, this case.

*The Witness:—*Yes, sir.

Q. From whence did you get information from which to base your questions? A. Early in the evening of the 22nd.

Q. Was this the day that this examination was made? A. It was early in the morning of the 23rd.

Q. Morning of the 23rd? A. Yes, sir.

Q. Well, from whom did you get information from which to manufacture your questions? A. The hackman.

Q. Yes, did you have an interview with the hackman yourself? A. Yes, sir.

Q. And upon the facts given to you by him you manufactured your questions which you asked of Campbell, is that right? A. Yes, sir.

Q. Can you tell me in precise language any of the

questions that you asked of Campbell there that day? A. I believe I can.

Q. Tell me one? A. (Pause.)

Q. Well? A. He asked me what—

Q. You, I am asking? A. I asked him what route they took when they left there.

Q. That is one of the questions? A. Yes, sir.

Q. Give me another? A. We asked him—

Q. No; you? A. I asked him where the hairpins were thrown away.

Q. Give me another. A. Asked him where he left the hackman.

Q. Yes, now; did you ask him any other questions? A. Yes, sir.

Q. Give me the precise language in which you asked another question. A. I asked him where McAlister and Kerr got out.

Q. Now, you had to call upon your memory just now in order to fully recall the language of these questions, didn't you? A. Yes, sir.

Q. You had to stop and think? A. I did.

Q. How is it, officer, that you can tell without a moment's reflection what McAlister said and yet have to call on your memory for some time in order to tell what you yourself said? A. Well, that occurred in October last.

Q. Certainly. A. Of course, I needed a little time to refresh my memory.

Q. That's all.

WILLIAM E. LORD, recalled by the prosecution in rebuttal, testifies as follows:

Direct Examination by Mr. Emley :—

Q. You went to this place on the Rock road with the hackman, I believe on Tuesday? A. Yes, sir.

Q. And was present there when he pointed out a spot where these people were said to have been? A. Yes, sir.

Q. (Exhibiting a pin) And did you find this pin there? A. Yes, sir.

Q. At that indential spot? A. Yes, sir; at that identical spot. It laid in the grass.

Mr. Emley :—Cross examine.

Mr. Hoffman :—Nothing.

WAYNE DUMONT, a witness called and sworn by the prosecution in rebuttal, testifies as follows:

Direct Examination by Mr. Emley:—

Q. Mr. Dumont, you are a member of the bar here in Paterson, aren't you? A. Yes, sir.

Q. Do you know the gentleman with the eye glasses on there? Mr. Vandenberg? A. Well, I recognize him here to-day, I saw him at my office.

Q. When was he at your office?

*Mr. Hoffman:—*I enter an objection to that question. If I understand it; it is for the purpose of contradicting Professor Vandenberg who was on the stand. These questions asked of him were to find out who he was and what he is, and they are not subject matters of contradiction. They were admitted, I suppose, at the discretion of the Court, for that purpose, and I, therefore, object to anything that may be attempted to be produced with reference to the actions of Vandenberg with reference to this case.

*Mr. Emley:—*I think I laid sufficient foundation for the question I am about to ask him.

*The Court:—*The trouble about it, Mr. Emley, is that that portion of the examination was not strictly relevant to the matter in issue, and the rule is that when you ask upon cross examination a question not directly relevant to the issue you are not at liberty to contradict; the reason is that if you were the examination might wander indefinitely over the face of the earth. With reference to matters that are relevant to the controversy, then, of course, you may contradict the witness upon the other side, but when on cross examination you proceed to inquire about matters that are not relevant, that is the end of that inquiry.

*Mr. Emley:—*I withdraw the question. I desire to introduce this pin, of course.

We rest, sir.

*The Court:—*Is there any more evidence to be introduced on the part of the defendants?

*Mr. Hoffman:—*No, sir.

*The Court:—*If either side remember tomorrow morning that they have omitted to make

formal offer of any exhibits, it is proper enough to put them in then.

Mr. Scott :—That is the extent of the privilege, to offer exhibits?

The Court :—Any exhibits that have been referred to and that may have not been formally offered. That is the extent of the privilege that I am granting now. I am not going to foreclose any application that may be made to me tomorrow morning with reference to anything else.

Adjourned to January 17, 1901, at 10 a. m.)

THURSDAY, JANUARY, 17th, 1901.

Court opened pursuant to adjournment.

The counsel for the respective prisoners thereupon requested the State to open its case before said counsel for respective prisoners proceeded to sum up.

MR. RALPH SHAW, Assistant Prosecutor; opened for the State as follows :—

If the Court please, Gentlemen of the Jury :—

The law of the State of New Jersey says that any person, who in committing or attempting to commit rape, shall kill another, or if the death of any one shall ensue from the committing or attempting to commit any such crime, then such person or persons so killing shall be guilty of murder, and that same law also says that murder which shall be perpetrated by means of poison, or which shall be committed in perpetrating or attempting to perpetrate rape, shall be murder in the first degree.

Now, we have been asked by the defense in this case to open to you, and to state what we claim to have proved and what verdict we ask of you on that proof. The story is practically the same as that told to you, in the opening by the Prosecutor; but instead of telling you what we claim to be able to prove, we now tell, what we claim, has been proved; and now I say, we have proved these facts: Jennie Bosschietter was a girl of seventeen years and nine months—not yet eighteen—not yet, I think, seventeen and a half. She is entitled, as every woman is entitled, to the presumption that she was honest, virtuous

and upright, until that presumption is destroyed by evidence. There is no evidence in this case that she was not upright, honest and virtuous. There is positive evidence that she was a hard working girl. There is positive evidence that she was ordinarily home at night—that she was usually at home at night—and there is positive evidence that when she was away from home she was with her friend, Mrs. Klatty, on Main street. Against her there has not been the faintest breath of suspicion; she was also a girl of good health, a girl in remarkably good health; a girl able to work; a girl able to go about in all particulars as a strong, healthy, vigorous girl; a girl, if you please, able to take two or three drinks without suffering injuriously from the effects of them. So then we have her in that condition on the night of October 18th, 1900. After working all day we find her home at supper time. Having changed her outer garments we find her going on an errand for her mother. She was to go to the drug store to get some small article for the use of one of the grandchildren; and so at eight o'clock in the evening she left her home. She came up town. By what way we do not know. That is not material. But she was up town, and at half past nine she was on Main street talking to the defendant Campbell, talking there in an exciting manner, agitated either from distress or anger, pale, and saying "No! No!" to some request, demand or solicitation of his. And then, next she goes with him—there is no dispute with regard to this—to Saal's saloon, through the various streets, including Bridge street, around the corner and in through the side door on River street. At that time she was in possession of all her faculties; at that time as well, as strong and apparently as happy as she ever was in her life. In Saal's saloon, or at the door, Campbell and she were joined by the defendant Death. They went in there, and there were served to them three drinks, a cocktail, some cider and a glass of beer; and, if my recollection serves me right—but it is for you to say as to what the actual facts brought out by the evidence were—if my recollection serves me right, there is not clear and distinct and absolutely certain evidence as to which of these three drinks she took. I think we know, I think we all can at least presume properly and fairly, that one cocktail or one glass of cider or one glass of beer would hardly injure the health of a strong vigorous girl of seventeen and a half.

She was with those men, Death and Campbell, in that room.

The other defendant, McAlister, as the evidence shows, was standing in front of Kent's drug store at or about the time she was there talking to Campbell, and that mind you was half past nine. The next thing we know of McAlister he was in Saal's saloon. Was it accidental? Was that without any prearranged plan? Did he happen to go there, having no knowledge of why or what he should do? Did he just accidentally drop into that particular saloon, without any other object, other than to get a drink? And then we have what? We have another drink served; another round of drinks, one of which was absinthe, a "pony" of absinthe, as Mr. Saal says, and Mr. Saal served it and knows. A pony of absinthe! Not a tumbler full; not a pint, not a quart, not an ounce and a half, but a pony glass full; and what that means you are to judge, you are to say. So this McAlister joined the party in that back room. All the evidence shows that. There is no dispute as to that. He went in there, and this bottle of Great Western champagne was served. Then this man McAlister produced that bottle which has been shown here before you and offered in evidence, and poured not once, but twice or three times, into the glass from which Jennie Bosschietter was about to drink, chloral hydrate,—knock out drops. That fact we claim is clearly proved. That fact, we claim, cannot at all be disputed or contraverted. Why more than once we do not know, unless, under their impatience to have this girl rendered unconscious, they were not willing to await the effect of the first dose, but had to put it in two or three times. That, I say, is established, and is proved beyond any doubt in this case.

And then the hack, which was expected, comes. A woman goes and looks out of the door. The girl is carried out and put backwards into the hack, one man lifting her from the sidewalk, another reaching out his arms and helping put her in, with another man lifting her legs around and so placing her entirely in the cab. Kerr and Campbell, so as to get into the cab without attracting attention, walk over through Governor street to Paterson, and when the cab gets there they too get in. And then we have this drive through the streets, crossing the river, and out the Goffle road, with the girl saying nothing, with the girl quiet, with the girl unconscious and already dying. Then this turn to the right up this seldom travelled road,

the dark Rock road, the almost deserted Rock road, the lonesome Rock road. They go up the hill and across the railroad track, down a little hollow, and along the slope of the next hill to the open space on the right hand side of the road. There we have the girl lifted out, there we have the blanket grabbed from underneath the hackman, there we have behavior fiendish; horrible, surpassing any beast, surpassing any sense of reason or of decency. The girl ravished! The girl abused and defiled against her will and without her consent! Every element of rape present! Not one missing! The girl drugged so that she could not decline! The girl rendered unconscious so that she could not give her consent; and the girl there raped and ravished by those three defendants! The details are too horrible to go into. The solicitation of the hackman was too terrible, almost, to think of. Poor humble man as he is; not too bright, not too dumb; content for nineteen years to drive a hack from the Erie depot; but he, humble as he was, with a sense of honor, with a sense of decency far superior to any one of these defendants, says "No, not for me, not for me!"

And there we have the tearing of her drawers with their "damned strings," and so the ravelings left on the blanket. There we find the various articles dropped, the finger stall, the pin from Death's scarf.

And there we have, as I say, all the other fiendish details! No regard for the girl! No regard for womanhood! No regard for themselves! No regard for their families! No regard for anybody but their own depraved and lustful passions! Rape; gentlemen? It was rape, and it was the meanest, most debased and lowest kind of rape.

And then the rabbit in the bushes, and the decision to turn back and leave that place! The girl carried back and put again in the hack. They heard no word from her! Never a murmur! Only a few groans—groans and moans! Even while they abused her she was heard to groan. Then the drive to the brook! The taking of her out there, the endeavor to revive her! The soaking of handkerchiefs with water and pouring it upon her neck, her hands and ankles! At that time and only at that time some question came into the minds of these defendants. Not a question of the girl; not a question of her safety; but a question of their own. And so when this wagon came along she was put in again—picked up and shoved in the carriage—and the drive was started on.

And the girl, perhaps—we do not know, but so far as we can tell—in her last gasp, in the very extremity of life, rose up, fell back, and was dead !

So they go to Dr. Wiley and two of them—two of them—get out. One goes upstairs, and one goes down stairs to the basement. They were going then to get help. Upon being told that Dr. Wiley was out, then comes the drive to Dr. Townsend, who, wakened in the night, comes down. He goes out and makes an examination. There is no injury, nothing on the head that can be found, but the girl is dead.

And then the hack driver, the only one with any decency says, "Say, fellows, you had better take this girl home, that is the thing to do;" and he starts while they are debating. Not knowing what to do he starts down Riverside, and when they get there they will not let him take her home, and say, "Go where we tell you." And then that grewsome drive along the River road, over the very tracks they had made before. Along by Arnold's silk finishing building, and up along the river until they come to Alyea's; and there between three and four o'clock in the morning, with the mill on one side, with the river and the bushes and the bank on the other—a dark place: "This is a good place—here is a good place." And as they get out and take that poor body from which the life has gone, and throw it as one would throw a dead dog, or a dead cat, on the side of the road ! It mattered not to her, it matters not to us; but it matters to these defendants, for it shows the wickedness, it shows the depravity, the vileness, the fiendishness of these defendants. Nothing could then help her. It did no further injury to her. But it shows how brutal—and I should scarcely say brutal because I would not willingly insult a brute—how impish and fiendish these men were !

And then the finding of the body ! The drawers gone ! That wound on the head. Nothing at first to suggest the cause of death ! The autopsy, showing perfect health ! The examination of Dr. Witthaus, showing beyond any question the presence of choral ! That whole chain of circumstances, which is forged to these defendants, fastening this crime to them ! There is no distinction to be made between them. They are all the same. One is as bad as the others. They were all in the conspiracy. They all stood by assisting and encouraging this crime. They are all principals. They are all guilty. There can be no escape. Look at this story of philanthropy; this story of

the Good Samaritans; this story of spending money, hiring hacks, and doing all they could to revive the girl. Look at the absolute failure to show any cause for death; the failure to suggest, so far as I can see, any cause for death, except one cocktail, a pony of absinthe, and two small glasses of Great Western champagne; the failure, I say, to show anything to explain the death of this girl. Such a defence demands no serious consideration whatever. It was never told to anybody until it was told here at the trial. These good, kind men! Would you, any one of you, in a case of that kind, have failed to take the body home? Would you have failed to immediately report what had happened to the police? Would you have concealed such a story in your heart? No, Gentlemen, it is all manufactured! It is in conflict with the statements made by the defendants Campbell and Death to the police. The story they then told has been here told to you. It has been told to you in order that you may compare it with the story they now tell,—in order that you may test their credibility as witnesses. And, as I understand it, it makes no difference under what circumstances that first story was told. It was told and it is for you to compare it with the story they here tell and to decide which you believe to have been the true story. The two stories are to be weighed, are to be considered, are to be turned over in your minds when the testimony of these defendants is examined.

And now, Gentlemen, for these reasons, briefly but I hope sufficiently clearly stated, the state is compelled, with no malice, with no hatred toward any one, but with a full realization of its plain and simple duty, to ask you, putting aside any maudlin sentiment of sympathy, putting aside any false idea of mercy, but sitting as jurors on this trial for justice,—sure, fair, honest justice,—the state, I say, is compelled to and does quietly, deliberately, calmly and without emotion, ask you for a verdict of murder in the first degree.

Mr. Scott:—

The recital you have just heard from the lips of Mr. Shaw is the recital of this story that you have heard for the last three months—just the same story told at the beginning—the same story told by the prosecutor when he opened this case to you—and now at its conclusion, when the evidence is all in, we hear the same recital. What is the trouble with this story—what is the trouble with it

gentlemen of the jury ? It is not supported by proof. It is not supported by legal proof. Gentlemen of the jury, it is a sentimental story. It is a story made up of some facts and some very long inferences. If that story as presented to you by the prosecutor and his assistant were true, I agree with them, and I dare say that counsel for the defendants—all of them—agree with the state, that it is a story of unequalled atrocity; that in the annals of crime, no such murder has ever before been committed; and that suggests to you, gentlemen of the jury, that the state is charging an impossible crime. The entire community have been swept off their feet, and from the moment the accusation was made, it seems to have been believed by everybody. Nobody stopped to think. No one stopped for a moment to consider. No man held up his hand and said "Pause. It may not be true. Perhaps if it be true, there are some circumstances that mitigate or some facts that excuse." Not a word spoken not a voice raised to say that we should look into this thing, with the eye of reason and endeavor to ascertain whether it is based upon fact or fiction. The lips of the defense were sealed—were shut at once. Nothing they could say but would be distorted and misconstrued but the state's case has been heralded before the people for three months in flaming color and not until yesterday morning when my colleague opened this case and told you the story, of the defendants you paused. It was like a thunderbolt out of a clear sky, you stopped—and said: "We must halt; we must see whether these terrible accusations are true. Let us not make or imagine the evidence." Let us hear it I say to you, gentlemen of the jury, that it is a matter of impossibility for you to have gone into this jury box, at the beginning of the trial, without prejudices. Consider the burden that we have had to bear. Nothing could overcome that prejudice except to convince you beyond any doubt that that horrible crime was not committed; and yet the law presumes a man's innocence until he is proven guilty. Ah, gentlemen, the law is juster than any of us; the law is wiser than we are. The learned men that gathered together to make up a constitution put into it, that every man, no matter who he is, white or black, when he is charged with crime must have a speedy trial, by an impartial jury; that is part of the fundamental law. So that everything that has happened before the beginning of this trial, if it is possible, if it is within the power of the mind of men to cast it aside, you

must cast it aside. Furthermore, gentlemen of the jury, you can convict these men, but you must convict on legal proof. I don't usually quote poetry, gentlemen of the jury; but to abate in a measure, the fury of the tempest of passion and prejudice, sweeping over us, to stay the storm of public passion—when our very reason may be overthrown, I would like to quote just one little verse of poetry. Listen the words of the inspired Bard :

Who made the hearts, 'tis He alone decidedly can try us,
 He knows each chord, its various tone, each spring its
 various bias,
 Then at the balance, let's be mute, we never can adjust it,
 What's done, we partly may compute,
 But know not what's resisted.

These are inspired words, that may touch us. This is the lesson—that we are almost incapable of trying this case according to the law and the evidence in the face of the unreasonable fury that has pursued these unfortunate men. Do they differ from other young men in the ordinary walks of life? Oh, gentlemen,

“What's done we partly may compute,
 But not what's resisted.”

So I appeal to you, gentlemen, to have the same courage in the consideration of this case as every man should have in the performance of his duty. The state is merciful; forsooth it wants these men judged without malice: without resentment. Before we go much further, I will show one or two things done by the state that show both malice and resentment.

Now, I think it proper, gentlemen of the jury, before going into the evidence of this case—I think it proper at the outset, to give you some idea of the law as the defence understands it. I will do it very briefly just for the purpose of having a yard-stick by which we can measure this evidence. The court at the end will do it with great accuracy to which, perhaps, no exception can be taken; but I would like at the beginning to make this yard-stick by which you can measure the evidence. Legally, gentlemen, this is a case to be tried according to the accusation, according to the law, upon the evidence produced in support of this charge.

Now, the indictment has two counts. The first count charges that these men in committing a rape did then and there also commit murder, contrary to the form of the sta-

tute in such case made and provided. In a word, that this girl was killed in the perpetration of this rape. That is the charge. That is, that as a result of the rape she died. That is the charge. If that is true, then these defendants are guilty of murder in the first degree. (Reads statute as to what constitutes murder in the first degree.) That is the first count in the indictment. Any murder committed by a rape or a death that results from the commission of a rape—is murder in the first degree. That is the first count. I, at this time, don't propose to say anything else about this, except the fact that this woman died as the result of any rape is not in the case, assuming that everything the State says is true. Not one of you can say that this woman died as the result of the commission of that rape alone, taking for granted that the case made out by State is true in every particular. The State has not offered a particle of evidence on this point. The next count is a general count. I shall not discuss it at length.—(Interruption by the court.)

Judge Dixon :—I shall tell the jury that if these defendants administered stupefying drugs to this girl in Saal's saloon for the purpose of ravishing her, then that administration of the drug was a part of the crime of rape; and if she died because of that, it would be murder committed in the perpetration of rape. The rape is not confined to the mere carnal connection, but in the eye of the law, every overt act done with the purpose of accomplishing that result, or whether that overt act did induce insensibility, or the administration of a drug had a like effect, if it be done as a part of the perpetration of the rape, it would be lawful to convict under the first count, and it would be lawful under the other count, too.

Mr. Scott :—I will not discuss the matter with your Honor, now but if the court will excuse me I desire to say that I take an entirely different view of the law upon that branch of the case.

The Court :—You have a perfect right to object to the law as laid down at the proper time.

Mr. Scott resumed.

Now, gentlemen of the jury, this second count of the indictment reads as follows :

(Reads the count.)

This count is an indictment in general terms, and I believe, according to the construction of it by the supreme court of this state, any number of different kinds of murder can be proved ; and I presume that under that count the state will endeavor to sustain a conviction of murder in the first degree by the administration of poison, and upon that question of poison I want to say just a word or two and read to you just a little bit of law. The statute says : "Murder which shall be committed by means of poison, or by lying in wait, or by any other kind of wilful, deliberate or premeditated murder, shall be murder in the first degree." The statute, you will observe, fails to say—"Murder which shall be committed by means of poison intentionally given with the purpose to destroy life." It omits these words, so that we have got to give our attention to that part of the law. We want to know whether, in order to sustain a verdict of murder in the first degree,—we want to know,—you want to know whether it is the law that this poison must be given with the intent to destroy life or not. Now, this very statute, gentlemen of the jury, has been construed in different courts of our state; yet I could find no case, although this statute is an old one, where that part of it has been construed so as to tell us whether or not murder by poison, in order to constitute murder in the first degree, must be with the intent to destroy life. Here is the way the supreme court of Connecticut has construed the statute. (Interrupted.)

By Mr. Emley:—Is that proper argument for the jury.

Mr. Scott:—It does not matter whether it is addressed to the Court or to the jury.

The Court:—You may read, Mr. Scott.

Mr. Scott resumed.

In the state of Connecticut they have exactly the same words used in our statute in this state to wit. "Murder which shall be perpetrated by means of poison, or by lying in wait, or by any other kind of wilful deliberate or premeditated murder."

The Court says :

(Case in Connecticut) in construing this statute, there must be an intent to take life.

You see this is the same thing that we have here. The court says, finally, that this statute provides that murder perpetrated by means of poison or by lying in wait, or by any other kind of wilful deliberate or premeditated murder "shall be murder of the first degree, thereby implying that in all cases the crime must be the result of a wilful, deliberate and premeditated act." Upon this question of poisoning, I wish to urge this view of the law; so that, gentlemen, as I understand the law, if this girl died as the result of that poison, and the state asks for a conviction upon that ground, which it has announced to you it will do; according to my understanding of the law, poison, under this statute, should have been given with the intent to kill, wilfully and deliberately.

Again, on this question of poison, you will observe, gentlemen of the jury, these words—"Murder which shall be perpetrated by means of poison." "Murder." That word used here is not defined, by the statute. It means murder at the common law. Now, suppose that this statute is not construed by his Honor as I have construed it, and for which I have shown this authority, then there is another question. This statute says:—"Murder which shall be perpetrated by means of poison." This means murder at the common law, but murder at the common law that is—all cases of killing by poison at the common law,—was not necessarily murder. According to the common law, in order to convict of murder there must be a full intent to take life, or to inflict some grievous bodily harm; but this is not all. There must be a knowledge of the dangerous character of the poison, and it must be actually dangerous; so that you see, if the first construction is resolved against us by his Honor, there is still this other view to deal with—that there must have been a full intent to take life or to inflict some great bodily harm, and there must also be a knowledge of the dangerous character of the poison. So that I say, gentlemen of the jury, that when the state rests upon that horn of the dilemma, as the prosecutor said, there is no proof, none whatsoever, in this case to sustain him. Now, gentlemen of the jury, I am through with the consideration of this part of the subject, and I would like to call your attention to the evidence, for a moment, as disclosed by the state's case. There

never yet was anything in this world that happened, that did harm to somebody, but that there were two sides of the story. That is a matter of common experience. It is self-evident. You know that this case is made up largely of circumstantial evidence, which may receive one or another interpretation—either guilt or innocence, as you look at it. Now, gentlemen, the first witness produced by the State was the unfortunate mother of this dead girl, Mrs. Bosschietter—you recollect her—a very quiet, demure lady with a large family. She told you how, on that sad night, this young lady went out and left the house. Gentlemen of the jury, you recollect that she was sent for a baby powder. Whether the mother wanted the baby powder right away does not appear, but the presumption is that she wanted it, when Jennie was sent for it. I am discussing the evidence, and she and others testified to facts that threw light upon the disposition and the character of this young lady. We have made no attack upon her; we make none now; we have produced no witness that at all reflected upon her or any of her family; but, gentlemen of the jury, you have got to measure the woman, and I ask you to consider her only as disclosed by the evidence on the part of the State. She was sent for this baby powder. Did the baby ever get the powder? It seemed a matter of indifference to Jennie whether she got it or not. She left the house at ten minutes to eight. She did not get to Kent's drug store until nine o'clock. It would take her but ten minutes to walk the distance, and we presume in her favor she walked. Mrs. Bosschietter also said that she was accustomed to retire at ten o'clock at night, and the door of the house was closed and locked. And when Jennie came in she had to rap on the door in order that she might be let in. Out nights.—Did as she pleased.—Sixteen years of age. Doesn't that, gentlemen of the jury, disclose to you that it was only a question of time, when something would happen to this girl? No doubt attractive; no doubt beautiful; but under no restraint—as free as the air, to do as she pleased;—that is the character, put upon her by the testimony of her own mother. She was working in a mill. She had been out the night before, her mother said, to some firemen's parade down at Passaic with some man. I don't know what time she got home this night of the 18th. And the night of the 19th she was at the drug store at nine o'clock and of her own free will, she went to this public saloon on the corner of River and Bridge street

and drank with two men—one a married man, who had been married only four weeks and she knew it, and the other this boyish-looking young man Campbell, and had sat down with these men; She caressed them and caroused with them. Another side light as to the woman we are dealing with—not necessarily wicked, gentleman of the jury, but foolish, weak, with no clear, distinct and accurate knowledge of what is right and wrong. Drifting, drifting down the path to ruin.

Are you not astounded by the uncontested facts admitted by the Assistant Prosecutor in his opening that this young girl drank a cocktail, considerable absinthe and two glasses of Great Western champagne—cheap champagne, full of alcohol. She, only sixteen and a half years of age, drinking poison (such as any man on this jury would not drink), of her own free will. What a picture! Let us examine the evidence of their next witness. The state has no resentment and introduces no witness to do anything but relate the facts, and yet this new witness this man, Louis Kamerling, goes upon the stand and tells a foolish story about being on Main street near Kent's drug store and hearing Jennie Bosschieter give, as he expresses it, a "snappy 'No; no;'" (I suppose he meant a pathetic "No; no") as Campbell was talking to her. In the heated imagination of this young man, she looked pale and gave a snappy "No; no." What folly to introduce such a witness for such a purpose. The state wants you to believe that in tones of pathos she was resisting the attempt to take her to the saloon. I wonder if she said No; no, pathetically when she declared absinthe to be her favorite drink.

Now, gentlemen of the jury, the assistant prosecutor admitted that these drinks were served in that side room, because there was no escape for this admission. Mr. Saal, the keeper of that saloon was put on the stand, and he says they were served to her, (not a pony of absinthe as the assistant prosecutor says), but as Saal says a glass larger than an ordinary whiskey glass. Bear that in mind. This, gentlemen of the jury, is another side light that discloses to you the kind of a woman this young Jennie Bosschieter was. Reckless, careless, devilish,—only sixteen and a half years,—willing to take into her stomach these poisons which brought about her death.

Now, gentlemen of the jury, the next witness put on the stand by the state was this cabman,—this unfortunate man, as the prosecutor says. What a miserable wretch

he is! How we all sympathize with him. Suppose it were true, this story that he tells. Suppose it is all true, what kind of a man is he? Suppose it is true that he was down at the saloon, standing by and looking at her helpless form, borne into his cab. If this story is true, does he deserve sympathy? If his whole story is true, he is as guilty as any one of these defendants of the crimes charged in the indictment. Why is he not indicted? Gentlemen of the jury, you recall Judge Hoffman passing around the table and confronting this false witness upon the stand, this Sculthorpe, with the testimony that he swore to, before the Coroner's inquest, and asking him if he did not say then, that he saw nothing upon the Rock road, and he said he did say that. He lies now or he lied then. Did he lie here now on the stand under the protection of the state, or did he tell the truth in the beginning when on the Monday following this occurrence he told a different story to Chief Graul. If this story he tells now were true, and he were an honest man, he would have told the same story the next day. He would have told the same story before the Coroner's inquest. You may say why did he keep the real story from being known? It would not hurt him. Gentlemen, it would. He is a timid man, and as such a man very beautifully and accurately characterized by the assistant prosecutor. Naturally he would say nothing, but pressed and pursued. He would not tell the true story. He would tell a false story, because if the evidence is true he saw her drugged and ravished—the body of this dead girl was carted about in his cab, by him and in the despair of his ignorance he did not know how many crimes he had thereby committed. When forced to speak he told the story to suit his ends. I would like to hear him tell that story every day in the week; and I venture to say, gentlemen of the jury, it would have more variety and contradiction than anything that you or I know of. His is the story you have to believe to convict these men of rape. There is no other story. But there is some shadowy evidence yet to consider.

There is evidence in the case about what Death and Campbell are said to have said to these officers, which the court will charge you, do not affect McAlister whatsoever; but the story you have got to believe to convict is this lying cabman's story. He went up there to the woods. He drove up, as he admits, and turned around and came away the whole thing happened within five minutes

or less. The lights of his carriage were out, and it was dark, and yet he saw these things. Why did he see them? Without his seeing of these things the case of the State falls to the ground. It was necessary for him to see these things for the State to make out the first semblance of a case. It is necessary to convict these men of rape, and the consequent death, if it resulted from the administration of poison, which, I believe, the court is going to consider as part of the rape and to do this it is necessary to believe what he says; and if you believe one thing you have got to believe everything he says. If you doubt one thing you must doubt all he says. The old maxim is that when a man will lie in one thing he will lie in all things; and this man is a convicted liar. The improbability of his seeing these things is apparent. It was dark—a very dark night. He admits it—a lonely country road—lights of his carriage out—he drives up and turns around; and yet he tells you this monstrous story—which it would require fifteen minutes to see. Do you believe it? Now, gentlemen of the jury, what other evidence is there except the cabman's lying story as to the guilt of these men on the question of rape? What was said by Death and Campbell to these officers? Now, let me say a thing to you about confessions. You are not going to hang a man on a confession that you have not heard from his own lips. You are not going to convict a man or men upon a confession distorted by detectives and officers who are seeking a professional triumph for the conviction of these unfortunate young men.

Gentlemen of the jury, when at last, you are relieved from the duties of your service here, let me suggest to you that you pick up a book written by a great French author, Victor Hugo. That book is entitled *Les Misérables*. The hero of the story is a man by the name of Jean Valjean, and another character is a detective—an accomplished detective, Javart, by name. In his early days Valjean had committed a crime, and this detective had found it out. The detective started after him, and located him. Valjean was naturally a good man. His conditions in early life were such that he was swayed the wrong way and committed this crime, and the detective started after him. The man grew in power, for he was a man of force and he finally became mayor of his town. This detective was still after him, and Valjean had to move from place to place to escape him. The world had forgotten this man, but the detective had not,

and pursued him for years all over France, through the streets of Paris, through backyards, over walls and through its sewers. Valjean, at last, surrendered himself to justice: The detective, because he had not apprehended him, in his crushed hopes in the loss of his life's battle, committed his body to the dark waters of the Seine.

Gentlemen, I don't say that these officers are bad men by any means, but the desire grows upon them to attain their end; and it is a fact that when these young men in the early hours of the morning were apprehended by these officers, they took them down into a room where there were some revolvers on a table. Now, they say, that these young men told the story willingly, voluntarily, without any hope being held out to them that it would be better for them, without any threats or intimidations that it would be worse. What was the condition of the minds of these young men. Take this boy Campbell in the room of the old recorder's court. These detectives there with him plying him for hours with questions. Consider the conditions there, gentlemen, in the middle of the night. Are you going to convict these young men upon what the policemen say they said that time under such conditions. I think not. These men have come upon the stand. They have told you what they said to these policemen. They have told their story, and the prosecutor with all his questioning has been unable to shake them. They repudiate or explain the tale of the detectives.

I think, gentlemen of the jury, that you will not convict these men of rape on the story of the hackman or the alleged confession by Death and Campbell to the officers. Their is no other evidence of rape; if there had been a rape committed, could not there have been other evidence produced by the state? Have you not marked—have you not observed—that the state, with its multitude of doctors put upon the stand, not a word was asked a single one of them, as to whether or not they found anything which would indicate that this woman had been violated. Dr. Vroom examined her at the mill and he went to the house on Sunyay and Dr. McBride was with him. They cut out the uterus and the vagina, and there was not a word from them that they found any indication on the private parts of that woman that anybody had connection with her. No medical testimony; no testimony except this cabman's story and these alleged confessions. That is all. The

state cannot point to any scrap of evidence. You cannot think of a scintilla that has been offered upon that question of rape, except the cabman's story and these alleged confessions made by those two young men?

Now, gentlemen of the jury, what have we to say on this question of poison, this body was found over at Al-yea's mill on Friday morning. Mr. ———, I think, was the first man who saw it, and Dr. Vroom, the coroner of Bergen County, took charge of the body and found a cut in the skull. He was in doubt whether there had been any fracture of the skull and he went over to the house and took out a piece of the bone to see if there was any fracture of the skull. All the time this body lay there with what ever had been taken into the stomach in process of circulation. Now the autopsy is made on Monday afternoon, and you hear the story told about how this autopsy was made. They took out the various parts and looked them all over. They dissected the brain, they looked at the liver and the spleen, and they cut out the stomach and its contents, and they put some of them into a couple of jars which the doctor told the family to wash out. We don't know whether they were washed out or not. Finally, after this the various viscera were taken out. Dr. Vroom took one jar and Dr. McBride took the other, and some of the viscera were put into a box placed in the grave, and after there was the suggestion of poisoning, they had the body disinterred and this box taken out. Dr. Vroom had the stomach for two or three days. It was fully a week after the death of this girl that these things got into the hands of this expert, Dr. Witthaus. Now, what did he find? And I would like to make that as clear to you, gentlemen of the jury, as I possibly can. This great expert, this great Dr. Witthaus, ostentatiously announced, gives his testimony. Let us see what he amounts to. He had only the stomach and its contents. That is all; and he made six tests of the contents, of a part of the stomach. He said that he could not determine anything from any one of the tests, but that from the six, he secured results which led him to believe that there was chloral in the stomach. He does not say that there actually was chloral, but he finds results from which he infers that there was chloral. That was inference No. 1. He goes on further with his examination and says that he infers that in half the stomach there were five grains. That was inference No. 2. He didn't examine the other

half of the stomach, so he infers that there were five grains in it, too. That was inference No. 3. Then he says that presuming that there were ten grains of chloral in the entire stomach, he makes the inference that there must have been a great deal more administered. That is inference No. 4. Then he makes another inference that there was enough in the stomach to kill. That was inference No. 5. Take the testimony in this case and all these inferences made by this learned experimentalist, and would you say that there was any poison or enough poison administered to that girl to kill her? What would you say, if a chemist upon the other side of the case went upon the stand and said that he made the same tests similarly with absinthe, cocktails and champagne that he got down at Saal's saloon, precisely the quantity that Jennie Bosschier was said to have taken into her stomach, and he finds the same results. This is exactly what Dr. Vandenberg testified to. One word about the expert for defence. When Dr. Vandenberg went upon the stand and gave his testimony clearly, without hesitation, the Prosecutor cross-examined him upon what? What he testified to as to his chemical analysis? No. Under the evil inspiration of this jealous rival seated like Satan, who sat squat like a toad, at the ear of Eve, the prosecutor asks Dr. Vandenberg, if he was not discharged by Witthaus, for incompetency while in the employ of Witthaus. This man heard this testimony and had not the manhood and courage to go on the stand and deny it. He could not deny it. There was no cross-examination of Dr. Vandenberg as to the chemical analysis that he made of this embalming fluid, three quarts of which were put into this woman's body before the autopsy. They didn't cross-examine him as to what he told you, but they endeavored to drag him down and traduce him by asking him whether he had not sought employment.

Now, gentlemen of the jury, was this woman raped? No. The cabman's story and the alleged confessions of these two hysterical boys, extorted when almost on the verge of insanity, distorted statements made under such circumstances, will not justify you in convicting these men.

Was she poisoned by chloral? Who says so? Did anybody see it administered? The detectives say that the boys say that McAlister put something into her glass. The detectives say that Campbell says he told the detectives McAlister poured something into her glass. So he

did. He put the champagne in. Where was this woman poisoned? What killed her? The state concedes that this woman had this absinthe, this cocktail, these two glasses of Great Western Champagne. This killed her and she poisoned herself.

You recollect that Mr. Saal mentioned it as a pony of absinthe. It contained a glassful a little larger than a whiskey glass—three or four ounces. You recollect that when Dr. James Laffin was on the stand he was examined upon this question of cocktail, absinthe and Great West-erd champagne. You recollect what he said; you recollect, gentlemen of the jury, that the court took the pains to have it ocularly demonstrated about what 1 1-2 ounces were, and there was a little bit of water put into the glass—a very small amount in the bottom of the glass, and I think the doctor said that that was about 1 1-2 ounces. I will read a portion of his testimony from the minutes. (Reads from Dr. Laffin's testimony to show that she took enough absinthe and alcohol to kill her.) Now, according to my judgment this young woman took twice as much absinthe as was indicated in that glass. So, you see, gentlemen of the jury that that is one of the most important pieces of evidence in this case. I want you to remember this testimony of Dr. Laffin about the absinthe. This young girl, not sixteen and a half years had taken not less than three ounces of absinthe, besides other alcoholic drinks, and the doctor says that that was enough to kill her.

Was this woman poisoned? What poisoned her? Dr. Laffin answers these questions, with absolute certainty.

So you see, gentlemen of the jury, that the hopes for conviction in this case of death by poison, death by rape, of assault and attempts to ravish and assault, and every conceivable crime, included in these omnibus charges, rest entirely upon evidence, such circumstantial evidence, that cannot and does not commend itself to your judgment. Recollect, gentlemen you must rid your minds of sentiment. You must stand up like men and do your duty as we are all trying to do. Under the instructions of the court, you must decide this case upon the evidence of the witnesses produced here whom you believe to be telling the truth. I shall not go over the evidence of defendants. I leave that to my colleagues. I have gone over the case presented on the part of the state. I have endeavored to show you upon what flimsy evidence they

are trying to convict these young men of the death of this young girl.

There are certain statutory laws in this state, which make men guilty of murder, where there was no intention to take life. The wisdom of these wise legislators has thus tampered with the moral law. It is pretty hard for an ordinary man to understand this sort of thing. The common idea, and the common sense idea is that a man should not give up his life unless he takes life with the intention of taking it. In face of our statute, and the intimated construction upon it, it is not inappropriate to say here that there never was the remotest intention to take life in this case. Accept as true the lying cabman's monstrous tale, believe those half-heard distorted and hearsay confessions, wrung from the lips of Death and Campbell by the inquisitors; swallow the long and manifold inferences of the learned Dr. Witthaus, and there is not one jot of evidence, to lead you to believe that there was any desire or intention to take this young girl's life. They sought to preserve, to save it, to save it from her own foolhardiness, from her own recklessness.

Gentlemen of the jury, these men were friends of this young woman. McAllister had known her; Campbell had known her; Death had known her. She was in love with this young man Death. Now, I submit to you, is it possible that those four men, under these circumstances, should want to ravish that young woman, to poison, to take her life.

Another point—If these young men are poisoners and ravishers as the state would have you believe them, would they have disposed of the body of this girl as they did? Would they have put her near a public road? Would they have put her near a much travelled bridge so that she might be found at the earliest opportunity. Suppose you had poisoned a woman; suppose you had ravished her, and you knew that the consequences were death, that you would be publicly gibbeted—would you put her where you knew that she would be found—would you put her where she could be found at the earliest possible moment and your guilt determined. Answer this question yourselves. There are no greater criminals than the poisoner and the ravisher. Real criminals of this class would have burned her body, would have thrown it into the river,—would have destroyed it so that it would have disappeared forever. No, no; gentlemen of the jury, these men are not poisoners; these men are not ravishers. I ask you, gen-

gentlemen, in the consideration of this case.—I ask you gentlemen of the jury, when you retire to deliberate upon the evidence in this case,—I ask you to see you way clear, to restore these men to their liberty. Because of this horrible accusation the name of the city of Paterson has been dragged in the dust and dirt. The good name of this old town of ours has become a byeword and a stench in the nostrils of the world. It is your opportunity—it will be your triumph to restore that name, and when you are doing that, in the same act you will restore these men—Death to his young wife, McAlister to his aged and broken-down father and his two broked-hearted sisters; you will resrore this boy Campbell to his widowed mother.

My task is done; your real task will shortly begin: The sublimest men of history are men of moral courage. You need this great quality now, if you ever needed it in your lives. You need moral courage to resist the coersive force of public opinion made up of half-facts and irresponsible whispers, inflamed with passion; moral courage to decide this upon the law and the facts If you do this, we have no fear, and these unfortunate men will be restored to liberty and the light of day.

MR. MICHAEL DUNN.

May it please the Court, Gentlemen of the Jury:—

As I stated to you in my opening address yesterday, we are here engaged in the decision and determination of a serious and important question—not a question that we can decide or should decide by the toss of a penny—not a question that we should dispose of with a feeling as to those accused that we care not for them; that we will be carried away by sentiment, by influences which we have allowed to act upon our minds before we were ever impanelled as a jury and made one of the arms of this court. In deciding this case it won't do for you to say, we will have no regard for the evidence, no regard for the men, no regard for the facts, no regard for the laws of human nature, no regard for the influences which control, move, guide and direct human conduct—all these we will ignore in the consideration of this case, and we will just swallow whatever is delivered to us at the hands of the state. No, gentlemen, if the framers of our constitution and our laws had ever contemplated that it were possible for twelve men to be selected from among their fellows possessed of such a state of mind and such motives and incentives to action, some other tribunal would certainly, long ere this, have been established and created for the purpose of deciding questions which concern human conduct. But the experience of years, long before you and I were born and long before our fathers were born, has shown that the present method of reaching a just decision in a case of this kind has been recognized as the most satisfactory, as the most agreeable, and as the safest bulwark of both English and American liberty; and it is because of the faith and confidence that we still have in that institution known as the jury that you are here to day. You should feel the importance of your position, because after I have spoken and after those who represent the state have spoken, and the Court has delivered to you the law as the Court understands it, then it finally comes to you,—to you as men the same as these defendants whom you are trying—to decide and determine whether or not there has been a case made out here on the part of the state—not by a preponderance of proof; that is not enough—but by proof which convinces your mind beyond a reasonable doubt of the guilt of these defendants. That is the law, and the burden which the law has placed upon the state in criminal cases—in civil

cases we do not have it so because the consequences do not effect liberty or life,—the rule therefore applicable to this case is that the proof of guilt must convince you beyond a reasonable doubt. The lives of these defendants, which God alone can give and you alone, in this country, can take away, are at stake; and it behooves you, gentlemen, entrusted with your high duties to rise to the dignity of your position and give your careful and conscientious consideration to the case. Feel in this matter just as if they might be sitting here in judgment upon you, and approach the consideration of this verdict which you are to render with that feeling and if you do, I feel sure that you will reach a conclusion in this case not actuated by malice or revenge, but it will be a verdict that will vindicate justice and satisfy the demands of conscience, honesty and upright citizenship.

I stand here representing specially two of these defendants and practically the lives of all of them are now entrusted to my humble efforts; in a little while you will retire to yonder room to deliberate upon your verdict, and with the final dropping of the curtain that will separate you from us many anxious moments will be passed before you return. Those lives will then be in your hands for sacrifice or salvation—whether they shall live or die rests solely with you—whether or not when that curtain rises, and you again take your place in that jury box to announce your verdict, these young men now standing before you full of life and hope shall yet live or be then condemned to the scaffold rests with you—your verdict will decide whether the picture of life shall continue to face you or shall be turned to the wall forever.

Let us therefore look carefully into the evidence that has been adduced by the state, and see, gentlemen, whether they have proved to you beyond a reasonable doubt that these defendants are guilty of the crime with which they are charged. As I said to you yesterday and repeat now, one of the theories upon which the whole case of the state is predicated is this—that there was a conspiracy, a combination, an understanding, between Death, Campbell, McAlister and Kerr, who is not now on trial, to take Jennie Bosschietter from the corner of Main and Van Houten streets to Saal's saloon for the purpose of reducing her to insensibility that she might be ravished. Let us in considering this theory first briefly turn to the evidence in the case—the uncontradicted facts—and then after doing so I ask you to put to yourselves this ques-

tion: Where in this case is there any evidence showing conspiracy, combination or previous arrangement between these defendants? It is undisputed that these men were not chums; that Campbell met Death unexpectedly at Meyer's cafe whither he had gone for the purpose of meeting Mr. Thomas Dugan whom he desired to see in regard to certain athletic matters in which they were both interested. He came down Ellison street and Death was standing in front of Meyers' saloon, he asked him if he had seen Dugan, he replied in the negative and then invited Death to go into Meyer's saloon with him. On entering he inquired of the bartender if Mr. Dugan had been there during the evening, and learned that he had not, and then Campbell invited Death to have a drink with him. Death took beer and Campbell a glass of cider and then came out of the saloon and Campbell suggested that they take a walk down Main street and then return as by that time Mr. Dugan might be there.

They walked down Ellison street to Main, down Main to the corner of Van Houten street and there stopped on the curb. As they passed down by Kent's drug store they saw McAlister and Kerr standing in the doorway and simply bowed to them as they passed—they had no conversation whatever with them. While standing there Jennie Bosschieter came up Main street toward them. She was well acquainted with Death but Campbell had only met her once and that was about a year before this.

When she came up she spoke to them and asked Death who had been married about four weeks, "how do you like married life?" She further said she had a lot to tell him and not to go away; she was going up the street to a store and would soon return. She passed up the street to Kinsilla's drug store and then returned and stood out on the curb in front of Kent's drug store about thirty feet distant and then beckoned for Death to come over where she was. This he did and Campbell still remained on the corner. After they had talked for a few moments Death says that she said she wanted to tell him something she had heard and suggested they go somewhere where they could chat. He suggested that they might go down to Saal's and have some refreshments but he being married such a short time it would not look well for him to escort her down, and he suggested with her assent that he call Campbell over and see if he would go down with her. Campbell was then called over and just as they called him he saw Jennie grab something out of Death's neckscarf

e afterwards learned was his scarf pin, and when Campbell came over Death told him that Jennie wanted to go down to Saal's. She had something to tell him but he did not think it proper for him to accompany her along the street and asked Campbell if he would escort her down there and he would go down the other way and meet them there. Campbell said he did not know how he could go as he was anxious to meet Mr. Dugan. Death replied, "we won't be gone long. You will be back in time to meet him" and urged him to go and Campbell consented and started up Van Houten street with Jennie. They went along Van Houten to Church street, then to Broadway, to Bridge and down Bridge on the right hand side to Saal's saloon on the corner of Bridge and River. In going down Jennie would frequently turn around and looked back and remark "I don't see Will; I wonder if he is really coming. Well, I got his pin and he will have to come and see me or he won't get that back;" and Campbell remarked that he might have gone down the other way and would probably be here before them and so it was, when Jennie and Campbell reached the saloon Death was on the corner waiting for them and then and there passed into the family entrance door on the River street side and thence into the backroom of which I will speak later.

That, is the true story of the meeting with this girl and I ask you where is there any evidence in the case that shows from the time they met Jennie to the arrival in the back room of Saal's saloon there had been any conversation between Death and Campbell and McAlister and Kerr. What is there in the case to support the theory of the state that this meeting and this trip to Saal's saloon was the result of a combination and an arrangement to commit the crime charged? I call upon the Prosecutor to prove it if he can. We must be fair in this matter. We must be reasonable and we must be just. You are trying these men for their lives and the law does not permit you to indulge in guess work. Life is too sacred. On the contrary it says that the state must prove its allegations beyond a reasonable doubt.

If a man meets me on the street and inquires of me as to how much he owes me, I may not know, but I can guess. I may be right or I may be wrong. But when you deal with evidence which may deprive or save the life of a fellowman, you have no right to guess; you must

be in a position to know and say accurately and positively whether a fact is proved or not.

The testimony of Death and Campbell on this question stands not only uncontradicted but is corroborated by the witnesses on the part of the state.

Leonard Kammerling says that he knew Jennie well and in going up Main street that night after the republican parade had passed up Broadway he saw her talking to a young man on the curb in front of Kent's store. As he approached he heard her say "No, No," in a snappy way. He spoke to her as he passed and then went into Kinsilla's drug store and got a cigar and came out and stood on the sidewalk about twenty feet away and watched them. At the time there was another young man standing alone, a short distance away but he saw no other men there, that it was then about 9.15 p. m.; that he then went away to the City hall. He afterwards claims to identify Campbell as the person who was talking to her when she said, "No, no," but he had never seen the young man before and did not know him and he didn't know Death and never afterwards identified him. In addition to this the state produces two other witnesses who corroborate the defendants on this point.

Bertha Dyson and Nellie DeVries say that they stood in front of Hill's bakery and saw the parade pass and then continued to walk down on the left hand side of Bridge street to River street. That at the corner of Bridge and River they crossed over toward Saal's saloon and just as they got to the corner they saw Campbell (whom they knew) in company with a lady and saw them meet Death on the corner by Saal's and then saw them go into the side door of the saloon on River street side—that they then went to their homes, about one quarter of a mile distant, and got home at 9.30 p. m. On the question of time their testimony corroborates Campbell and Death and contradicts Kammerling.

Kammerling was evidently mistaken when he thinks it was Campbell who was talking to Jennie as he passed by. All the facts and circumstances in the case show that it must have been Death—the "No, no." was her reply when Death asked her for the pin after she had taken it from him and wanted her to return it—the pin was afterwards found and is now here in court proving that she had it.

He never saw them again until one day in company of an officer he visited the jail and there saw several prisoners bareheaded and in their shirt sleeves, and pretends to

say, that under such circumstances he identified Campbell as being the man who was talking to Jennie as he passed. He don't pretend to recognize Death as the other man. He is mistaken in his identification, he is mistaken as to the time. In the face of this testimony the theory of conspiracy and prearrangement is completely shattered there is not a particle of testimony to support it.

But the state may say officer Titus testified that Campbell told him that McAlister had said something about getting her and another girl and going out. But you will remember that Campbell says that he never said so, that he could not have said so to Titus because he did not have any conversation with McAlister, and this is corroborated by Death and McAlister and Kammerling. I therefore contend that the evidence proves conclusively that there was no prearrangement between McAlister, Kerr, Death and Campbell in regard to this matter. That the meeting of the girl—going to the saloon and meeting McAlister there afterwards was wholly accidental.

In further considering the proposition that there was no arrangement between these parties, I call your attention to the fact that these young men were not associates, companions or chums. When young men, and sometimes men of advanced years, conclude to go out for a good time or a "racket," as the boys sometimes call it, observation teaches us that such expeditions are always engaged in by persons who are accustomed to associate with each other, and particularly, and naturally, is this true, when a man is going out upon a mission with thoughts in his mind such as we must assume were in the minds of these men, if we give any credence to this theory upon which the State's case is predicated.

What were the relations of the defendants toward each other? Campbell was a bookkeeper, and had been at his desk every day for the past six years. He worked in the silk mill of Hand & Sons, and he had their respect and confidence. He lived on the corner of Broadway and Paterson street, and there is not a particle of evidence to show that he had ever been a companion, chum or associate of any of the other three defendants. Death was a canvasser for advertisements for a newspaper. His work and calling did not bring him in contact with Campbell or either of the other defendants, and there is no evidence tending to show that before this night he was ever in their company. McAlister was a silk throwster, in business with his father, and he had no communication or association with Death or

Campbell. He and Kerr were chums and associates. They would frequently meet and go off together for a drive, and had made appointments with ladies and had gone out driving with them, but there is no evidence to show that ever on any of these occasions Campbell or Death were associated with them.

Now, follow the theory of the State on this line, and see where it leads us to. Here were these men, no friendship or comradeship existing between them, no association, friendship or confidential relations existing between Death and Campbell, and none existing between Campbell and either of the two defendants, McAlister and Kerr, all living in Paterson, and yet there is not in evidence a single fact that would identify or connect these defendants for any purpose, much less such a serious mission as the theory of the State wants you to assume they came together for that night.

When the State comes here and in a serious and important trial like this, asks you to disregard such facts as I have mentioned, and to take the statement made by Officer Titus, that at the police station Campbell had said that McAlister made a suggestion at the drug store about getting another girl and going out together, you must stop and consider whether or not, in the face of the facts, any such statement was ever made. You must not forget that in their zeal these police officers allow their vaulting ambition to overleap itself, and they unblushingly and unhesitatingly come upon the stand, even when a life is at stake, and discolor and distort and misstate facts for the accomplishment of their purpose, regardless of the probability of destroying the lives of these defendants. In the case of Dr. Kennedy, who was recently convicted of murder in New York, a new trial was granted because the counsel for the defence, with newly discovered evidence, were able to convince the judges of the Court of Appeals of that State that the detectives connected with the District Attorney's office had been guilty of wilful perjury, which had been the means of convicting that man of murder and condemning him to death. It therefore behooves you, in dealing with the evidence in this case that comes from the mouths of these police officers, to stop and think, and to weigh it up carefully before accepting it as true.

The defendant, Campbell, says that he never made any such statement to Titus, and I believe he tells the truth. The illustration of the vengeful spirit of the detectives in "Les Miserables" was ably and fittingly presented to you

this morning by my associate, Judge Scott, in his argument, and it is especially appropriate and aptly describes the attitude and demeanor of the detectives in this case towards these boys.

At this stage it will be proper to say a word to you as to the law by which you are to be guided and controlled in determining what weight is to be given to any admissions which these detectives may have testified to as being made by defendants in this case. The mere fact that they swear to certain things does not justify you in accepting such statements as true. What they say is subject to the same criticism and must be weighed up by the same rules as we apply to the testimony of any other witness. They are interested witnesses. They volunteered to put themselves in a position where, by fair means or foul, they can take advantage of a defendant and unhesitatingly give all the color and expression to their testimony which may be necessary to convey to the jury the impression that the defendant is guilty, regardless of the consequences. May it please the court, in this case I shall insist as a matter of law, that the jury shall be instructed that even though they believe that this statement testified to by Titus was made by Campbell, yet, if they find that it was extorted from him while he was there at the police station, under arrest, by the holding out of hope, gain or advantages to him to induce him to relate it, it is the duty of the jury to absolutely discredit it and to disregard it in the consideration of the case.

I shall also ask the court to charge that whatever has been said by the detective concerning admissions made by Death or Campbell, in which the name of McAlister is mentioned, in his absence, not a single word or statement made by them concerning him, is any evidence upon which a verdict can be based against him in this case. In this case, gentlemen, if there is any one principle of law for the protection of the rights and the liberties of a citizen that is regarded as sacred, it is this—that every man has a right to be confronted by his accuser; he must have an opportunity to admit or deny the accusation before he can be condemned.

Under this principle of the law there is not a single admission alleged to have been made on the part of Death or Campbell in which McAlister's name was mentioned that can be considered by you in deciding this case against him. If this were not the law, your property and your liberty might be swept from you in a moment by statements

made under excitement by a thoughtless or untruthful man. To avoid the consequences of the evils that would follow, the law throws around each and every one of us the protection which I have just mentioned, and the court will so charge you.

But it may be said by some of you, why didn't the court overrule this testimony when it was offered, and refuse to allow it to be presented in the case? The answer to that is that these three defendants are indicted together, and are being tried together, and, although when the attempt was made to introduce this evidence, we objected, yet our objections were overruled. We could not shut out the testimony because it was evidence, if it was true, for what it was worth in your minds, as against the one defendant who made the statement if you believe that he made it; and, as the court well said at the time, this is a matter which it will be necessary to take care of later, when he charges you at the close of the case. The weight to be accorded to these statements will then be in your hands; and you by your verdict, in the exercise of an honest judgment, must say what weight is to be given to them. Are they true? Are they false? How far true; how far colored by the vengeful detectives? That is all left to you.

In further considering this theory of the State, you must also bear in mind that it does not pretend to say that these defendants had any appointment to meet Jennie Bosschier that night. We must deal with the naturalness of this case, in considering the testimony of these witnesses. Would it be natural for any one of you to meet a girl, as Campbell and Death met Jennie that night, without any appointment with her, with no thought of meeting her, to have instantly conceived the idea of taking her out for the purposes claimed by the State? If you had such a thought in mind, is it likely that you would have attempted the execution of the details necessary to carry out your intention with the aid and assistance of a person who is not your companion or chum, with whom you had never been out before, and did not know just how he might entertain the suggestion? Is it likely that Death started out with any such thought in his mind, when the evidence shows that he only had ten cents in his pocket? The uncontradicted evidence also is that Campbell hesitated about acting as escort to Jennie to the saloon, because of the previous appointment that he had with Mr. Dugan at Meyer's cafe. If those two boys had intended or dreamt of going out that night for a racket with this or

any other girl, Death would certainly have been financially prepared to bear his share of the expense. The testimony shows that after they were in the back room of the saloon, he asked Campbell to loan him a dollar, so that he might order a round of drinks. He said he only had ten cents.

It is also improbable that McAlister and Kerr would have made any suggestion or had anything to do with them for two reasons; first, because it was unnatural and unreasonable for four men to go off in the company of one girl; and, secondly, because the uncontradicted evidence in the case shows that McAlister and Kerr that very night had an engagement to meet two ladies in the neighborhood of Arch street bridge, which was about a block and a half below Saal's saloon, and when McAlister and Kerr separated and went away from Kent's drug store, Kerr went to Hofgesang's saloon on Market street to await a telephone from McAlister as to engaging the hack in case the girls kept the appointment with McAlister, and were willing to go out for a drive.

It is uncontradicted in the case that when Campbell and Death left to go down to Saal's saloon they saw nothing at that time of McAlister or Kerr, and knew nothing of their whereabouts or their intentions, and the story which they tell of what occurred afterwards all corroborates our contention. Furthermore, this is a city of 105,000 inhabitants. Our population is cosmopolitan in character, made up of people from all sections of the world, in all walks of life, and I have never as yet heard any complaint that there was a scarcity of female society here. I can conceive of no reason why, if Campbell and Death were out for a racket and seeking female companionship, they should be content to go off with one girl in company with McAlister and Kerr, with whom they had little or no acquaintance, no community of interest and no confidential relations. The story is unnatural, unreasonable and untrue.

The natural explanation of what occurred there is that Campbell and Death met Miss Bosschietter just as they have described it. Death had just been married, and she had not seen him since. They were formerly intimate friends, and their whole conversation was on that subject. "How do you like married life? Why did you marry her; why didn't you marry me?" She had something to tell him, and took his pin out of his scarf to compel him to go down to Saal's to get it back; the conversation when they

met on the corner of Bridge and River streets, before going into Saal's saloon; all on that subject. Her conduct and demeanor toward Death while in the back room of the saloon throws a little side light on her character and show the affection and friendly feeling she had for him. She had never had any misunderstanding or unpleasant relations with Campbell. What motive could be assigned for them to do injury or wrong to her?

The position that the State takes on this question is arbitrary, unfair and unwarranted. The Prosecutor stands here, and in loud and high sounding tones, insists that you shall conclude—draw inferences from this testimony—all favorable to the State's theory, regardless of the fact that there is no evidence to justify such action, and regardless of the fact that such a conclusion would be contrary to natural law and human conduct.

But, the Prosecutor will say, in trying to overcome the effect of this argument, after they got down to Saal's saloon and went into that back room McAlister was there in the barroom. Yes, McAlister was there in the barroom: not, however, as the State would have you believe, as the result of any prearrangement between himself, Death and Campbell. He was there, as he tells you, because the ladies whom he went to meet in the neighborhood of the Arch street bridge had disappointed him, and on his way back he stopped in Saal's saloon to take a drink, when Andrew Campbell came out of the back room into the barroom to give his order for drinks, he there for the first time saw McAlister at the bar, drinking with Mr. Dordoni, as is corroborated by Dordoni, and he spoke to McAlister and was invited by him to have a drink.

There is not a particle of evidence anywhere in the case to show that McAlister was in the barroom at Saal's until after Death and Campbell and Jennie went into the back room. Death was there without money, not enough to pay for a round of drinks, and before he started he never stopped to inquire whether Campbell had any money or not. Do men go off on rackets in such a financial condition? And this is a very significant factor in overcoming the inference which the State undertakes to have placed upon the testimony in the case. Was anything done by McAlister in the way of getting another girl to bring her into the back room? Is it likely that if there was an arrangement between Death, Campbell, McAlister and Kerr to go out for a good time that the four men would be con-

tent with one girl, or even two? Would not each gentleman want a lady?

Again, bear in mind this fact: Kerr was jointly indicted with these three defendants. The uncontradicted testimony is that he was at Hofgesang's saloon awaiting a telephone message from McAlister. Was that unreasonable in view of the arrangement which he and McAlister had about their appointment? McAlister very properly said that they did not want to engage a hack to take a drive with the girls he was going to meet on Arch street bridge until he first ascertained whether they would keep the appointment. He had made arrangements whereby he could obtain the carriage in short order, if everything was agreeable. Bear in mind another fact, which, although simple, sheds a volume of light upon this situation. Sculthorpe, the driver of the hack, says that the defendant Kerr came up to him and said "I want you to go to take out four people." It does not appear that McAlister had given any information to Kerr over the telephone as to what had transpired or as to why he wanted the hack, so that when Kerr ordered the hack he did so with the belief that McAlister had met his party and wanted the hack to keep the appointment, and wanted it for four people, not five people, as there would be in this party when Kerr would join it.

Kerr got into the hack, and went down to Saal's saloon, and when he got there he saw the situation, what the condition of the girl was, and who were there, and it was decided that the girl should be taken out in the open air and revived. She was then in an intoxicated and sleepy condition, and, at the suggestion of McAlister, the hackman was directed to drive to the Bridge street entrance. Kerr then came back into the back room, and in company with Campbell went out through Bridge street entrance and then across Bridge street and up Governor street to the corner of Paterson street. They started to go home, they were not going out for a racket. The girl was intoxicated, and she must be taken out and revived. Two were enough to go with her, and Campbell and Kerr decided to go off home. This is not contradicted. It was not until after they were overtaken by the hack, two blocks away, and McAlister insisted that they should get in and go along and help to revive her, that they then got into the carriage and went off on the drive.

I contend that the ordering of the hack for four people, when, if they all were to go as the State contends, there

would be five in the party, justifies the inference and proves conclusively that Kerr believed that he was ordering the hack for the girls whom McAlister and he expected to meet and take a ride with. When Kerr got down to Saal's saloon and found the condition the girl was in and he and Campbell started off to go home, and McAlister and Death and the girl were left to go out in the carriage, and the fact that at the time he ordered the hack he had no knowledge of any change in his original arrangement or understanding with McAlister, and the more important fact that he and Campbell started to go home as testified to by themselves and Death, shows that neither Kerr nor Campbell had any criminal thought in mind, and shows conclusively that there was no pre-concerted arrangement between those four men to reduce that girl to insensibility and ravish her.

Was Jennie Bosschietter drugged by the defendants that night in Saal's saloon?

This is the next subject to which I wish to direct your attention—you will bear in mind that this is one of the chief elements on which the State relies and they must prove it, beyond a reasonable doubt, to make out this case. They contend that it was part of the arrangement in the commission of this alleged crime that the deceased should be reduced to a state of insensibility and thus taken out and ravished. I contend that the evidence not only fails to support the contention but that the clear weight of the evidence proves that she was not drugged in that saloon.

Let us examine the evidence adduced and see how absolutely weak and deficient the State's case is on this question.

What occurred after Death, Campbell and Jennie went into the back room of the saloon?

It is a small room about ten feet long and eight feet wide in which were two tables and some chairs. As soon as they were in the room Jennie became demonstrative and to put it modestly and allow your imagination a little play she manifested great affection for Death and seemed disappointed that he should have married another in preference to her. After being in there a little while Death informed Campbell that he only had ten cents and asked him to loan him a dollar and he would order something to drink. Campbell says, "that's all right, I have some money and I will order them." "What are you going to have?" Jennie ordered a milk punch, Death a glass of

beer and Campbell said he would take cider and passed out the door leading into the billiard room and thence into the bar room. As he approached the bar he saw McAlister standing there drinking with Mr. Dordoni and some other friends. He was surprised to see him and he spoke to McAlister and asked him what he was doing down there, to which McAlister replied that he and Kerr had a date but the parties did not show up and he stopped in to have a drink and invited Campbell to join him. Campbell said: "No, I am with a party in the back room and I've come over to give an order for them." McAlister said that was all right, let them have a drink on him as he was treating and then asked Campbell "who was in his party," and Campbell informed him that he, Death and Jennie Bosschietter were there. Campbell then gave his order for drinks to Mr. Saal and learned that they had no milk and could not make the milk punch—that he then went back to the room and informed Jennie and she said to bring her a cocktail. Mr. Saal prepared the drinks and while he was doing so McAlister informed Campbell that he was going up town in a few minutes as Kerr was up there waiting for him. Campbell told him that he was going up shortly and would walk up with him as he wanted to meet a party (meaning Mr. Dugan whom he tried to see at Myer's cafe earlier in the evening.) When the drinks were prepared Campbell took them and went to the room with them and as he was going McAlister remarked to him to tell his friends that he was out there, and that if they had no objections he would like to join them for a little while—that he knew Jennie. After they had finished their drinks Campbell told them these were on Mr. McAlister whom he had met in the bar that he had just stopped in and would like to join them for a little while if they had no objections. Jennie said "Why certainly invite him in, 'Mac' is a good fellow and work is getting dull in our mill now and he may give me a job if I get out of work". That then Death asked Campbell to loan him some money and he would go out and order the drinks. Campbell handed him some money and Jennie told him she wanted an absinthe. Campbell took cider and Death took whiskey and then went out to the bar to give the order. He gave the order and invited McAlister to come into the back room. Death took in the drinks and they had all about finished drinking when McAlister came in the room. Jennie was then feeling jolly and happy. Sue rushed over to McAlister threw her arms

around his neck and hugged and kissed him and expressed great pleasure at meeting him. In a short time she began to show the effects of the cocktail and absinthe. She got drowsy; then McAlister suggested that they have some champagne as that might brace her up, and touched the button and Mr. Saal answered the call. Mr. Saal says that when he came in for the order he saw nothing wrong. Everybody seemed all right, Jennie as well as the others, that he first brought in the glasses and then the wine. That after pulling the cork he left it on the table and went out. Mr. McAlister poured out the wine for all, Jennie drank a glass and a half or two glasses. After drinking the wine she seemed to become more intoxicated and drowsy and McAlister suggested that the best thing to do was to get her out in the air—that he would telephone to Kerr to come down with a hack and they would take her out in the air and that would revive her. The hack was sent for and Kerr came with it. He came into the room and saw she was intoxicated. McAlister told him to send the hack around to the Bridge street entrance and they would go out that way—this was done. After ordering the hack to go around Kerr came back and then he and Campbell started to go out the Bridge street hallway and as they passed out the hack was at the door. McAlister and Death assisted the girl to get to the hack, one walking on either side of her as she walked with them to the sidewalk, when one of them got in and the other helped Jennie in. After she was seated the hackman, Sculthorpe, drove up Governor street toward Paterson street and on the corner of Governor and Paterson the wagon overtook Kerr and Campbell, who had started to go home. McAlister stopped the wagon and called to them and asked them where they were going and on being informed that they were going home he replied you are a nice lot of fellows, you get in here and help us revive her—it won't do to take her home in this condition. Campbell and Kerr then got in the hack and the party drove off toward the Goffle road.

This is the story as told to you by those who were present and in a position to know the true facts. What she drank in that saloon she ordered herself and drank voluntarily and knowingly—she drank it because she wanted to—not because she was compelled to, nor because she was persuaded to do so. I know of no law that makes it a crime for a gentleman to invite a lady to go into a saloon to have a drink with him. If she willingly goes into

a back room of a saloon and orders drinks and gets what she orders and becomes intoxicated, the mere fact that a man paid for the drinks which she ordered does not make him a criminal. They had a right to presume that she knew what she wanted and what she could stand; they had no reason to suppose that she would become intoxicated and get sick on their hands. She was no stranger to such drinks. There is not a particle of legal evidence in the case showing that any of these defendants that night had any drugs or "knockout drops" in their possession or that they had ever purchased or used any or knew of the effect they would produce if administered.

What is the evidence on which the state tries to prove this contention? In the first place we are confronted with the story of the hackman Sculthorpe as to the condition she was in when she entered the hack. What does he say?

He says positively in answer to the prosecutor and to the court that she was carried out of the saloon feet first by these four men, two of them had hold of her feet and two had hold of her body, and they put her in backwards and McAlister and Death then got in with her and the other two went on across the street and got in the wagon on the opposite corner by Mrs. Van Houten's house which is on the southeast corner of Bridge and Governor streets. Is this story true or false?

Clarence Chrystie a disinterested witness happened to be on the other side of Bridge street at the time she came out of the saloon to get in the hack—he says there were two men with her—one got in the hack and he saw him reach out his hands toward her while the other one who was standing on the sidewalk with her assisted her in getting in the wagon—he only saw two men there with her. His testimony corroborates the story as told by these three defendants—and directly contradicts Sculthorpe. At this point in the case it seems very proper that we should pause for a few moments and see what kind of a man Schulthorpe is and what reliance is to be placed upon his testimony. Has he an interest in the case hostile to these defendants? Can we have any confidence in what he says?

Upon his statements the notoriety and disgrace that has come to Paterson and the consequent false, malicious and scandalous stories published throughout the country concerning our social conditions have all been predicated.

Let us examine his testimony and what do we find?

Right at the very threshold of his connection with this case we prove him to be a wilful, deliberate and malicious liar in regard to the condition that girl was in when she was placed in his hack. He swore positively, in answer to the Prosecutor and to the court, that she was carried feet first, by these four men, from the saloon to the hack. Mr. Chrystie says that such was not the case; that nobody carried her out of the place: that two men assisted her out and into the hack, and that the other two men had passed up Governor street before she came out and he only saw two with her.

Let us be fair; we are trying these men for their lives, and when we catch a low debased scoundrel such as I will prove this Sculthorpe to be, before I close my argument, we must receive with the greatest caution the testimony he gives.

He stands here and gives this testimony under such protection as may have been guaranteed to him by the representatives of the State. He is without heart or conscience and is ready to swear to anything to place the noose around the necks of these four men and save himself.

I say it is time for us to meet and unmask him and deal with him as the inhuman brute deserves to be dealt with. I say inhuman brute, because, if the story he relates here on the stand is true, he is the most immoral, degraded, low-lived, cowardly man I ever knew. He goes upon the stand here and relates with unblushing effrontery one of the most shocking stories of human depravity ever presented to a jury; he omits no detail which would be likely to make the conduct of these men appear most shocking and disgusting; he has been promised immunity if he will aid in convicting these men and he will testify to anything that is necessary to carry out his bargain. If what he says is true, he is more guilty than the defendants and it won't do to allow such a man to swear away the lives of these boys. He is not to be believed.

Now, the whole notion of taking her out into the open air from the start, according to the uncontradicted evidence in the case was to revive her. Was that not a proper thing to do? There is not a particle of evidence offered on the part of the state tending to show that the rubbing of her hands and her cheeks and of her ankles and the working of her arms was not the proper treatment for a person in her condition. It is the only thing that is ever done in a case of that kind, except in some cases

where they are able to walk a person up and down to get them out of the coma—to get them out of a narcotic stupor.

But the prosecutor will say they took her out in that hack not to revive her but to ravish her. This is another link in the chain that goes to make up the state's case. Does the evidence support this contention? First, the geographical situation of Paterson, and the nature of the lands surrounding it contradicts this contention. It is not necessary to drive four miles from Saal's saloon at half past ten or eleven o'clock at night to find a place where they would not be disturbed, some place where travellers are not likely to frequent and where the shades of night would afford them proper concealment from view, some place where they would be as likely to be undisturbed as the place where the state claims they went on the Rock road. Driving four or five miles for a purpose of that kind when according to the evidence they did not know at what moment the girl would recover and become conscious and thereby defeat their nefarious plans. Monstrous, Mr. Prosecutor, when you know, and I know, that within ten minutes drive from Saal's saloon, there are a dozen places where the fiendish outrage could have been perpetrated with just as much secrecy and less danger of detection than they were subjected to on the Rock road. Just think of the geography of our city; think of the woods at Chestnut Hill and the loneliness of the road near the Fifth avenue bridge; think of the neighborhood of the Eastside Park, the Dundee drive and many other places of that kind. And when the prosecutor stands here and asks you to convict these men of this unnatural crime, under the evidence and in view of the circumstances, he asks more than the law says he is entitled to, or the evidence justifies him in demanding.

That girl was taken from Saal's saloon to revive her and then take her to her home. Take her out to ravish her; oh, no, never. Where did they start to go? Lee's hotel. That is a public hotel with a county license, granted by our courts. It is over four miles away. Do you mean to tell me, gentlemen—do you mean to tell me, if I started out to ravish that girl, I would attempt to take her to a public hotel in an unconscious condition for the accomplishment of that purpose. Now, bear in mind, you don't have to go four or five miles to find this secluded spot. They drove that distance. Their intention was to go to Lee's place, and they undoubtedly thought by the

time they got there she would be revived. Unfortunately however Lee's place was closed. How unfortunate. Had that hotel been opened the chances are that the accident would never have happened and these defendants would never have been subjected to the terrible ordeal of this important trial. Finding it closed, then they decided to go across the Rock road to the Ridgewood road and thence back home. Is that story reasonable, or is it not, and where is there any evidence in the case that contradicts it?

If they had made this girl unconscious to ravish her, would they be likely to take the chances of driving four or five miles and having her regain consciousness before the purpose was accomplished when they could have had the same secluded spot within half a mile of the saloon. Why did they talk of stopping at Charlie Lee's hotel if ravishment was their purpose? Why did they stop at this place on the Rock road? You have heard the testimony of McAlister and Death who were sitting along-side her in the wagon, while she was in this condition, and she had her supper about six o'clock and at half past nine or ten o'clock her stomach was practically empty.

What did she have to drink on this empty stomach? She had a whiskey cock-tail, she had a large glass of absinthe, two and a half to three ounces, and she had two or two and a half glasses of Great Western Champagne; Of course she was drunk and unconscious and ninety-nine men out of a hundred would be in the same condition she was under similar circumstances. She had been riding in this wagon in a reclining position for over four miles, and then they drove over what they call this Rock Road,—and as the surveyor and others say, it is rocky indeed; and after she reached the top of that hill those who were with her,—those who were in a position to know, say she became sick, nauseous, she retched and attempted to vomit. That was a natural result of her condition. Her stomach began to rebel. Suppose you asked yourselves, what you would do under the same conditions. Was it imprudent, injudicious or improper in these men to stop this wagon and assist her out of it, and put her in a position where they could aid her in performing the function which her stomach then indicated that it would perform; and which in cases of that kind, and we can assume in her case too, was a perfectly natural result from intoxication, and excessive drinking on an empty stomach. Hundreds of times travelling along the street you have seen drunken

men get sick and throw off and then go along relieved and revived. The attack of nausea had come upon her, and I say it was perfectly natural and perfectly proper to take her out of the wagon, and it would have been imprudent and improper from them to have kept her in that position in the wagon where she would not throw off the stuff that was on her stomach. Their conduct in that respect was perfectly natural and proper, and they would have been cruel not to assist her. It is all right enough for the state to come here and say that we took that girl out of the hack there, not to assist and help her but to ravish her. Ask those who know, gentlemen. Who knows better than the men who were with her?

These three defendants say these facts are true. To contradict them the State turns again to Sculthorpe. And when the Prosecutor is obliged to rely on the information of Sculthorpe, he relies upon weak and unnatural evidence. Sculthorpe does not even say that he saw the girl vomiting. He don't say she did not vomit. He says, "I heard her moan," and the State says that was the pain caused by the ravishment. A corrupt and unwarranted inference. I don't know what kind of a man he is. I don't know whether he has gone through any of the experiences that most men have from childhood and boyhood on to manhood—eating too many green apples, suffering from an attack of cholera morbus, or overloading the stomach with other things that make you sick. Many are the occasions when men and women take sick and are compelled to take relief in vomiting. Nature forces her relief in that way; but I do—know that the nausea and retching of the patient in order to perform that function of the stomach does cause a strain and frequently is accompanied by expression which such a man as Sculthorpe, with limited vocabulary, might call a groan. It would simply be that the natural retching and strain in the attempt to cast off what the stomach was refusing to retain. So that I say there is not a thing in his description as to her groaning that warrants the corrupt and evil meaning which the State puts upon it; there is not in it that on which the State is justified in predicating that the girl was being cruelly treated there.

Did they do anything for her there? It is uncontradicted in the case that they seated her in a reclining position; that Campbell put his finger in her mouth to aid her in vomiting; that she did vomit. One or two of them had their handkerchiefs out under her mouth so as to prevent

the vomit and the saliva from being discharged upon her and their clothing. But Sculthorpe says, "I went up the road and turned my wagon around and then came back."

They were ready to get in, and it was so dark I could not see. They were all down around her."

If you had a sick woman on your hands and she was seated down on the ground, and she was unconscious and unable to help herself, would you refuse to assist her; would you not do all you could to help her; and yet this Sculthorpe, the fiend, comes here and wants you to infer and believe that because these men were around that woman, they were doing something wrong. To the evil minded all things are bad. But he does not stop there. He goes further. At the coroner's inquest he testifies under the solemnity of his oath, as follows:—"The night was very dark." "I saw nothing." "I could not see anything." "I didn't see anything." "The lights were out; I didn't see anything." "I didn't see what the men were doing." He repeats that two or three times.

And a juror stood up and asked him this question—"Could you see what transpired when the girl and fellows were on the ground together?" And he answered—"No, sir; It was very dark and the lads had extinguished the lights on my wagon."

What does he say now? He wants you to believe in the face of this testimony that he did see what they were doing here.

Does not that cast discredit on the assertions he makes on this trial? At the inquest he was sworn before his God to tell the truth and the whole truth, just the same as he was sworn here. There was no reason why he should fail or refuse to do so; If what he said then was true he is lying to you now; if it was false and the story he now relates is true then he stands before you a self convicted perjurer and liar, a man absolutely unworthy of belief. In dealing with human conduct we must deal with men as we find them, and when in an important matter like this you find a willful and deliberate liar you must discredit and throw his testimony entirely out of the case.

The story told by these defendants stands supported by their oaths and the circumstances and natural conditions existing there. They took that drive to revive not to ravish her.

But the state contends she was not only drunk, but she

was poisoned; somebody gave her chloral, and he says it was McAlister.

Is there anything in the evidence tending to show that during the stay there in the saloon, McAlister had put anything into her drink? They first answer—"Why, didn't Mr. Death say 'she had the dope thrown into her' to Mr. Titus and to Mr. Lord." So they swore. But what does that mean? Mr. Death says that he did say that she had the dope, but he explains to you what he meant by dope. He used it in the ordinary sense meaning such a combination as absinthe, cocktail and champagne would make, that is what he called "the dope." She had taken enough absinthe to kill her. The same effect is produced by the use of it as is produced by chloral hydrate. She ordered that drink herself. She said it was her favorite drink. It is a drink served at the bars; it is a drink that has done more possibly to weaken and debilitate the people of the French nation than perhaps any other evil influence that ever existed among the people, and precautions are being taken to-day by the French government to regulate and restrict its use. It is recognized, as you have heard here on the stand, as a poison; and you saw how small a quantity was one and one half ounces in a glass, and you have heard the expert say that the quantity which she took was sufficient to produce the effects which she exhibited that night, regardless and independent of chloral. Yet she was ordering her drinks and capable at the time of ordering them, and there is not any evidence here that she received from the bar-tender anything more than was usually served in compliance with such an order. We ask them how much absinthe would kill—they tell us they don't know. Doctors say that chloral hydrate is administered every day and is used for beneficial purposes and medicine; that ten grains may kill, but that twenty grains, forty grains, even 400 grain have been taken without fatal effects; but they cannot tell what the fatal limit is in absinthe or chloral. How much can be taken and not kill, and how much may be taken and kill; all depends on the patient. But, from the mere fact that this young woman died it does not follow that these defendants administered poison to her. You must remember her whereabouts from 8 p. m. until 9.15 o'clock is unaccounted for.

Where is there any evidence in this case tending to show any relation between Mr. McAlister and the bottle which has been passed around between the detectives and the

prosecutor, and the chemists and now brought here, and which they claim this Sculthorpe found on the road side along the Rock road three or four days after this occurrence? Is there any evidence here shown that McAlister ever had any such bottle in his possession? Not a particle of evidence that he ever purchased or carried chloral. No; not a particle; but the state says, "Why, here Death says to the detectives, in answer to questions, according to Officer Titus, and I think Officer Perry, that they ask him what he meant by dope and that he replied 'knockout drops.'" I don't believe he ever said so. If he saw McAlister put anything in her drink he would have known what it was. Then I don't believe it for another reason. Do you suppose that if a person made the remark about dope that they say Death did there on that night, "Well, they certainly threw the dope into her; she certainly had plenty of dope." Do you imagine for a moment that they would ask him what he meant by that, knowing all the time that she had these liquors to drink from the story told to them by the hackman and from the condition in which the hackman said she was when she left the saloon.

Bear in mind that when a person asks a question in the course of conversation he ordinarily inquires because he has not understood the meaning of the word used. When we find over zealous detectives coming here and wanting you to believe he used the very word that suits the state's case, it is necessary to weigh up his testimony carefully. You must stop and think for a moment and see if there was anything to prompt these detectives to ask Death what he meant by dope.

I say "dope" is a common expression. You say "dopey." You hear it dozens of times a day. You say this man or that looks "dopey." I say that we are all so familiar with the expression, that it would be unnatural for these officers or any one hearing it, to ask any one using the word to give a definition of it; these officers have been at that police station for the past ten to fifteen years; "dope" was no new word to them; they had heard it hundreds of times daily; they knew its meaning why would they ask the question. They never asked it; they swear to anything to win the case. When Mr. Death says that he did not say in answer to that question—"Knockout drops"—I believe him.

For another reason I believe what Mr. Death says. Is there any evidence in the case tending to show that Mr.

McAlister had at any time, any contact with the drinks that were served in there from the time that they were taken from the bar until the time that were left in the room, or that he had an opportunity to deposit anything in the glass?

Mr. Campbell is also interrogated on that point by the officers, and they say they asked him whether he did not see, as they say he saw, Mr. McAlister pour out from the bottle into the glass two or three times; but he says "No," and so far as the evidence goes the only thing that he saw poured out by McAlister was the champagne, and the only bottle he saw him have was the champagne bottle.

And so they go a step further. Nothing that Mr. Death said concerning what McAlister is accused of—nothing that Campbell said concerning McAlister can be considered by you as evidence in this case against McAlister, as the court will instruct you. Therefore I ask you if the story of the state is correct, if their theory is correct, as they will contend that McAlister put drugs into these drinks, I ask you to stop and ask—. "Where is the connection between the bottle you find in the hands of the state and McAlister? There is no connection proved. Not a thing, not a word, not a syllable.

Now, then, go a step further. These boys deny that they said that they saw this drugging; they deny that they had any knowledge of anything being placed in that girl's drink; and they deny that they put anything into her drink.

The state undertook to bolster up their tottering case by offering as affirmative evidence a statement alleged to have been made by Andrew Campbell before the police officers. The invincible Titus was brought forward to accomplish the feat; all looked well until the cross-examination broke him down; he knew he had done that boy a wrong; his conscience rebelled and not even the prodding of the Prosecutor could make the evidence legal. It was an unpleasant and sad scene, and the Court, under the law was obliged to rule out that alleged admission. Why? Because it was obtained by him from Campbell by holding out and representing that he would be benefited by making the statement. It was not voluntarily, not frank, open and honest, but extorted from him in the face of his refusal to talk, because he was a friend of his, by false representations, by deception and fraud.

Now, the question will be submitted to you, gentlemen, to say whether or not the statement made by Campbell

here upon the stand is the true statement of his case, or whether you will eliminate and disbelieve it and take the story which Titus on rebuttal relates, and at the same time admits that he knew his parents, and that night held himself out as a friend to the boy and got from him a story which is unnatural and unreasonable; and which is now introduced in the case to convict him of this terrible crime. It is colored and fixed up to suit the occasion and should be disbelieved by you.

If you believe that Titus by hope, by fear, when Campbell reached a point where he refused to talk, when he reached a point where he denied that he knew anything about Jennie Bosschietter,—if then, with four or five officers around him, that young man, taken out of his bed at three o'clock in the morning, all excited and nervous, having read the story of this affair in the papers of Saturday, Sunday and Monday, after hearing the people talk about the finding of this girl, and now being arrested for the crime, with all these things before him, and these officers around him—if you think, in the face of these circumstances he was not competent to give a rational account of this affair, but was under the influence and control of these men, wholly unable to exercise a careful, calm judgment, then this story told by Titus must be rejected. If, on the other hand, you find that that confession was wrongfully extorted from him, you have a right to reject it and not consider it in this case; and what I have said of Campbell is equally true in reference to Mr. Death. The extent to which these detectives will go is best illustrated in the way they conducted themselves in giving their evidence before you. When the first of their number got on the stand to testify against Death, his evidence was not allowed, but their story was finally admitted because the others were here in the back part of the court room listening to the cross-examination of the first man, and they took the cue. They knew what was wanted, and when the others were lined up, like the detective in "Les Misérables," as described by my learned associate, they had to have their victim and they must come forward with testimony sufficiently strong to make up for the deficiencies of their predecessor. So the second detective helped the first, and the testimony concerning what Mr. Death said was finally admitted; but the fact is still for you to say whether or not after Mr. Death had reached a point in his story where he refused to talk, they extorted a story from him by hope and fear that is untrue, and unnatural; if so,

you have a right to reject it. After he had told the first story, as he says, they warned him and told him it would be better for him to tell another story. He denies their testimony; he tells the true story now. You have a right to believe his statement here which he says is the true story. Compare the naturalness and the reasonableness of the two stories and it is for you to determine which is correct. If you believe the story related by the police concerning Death and Campbell is untrue, you should not hesitate to reject it.

If the story now told by Campbell and Death is more reasonable, more natural and consistent with truth than that which the police say was related to them, you should take the story as now told by these defendants as the true story of this whole affair. See how unfair and unreasonable is the testimony of these policemen? They admit that when they arrested Death and took him to the station house, they did not know who the fourth man was; they only knew his name was Andy and undertook to get this information from Death. That was their object in questioning him. They asked him who was connected with the affair and he informed them that he, McAlister, Andrew Campbell and Kerr composed the party. Now, what do the detectives say on this point? They swear they asked him who had connection with her and that he replied that he, McAlister and Campbell had. Death denies that they ever asked him any such question and that the only question asked on the subject was, as I stated a moment ago, "who was connected with the affair?" Who tells the truth here? If the language used is susceptible of two meanings, one innocent and the other criminal, we are bound to give the preference to innocence. The defendant has gone upon the stand and explained the meaning of his conversation and language. Will you accept his explanation or do you prefer to take the construction which these men seeking victory, seeking glory and a big name as detectives, want you to place upon it. It is for you to say what was meant by the parties. Bear in mind always that the man who uses the word knows best the meaning he intended to convey, while the detectives to whom they were addressed might be mistaken; and the defendants are entitled to the benefit of their error.

Bearing in mind that no statement made by Death or Campbell in which McAlister's name was mentioned is any evidence against him, then I ask you to point out in the case any testimony that would warrant you in

concluding that McAlister put drugs into her drinks. Again, take the statements of Death and Campbell as detailed by the police, and where do you find in them any fact that proved that either of them put anything in those drinks. If my conclusion is correct then there is nothing left in this case that would justify you in convicting them of the crime charged. The mere fact that a bottle containing two drops of chloral was found on the side of the Rock road near the scene of the alleged crime proves nothing. I don't suppose that there is a main thoroughfare leading out from Paterson intercepted by cross-roads that we could not travel along and find bottles of different kinds. You find them on the streets, in your backyard, almost any place you may look.

But, gentlemen, the mere fact of Detective McInerney and Sculthorpe four days after this crime finding a bottle with no cork in it along that road, one hundred yards from the scene of the crime does not prove that it belonged to these defendants or that they had anything to do with placing it there. The Rock road is a public highway and people are constantly passing and repassing through there. You cannot guess, the state must bring it home to us. More than that, it was stated here to you that chloral hydrate is a volatile substance—that in the air it quickly dissolves and passes off and it cannot be detected. Tell me what are you going to do with a case like this where this bottle containing about two drops of liquid is alleged to have been found in the open air without a cork in it where it must have remained from Thursday night until Tuesday, and then have Dr. Witthaus come here and swear it contained chloral hydrate, one of the most volatile substances known to the chemist, as he himself admits on the stand. You can not rely on such evidence to hang men. Is there anything in the evidence to show that McAlister had a bottle containing chloral in his possession? I say no.

But the prosecutor says he has evidence which connects these defendants with this bottle; and again he turns to Sculthorpe, and he calls upon him to supply the missing links in the chain that it is necessary for him to weld together to connect the defendants with the bottle.

Does Sculthorpe say that he saw this bottle, or one like it, in the possession of McAlister or any of the other defendants on that night? No. Does he say that at any time during that drive he heard a single one of these defendants say anything about chloral? No. Does he say

that he heard them have any conversation in their most exciting moments that would indicate that her condition was due to the administration of knockout drops? No. What is the evidence on this subject? He says that while driving along the Goffle road toward Lee's place, he heard nothing that was said between the parties; that his mind was wholly occupied in driving his horse, although the Goffle road is smooth, macadamized and in good condition. "I had to watch my horse all the time. He would run all over the road." This shows that his horse was fractious and uneasy, and his whole attention was absorbed.

It is also admitted in the case, that before reaching the Rock road, after discovering that Lee's hotel was closed, the lights on the cab were extinguished, and then he was directed to turn and go up the Rock road.

According to the testimony of Mr. Fonda, the surveyor who made this map, this road was in a bad condition; it was well described by its name; it was a rocky road.

Sculthorpe drove up, stopped at the place called the woods, let the parties out, passed on beyond with horse and wagon, turned around, came back, and the girl was assisted to the wagon for the purpose of taking her to the brook down by the school house; and the one thought in the minds of the defendants was to get her where they could bathe her with water as quickly as possible. This Sculthorpe does not deny. The lights on the wagon had not been relighted; all was darkness. Under these conditions, and with all in that anxious state of mind to get her to the brook as quickly as possible, Sculthorpe drives off over that rocky road, with his wheels first in the gully and then on top of a rock or grating over stones, with his whole mind fixed necessarily on the horse that he had difficulty in keeping in the road, going up where it was macadamized and smooth, and then coming down that hill he says he heard something jingle off on the side of the road, something that sounded to him like a bottle striking against a stone; that he saw no bottle thrown, and he heard no mention made of it. This was on Thursday night. He goes back on this rocky road on Tuesday, in company with a police officer and at a point sixty or seventy-five yards from the place where the defendants had the girl on the blanket, and about thirty feet from the road side, he says he found on the ground this bottle that is brought here, with no cork in it, and he handed it to the police officer. And right here I ask you to take the

bottle, and examine it for yourself. It is in perfect condition, you will observe, excepting a little chip off the edge of the bottom; and this chip is so small that it would take a microscope to find it. If that bottle had been thrown from that wagon and struck against a stone with such force as to make it jingle, so that a man could hear it, is it likely that we would find it in this perfect condition? Think of the conditions as they existed there—Sculthorpe with his mind wholly occupied and riveted upon that fractious horse, the wheels of his wagon grating against rocks and stones as he drove along that rocky road hastily toward the brook; five people in the wagon besides himself talking and conversing—is his story of hearing the jingle of the bottle reasonable? Is it probable? I submit to you that any sound produced from the force of the blow with which that bottle may have struck a stone, could never, under the circumstances, have been heard by Sculthorpe? His testimony, gentlemen, on this point, is like what it is on other points. He is here for a purpose; he is here to swear the lives of these men away, and save his own; he is here under the protection of the state; and I submit to you that before crediting such an unreasonable story as this, you should insist upon hearing some evidence to show that any of these defendants had this bottle in their possession. I further insist that the state is going far beyond the bounds of fairness with you when, in order to supply this missing link they ask you to take a long running high jump, and a guess, to accept a fact as proved, which is dependent upon such unreliable evidence; to ask you to find from this evidence that, even though a bottle had been thrown out there Thursday night, the bottle found on Tuesday is the same identical bottle. You must also bear in mind, in reaching a conclusion concerning this bottle, that the defendants are entitled to the benefit of every doubt. Have you not doubt here? There is no evidence that any of the defendants had ever seen or possessed that bottle. It is not discovered until four days after any of these defendants were at the place; and it is found by the man who is allowing himself to be used by the state as the instrument to convict the defendants. Without this bottle they felt their case was weak. This detestable, lying Sculthorpe is selected to supply this important link. Gentlemen, if such testimony would convict these defendants, then the liberty of no man is safe. When that bottle was placed there, by whom, where it came from, nobody knows, and

the law does not permit you to guess. The state must prove that we had that bottle in our possession to make it evidence in the chain against us. This bottle cannot be considered as any evidence in the case and must be disregarded by you.

I further contend that Jennie Bosschietter was not ravished on the Rock road. In discussing this question, let us first turn to the evidence adduced by the state to prove that she was. Here again the state is wholly dependent upon the testimony of Sculthorpe to support this proposition. In considering his testimony, and the probability of its truth, let us first see how it compares with his statement, given under oath, at the coroner's inquest a few days after the occurrence; and, in weighing the testimony and these statements, we should bear in mind this fact that the recollection of events would be more likely to be accurate and clear in a few days after the occurrence when it was all fresh in the mind, than it would be after the delay of several months.

On his cross-examination he was asked in regard to his testimony at the coroner's inquest, and he admitted on the stand here, that he testified as follows:—

“Q. Could you see what transpired when the girl and fellows were on the ground together? A. No, sir. It was very dark and the lights had been extinguished on my wagon.”

In his testimony before you he says in one part of it, practically the same thing. “I did not see what they done; only what they told me. They were all kneeling down on the bare spot; they were all together where she was.”

You will observe that Sculthorpe says, first, that he did not see what they did with her, only that they gathered around her there on the ground. He further says, that after the wagon was stopped and the defendants got out and took the blanket and helped the girl out and laid her down upon it, he went on up the road a distance of fifteen or twenty feet, and turned his wagon around and then came back and was standing some distance away from them when he says that Death came up to his wagon and said, “We all had a go; you go on and tackle it,” and he said “No;” that then Kerr came up and said “Let's get out of this,” and he was shaking and did not know what to do, and then they brought the girl back to the wagon and he drove on and stopped at the schoolhouse near the brook.

This testimony shows that he did not see the defendants assault the girl, and he says "It was too dark," and he simply saw them around her. Death denies that he said to Sculthorpe that they all had a go at her and called on him to participate. Nothing that Death might have said there to Sculthorpe could affect the other defendants who did not hear the conversation, and even though Death had made the remark which Sculthorpe relates it does not follow that they assaulted the girl. There was no reason why Death should have made that statement, nor is there any warrant for extending such an invitation. If he made any remark, it was doing nothing more than what the boys of the street would say, "giving the hack-man a jolly." No inference of crime can be drawn from this statement. But later on the witness, under the whip of the prosecutor, gets into a state of mind where he answers thoughtlessly and recklessly, and says everything vicious, wicked and degrading that it is possible to conceive of concerning the conduct of these boys there. First he says that Death came to him, and then he says that at that time the others were at the wagon, and when asked what they were doing says he did not notice, and then in the next breath says that all four of them came to the wagon wiping off their persons with their handkerchiefs, and that they deliberately exhibited their privates. Gentlemen of the jury, I want to say that I do not believe a word spoken by that man as to what occurred there. I say that if this statement is true, this wretch Sculthorpe, instead of being at large under five hundred dollars bail, instead of being here under the protection of the State and used as a State's witness to take the lives of these defendants, he should be here in this box as a co-defendant with these boys. The essence of the crime charged in this indictment is the ravishment of this girl. If his story is true and he drove them to that lonely spot, and he stood there and watched them commit this crime without uttering a word of protest or dissent, he is a principal in the crime, and is just as guilty as any of these defendants; and why, Mr. Prosecutor, in the name of justice, in the name of law and order, should he be shielded and protected by you? Why should he be allowed to come here to swear away the lives of these men and after that is accomplished then to be turned loose upon this community to await another opportunity to encourage people when in a state of intoxication to commit such outrages as he here undertakes to describe? He is here, vindic-

tive, wicked and vicious, because he has assurance from the State that if he aids them in making out this case he shall go free. He stops at nothing. Eliminate his wicked and unnatural and unreasonable inferences from the facts in the case, and where is there anything to indicate crime? There is absolutely nothing. The story is false. Between the time that would elapse after they took her out of the wagon and he went up the road fifteen feet and turned his horse around and came back opposite to the place where they were on the blanket, no four men living could have had intercourse with an unconscious girl there upon the ground, and yet he says, and wants you to believe, that as soon as he turned his horse around and got back to where they were, one of them came up and wanted him to go to the girl, and that all four of them came up to his wagon with their private parts in their hands, wiping themselves with their handkerchiefs. The story is incredible, unnatural, inhuman, unreasonable, and too brutal to receive any credence at the hands of twelve intelligent men. Why, a dog would not do that after being separated from the female. The little child in your home two years old would not expose his person if he wanted to urinate, but would retire to some corner. A man out among men would withdraw from the crowd and go to some place of concealment. There are certain things natural and there are conditions that are unnatural, and the mere fact that Sculthorpe comes here and relates a certain story, it does not follow that you are to believe it. You must stop and weigh it up, and ask yourselves, "Is it natural; is it reasonable; is it probable?"

It is time that these vulgar and scandalous stories circulated by this man should be condemned, and the consideration to be given them rests with you. There is right and there is justice in every case, but to say that a man like this shall be believed and that he shall be used as an instrument to remove worthy, capable, bright and intelligent young men from the scene of active life to the scaffold—young men who may have made mistakes, but who are yet young enough to amend, and to become worthy members of society—to say that such a wretch as that debased and skulking Sculthorpe, who comes here and tells such an outrageous story, should be believed is simply monstrous. To do so would make you the laughing stock among men. You would believe that conditions of depravity exist among men that you know does not exist among beasts.

But, notwithstanding what I have said, the Prosecutor will say, "Oh! this woman was raped," and in the closing hours of this case he will urge upon you with all the powers at his command that you must take this story and believe it and convict these men, whether it is reasonable or not; but do not forget that you have the say, as to what you will do with this man Sculthorpe's testimony, whom we have proved in different parts of this case to be a wilful, deliberate and malicious liar. In weighing up his testimony on this question—I assume that most of you are married men—and I say to you now, without fear of contradiction, that if that girl was lying in an unconscious condition on that blanket on the ground, it was impossible for these men to have consummated the act of sexual intercourse in the time that is said to have elapsed between getting out of the wagon and returning to it again. His story is unreasonable and inconsistent. Again, why would they go to him and make an exhibition of themselves, if they had committed this act? He was not a pal of theirs; he did not know any of them except McAlister, whom he had met once before. He did not know Campbell, Kerr or Death. He was not a companion or associate of any of them. It does not appear that Kerr or Campbell were drunk; nor does it appear that McAlister or Death were intoxicated. They had drank some, but were not drunk. Would it not be unnatural and unreasonable to believe that men who were sober would go up to his wagon, after committing an act of that kind, and make such an exhibition to him, an entire stranger? How did they know what use he would make of it? There was no confidential relation existing between them, and all of them, he says, came to his wagon, doing the same thing at the same time. Impossible, gentlemen. In his zeal to swear this case through, to make it most filthy and disgusting, he destroys the whole effect and the whole weight of his testimony. If these defendants had intercourse there, they had to go with her separately, and between the time that would elapse when the first one went with her until the third and the fourth one got through, is it likely that during all that time the first man would be wiping himself and have his parts exposed and exhibit himself to the hackman, and so with the second man, in the time that elapsed between his intercourse and the last man? Is it likely that he would be walking around there exposing his person, and then after they all got through, that all four should have gone up to his wagon and made the exhibition

that he describes? Unnatural, incredible, impossible, too inhuman and too brutal to believe.

But there is another matter which will go far to aid you in reaching a proper conclusion in regard to this evidence. The story is contrary to natural law. No man can have intercourse without first having his passions aroused or excited in some degree. This must necessarily be done by the subject upon which his mind is fixed to go with. What was the situation here that would be likely to excite passion? There upon that lonely hillside, with the dark clouds of night hovering above, on a blanket lay this girl, unconscious, asleep, practically dead to the world. She lay as the subject lays upon the operating table, in absolute ignorance of her surroundings, deprived of perception and sensation, a mere mass of animal matter, dressed in the apparel of a woman. Can you imagine how it would be possible for any one man or two men—and sober—no matter how dark the night, no matter how secluded the place, no matter how great the temptation—can you conceive of the probability of there being excited and aroused in your breast, as you looked down upon that unconscious woman, passions that would enable you to take part in the execution of what they allege was done there? Ridiculous, monstrous, impossible. Only stop to think of it for a moment. I go further, I say, that when Sculthorpe makes that statement in regard to these defendants—that he has related here, he lies, and he knows he lies. But it is for you to say.

Again, I believe that the condition in which that woman was, made the consummation of intercourse with her impossible, and it certainly was never possible, under the circumstances and in view of her condition, for four men to have perpetrated the rape, within the time the hackman says it was all completed and they all returned to the wagon.

These are important matters for you to consider. They are circumstances by which you can detect a liar. A man may come before you and swear that the top of a black table, which is before you, is white, but that does not make it so. You have a right to exercise your judgment as men—as married men, some of you—as men who know the laws of human nature, who know how unreasonable and how unnatural is the story told here.

But Sculthorpe is keeping his bargain. He came here to swear away the lives and the liberty of these men, and he is willing to lie to accomplish it to save himself. You

stand between these defendants and harm, and if you do not believe his story, it is your duty to say so.

Again, the State's case is wholly predicated upon the idea that the girl was taken to the hack and taken to the woods on the Rock road for this very purpose. Let us stop for a moment and think. Is there any evidence here, tending to show that these boys had any means of knowing how long this girl would remain in this narcotic and unconscious condition? No. There is evidence from the doctor and the chemists that the stupor resulting from chloral hydrate is frequently of short duration, often not more than an hour or so. Right here, just ask yourselves this question. If they administered chloral to this girl for the purpose of having intercourse with her, would they be likely to drive to a point that was such a long distance away; an hour and a half drive? Is it likely that they would take the chance of getting to that point and of having the girl revive from her stupor and defeat their object, when they could have gone to a dozen places before it was possible for her to revive? You see, gentlemen, as I stated to you at the outset, you must deal with this case rationally, naturally, and as men. You are here to judge and decide upon the conduct of men, and you must apply the knowledge and experience which you possess as men in reaching a decision concerning it. It is sad that this life has gone out. Nothing that you or I can do will restore it. You are here dealing with the question involved in this indictment, in the abstract, and in so doing we must not give way to passion, prejudice or revenge. We must not get in mind that some victim must be sacrificed upon the altar of justice, guilty or innocent. Do not let us lose sight of the question at issue here: Are these defendants criminally responsible for her death? That is the proposition, and I submit to you, gentlemen of the jury, that this story related by Scuthorpe is so unnatural and unreasonable, that in view of the motive which he has for coloring and distorting fact to obtain his own freedom and in view of the facts to that he admits that he told one story under oath before the coroner's inquest, and he tells another one here, and in view of the fact that we have proved him to be a liar at the very outset of the case, when you reflect upon its unnaturalness, it would be cruel and unjust to convict these men and to protect him, who, if the story he tells is true, is more guilty than they.

You must also bear in mind in dealing with this case

that it is not like "as if this young woman had been decoyed by these defendants and led away by cheerful talk and pleasant conversation. This is not the case. You are dealing with the case where at her invitation this meeting was fixed for the back room of Saal'ssaloon. Whether she had been there before or not we do not know. You have a right to infer from her conduct as related by the witnesses.

Will you, "under these circumstances, sacrifice the lives of these men on such testimony?

I further contend that the uncontradicted evidence in the case shows that this woman was not ravished.

False swearing, calumny, distorting and placing a wrong construction upon facts frequently convict a man no matter how innocent. But it has been well said that "truth crushed to earth will rise again." So in this case, there is evidence here of a character that is irrefutable—of such a character that the testimony of all the Sculthorpes in the country cannot overcome—testimony that places these defendants safe beyond the reach of the State notwithstanding the wilful machinations of the gang of detectives and the hackman who have started out determined to swear away their lives. Do not forget that you are sworn to try these men on the evidence—on the facts proved.

The importance of this case has made it necessary that we should have the testimony of the witnesses transcribed that we might refer to it and correctly state it to you in the argument. Indulge me for a moment while I read to you the evidence of Dr. Vroom bearing on the question of rape. This woman was found about six o'clock in the morning on the Bergen county side of the Passaic river, about four hours after she was laid there. Immediately on finding the body Dr. Vroom, being coroner, was notified, and living at Ridgewood, only four miles distant, he was soon at the scene, and at eight o'clock in the morning had the body removed to Alyea's mill and there six hours after her death made an examination of her. What does he say was the result? He found her clothing intact. She had on a white underskirt next her skin and a black petticoat next to that. There were no stains upon her underskirt or her petticoats. He further states he went over her body and says: I made a physical and vaginal examination of the body, I examined the uterus, and as a

result I found everything normal, no evidence whatever of violence that would indicate rape.

Had rape been committed on her, the examination of her body and her clothing so soon after her death would have given some evidence of it. On Monday Dr. McBride, in company with Dr. Vroom made an autopsy, and before doing so, examined the vagina and the uterus, and removed them, and after doing so, they examined them again, and found each of these organs in normal condition, showing no evidence whatever of rape, and showing no evidence either internally or externally that would indicate an assault.

The testimony here on the part of the State, given by this dead girl's sister, is that when she dressed that morning and when she was found she had next to her body a short white underskirt and next to that a short black petticoat and next to that a black petticoat, and then her overskirt, and all these garments were upon her when first seen by Dr. Vroom and when she was brought home. She had on no drawers, but there is no testimony in the case to show that she had on drawers that night when she left her home at eight o'clock. Whether she did or did not, no one can tell, and you are not permitted to guess.

In addition to this we have the evidence of Dr. Todd who examined the uterus, ovaries, vagina and tubes, and found the parts to be normal and no injury of any kind, and the external genital organs showed no evidence of violence whatever.

Right at this point, regardless of everything else in the case, I believe that with this evidence I can demonstrate to you beyond all question that that girl was not ravished on the hillside. On that evidence I feel that I will be able to present to you an argument that will dispel the base slander that has been hurled at the social conditions of our city, tending to degrade and to lower our people in the eyes of the world, all predicated on statements made by this most detestable of men, Sculthorpe.

My contention is that one man, two men, three men or four men, as the hackman put it, could not have had sexual intercourse with that unconscious woman lying there upon that blanket on the roadside, without leaving some evidence of the result of the operation, which has not been adduced here. The unnatural description that the hackman gave of the uses which these men were making of their handkerchiefs when they came up to his wagon would lead you to believe that intercourse had taken place,

and that would imply that the semen of the male had been discharged into the female. Semen is animal fluid. It is life; it contains spermatozoa, and when it touches cloth it dies and leaves a stain on a white garment which will be yellowish green, and on a black garment the stain will be grayish. If these men had intercourse with that woman that night there would have been some evidence of semen upon that white underskirt or upon her black underclothing. You will bear in mind that she at the time was in a reclining position. She was lifted from the ground and placed in the hack and kept in a reclining position, and when she was taken out to be bathed and worked with at the brook she was laid on the blanket and kept in a reclining position. When she was placed back in the wagon to be driven to the doctor's, she remained in a reclining position, and she was in that position when examined by Dr. Townsend, and remained in that position when she was left on the roadside, up to the time that Dr. Vroom examined her, six hours after her death. If she had been raped there would have been some evidence of it upon her underclothing, beyond all question. There would have been evidence of it in the vagina, in the vaginal canal, in the uterus. The doctors who examined these organs say there was none. Where are the underclothes that she wore that night? They are in the custody of the State. They were examined for the purpose of discovering evidence of this crime. They do not bring them here, and the men who examined them do not tell you that they found any evidence upon them. On the contrary they say that the examination of her clothing and her body indicated that no rape—no assault—had been committed. We have a right to say that if those garments which she wore that night had any evidence of this crime upon them, they would have been brought here and shown to you with the greatest gusto, for the purpose of breaking down the story of these defendants and vindicating Sculthorpe.

In cases of this kind everything runs along very smoothly if you allow the state to say what they please, and do not call upon them to prove their accusations. We must bear in mind that we have in our hands the lives of these three men, and you are to decide whether they are guilty or not of murder in the first degree, and one of the points—aye, the only point—in this case is, was that woman ravished by these defendants that night? It is therefore highly important that we should give the greatest thought and the greatest consideration to testimony of

this character about which there is no possibility of being mistaken; and right here I call upon the state, in the presentation of this case to you, to explain, if it can, how one man, two men, three men or four men, can have connection with a woman in an unconscious condition and not leave some marks or traces of the intercourse there upon her person, on her limbs or on her clothing. If she had been conscious and in a normal condition she would have participated in the function. To the passion and the passivity of the male there is the receptivity on the part of the female, and where coition takes place and semen is ejected the greatest portion of it is absorbed and retained in the parts of the female, and had there been penetration, here on that vagina or in that vaginal canal, when examined by Dr. Vroom, there would have been found unmistakable evidence of its existence, but he says there was nothing there.

The uncontradicted evidence is that she was unconscious and helpless. They had patted her on the back; they had assisted her to vomit, rubbed her ankles, and rubbed her hands, to excite circulation. She was in a coma; she was not in condition to perform the natural functions of having intercourse or of appreciating the sensation that naturally accompanies it. Her mind was asleep; her nerves were dead. I tell you, that if this woman had been raped, as the State would have you believe, there would have been found a quantity of semen upon that white underskirt after four men had been down upon her that would have hung them all; and justly so.

We are dealing with this question as men with men, and we must judge of these matters from our knowledge and experience of natural laws and human conduct. Do not let yourselves be carried away or lose your bearings in this case simply because the Prosecutor stands here representing the State and will call upon you to believe as true this unnatural, brutal statement of Sculthorpe. Think of it, that in the face of his story he is released on five hundred dollars bail—a principal in this crime, if there was one under the law—coming here in the face of such evidence as I have just related and trying to swear away the lives of these men, and you are expected to disregard natural laws, to cast aside reason and experience, to give way to sentiment and public clamor, and to guess at conclusions to convict the defendants. No, gentlemen; you should pause before taking such a step. You have a right to say to the Prosecutor, “We refuse to obey your man-

date; you must make out your case against these men beyond a reasonable doubt before you can ask us to convict them, and in doing so you must also prove that in giving credence to the story of Sculthorpe we are not violating the laws of nature. You must also satisfy us that the theory of your case upon which you predicate the guilt of these defendants, is not in violation and in contravention of natural laws." On this most important element of the crime we have Dr. Vroom, Dr. McBride, and Dr. Todd, three physicians of standing and repute, all testifying to the fact that this woman was not assaulted as the State claims on that hillside that night. In addition to that we have the evidence of McAlister, Death, and Campbell that she was not assaulted there. Six witnesses on the one side, with Sculthorpe, a self-convicted liar, on the other, and it is for you to say whether or not you will disregard their testimony, ignore it wholly, and believe Sculthorpe. The testimony of the doctors cannot be mistaken, but we know Sculthorpe has lied in some things, and his story is so unnatural and unreasonable, you have a right to believe that he does not tell you the truth in this.

I therefore contend that by this evidence it is conclusively demonstrated that Jennie Bosschietter was never raped on that hillside, and the count in the indictment based upon that accusation must therefore fail.

In the next place, I contend that this woman did not die of chloral poisoning. What was the cause of her death? Professor Witthaus in his testimony says that he made an analysis of the stomach and to do so it was necessary to make a cross section, and as the result of his analysis he found an average of five grains of chloral in half of the stomach, and he estimates that there would probably be ten grains in the whole stomach, but he states further that what was in the stomach did the person no more harm than if it had remained in the bottle. He also says that in his judgment this girl died of chloral-hydrate poisoning. How much had been given to her he does not know. He estimates that she may have had fifty grains. He made no analysis of any other organ of her body, because he says the nature of chloral is such that it takes its effect after passing into the system and after that stage it is almost impossible to trace it, and for that reason no other analysis was made. He also gives the different tests that he made—six different tests—the odor test the smell of witch hazel, and the color tests, and he says

that from the results of these tests he is able to state that she died of chloral-hydrate poisoning. He also says that he is hired in this case as a paid expert, and he has frequently testified in other cases, and in opposition to other chemists, and that frequently the juries before whom he gave his testimony have not agreed with his statements or theories, but have wholly disregarded his evidence in rendering their verdicts. He was employed in this case to find chloral and he found it. He was informed before he made that analysis what this girl drank that night. He knew when he received that stomach that there were no solids left in it, and that what she drank was taken when the stomach was empty. He knew that on Friday after that body was found it had been embalmed and embalming fluid had been injected into the lungs, into the heart, the stomach and intestines, and that the organs of the body had remained saturated with that liquid from Friday until Monday afternoon, when the autopsy was performed by Dr. Vroom and Dr. McBride, and the stomach removed, and yet he makes no attempt to analyze this embalming fluid to see what it contains and what test would result from such an analysis. But we were fortunate in being able to secure an expert just as able, just as competent and just as capable of testifying as Dr. Witthaus, and he tells you that he procured a cocktail made up by Mr. Saal in the same manner that Jennie's was made up that night, and he procured some of the same absinthe, a quantity equal to what she drank that night, and also the same quantity of champagne. It is admitted on the part of the State that these were the drinks she took before her death. Dr. Vandemburgh made a chemical analysis of a combination of the cocktail, the absinthe and the champagne, and as a result of that analysis he obtained the same identical results that were obtained by Dr. Witthaus when he analyzed the stomach and pronounced it to contain chloral.

You must bear in mind that in the one case there was analyzed the things that were known to be in her stomach, while in the case of Dr. Witthaus he analyzed the stomach and tried to obtain a result that would demonstrate that chloral-hydrate was also in that stomach. Right here let us pause and put the result of the analyses of these two experts side by side, and what do we find? The analysis of the cocktail, the absinthe and the champagne, gives you the same tests, the same results as obtained by Dr. Witthaus when he swears here that his analysis indicated chloral, while we know that those made

by Dr. Vandemburgh were simply evidence of these alcoholic drinks.

In the face of this the State will ask you to say that this woman died from chloral poisoning, to disregard the testimony of Dr. Vandemburgh, to disregard the testimony of the result of analysis of things which we know existed, and to believe the testimony of Dr. Witthaus when you do not know and have no evidence to show that anybody ever administered to her chloral. Is there a doubt here if you place these men side by side? How can you say who is right and who is wrong? And yet that you are expected to do, and you are not presumed to make any mistake in your conclusion. But bear in mind, that whenever a doubt arises, the prisoners at the bar are entitled to the benefit of it, and as between these two experts the defendants should have the benefit of the doubt. They swear they gave her no chloral, and there is no evidence to the contrary, except that given by Dr. Witthaus. What more do we find? Dr. Vandemburgh says he analyzed a combination of the embalming fluid with the cocktail, absinthe and champagne, and he got the same results as obtained by Dr. Witthaus. The undertaker says that about two quarts of this embalming fluid was used in treating that body. Here is the label from the keg in which it was kept, and from which the fluid was taken, and the first word on the top of that label is "poison." The stomach which Dr. Witthaus examined, it is admitted, was saturated with that poisonous embalming fluid for four days before it was removed. It is admitted that Dr. Witthaus made no test as to the chemical composition of this fluid. Professor Vandemburgh has made such a test, and he obtained the same results in his tests of the combination of the embalming fluid, cocktail, absinthe and champagne that Professor Witthaus obtained in the analysis of the stomach. He says that the result of his analysis, was chloral hydrate, although he obtained the same result from the same tests as Dr. Vandemburgh's while we know that the substances which Dr. Vandemburgh analyzed, were not chloral hydrate.

From this evidence how can you say that this girl died of chloral poisoning, when there is no evidence of anybody administering it to her, and that she did not die from the effect of the cocktail, the champagne and the absinthe, when it is admitted that absinthe is a poison and that an ounce and a half will kill, and she drank over two ounces

on that night on an empty stomach? I contend that the more natural, the more reasonable, conclusion is that she died from what she drank, and not, as Dr. Witthaus says, from chloral, because there is no evidence of its having been administered. The state has assumed the burden of proving the propositions necessary to make out this case to you beyond a reasonable doubt. Let us hold them strictly to this.

Bear in mind another fact, in comparing the testimony of these experts, that the effect of absinthe and chloral is practically the same. Both produce at first excitation, which later on is followed by a drowsiness and languid feeling, and coma; and where it is possible to reconcile conflicting testimony, such as there is existing between these two experts, the one to be consistent with innocence and the other tending to prove guilt, we must accord the preference to that which shows innocence rather than that which shows guilt.

Bear in mind another fact, that Dr. Witthaus, although sitting here and prompting the prosecutor in the examination of Dr. Vandenburg, did not dare to go upon the stand to contradict a single word he had said concerning his chemical analysis, but they undertake, in a mean, underhand way, to make some insinuations against Dr. Vandenburg, as to how he became employed in this case. It was small on the part of the State to do this. It would look as if the prosecutor was a little jealous because the defendants in this case happened to be able to obtain the services of a competent toxicologist, and particularly of a man who had been associated with Dr. Witthaus for nine years as his chief assistant in many important trials such as the Carlisle Harris case and the Buchanan case. They were afraid that he might give testimony that would overcome the bald and unvarnished testimony of Dr. Witthaus. He has done this, and he has done it well, and if there is any one fact that stands out before you more prominently than another, it is this—that Dr. Witthaus is not infallible.

In addition to this, we have the testimony of Dr. Laflin that an ounce and a half of absinthe alone on an empty stomach would kill. It is poison, and that much has been known to kill. How much more a person might take without fatal results it is conceded by Dr. Vandenburg, Dr. Witthaus and Dr. Laflin that they are unable to tell. There is another fact we should bear in mind in dealing with this case and solving this question. The highest esti-

mate that Dr. Witthaus could make as to the quantity of chloral-hydrate in her system was fifty grains, and yet he testifies in this case that she died of chloral poisoning. But at the same time he says that sixty, seventy, eighty grains, and as high as four hundred to four hundred and sixty grains have been taken without any fatal results. You will see from this, gentlemen, that you cannot accept as true this statement of Dr. Witthaus, and when you consider that chloral-hydrate is what is commonly known as "knock-out drops," you will also see what little reliance is to be placed upon the statement of the police in this case. You have no right to conclude from this evidence that her death was caused by chloral poisoning.

I have already addressed you more at length and more in detail than I expected to do at the outset, but the case is one of such magnitude, and there are so many different phases of it which require consideration and discussion to enable you to properly reach a conclusion. The mass of testimony which we have been obliged to go through at night has made it necessary for me to consume more time in the presentation of the case than if an opportunity had been afforded to have carefully reviewed and analyzed the testimony before making my argument.

In an important case of this kind, there is always on the part of counsel a solicitude and an anxiety lest in the discharge of his duty he might omit something which he should have called attention to, but whatever omissions I may make I shall have to trust to you to reason upon them, giving them your best and most conscientious judgment, resolving every doubt in favor of the prisoners.

Before closing and leaving the case with you, there is one matter of which I deem it proper I should speak. The prosecutor in his address to you will undoubtedly severely criticise and upbraid these unfortunate boys for their conduct on that fatal night in disposing of the body of the girl after they discovered she was dead. But we must bear in mind that we are men and we may make mistakes, and in judging of the conduct of others it is necessary for us, if possible, to put ourselves in their position. It will not do for us to allow one man to arbitrarily adopt a standard as the guide and the rule for human conduct and expect all others to live up to that rule, regardless of circumstances or conditions. It will not do for us to reach a point where we undertake to exact and hold one man to any different scale than that which the law holds us to and holds us accountable for.

Why did they leave that body on the roadside that night, instead of taking it home? In answering this question, just think a moment and realize, if you can, what was the condition of mind of those boys when they learned from Dr. Townsend that this girl was dead. That they never intended or anticipated any such result the whole evidence in the case clearly shows. They took her out to revive her when she got sick, and on the hillside they worked and labored with her, and not a physician is brought here to show that what they did was improper. They took her and laid her alongside the brook, and there again rubbed and worked with her, and tried to start up the circulation, and when they found there was no response to their treatment they immediately replaced her in the hack, with instructions to the hackman to drive as rapidly as possible to the office of a physician, and they never stopped until they found one. Is that the conduct of men who start out to murder their victim, or is it the conduct of men who are trying to do everything in their power, to even placing her in the hands and under the treatment of the physician, to restore and revive her. Such conduct is consistent with innocence and absolutely inconsistent with crime.

When they learned that she was dead, they were confused, disconcerted; they knew not what to do, nor where to go. Their reason was dethroned; their power of judgment was gone; but that hackman, who drove that cab, who had not been drinking, who had not been in company with the girl, who had all his faculties about him, who could have suggested a plan and guided them while they were in that terrible and excited condition of mind, drives on and on, giving not a word of protest, not a word of counsel or advice to aid them in changing the terrible consequences that might be created against them by leaving her body on the roadside. But he, knowing what they were going to do, goes with them and assists them in leaving the body where they did. He does more. After they returned and went to their homes, he never opened his mouth to advise them in regard to this affair, and he keeps it concealed and becomes thereby an accessory after the fact as well as principal before the fact, in this terrible crime, if a crime at all. But they were not responsible for what they did that night after that girl was dead, and their subsequent conduct shows conclusively that they did not feel that they had committed any crime. If they believed that they had committed crime, do you

for one moment suppose that they would have laid that body on the roadside within a short distance from a road that is more frequently traveled than any other road in the county, and where she was sure to be found at the break of day? If they had been guilty of crime, or if they felt that they had been guilty of crime, their first impulse would have been to conceal it, and they could have driven a mile below the place where they left the body, to Dundee Lake, and there deposited the remains in such a way that the world would only know that she had disappeared, and where she was or what had become of her would probably never be devulged. They were afraid to take her home, and they left her in a place not far distant where she was sure to be found and sure to be taken home. If they had felt that they were criminals, do you imagine that they would have remained in Paterson at their homes, reading accounts of this affair in the newspapers day after day, seeing the different theories that were being advanced to discover the cause of her death, and who was responsible for it? No. Not one of them went away from town; not one of them attempted to escape; but when they were apprehended or notified to come to the police station, they were there. Not a single thing was done by them that could be regarded as evidence of criminal conduct. There is no evidence in the case to show that, from the time they took that girl into Saal's saloon up to the time she expired on their hands, their treatment of her was not proper for a person in a state of intoxication. If it had not been proper the State would have said "You should have taken her at once to the doctor; you were neglectful in your duty, and therefore, although you are not guilty of murder, still you are guilty of manslaughter." But this is not even suggested.

I do not pretend to say that their foresight in the disposition of this body was what it should have been. At the same time, put yourselves in their position and ask yourselves what would you do under like circumstances. Tell me, if you can. It is not a matter where you have an hour or two hours for reflection. It is a matter in which they were obliged to exercise judgment at once, and under the circumstances that existed there, as I have already said, it will not do for us to hold them to that same degree of accountability that we might be disposed to exact from them under different circumstances.

There was nothing criminal in their conduct, and the disposition that they made of this body after they discov-

ered she was dead, should have no weight with you in deciding that greater and more important question : Did they reduce her to a condition of insensibility for the purpose of ravishment, and then ravish her, from which death ensued? That is the charge we are here to meet. Those are the elements that constitute and make up these allegations, which the state must prove beyond a reasonable doubt. They have failed most woefully, failed in many particulars, and the defendants are entitled to the benefit of them.

Now, gentlemen, I propose to leave the life and the liberty of my clients in your hands. I have discharged the duty reposed in me as best I could in this feeble effort before you. I have tried to leave nothing undone which would tend to present to you the true, natural phase and theory of this case in behalf of these defendants. Bear in mind that you are not here dealing with hardened criminals, men steeped in crime. These defendants are all young men, who have always stood well in this community. They have never before been accused of or suspected of crime. They are members of respectable families and of good social standing. Whether or not they are amenable to the criminal law for this unfortunate accident must be decided by you.

Campbell is a young man, twenty five years of age; for the past six years he has been a bookkeeper for one of the leading silk firms of our city. His honesty and fidelity to duty has won for him the respect and confidence of his employers. He was studious and ambitious, not wayward and reckless. Left without a father in early youth and having a widowed mother and younger sisters dependent upon him, he was obliged to begin work at a tender age, and his mind has always been occupied and he has had no time for dissipation, no disposition to engage in it, no means to squander on it. The necessities of home were sufficient to absorb his resources, and there they were given with a cheerful heart and manly hand. That boy took the place of his father in keeping the family together and aiding in their support. For him the future was bright and full of hope. He stands before you with a character untarnished. His reputation and name before that fatal night was a synonym for honesty, integrity and manhood; to-day he is here trying to vindicate himself from this terrible charge. Oh, how unfortunate that on that fatal night he did not carry out his determination and go home on leav-

ing the saloon! We know his past but his future must now be left with you. On behalf of him, incited by the love of a widowed mother and the affection of kind sisters, we must now trust to you to do him justice.

But William Death is also a young man of good reputation and unblemished character. Never before has he been accused of crime. When in 1898 war was declared between this country and Spain and volunteers were called for, he being a member of militia was among the first to enlist in response to that call and put on the uniform of the soldier. He went forth to the field ready to offer himself as a sacrifice upon the altar of liberty in defence of the flag and in vindication of the noble and lofty purposes for which war was waged. After the hardships and privations of those times he returns to his home and his friends honorably discharged. Soon after he marries and starts out with his bride on the sea of life prepared to leave nothing undone to make a happy home, where two hearts could beat as one. How sad it is to see how quickly bright hopes and prospects can be blasted and the domestic circle of the most innocent and upright can in an instant become enshrouded with gloom, sorrow, and despair. The occurrences of that fatal night were accidental from start to finish. Are you satisfied beyond a reasonable doubt that the young men under this evidence are guilty of this charge? If not you must acquit them. There are missing links throughout the whole case on the part of the State; before you convict you demand the proofs.

What I have said of my clients is also true of young McAlister. Never before has he been accused of crime and there is not a particle of evidence here reflecting on his integrity or his reputation for truth and veracity. All these defendants under the law are competent witnesses and just as worthy of belief as the witnesses on the part of the State. You are here to administer justice. You stand between these defendants and harm. Their lives, their liberty, their past and future are all left with you at the close of this trial. The responsibility is yours; the right to convict or acquit is yours, no matter what the prosecutor says. No matter what the court says, you are the final arbiters. Arise to the dignity of the occasion and deal with these men fairly, honestly and justly. Deal with them as men—as human beings. Deal with them as you would like to be dealt with were you in their position.

In considering their conduct do not apply to them rules that you would not be willing to have applied to yourself under the same conditions. Weigh up the evidence in the case by natural law, not by some imaginary rule that is inconsistent with nature. In considering this case be merciful, not revengeful; instead of allowing yourselves to be carried away by public clamor or loud denunciation from the prosecutor, anchor fast to the evidence in the case. Let not your passions be aroused and your judgment swayed by the address of the prosecutor. Always bear in mind that the responsibility and the consequences that flow from the verdict in this case will rest upon you and yours. The state demands that you shall say that these three young men must forfeit their lives. Think what this means. What it means to the defendants is of little consequence compared with the humiliation and disgrace it would bring upon their families and friends. It would be a blow upon the name of Campbell, Death and of McAlister which time could never remove. The wholesale execution of three young men under the evidence in this case would be a travesty of justice, a dishonor to our city and a sad reflection upon the fair name of the commonwealth of New Jersey.

Gentlemen of the jury, believing that you will judge these defendants as men—men who are human beings like yourselves, possessed of the same faculties, susceptible of yielding to and resisting temptation to the same extent that you are, that you will do by them as you would they should do unto you, and trusting that by your verdict you will vindicate these defendants and the name of this city from the false, scandalous and lying stories of Sculthorpe, I now leave their lives in your hands.

By accident the address of Judge Hoffman was not taken stenographically and it is reproduced as accurately as possible from notes of his brief and from those which were taken by reporters in court.

By permission of the Court, Gentlemen of the Jury:—

I congratulate you on the approaching end of this case, and commend you for the unwearied attention that you have given to the details of it, from which it has appeared to me, from its commencement until now, that you have fully realized the tremendous responsibility which rests, almost, upon you alone.

In an experience of a third of a century, I have known of no sadder case than this. We have been investigating the cause of the death of a young girl, who had, prior to October the eighteenth of last year, all the possibilities of a long life before her; who had father, and mother, and brothers, and sister, whom she loved and by whom she was loved, and who to-day sit in unmitigated sorrow because of her untimely taking off. I have tears, and the sympathy of common humanity, for them, and I would paint the grave of Jennie Bosschietter with flowers. Whatever her youthful mistakes or follies, they will be hidden from memory by the green which will soon cover her last resting place. Oh! the pity of it! the pity of it!

She died on the morning of October the nineteenth. How? What caused her death? By whose hands? These questions have excited this community for months. Pending the answer to them, perhaps there has not been the patient waiting for the only method of their determination. Now and here, however, all theory, all passion and prejudice, all excitement, all sympathy, must be stayed, and in the cold calm of this court room, with deliberate judgment by you, gentlemen of the jury, all the problems of this case must be solved.

Let me ask first, who caused the death of Jennie Bosschietter? The representatives of the state say, these three defendants; and further that in so doing they are guilty of murder of that degree which, if so determined by you, means their death.

I have no excuse for their follies or worse; but I do not forget that they are on the threshold of life, that their lives may yet be of good repute, that in the future they may become good citizens and God fearing men. I do not forget that they have fathers and mothers, and one a

wife, all of whose lives are to be infinitely affected by the result of this trial. So we are all here in the discharge of a duty, fully alive to our responsibility and to the overwhelming importance of the case. I am here as counsel of these three defendants, and I am also here as a minister of justice, and an officer of this court, and it is my duty, as far as in me lies, to give you proper aid in arriving at a just result. If I know myself, I am not here to advance any fine-spun theories; I am not here to attract your attention away from anything that is in the case; I am not here solely as the defender of these men; but I am here, as I before indicated, to give you such advice as may be valuable and useful to you. If I transcend that duty, if I go outside of the testimony, if I shall say anything that does not commend itself to your judgment, it is for you to pass all of that out of your mind; but if I shall put before you, in the discharge of my duty, such views as may seem to you consistent with the testimony, and which may seem to you to be right, in this case, then I do urge you, gentlemen, to let those views find lodgment in your minds and assist as best they may, in arriving at your final determination. For no matter what has been said, nor what I may say, nor what may be said by those who come after me, you, and you alone, have the responsibility of this case. After all has been done, after the witnesses have been produced before you and have testified, after counsel shall have given you their views upon the subject, after the court shall charge you; yet, after it all, you and you alone, must decide this case.

How shall you do it? It seems to me that the consummation of human wisdom is summed up in the oath which you took. Each of you said "I will well and truly try this issue of traverse joined between the State of New Jersey and the prisoners at the bar, and a true verdict render according to the testimony." And when you said that, with your hands upon the gospels, you invoked Almighty God to assist you in this most responsible duty.

Where is the starting point in this case? I did not hear it in the opening of counsel for the state, at the commencement of the case, nor did I hear it from the Assistant Prosecutor of the Pleas in his summing up yesterday but there can be no difference of opinion, from a legal standpoint, as to where the start must be made, in all cases of this character: It is, the presumption of innocence of the defendants. It is a presumption of common humanity, of common sense, and of the law.

I know that officers of the commonwealth sometimes forget, and sad it is to say that jurors sometimes fail to realize, the force of this presumption. Walter McAllister, William Death and Andrew Campbell, the law says, are presumed to be innocent, and the State of New Jersey must, by facts adduced, prove their guilt.

Why, gentlemen, if a fire breaks out in one of the beautiful homes of your goodly city, and the alarm is given, you and all the people of this town, hasten to it, and when you see, away up in the topmost window a child in danger of death, by every means in your power, by every appliance within your reach, you strive to save that life. When a vessel comes careening up our coast, and the angry winds drive it upon the shore, and you hear the cry that there are hundreds of human beings in that vessel, down to the maddened ocean you and all the people go, with all the appliances of modern science and all the inventions that human ingenuity has devised, and cannons are fired and boats are launched, and life lines are thrown, and every effort is put forth, so that all these endangered men and women shall be brought safely to land. A train of cars, going on its swift course from one city to another, falls into the track of a broken bridge, and goes crashing down, with all on board, men, women and children; and for miles the people gather; what for? that by their efforts, their aid, and every means within their power, someone may be plucked from death.

And so, when a grand jury finds an indictment against a prisoner, the laws calls upon all its history, all its decisions, all its science, to take that prisoner out of the force and effect of that indictment. It crystalizes all its forms around him, as a citizen of the commonwealth, and says, he shall not go to his death, unless beyond a reasonable doubt he is shown to be guilty. In every way, in every form of expression, the law says, proof, not inference, proof, not guess work, proof, not the results of uncertain chemical experiment, proof beyond reasonable doubt, or no scaffold shall be reared, no execution shall be had, no death shall occur.

If the facts in this case can be reconciled with the innocence of these defendants, the law says that shall be done. If any material fact can be explained on the ground of innocence, the law says that shall be done. More than that, it is not sufficient that the circumstances proved coincide with, or even render probable, the guilt of these defendants; but they must exclude to a moral

certainly every other supposition than the one of guilt. If I can show you that the combination or train of circumstances is explainable on the basis of the innocence of these defendants, it is not I, but the law of this Commonwealth that says, that they shall not be convicted. If I can show you that any material circumstances can be explained upon the basis of innocence, the chain is broken, and it is not I but the law of this Commonwealth that says, that these defendants shall go quit of the charge. They are not to be presumed guilty by reason of the indictment; nor because since last October they have been in prison; nor because for all this week they have been on trial; they are not to prove their innocence, but the State must prove their guilt, beyond a reasonable doubt.

These men come before you as innocent as any human being in this court room, and the State, starting from that standpoint, must satisfy you, by such testimony as will put your minds in a condition of abiding certainty, that they are guilty of the crime charged; or they must be found not guilty.

So the law says, in a thousand ways, all in favor of life, and never, in a single sentence, in all the written books, can you find that anything can be taken in favor of guilt when, by fair argument and reasonable inference, it can be said that the facts are explainable upon the hypothesis of innocence.

It may be well here to ask, what is a reasonable doubt. The science of metaphysics has been exhausted, legal definitions can no further go, in the attempt to formulate some definition of this important portion of the law. Yet no proposition has ever been formulated that has been satisfactory to my mind, and I think I may say, to the ordinary understadding.

If in this case, upon any material point, you are in that condition of mind where you say "before I decide upon it I should like to have more testimony," that raises a doubt, and you being men of reason, and reasoning upon this, it is a reasonable doubt. I know of no better way of putting it than this.

Now, gentlemen, keeping in mind these important principles, let us approach the discussion of this case. Whatever view may be taken of the law, one thing is certain,—if the case shows, that Jennie Bosschietter did not die from chloral administered by these defendants, or by one of them, the others participating, and that no rape was committed upon her, the case ends here. I pro-

pose to show you, from the testimony, that there is no legal proof of either, and I intend there shall be no mistake made about it.

First of all, does the proof show that chloral was administered by these defendants, or one of them, the others participating?

Chloral is a drug in universal use, and it is used as a beneficent remedy. Doses of hundreds of grains have been given without fatal results. True, much smaller doses have resulted in death.

Did Jennie Bosschier die from chloral? That's a material fact, and must not be left in doubt. The testimony of Dr. Witthaus is the only evidence on the part of the state worth discussing; the two other doctors only say "if she died from chloral poisoning why then she died from chloral poisoning." Dr. Todd, by the process of elimination, doubtful in all the factors that he used, thinks that that chloral caused her death. Dr. Terribery concludes his opinion by saying "in all probability her death was due to hydrate of chloral." So I thrust Dr. Todd and Dr. Terribery, with their testimony, out of the case.

Now, who is Dr. Witthaus? A chemist, an expert chemist, and also an expert witness. He has been a witness in many cases. In some of them the court and jury took his views, and in others they absolutely disagreed with him. This is the history of all expert witnesses; and it not infrequently occurs that expert witnesses disagree with each other. This fact is known to you all.

He finds five grains, or possibly ten, of chloral hydrate, so he says, or so he believes, he says, in the contents of the stomach. Whether in point of fact he did find the chloral, after considering his testimony is for you to say. Let's see his test, how he abides the test as an expert. He says he don't know how chloral kills; he don't know how it affects respiration; and while he says the amount found by him indicates that a greater amount had been given, he cannot say definitely how much. He further says that the amount found in the stomach could not have done her any more harm than if it remained in the bottle.

(Judge Hoffman here referred in extenso to the testimony found on preceding pages.)

Now, what have we got? The amount found in the stomach innoxious, the amount given not known; the missing part was the hurtful part, and that not known; and upon that guess work he swears that death resulted from the chloral. Are men to lose their lives upon such

evidence as this? Are men to be convicted of murder in the first degree upon the testimony of an expert, and that testimony incomplete, uncertain?

Now, how did he find chloral hydrate? He says by six tests. You heard him describe the tests. But I will read you his testimony upon that point, so there may be no misstatement made by me in the endeavor to recount it.

(Here the doctor's testimony as to his tests was read.)

Think of the mixture of chemicals used! Think of the uncertainty of such experiments! It would seem to the ordinary mind that you could find anything on earth by such combinations. We all know that analytical and synthetic chemistry are not perfect sciences. We know that experiments are being constantly made which show that the former doctrines with reference to them are not true and accurate. We know that a host of things with reference to both of these sciences have by recent experiment been exploded. But what does the doctor say? I read you a question and answer, just here: "Question: Doctor, you made six experiments. You were not satisfied that there was chloral hydrate in this body by the results of any one of these tests? Answer: No; I think not."

Now, by what species of reasoning, by what deductions of logic, by what mathematical proposition, can you make six tests, taken together, infallible, when each one of the tests are unsatisfactory? Does the combination or accumulation of weakness make strength? Can six unsatisfactory tests combined make a satisfactory result? Yet the State of New Jersey has asked you and will ask you, to say what the doctor himself dare not say.

Then, to say the least, this material fact of the finding chloral hydrate in the stomach of the deceased is left in the air, and the resulting fact that she died from the administration of the drug is left in such doubt as that no reasonable man can be satisfied of it.

But this is not all. It is in proof, beyond controversy, that Jennie Bosschietter had taken, upon a comparatively empty stomach, one whiskey cocktail, one enormous glass of absinthe, and two glasses of champagne, all within a short period.

I may pause here to say that about the only thing that Doctor Witthaus was certain of in his testimony, was that a man cannot drink enough whiskey cocktails or champagne to kill him. While you and I possibly are not experts on this subject, yet common observation has taught

us that the doctor's judgment upon that subject is an absolute falsity. Why didn't Doctor Witthaus examine the liver and the other viscera of this body? Why were not the results of the whiskey, the absinthe, and the champagne, found by him? Why was not the residuum of the embalming fluid that had been projected into the body, found by Doctor Witthaus? Why, because he was not employed by the state to find them, he was hired to find hydrate of chloral, and because he was thus hired he found hydrate of chloral. The time has not come, in the State of New Jersey, when three men, or one man, shall be killed by law upon the testimony of an uncertain expert, bas'd upon uncertain experiment.

Doctor Lafflin, an equally well furnished witness as Doctor Witthaus, testifies that a dose of absinthe, under physical conditions similar to that of the deceased, will produce excitation, temporary nervous excitement, collapse, and the chances even of death. But it needs no doctor or professor to tell us that alcohol in whiskey, or in champagne, will also produce excitation, collapse and death, and that absinthe is even a more deadly poison.

A chemical expert was called by the defence, Doctor Vandenberg, who had been a pupil and associate of Professor Witthaus, and whose testimony is entitled to as much consideration as that of the older professor. I cannot pass, without remark, the attempt made by the State's official to discredit the testimony of Dr. Vandenberg. I am disposed to relieve my brother of his responsibility in this matter, for doubtless every question that he asked was suggested by Professor Witthaus, who sat with his lips to the District Attorney's ear. The gist of that attempt was that Doctor Vandenberg had sought employment in this case. I do not know whether he did or not; nor do I care; but I characterize that attempt as an outrage, not alone upon Dr. Vandenberg, but perhaps upon every full grown man in this court house. Not one, from the highest to the lowest, but at some time in his life has sought employment with its consequent compensation. Those who seek high position seek it not alone for the dignity of the position, but for the emoluments that are coincident with it. All men have a right to seek for honest labor, to seek for proper employment, and to demand pay for the value of it. And the time has not come, nor ever will, when a witness can be whistled down the wind in a court room in the state of New Jersey, because forsooth he at some

time had sought honest labor and proper pay. What think you, gentlemen, of such an attempt as that, to drive from the defence in this case, the testimony of Doctor Vandenberg? I put over against Doctor Witt-haus' experiments, the experiments made by his pupil and associate, and say that Doctor Vandenberg's testimony is entitled to as much respect and as much weight as that of Doctor Witthaus.

The reaction of the chemical experiments seems to be the basis upon which these professors place their opinion. Dr. Witthaus bases his upon the reactions of odor, of color, and of crystal residuum. These seem to be the most important of all. Dr. Vandenberg was put in possession of the precise combination of whiskey, absinthe and champagne that was taken by Jennie Bosschieter on this night, and by his experiments he found precisely the same reaction that Professor Witthaus found when he said he had distinguished chloral hydrate; the same odor (and that could not be mistaken because it was defined as being the odor of witch-hazel), the same colors, and similar crystal residuum.

Dr. Vandenberg also had placed in his possession a quantity of the same, or similar embalming fluid used by the undertaker which he injected into the body of the deceased and upon experiment Dr. Vandenberg found the odor test absolute, the coloring precisely similar, and so also with the crystal residuum.

So we have the same physical action from the combination of whiskey, absinthe and champagne and from the embalming fluid.

I bring now to your notice again the basic law in this case. If any material fact can be explained on the ground of innocence, the law says you shall do it. It is not sufficient that the circumstances proved coincide with or even render probable the guilt of these defendants, but they must exclude, to a moral certainty, every other supposition but the one of guilt. I have shown you that in this case, upon this material part of it, what was found in the stomach of Jennie Bosschieter can be reconciled entirely with the innocence of these defendants, and that Dr. Witthaus' testimony is not sufficient in the law to justify you in finding that there was chloral hydrate in the stomach of this girl; and upon this principle of law I stand here, and I defy the gentlemen representing the State of New Jersey to move me from it, because it is the law, and because, in its application to the facts in this case,

upon this point there must at least be such reasonable doubt resting in the minds of the jury as demands from them their judgment that the state has not proved that chloral hydrate was found in the stomach. So that, by the law, the case now stands, that no administration of chloral hydrate has been proved.

What else is there? The positive declarations of each one of these defendants that no chloral hydrate was administered by any one of them, to Jennie Bosschier.

I know that it may be said that these men are on trial for their lives, and that their testimony should not be given any weight because of that fact. But the law makes them competent witnesses, and having so made them witnesses, their testimony goes into the jury box to be considered by you as is all the other testimony in the case. I may be old fashioned in my idea upon some matters, but I have this opinion; take a person who has been brought up under Christian influences, surrounded by good society, commingled with honest and reputable people—may do things that ought to be condemned, if known, by society and even by their friends—but I believe that there is one point where they must stop, and that point is the placing of a hand upon the Gospels and invoking the help and presence of Almighty God, swearing that they will tell the truth and nothing but the truth, while at the same time they have in their minds the well formed intention to commit perjury; I believe, gentlemen of the jury, that that is impossible.

These men hitherto have not been scoundrels or liars. They have been reputable citizens of this community. While it has been said that all a man hath he will give for his life, yet again I repeat, that when the point comes, whether a life shall be taken, or the dread consequences of eternal punishment after death is in the balance, under the circumstances mentioned the truth will be told, no matter what the result may be.

Now, add to the uncertain testimony of Dr. Witthaus, to its contradictions in a measure by Dr. Vanderleg, and the testimony of these three defendants, and if there is not a reasonable doubt raised upon this branch of the case, then I say that there is no use of attempting to defend any case that may come before any court.

However, I do not forget the statements of Death and Campbell to the police officers. I take the ground that no conspiracy has been proved between these defendants, no preconcert to give chloral hydrate. That being so,

whatever was said by Campbell and Death in the absence of McAlister cannot in the slightest legally affect McAlister, and the alleged statements not inculcating either Death or Campbell, these statements have no legal force whatever.

But did Campbell and Death say to the officers that McAlister put chloral into the liquor? They swear that they did not so state, and swear further, as a fact, that McAlister did not put the chloral into the liquor. You will recollect that at first Campbell's statement was ruled out by the court because Officer Titus' conversation with him brought it within the legal rule of objection. And Campbell's statement was only let in the day thereafter, not, so the court said, to prove a fact at all, but to affect the credit of the witness. At first Death's statement was held in abeyance by the court because of the appearance of inquisitorial conduct by the officers. Let me group the circumstances. These two boys were suddenly arrested; they were affrighted and dazed; they were taken to a room upstairs in the official building; pistols were on the table; five officers were there plying questions; what may be called, or has been called, the third degree, was wrought upon these two defendants by these officers. And I pause here to say that this system of procuring testimony before trial can only be characterized as infamous. I further say that as far as I, an officer of this court and of the highest court of the state of New Jersey, can by act or influence prevent a further exhibition of this conduct, that shall be my duty during the rest of my life. A Jerseyman of four generations, I stand here to denounce this conduct on the part of these officers, or any similar conduct on the part of any other officers, as an infamous outrage, and the hands of the law should be put upon everyone who shall attempt it. It is not in the interest of the administration of justice; it rather is to enhance the reputation of the officers, no matter what results may ensue, even if death should follow.

(Here Mr. Hoffman spoke in extenso of the danger of this species of testimony as to the uncertainty of the recollection of the persons repeating a statement, and of the evident coloring of the statements, and cited law as to the method a jury should take in using such statements, and continued:)

The case may well end here, but it may be that under the indictment (although I doubt it,) that because these defendants took charge and control of this girl, and they did

not exercise that care that the situation legally demanded, and if death resulted because of such carelessness, they may be guilty of manslaughter. And for this reason and to take from the case most of its repulsiveness, I will go over the facts, starting from Kent's drug store and ending with the disposal of the body, and I will also comment on some facts incidental to the whole case.

There is a break in the testimony in this case, which seems to me to be almost controllable. If the defendant McAlister had chloral at that saloon that night, as the prosecution says, where did he get it? The exchequer of the State of New Jersey is bottomless. All the money that is necessary to procure evidence is at its order. Officers and detectives, numberless if necessary, are at it behest. Its officers can say to one or all, go, and he or they go; come, and he or they come. And yet, with months and money and officers at their disposal, not a shred of testimony has been put into this case showing that McAlister purchased, or procured, a drop of chloral hydrate. What is the argument? It is that when all the forces of the state could have been, and doubtless was, used, for the purpose of finding out where McAlister had procured the drug, and no response is given to all this effort, then I have a right to say that he did not have the drug, never had it, and never used it.

On the evening of October the eighteenth, Jennie Bosschiet and Deatn met. She wished to see him. She took his pin as a hostage. She went willingly with Campbell to Saal's saloon. This stands beyond contradiction despite Garry's snappy "No, No." I have no word to say against this girl, but these facts must be pressed upon the minds of the jury. She went to this saloon, willingly; she drank willingly; drank willingly until she became intoxicated. No force was used in either case. Further comment I forbear. She was taken in a carriage; the driver was not known to the defendants; and the question arises, would they have gone on such an errand with a stranger? They say they went with a good purpose; they intended to drive around a circuit. She became sick; which was entirely natural. They stopped the carriage to help her. Remember the place where they stopped? An open space, no bushes, no woods, although there was a wood close by. Do not these facts indicate that the story of the defendants is true? Deal with it as reasonable men. Why would they seek such a place as this. The story of the driver, upon which

is based all the state's case, upon this branch of it, what is it? Who is he? One of those drivers whose business is at night, known as a night hawk.

(Mr. Hoffman here took up the whole testimony bearing upon the branch of the case that Jennie Bosschietter had been violated at this place by the defendants, for the purpose of showing the utter absurdity of his story and the reason for his telling it.)

It was said by the driver that he saw the violation of the girl by all four of the defendants.

(After going over the story Mr. Hoffman said)

In addition to its inherent improbabilities and manifest and absurdity, there was one witness who absolutely contradicted him (and referring to the testimony read on page 128 a question put to the driver as to his testimony sworn before the coroner's inquest) "Q. Did you see what McAlister, Death and Kerr did after laying the woman on the ground? A. No, sir; I didn't see what they done, only what they told me. Q. Where were the others when Death said * * * to you? A. At the wagon. Q. What were they doing? A. I didn't notice."

This story told here upon the witness stand by this driver was contradicted absolutely by him when sworn before the coroner's inquest. So that you, gentlemen of the jury, are in this condition: A story told here, contradicted in terms by the same witness under equally solemn circumstances, at another place. Think of this story! If this was a decent man, entitled to credit here, why didn't he protest? And yet, not a word. Why didn't he leave these defendants? Why didn't he stop this bestial brutality? Why didn't he seek help? Why didn't he tell the first man he met? Why did he keep it to himself for days? No man who is entitled to the slightest credit would have acted as he did, and such a man, acting in such a way, should not be believed when the lives of three men are in jeopardy because of his story. A whip should be put into the hands of every honest man to lash such a rascal naked through the world.

Do the gentlemen representing the State believe his story to be true? Have they confidence in the circumstances which he relates that they are facts? If so, he should be sitting in the prisoner's box with the three defendants here on trial. That he is not there, is evidence that the officers of the State of New Jersey do not believe his story, and they have no right to ask a jury to believe what they themselves condemn.

(Mr. Hoffman then described the ride, and the efforts of the defendants to resuscitate the deceased, arguing that all that they did was explainable upon the lines of their innocence, and continued.)

The defendants did the best they could. There was no criminal carelessness. The repulsive story parts with its bestiality. The true story shows there could have been no intent to kill, or do great bodily harm.

The material facts the State relies upon are honey-combed with doubts, and by the law and the facts no murder is proved. More than that, it is disproved.

And so on your oaths, gentlemen, you must say.

Are we in the near future to witness this scene; your jail surrounded by officers, the scaffold erected, these defendants waiting their doom; then the procession forming, going to that scaffold; and Death and Campbell and McAlister hurled into eternity; for what? for what? To gratify whim, or passion, or prejudice. Will you by your verdict have this scene enacted in this beautiful city? If so, you may be here to see it, I will not. Veiling my face, I will say shame, shame, to the hitherto good name of the commonwealth of New Jersey.

FRIDAY, JANUARY 18, 1901, at 10 o'clock a. m.

Continuation of trial pursuant to adjournment.

Appearances as before.

MR. EMLEY:

May it Please the Court and Gentlemen of the Jury.

“Then stole upon the time the dead of night,
When heavy sleep had closed up mortal eyes;
Pure thoughts were dead and still,
While lust and murder woke to stain and kill.”

Never before in all the annals of crime, I venture to say did lust and murder wake to deeds of such degradation and shame as commemorate that October night. Not that murder and rape are new or unheard of things. They stalk among us frequently and constantly, exciting but a transient and a passing interest; but here is a crime which by reason of its shameful and loathsome features brings the blush of shame to the most hardened cheek, and gives us anxious thought and deep concern for the peace of our society and the safety of our homes. It is this crime—their crime—in which we are interested now. It is this crime, gentlemen of the jury, which far and wide, wherever its story has gone, has filled the heart of man with overflowing wrath. It is this crime which in our own community has moved public interest to a degree of indignation never before known. I say these things, gentlemen of the jury, not purposely, but because the way for them was opened to me by the learned counsel upon the other side, and everything that was said by them in that connection finds a ready and a reciprocal response in my own heart. I have endeavored, as best I could to bring to you such light as was at hand; such facts as were within my most diligent reach, in order that you might know, here from the witness stand, under the rules of legal evidence, and according to the well recognized forms of legal procedure, the case amply, clearly and understandingly as it exists from its beginning to its end. I ask for no man's life; I crave no man's blood. I have nothing to do, any more than have you, with questions of that kind, and I want to say to my learned friends upon the other side, just here, that the administration of the criminal law does not rest upon the principle of measure for measure; and I say to him further, now and here, that if such were the case, if it were a mere system of mutual

sacrifices, then, even though these men's lives should be multiplied ten fold, they by the forfeit of them all, could not adequately atone for the deep damnation of that memorable night. And I, gentlemen of the jury, want to say to you that I shall, in the summing up of this case, endeavor—and I think I shall succeed—to convict these men mainly out of their own wicked and lying mouths. The story that they told, with its falsehood so thinly disguised; the chivalrous tale which they unfold for the first time, three months today, since that night, and now bring into court, has made no impression upon me, if it has upon you. When they undertake to say to me that the meeting with that woman in that corner saloon was the result of pure accident, I say to them that they know, when they say that, they are not telling the truth. I do not know, gentlemen of the jury, that it matters very much, so far as the present purpose of the state goes, whether it was accidental or not, but just for argument's sake, if you will indulge me after the wonderful spirit of patience you have exercised towards the progress of this case. I might call your attention to the testimony of these men with reference to when and how the meeting at Saal's saloon was brought about. There is one thing, it seems to me, that is beyond any question of doubt, certainly beyond any attempt at contradiction, absolutely fixed as a fact in this case, and that is the time when they were seen in front of Kent's drug store. Mr. Kammerling, you will remember, swears that at 9.10 that evening he left his brother's house, on the far side of the river a long distance, comparatively speaking, from the corner of Main and Broadway, and that, after a walk of about ten minutes, he came to the corner of the two streets where his further journey was interrupted by the passing of a political parade, occupying, as he says, about five minutes, after which he proceeded on up Main street another block—a short block—until he came to the corner of Van Houten street; so that I say, it is a fair statement of the fact—notwithstanding the caution of my friend upon the other side yesterday afternoon,—notwithstanding the evidence of a purpose on his part to guard you against something which was then preying heavily upon his mind. I do not propose to ask you under your oath to find a verdict against these men upon anything else than the proven facts. If I have any long inferences, as the counsel puts it, they will appear perhaps later on in connection with some suggestions

which their defense has brought to my mind; but so far as the State's case is concerned, it is free from "inference," with one or two exceptions, perhaps, in which cases the inference is so natural that they can hardly be called "long" inferences, meaning by that, inferences of little value as testimony, little value to you, the arbiters of these men's fate. Take the facts, go over them, and upon them alone endeavor to discharge this high and solemn responsibility which the law now places upon your shoulders as citizens of this State. So that, returning I may say that it seems fair to assume that the time in front of Kent's drug store is fixed beyond a question of doubt as being in the neighborhood of 9.25 or 9.30 o'clock. Now, let us see at that time what occurred there. We will take their own story. Death says the girl came along, spoke to him, passed further up the street with the remark that she would be back in a minute—back in a minute—and that she did return shortly—did return shortly; so that, if that be true, McAlister by his own statement was in the door of Kent's drug store around about the hour of 9.15, 9.20 or 9.25 that night—that is what he says—as late as that. And if that be so, what becomes of his story about having an engagement upon the Arch street bridge between half past eight and 9 o'clock? If that be true, what becomes of his statement that he reached the Arch street bridge, as near as he can remember, around about the hour of nine o'clock? And the fact that McAlister was there when Jennie Bosschietter passed, in the neighborhood of 9:25, according to the testimony of Kammerling, is fully borne out and corroborated by the confession of Campbell at the police station, that McAlister was there and said "let us take her out and have a good time." He had an engagement on the Arch street bridge with two women! Where are they now? Two women, and a friend upon trial for his life! Yet from considerations of pride they remain away, and withhold a helping hand at this perilous hour. Where are they? An engagement on Arch street bridge with two women? How could the mere fact of their presence in this Court room, and the statement of their knowledge there from this witness stand, reflect any disgrace or any discredit upon them? Where are they now? What are their names? No one here to make answer to that? They must be; they are, but the creation of the defendant's active brain. Have you any doubt, gentlemen of the jury, that what Campbell said at the police station was

true; that McAlister was there, and said, "Let's take her out and have a good time?" Now, I am dealing with their own story—this fake story that they have made up within the last three months while lying here in our neighboring jail.

What else is there about this question of time and this transaction upon the street? What else about the circumstance of Jennie Bosschietter standing there, leaning with her back against the post, as far in retreat as she was permitted to go, standing facing this man Campbell, using language of protest and objection, answering "No, no!" to his urging and his pleading? Is that so or isn't it? Does Kammerling tell the truth, or does this man Death, this man here now upon trial? Is Kammerling a liar, and this man the saintly bearer of the truth, when he comes here and says that Jennie Bosschietter spoke to him about his marriage, about his marriage to her, or something to that effect, and suggested their retirement to Saal's saloon? I don't believe there is a word, aye a syllable of truth in anything of that kind. I prefer, in order to see my way clearly to where my duty calls—I prefer, rather than accept the story which these men now come here and tell, in this fight for their lives, in this necessary self defense,—to take the testimony of the reputable man, the man who knew the girl, the man who lived but a house or two distant from her home, the man who is familiar with her life, the man who, if any man, could bear testimony to her character—I prefer to take the testimony of Kammerling and to believe Kammerling when he tells what he saw in front of Kent's drug store. Is there any doubt about it? None at all. He afterwards goes to the jail, having been attracted by the appearance of excitement which the girl showed, to the couple standing upon the sidewalk, and having thereby secured a good look at Campbell, and fixed his image in his mind, where it remained, so that when he went to the jail, without a word from anybody, without question or suggestion or thought of any kind, he instantly and without any question or hesitation, pointed the middle man out as the man who had stood upon the street. And it was after he had done that, and not until he had done that, that he learned from the lips of the police officers the name of the man in question. No doubt of it; the identification was perfect and complete. And so, gentlemen of the jury, I prefer to take the testimony of Mr. Kammerling. And, taking his testimony, is it not true that then and there this poor girl

stood in an attitude of protest? Is it not true that then and there she half suspected the snare which these men were spreading for her feet?

Talk to me about Death! Talk to me about Jennie Bosschieter's love for him! Who could have any love for a wretch like him?

And if what I have said thus far, gentlemen—and I want you to follow me closely—is true, then the separation between McAlister and Kerr took place there at about the same time. That is the last we see of them—the last until they are rounding the corner of Saal's saloon, until they disappeared for the last time to outside view through the side entrance door upon River street, and then and there, as he well knows, by previous arrangement, by already well laid plan, McAlister had preceded them and was in waiting for them. Engagement on the bridge! The engagement was in Mr. Saal's saloon and they know it well.

But I leave that—I lay that aside for the moment. My argument at this stage of the case, as I have already said, will follow their story. What is their story? Campbell said that he went out—now these are little details, gentlemen of the jury; they in themselves don't amount to very much, don't determine the question of these men's guilt; yet, while they are little details, it is often little details, minute things like these, that enable you to apply the proper tests to the story a witness is telling and to reach a satisfactory conclusion as to whether he is telling the truth or not. Campbell says, that he went out and ordered a milk punch for her and that he couldn't get any milk. McAlister swears that he, when Campbell came back in a moment with the order for the cocktail, drank milk and seltzer there by the bar. Campbell says that the bar was out of milk. Saal says that, when the round of drinks in which the absinthe was served was taken into the room, the tray bore upon it in addition to the other drinks a glass of milk. Campbell and they say that but three rounds of drinks were ordered. Saal says there were four. They say that the drinks were taken in by Campbell; Saal says they were taken in by McAlister, the only man of the three that Saal knew. They say that after she drank the absinthe, which was the last drink preceding the bottle of champagne—that when she had drunk the absinthe she began to get jolly, and got up and threw her arms around Death's neck—Death's neck, think of it, and kissed him, and that she did the same with Mc-

Alister. Saal says that when he went in, in a moment or two, to get the order for the wine she was quiet and peaceable and apparently in as good health and in as normal condition as any one he ever saw. Now, here are these conflicting pieces of testimony. Are you going to throw Mr. Saal's testimony out and substitute in its place the self-concocted story of these imperilled men? I think, gentlemen of the jury, that you were all able to see, without any suggestion from me, that Mr. Saal was not any too willing a witness for the State. I think that you were able to see that if there had been any way in which Mr. Saal could have helped to shield these men, to save them, he would have been only too ready and too glad to do it.

Here is another peculiar feature of this case, right there. McAlister says that when he and Kerr left Kent's drug store it was between half past eight and nine o'clock, and that Kerr then went to the depot for the engagement of a hack to meet an engagement upon the Arch street bridge, which they then both understood to be in the neighborhood of a quarter to nine; and yet, gentlemen of the jury, here at a quarter after ten, an hour or twenty five or thirty minutes later on—when McAlister felt the second need for the services of a hack he had no difficulty in finding Mr. Kerr's ear close up to 'phone. Oh, this kind, this amiable, this accommodating friend, this man Kerr, who, through all the weary minutes of the passing hour, when the time for the engagement had come and gone, still stood in Hofgesang's saloon until after ten o'clock, he received—what?—the expected word to send the hack down. No agreement? No plot? No purpose between these men as they gathered there in the corner saloon in the neighborhood of ten twenty, when the circle was again complete! Strange coincidence, indeed! Strange happening is this, that these men, neither of whom were chums of one another, none of whom was especially friendly with the others—strange fact, indeed, that within less than an hour or a half after separating in the vicinity of Main and Van Houten streets, they find themselves again assembled in unbroken circle down in the private sitting room of Saal's saloon! Think of it! Think of it! Think of it.

Well, when Kerr came down with the hack and went in, did he say anything to McAlister about keeping him waiting up in Hofgesang's for over an hour? Not a word. Did he say anything to McAlister about the engagement

on the bridge, or ask where the parties had gone? Not a word. Did he make any inquiry as to McAlister's movements up to that time? Not a word. But he went in and saw the condition of affairs, and almost instantly, without time to stop, as they claim, to consider what was then afoot, he went out to the River street entrance and directed the driver around to the other door. No plot! No purpose! No design in all this!

Then what? Then what? Think of it! Think of it now—and I am still on their story—a hack sent for—by whom? McAlister. The drinks paid for—by whom? McAlister. The champagne ordered—by whom? McAlister. He who was a casual guest at Saal's saloon, and met these strangers, as they would have us believe, casually and incidentally; yet, from the time of the meeting he becomes the foremost man in all the operations of that night. Think of it now! Their story that this girl, showing signs of intoxication, needed fresh air—fresh air; and that they, in order to give her proper breathing space and food supply for her lungs, got a hack and loaded her in and took her out. How? How did they take her out?—their story still—why, she walked out with McAlister on one side and Death on the other. Is that so? Is that so? Or is this hated hackman speaking the truth? Did she walk out or was she carried out by the main force of these four men, unconscious, insensible, and in a deep sleep? Well, how are we going to settle that? I am sorry my friends don't like Sculthorpe—I knew they wouldn't like him. I knew that from the first. I knew they wouldn't like Sculthorpe any better than they like the police officers; indeed, any better than they like me, for you will have noticed in the progress of this trial that poor Sculthorpe is not the only one who did not escape the vengeance of their wrath, but that the police too, and the state's most humble representative as well, came in for their full share. But I can't help it if they don't like Sculthorpe. I can't help it, and I would not help it if I could. Be that as it may; upon the question of the manner of their going from Saal's saloon, how are we to determine whether Sculthorpe or they tell the truth? Well, they brought a witness of their own here, Mr. Clarence Christian, and what does Clarence Christian say? Ah, I never heard of him before, and I can't understand yet how he slipped through my fingers, but he did, and my friends upon the other side bring him here, and perhaps it is just as well. Indeed, I don't know but what it is bet-

ter; because you see they cannot very well go back on Mr. Christian now. And this is what he says; "I was going through River street, I got on the corner of Bridge and River, having a friend, and looked up and saw a hack there, and a man just in the act of putting a woman in. He says to me"—that is, his friend; the sight was extraordinary—unusual—he said to me, "Look at that, look at that; what are they doing with that woman?" That is Christian's testimony. "I looked and saw him just in the act of lifting her in the hack." Now, listen, "One man was standing outside, had hold of her by the legs, lifting her with his two hands." Ah, did this girl walk out? "And then I saw"—What? "Two hands, two more hands, come out of the hack like to lift her in, the man on the sidewalk who lifted the legs in got in himself." And that man sits there (indicating the defendants).

But, my friend, Mr. Dunn, says that Christian's testimony contradicts Sculthorpe. Does it? Let's see about that. Sculthorpe said they carried her—the four of them—out of the saloon. Does Christian contradict that statement of Sculthorpe? Not at all. For this man did not see them until they were by the carriage with the woman partly on the inside. Walked out, did she? Another lie told for the purpose of being of use to their self-serving end. Out for a ride? Why, my friend, Mr. Dunn, said, "Upon the theory of the State, why didn't they go down around Bunker Hill somewhere, or some other of the hundred various places lying near at hand?" I don't know. That I cannot answer, except in this way, by asking another question. Upon the theory of the defense, why did they deem it necessary to cart this girl all over Bergen county in order to get her an adequate supply of fresh air? Why did they lay out a line of travel like this? Up the Goffle road, through the Rock road,—this rough, unfrequented Rock road—to the Ridgewood road, and thence back to Paterson, making a circuit, according to the evidence in this case, of about four miles up to the Rock road and thence across and the same distance back to Paterson, or altogether nine or ten miles? Nice ride to give a girl at that hour of the night, in her condition, for the purpose of introducing her to a little fresh air. And, so I say, that is my answer to Mr. Dunn's question. Why, upon the theory of the defense, did they do that? When our lovely parks were near at hand, and our beautiful macadamized roads lay in all directions stretching out into the starlit night. Why the selection

of this Rock road? Was the air any better on the Rock road than it was out at Eastside Park? What can you say to that, Mr. Dunn? Mr. Dunn with great consideration and kindness also suggested the great improbability of the State's contention, because of another fact, which I assume to be true if he says it is, and that is, that there was a great surplus of female society lying then close at hand. I cannot answer that, gentlemen of the jury. I have been endeavoring to answer that question, as this community has, ever since the morning of October 19, 1900, and I have no answer for it yet. Have you? Why, if they wanted to give her a little fresh air without being seen with her, why, tell me, was it that the thought did not occur to them, as it did after they found themselves with her dead body on their hands? Why not then the thought that the better thing would be—to take her home to her family? No, not that, but take her home and leave her, if you please, at the door of her father's house? That would not have hurt her any—not a particle; and their association with her on this fatal night would never, by any possible means, have been known. Why were they so friendly and kindly disposed to this girl, who, for the last two years, had been a practical stranger to them? who for the last two years—may I not say it—had purposely been a stranger to them? Why should McAlister at Saal's saloon, if this story of the defense be true, assume such a prominent and conspicuous part? What did he have to do—or Kerr—with this girl? Nothing! Nothing! Ah, the chivalrous spirit of these men! She was drunk, so they say. Why then didn't they either speak to Mrs. Saal, a kindly soul, who then sat in the adjoining room, with the view of such restoratives as she no doubt had at hand? Or, if not that, why didn't McAlister and Kerr leave these other men, who were not chums of theirs, to escort this girl to her home, the location of which they well knew and which was not far distant? I am on their story yet. They chose this route that they have sworn to, and what did they do? What did they do? According to their own testimony, as they proceeded up the Goffle road and neared the turning off place, what did they do? Why, they turned the lights out on the carriage. That is what they did. What did they turn the lights out on the carriage for, just as they were about to start in upon this dark and none too safe thoroughfare called the Rock road? What for? Ah, what was it done for, upon the theory of the

defence? That they might not be seen and this girl discovered in her sickness and extremity? Not that, gentlemen of the jury, not that, but it was to cover up and conceal in the unbroken darkness of that night the hellish purpose that they then had on hand. Lights out! Utter darkness! They dragged their slow way up this rough and uneven roadway. Until what? The girl gets sick? The girl gets sick, and tries to vomit? I wonder if she did. Necessary to take her out of the wagon in order that she might vomit! And spread a blanket under her, fifteen feet away from the roadway. Lift her up, carry her there and lay her down. All these elaborate preparations necessary in order that this girl might, by vomiting, relieve herself of the sickness at the stomach! Oh! Late at night, riding around, drinking in the fresh country air of the beautiful autumn night; the girl gets sick, and they take her out in order that she may vomit; and she does vomit a little, Campbell says, and he caught it in his handkerchief! Did he? Is that the truth, that he caught this as she threw it out upon his handkerchief? Where is it? Where is that handkerchief, gentlemen of the jury? Campbell knew the next morning of the discovery of the body. He knew that murder was suspected. He knew that official investigation was then on foot. He knew his association with the dead girl the night before. He knew all those things. He knew then, as he knows now, that his innocence, in case suspicion should point to him, would rest wholly and entirely upon his uncorroborated word; he knew that. He is intelligent enough to understand its meaning. He must have fully appreciated his situation, and if it were true then, as he now says it was, why he had there in his possession a thing which under microscopic examination and brought here would have set him free as the birds of the air? Where is it? Nothing, nothing but the testimony of these men. Not a stain anywhere, not a mark, left behind in all the world, to confirm the truth of their story; and they bring it here themselves, and give it to us from their own lips without a thing, without a thought and without a suggestion which in any possible way can be construed into the slightest sort of corroboration of what they say. Still it is their story. We will pass by, for the time being, what my friends do not like in this connection, the testimony of Sculthorpe, the hackman.

Well, they threw her up again into the wagon, like so

much wood, put her on the back seat, the same old position, leaning back, helplessly, almost lifelessly, between McAlister and Death; and they came down again, they say, instead of going on around the other way, for the purpose of getting to the brook. They passed Charlie Lee's hotel, a public house, with this girl, then in this extremity with their anxious thoughts aroused, and the precipitate haste and the consequent excitement, to get to the brook. Had they been out with this girl for her good, for her welfare, would not common humanity, the dictates of ordinary pity and compassion, have suggested to them the getting of Lee out of bed and getting her comfortable care and treatment, instead of doing, these friends of hers, as they did, dragging her down on the roadside, down to the running brook? No! Nothing of the kind! But on they went until they reached the brook; and out she came. The story there has been told! And there is no difference in the telling of it! It appears from them themselves, and I am on their story yet, as they were all there by the road side, applying this soothing care with the handkerchiefs to this girl's burning face, they were disturbed by the noise of an approaching wagon. Disturbed? Why disturbed? Was the shame at being found there with this poor girl above the interests, and the safety, possibly, of her life? Aroused from her side by the noise of the wagon, they laid her out again. Shoved her into the wagon and started on down to the city of Paterson—who says so? They all say so. Who suggested that? Mac, as usual; the leader of the gang. "We will take her up to Dr. Wiley's and see what he can do for her." What did they do then? Brought her to Dr. Townsend. What did they do? Mac again. Kerr, hastily upon his door step, rings the bell, which disturbed him from his slumber, attempting, as he came to the door, to rush into his vestibule. Who says so? McAlister. It must be true. So, then, Dr. Townsend tried to push them out by main force. He goes to the wagon; he finds the girl. Was there a word there, was there a single syllable from the lips of any one of these men to Dr. Townsend, or in his presence, which suggested to him, this physician, this medical attendant, the cause of her distress? Was anything said to him which would give him a clue to the treatment which was needed? Was there anything said to him about drunkenness in Saal's saloon? Was anything said to him about the ride in the open air? Was there anything said to him about the

spasms of sickness in the woods? Was there anything said to him, then and there, as he for the first time pronounced the fatal words, which even in the slightest, in the remotest degree could suggest the story that has been told here? Not a word; not a word; it was only an "accident." My friends say that then they became excited; then they became tender; they became considerate; didn't know what to do. Did they? Did these men manifest any concern? Was there any appeal in this girl's condition, for the expression of any refinement of feeling on their part? No. Oh, no. Instead, coarse, vulgar and profane epithets. They received the announcement from the Doctor, "Too late, too late, the girl is dead," with the reply, that they didn't know what in hell to do with her. That is the sort of men, gentlemen of the jury, we have here; that is the species of humanity that comes before you, now that they are fast in the clutches of the law—come here with insolence and falsehood upon their lips and defiance in their eyes, come here to appeal to you for your tender sympathy and compassion. Did they have any for this dead girl? Did they consider her? Did they shield her in the slightest degree? Not at all—not at all; but, jumping in the wagon, they resumed their journey, intending, they say, to leave her upon her own doorstep; but, when they got down in that neighborhood, they saw some men upon the street who might have seen them, and in order that they might escape observation, they turned the horse across the Hillman street bridge. Why, escape observation? These kindly gentlemen, who in a considerate and chivalrous spirit, had for the last two or three hours been making much of this dead child's wants. Their conduct at this point appears to me to be entirely foreign to a kindly and considerate spirit. Did they consider her? And why were they anxious to escape observation? Why go around by the Wagaraw road—their own story, mind you—and then leave her brutally and roughly by the roadside. My friends upon the other side say that they left her there by the roadside, that she might be quickly found. Great God! Tell me where in all the universe murder can be concealed; tell me where, in any of these parts, they could have laid her so that she might not have been found? Laid her by the roadside! Then what? Did they then go directly home? No, they went on down, way down the river, to the Thirty-third street bridge, and crossed there. Their own story yet, gentlemen. I propose, as I said before, to convict

these men from their own lips. What did they do when they crossed the bridge? Their own story. Why, McAlister, according to Campbell, so he said to the police officer, and he told it to us here, and he said, under the sanctity of his oath, that it was true, McAlister threw the combs and hair pins of this dead girl from the wagon into the flowing stream below, and I asked McAlister what he was doing with this girl's combs and hair pins in his pocket at that time, how, in the five minutes they remained in the woods, or along the journey there and back, he got possession of these personal things of hers—threw them into the river for a purpose, for the purpose of getting rid of them; for the purpose of burying them, and hiding away forever and ever, the evidence which they might bear.

RECESS.

AFTER RECESS.

Gentlemen of the jury, at the adjournment of our morning session, as I remember it, I was commenting upon this remarkable story and this strange defence, supported, as it is, by absolutely no facts outside of the testimony of the defendants themselves. It is a defence that, upon its face, bears the evident stamp of preparation, and upon its analysis falls to pieces, as such defences always do, and disappears from view as the dew beneath the morning sun. And I had reached the point, as I understand it, where I was commenting upon the inhuman scene by the riverside, when these men without conscience, without humanity, threw the dead body of this girl out along the highway, and left her there without compassion, apparently without remorse. And upon the further fact, which is a fact borne out by their own words, that in crossing the bridge McAlister, still exercising that conservative caution which had marked every moment of the time, rid himself in the silent waters of the river of all that was left about his person to tell the story of the tragedy of that night. Coming around by this circuitous way, gentlemen of the jury, coming into the city, as it was in the early hours of the morning, by the back door, just as they had gone into Saal's saloon, they reached their home in that way. And as Kerr and McAlister finally left the hated hackman near the armory he said to him, What? "You know this is a

bad accident; you know that we are free from all fault and all blame; you know that we did everything in our power to give back to this girl her lost life?" Not a word of that kind! But "you know what to do." Those were his last words, gentlemen of the jury, springing from the consciousness on his part of his guilty participation in the proceedings of that night. That was still his purpose, as it had been his purpose all the time, to cover up his identity, and to conceal the means of discovery from the authorities of the city. And in pursuance of the same purpose—mind you now, just here, there is a link dropped out of the story they tell, but it is supplied by the testimony of a good and reliable and not too friendly witness for the state,—the next morning—McAlister denies it, it is true—but Saal says that he came to his saloon, and calling him aside, said that he came there to ask him not to tell. I believe Mr. Saal says in the presence of one of the other defendants, and calling him aside gives him a glance at the remarkable state of his mind, a state of trembling and fear, and after saying to him that "the girl we had out last night is dead" cautioned him explicitly that, if a reward were offered for the guilty parties, "he knew what to do." And so, upon leaving Dr. Townsend's, and so, upon the following Saturday night—mark you! Mark you! Mark you this fact; because it may be important in another connection, for he admits, thus corroborating the hackman, that he crossed over Market street and approached him on Saturday night and renewed the words with which he had separated from him on the morning of October 19th. Do you mean to tell me—do you mean to tell me—in the face of all these facts that they innocently met this girl, unexpectedly ran across her in Saal's saloon, and that after becoming jolly with drink they took her out for an airing, for an evening's ride? Have you any doubt, I ask you, Gentlemen of the Jury, now, as fair men, with impartial and unbiased minds—have you any doubt now upon the presentation of their story and the consideration of their defense, that I have fulfilled my promise made to you at the outset of this case that I would convict these men out of their own lying mouths? Have you? Let us see then—let us see if there is anything left in the case for your use, of a reliable character and calculated to lead you aright, which can aid you in any way in the settlement of that doubt, if any there be? And before referring to this branch of the case let me call your attention for a moment to this hackman.

This man is bitterly denounced by counsel on the other side. For what? For the testimony that he gives? No, not for that. For coming here under the compulsion of the State's process, to say what he knows? No, not for that. But because of one particular feature, and that alone, in the story which the hackman tells. That is why he is denounced. I might say to you, Gentlemen of the Jury, that the denunciation of a witness without reason is not argument. The opinion that you may have of me does not prove anything. And that is the character of the attack here—denunciation, bitter abuse, without any foundation, either in reason or in fact. For the conduct of this man Sculthorpe from the time he dropped these defendants from his hack upon that night until he left the witness stand in this case stamps him and stamps his story as an honest man, so far as his relations to this case are concerned, and as a truthful story so far as we are able to judge. You will remember that for four days there was not a living soul, who was either a party to, or who had knowledge of this night's transaction, who opened his lips to utter a word. Not Saal. Not Townsend. Not the hackman. Not anybody came forward to volunteer a thing against these men. There they were with the secrets of that night safely guarded, while all this clamor and excitement raged and surged about them on every side. The investigation was dragging itself on with slow and unsatisfactory progress, yet not a hint from any of them, not even Sculthorpe, was ever received. Does this indicate in Sculthorpe a purpose to tell something that is untrue, or a desire to do injury to these defendants? The fact is, that he was acting in strict obedience to their orders, and in that way was doing all that lay in his power to cover up their tracks and shield them from the strong arm of the law; for it was not until Monday, Gentlemen of the Jury—and I want you to bear that in mind—and then not until the approach of the police officer, that he was startled by the rumors that were then afloat, from this state of mysterious silence, and led finally, as he says, to make a clean breast of the whole thing. And what did he say? Did he rise up and tell a senseless lie? No; because these men here in every particular, except two, possibly three, corroborate him, even to the minutest detail. They say, as he says, that the departure from Saal's saloon was made at about the time mentioned. They agree with him as to the identical route over which they drove. They agree with him in every-

thing, even to the statement which he makes as to what McAlister said to him in the morning. In absolutely every detail of this story, these men come here and say, yes, Sculthorpe tells the truth. They say, he tells the truth in every particular, except one. They say the girl walked out of the saloon. Sculthorpe says she was carried out. Now, who is telling the truth about that, Sculthorpe or the defendants? Christian says she was carried and put into the wagon by a man who had hold of her legs. And Christian, who thus corroborates Sculthorpe, is their own witness. Sculthorpe says that he did not stop anywhere after leaving the saloon, evidently meaning by that, evidently understanding the question put to him to refer to a long stop, to a stop of some duration, and not to a sudden halting of the wagon to enable one or two passengers to get in. Sculthorpe says he made no stop, after leaving the saloon, until he reached the woods. They say that the wagon stopped on Governor street, while Kerr and Campbell got in and took their seats—a difference of such a slight importance that it is hardly worth mentioning; so that the only fact, the one thing in the story which Mr. Sculthorpe tells, with which they disagree, is as to what took place up in the woods.

Well, now, let's see whether Sculthorpe is telling the truth about that or not. In the first place, what reason could Sculthorpe have for departing from the truth at that particular point? Tell me that. In all this criticism of Sculthorpe, there has not been a hint or suggestion of any sensible reason for Sculthorpe doing any such thing. If his story in other respects be true, as they say it is, why, with what tenacity would he adhere to the truth when relating what took place in the woods. That would exculpate him from all blame—exonerate all from the charge of crime; but, instead of that, here is Sculthorpe, they would have you believe, departing from the truth, and concocting and substituting a falsehood, which would make him guilty of an atrocious crime. That is their argument—the argument of the counsel in this case. Now I haven't anything further than that to say about Sculthorpe. How absurd must such reasoning seem. These matters, it seems to me, are worthy of your consideration in considering the weight to be given to what the hackman says. For my own part, I take his story to be true. I take it to be true that these men, there by the Rocky roadside, took this girl out for the fulfillment of their unlawful errand; took her out for the purpose of her

ravishment. I take it to be true that then and there, as every word in the story of their defence indicates, their dastardly purpose was accomplished. Common sense suggests that Sculthorpe is telling the truth, because what he says is against his own interests; it puts him in peril of the punishment of the law; and, whatever motive there may have been for the substitution of a falsehood for the truth, he certainly would not have employed a falsehood which would have made him guilty of a crime.

Furthermore, I take it to be true for another reason. Notice how closely his story is corroborated. He says that, upon going out, when some distance from where the stop was made, he heard a ringing sound of some kind, as if a bottle had struck against a stone. Is not that so? Let us see.

He, with the police officers, went there the next day, after he told his story, and, true as the needle, he led them to the place where the bottle was found. And there is the bottle, with "Kent's Drug Store, Paterson, New Jersey," burned in the glass—significant fact—"Kent's Drug Store," in the door of which they lingered before the departure for the ride.

In the bottle were drops of chloral, the residue of a larger quantity, which, in all probability, the bottle contained—chloral of a strong solution, "well saturated" as Doctor Witthaus said, "well saturated"—meaning by that that the water contained all of the drug that it would hold. So I say, I believe Sculthorpe's story on account of that additional circumstance.

When the girl went from home that morning, she was clothed from head to foot. When she was found by the riverside by Doctor Vroom, one of the garments belonging to her outfit was gone. Where were they? Let these young men answer that question, if they dare. There she lay by the roadside in the morning with her lower extremities stripped and bared to the skin. And I believe Sculthorpe's story for that additional circumstance, which appears in this case. I believe Sculthorpe's story because of the further fact that two of these young men, when they went to the police station that night, practically made a full confession of the whole thing.

And just a moment, right here. Much has been said of the police and the inquisitorial character of this interview. Why, gentlemen of the jury, my learned friend upon the other side, from his longer experience and his greater ability, knows far better than I know, that that

is one of the legitimate methods for the investigation and discovery of crime. And I say to you here that, had these police officers, in the early hour of that morning, done less than they did, they would have failed in the discharge of their duties as conservators of the peace of this town. It was just as much their duty, in a proper way, then and there to find out from these men, if such a thing were possible, the facts relating to this mystery, as it is my duty to present this case to you, and as it is your duty to carefully and conscientiously decide it. And if we do that, and if they did that, they are no more amenable to criticism and censure than you and I shall be when our part has been performed.

Besides that—besides that, why should these men, brought out of their beds in the middle of the night, suspected of, if not charged formally with, participation in this crime, why should they then and there have told this story to the police officers, if it were not true? Why should they then and there have falsely accused themselves? The suggestion of such a thing is utterly ridiculous and absurd. So I say, gentlemen of the jury, and I say it advisedly, that all these things convince me, after a careful investigation and careful consideration, that this poor hackman has told us the truth; and oh, oh, what a story it is! What a story of deep degradation and shame. I never so earnestly craved the power of speech as I do now, that I might draw a fitting picture of that dreadful scene in the woods. Taken from the wagon, laid upon the ground, stripped of her clothing, with the utterance of an oath, there she lay, poor helpless thing, the plaything of these men's passions, the victim of their cruel lust. At that picture, manhood hangs its head in shuddering and shame. There is not a wild beast that roams the forest, nor a dumb brute that wanders in the field, that for the perpetration of an outrage like that upon one of their kind, would not instantly and instinctively summon the swiftest, the most destructive vengeance. From a scene like that the creeping, crawling reptile, the most despised of all God's creatures, turns and flees upon its sinuous way. There is not in all of nature's vast domain a form of conscious life anywhere that does not contemplate a thing like that with horror, humiliation and shame. Nowhere—nowhere, is there sympathy, sanction or toleration for the conduct of these men, save low down in the deep, dark chambers of hell. Without protection, except that which kindly

nature gave her, she was helpless and alone. Great Nature covered her with darkness and hung around her the black draperies of night, to shield her from the gaze, if not from the touch, of outrage and crime. There she lay, friendless, helpless, hopeless, almost lifeless, while these men in quick rotation and with beastly appetite fed upon such poor pleasure as her still and motionless form could afford. Do you wonder, gentlemen of the jury, that they deny it? Do you wonder that they turn away from the imputation of such a crime as that? Unhappily, it is all too true. Now, they say she did not die from poison. Who says so? They say so. They say, in contradiction of what the police say, that nothing of the kind was administered to her. Let us see; let us see, gentlemen of the jury, whether I need, in this connection, to go further than to ask you to go with me to the sidewalk in front of Dr. Townsend's house. It is 2 o'clock in the morning. We see a wagon driven up, bearing the body of a dead girl. Three hours before, three hours and a half before at the outside, the same girl was in her usual health; it was vigorous, unimpaired and robust. She had been working at her frame in the silk mill on that very day, where she had worked previously day after day. She was perfectly sober and free from the influence of drink at that time. She has a cocktail, a drink of absinthe, and a glass of champagne. Nothing else passes her lips; at least, so they say she immediately becomes beastly drunk and falls into a deep sleep, from which she never wakes. And, when we see her lying in the wagon, she had been dead at least an hour. And then we are told, with apparent seriousness, that the drink was the cause of it all. Just think of it. This suffering, this death, all this wreck and ruin, they would have us believe, is to be charged up to a cocktail, an absinthe and a glass of champagne. That, they say, is what killed her. I ask you, as men, some of you of advanced years, all of you men of experience in the affairs of life, whether in the determination of a serious matter of this kind, of this far reaching importance, you are going to be led astray by any such nonsense, any such absurd, preposterous and ridiculous story as that? But they bring up here and put upon the witness stand, a learned and expert doctor, Dr. Richard "Deadeye" from Baxter street. And they tried to palm him off on us as a chemist; this man who was out for a job, a man without a laboratory of his own where he could make a simple an-

alysis of an embalming fluid, which was made in the laboratory and in the presence—perhaps in the necessary presence—of Dr. Gilpin of New York—Dr. Gilpin who is not here. And to speak candidly and frankly and truthfully; gentlemen, the only thing I can make out of this doctor chemist's testimony, is that Saal was making cock-tails of embalming fluid and selling O. K. for Great Western champagne. Now, pardon me, if I have seemed to make light of anything properly in this case, but in the history, and the attitude, and the purposes and motives of this doctor chemist there seemed to be something of such questionable propriety, to say the least, that I could not refrain from speaking of him as I have. I do not propose to dwell upon this branch of the case further than this; and I say, gentlemen of the jury, here and now, that the proof in this case overwhelmingly and conclusively establishes against these defendants, every one of them, the charge of murder in the first degree. There is no room here for the crime of manslaughter, and I was somewhat amused to hear my learned friend on the other side suggest such a thing. I do not know what it meant, whether it meant a giving up of the case or not. To me, it sounded suspiciously like the language of surrender and defeat.

But they say that notwithstanding all this, they did not intend to kill her. Did not intend to kill her! Oh, God, is there no limit to the wickedness and cruelty of man? After outraging her there in the woods, these men thought of sparing this poor girl's life. As if there was any mercy in such a thought as that! They would rob her, poor thing, of the forgetfulness of death and the oblivion of the grave. They would bring her back, they say—how merciful they are—with her poor bruised and outraged body, and set it on its feet again, with the consciousness of the deep damnable wrong which she had received at their hands. A thousand times more welcome was death, than such a fate as that! I am not ashamed to defend this young girl. I am not ashamed to speak a word in vindication of her memory. To the insinuations and the inuendoes that have been cast out by counsel and the aspersions by them made I merely have this to say that such insinuations are unworthy of gentlemen in the advocacy of any cause. I do not know what this poor girl's frailties, if she had any, may have been, but if there were any wrong in her life, if there were any false steps along her pathway, I lay them all at these men's feet, these men

whose ways lead down to death and end at the open grave. They and their kind are responsible for anything wrong in this girl's career, for anything that can be said against the sanctity of her life. It was in their hands when she first fell when a young girl scarcely turned the age of fifteen years, and God only knows what and how many wrongs they have perpetrated upon her before the one which ended in her death. But, as far as this case is concerned, it matters not what may have been her character. These men, no men, had thereby any right to take her out and drag her and outrage her, and take away her life. She, although the picture of her life may have been set in rough and crude framework, although the heavy weight of circumstances may have rested upon her, as it rests upon hundreds of others, and pressed her down, yet she, living, walked before the law just as majestically as the proudest queen; and, dead, to me her lowly grave in yonder cemetery is just as sacred as the stately mausoleum or where stands the lofty monumental shaft. But, it is not the memory of this dead girl for which I speak or with which I am especially concerned; I ask at your hands the vindication of the outraged law.

Much maligned—much maligned, yet pure and immaculate justice, in stately form, stands serenely by my side. Her cause alone I plead. Unmoved by passion untouched by prejudice, undisturbed by fear, unconscious of sympathy, unmindful of mercy's piteous plea, she holds the scale evenly between the State of New Jersey and the prisoners at the bar; and, for the peace and good order of our society, in the names of the sisters and the daughters that dwell in our homes, in behalf of the innocent young girlhood and maturer womanhood of this suffering city, I ask you in these closing words to give careful heed to her admonitions and listen to the whisperings of her gentle voice; she unerringly will point the way to where your duty lies. Be guided, too, by that great sense of right and wrong that resides within us all, and that, after all, is the monitor of our lives and the safeguard of our homes. With these kindly influences about you, if you do but heed them, you will be led to a conclusion, I am satisfied, which will leave the judgment without error and the conscience without reproach.

THE CHARGE OF THE COURT.

Gentlemen of the Jury:—

For three days you have listened to the testimony in this case, and for the better part of two days that testimony has been discussed before you with a skill and power rarely surpassed, and there now remains for me before this cause is finally committed to your decision only the duty of declaring to you the principles of law, with such brief reference to the features of the case as will enable you to make the proper application of those principles.

The defendants are indicted for the murder of Jennie Bosschietter on October 18, 1900, in this county. That is the form of the indictment, but included in the charge of murder is also a charge that on the same day, within the county, these defendants committed upon her the crime of rape. Under this indictment it will be lawful for you to render a verdict that the defendants are not guilty, or that some of the defendants are not guilty, and some of them are guilty, or that all are guilty; and as to those whom you find guilty, it will be lawful for you to find some guilty of rape and some guilty of murder, or that all are guilty of rape or murder.

In your deliberations you are to bear in mind the legal rule pertinent to all criminal prosecutions in this State, that each defendant is to have the benefit of reasonable doubt; that if there be reasonable doubt whether a defendant be guilty or innocent, he is to be declared not guilty; that if he be proven guilty, but there is a reasonable doubt whether his guilt is of a higher or lower grade of crime he is to be convicted only of the lower grade. But by reasonable doubt is not meant a hesitation of the mind to accept proof because of a mere chance or possibility of error. It means, rather, some uncertainty of judgment for which a reason satisfactory to the conscience can be given after all the evidence has been fully considered with a sincere desire to ascertain the truth. Nor is a doubt reasonable in this sense, if it spring from a fear or dislike of the consequences to follow from a declaration of the truth. The mind must be regardless of those consequences, save as they may operate as an incentive in the search for truth.

In your deliberations you are also to remember that on you rests the responsibility for deciding all questions of fact. Whether the testimony of any particular witness

upon any particular point is to be believed or disbelieved, whether out of any circumstance or group of circumstances proved, a fact which reasonably might be inferred therefrom shall be so inferred, are matters wholly for your decision.

With these general instructions, then, I proceed to call your attention now briefly to some of the more prominent features of the case in hand.

First, let us turn to the occurrence near the Rock road where the defendants alighted from the hack in which they and Jennie Bosschietter had been riding. I turn to these first because, while they relate directly to the charge of rape, they may also have an important bearing upon the grave charge of murder. The state contends that at that place the defendants, or some of them, ravished Jennie Bosschietter. As to this charge some facts seem to be undisputed. The testimony appears to prove that during the three or four mile drive from Saal's saloon to that spot Jennie Bosschietter was in a state of absolute, or almost absolute, insensibility, and so continued while the party were there; that she was lifted from the carriage and placed upon a blanket spread on the ground a few feet from the hack; that there the defendants gathered near her; that because of what was done there a finger rag fell from her finger, and a pin which had been fixed in her dress dropped to the ground. So much seems to be undisputed, and perhaps these last two indices, the finger rag upon the ground and this pin from her dress, may throw some light upon the degree of force or motion to which she was there subjected.

Beyond this the testimony is in conflict. The hackman, Sculthorpe, swears that he saw there several of these defendants lying upon the body of the girl as if in the act of sexual connection with her, that they afterwards approached the hack, showing indubitable signs of such an act, and asked him also to gratify lust. The officers, Titus, Taylor and Lord, also swear that four days afterwards Death declared to them in substance that he there had sexual connection with her. It also appears that the drawers which she had worn that day had been removed from her body before it was examined the next morning, and the testimony of the hackman, if believed, seems to account for their absence which is otherwise unexplained. Does the absence of the drawers account for what might seem a gap in the evidence of sexual connection—proof of the presence somewhere upon that girl's body or clothing

of signs of seminal discharge? Would those drawers, if produced, supply the link that there may be lacking?

Against this array of evidence, both direct and circumstantial, there is the testimony of the defendants themselves, who swear that they did not there perpetrate the acts alleged, and that their whole purpose and conduct were to enable the girl to throw off the contents of her stomach and to revive her from her insensibility. Death also swears that he did not make the statements sworn to by the officers.

In endeavoring to gather the truth from this conflicting testimony, it is but a dictate of common sense that you should consider whether any of the witnesses have a motive to testify falsely. Has the hackman any motive to testify that a transaction, in which he himself participated, was so disgraceful, if the transaction were really innocent? Have the officers any motive to swear to the confession by Death of so heinous a crime if no such confession was made? Have the defendants any motive to deny such an accusation, if the accusation be true?

There are undoubtedly other circumstances in the case which throw more or less light on the transactions near the Rock road, such as the occurrences in the saloon, the conduct of these defendants after they had left the saloon, the condition of the girl's body after death, and other circumstances of more or less significance; but they have been so fully discussed by counsel before you that I leave them to your memory and reflection without further comment.

Just here, it is proper to state to you the legal rule with regard to the alleged confession of Death.

It is not to be regarded as evidence of the guilt of the other defendants.

It is evidence on the question of his own guilt, if you are satisfied he made it. Plainly, if a man confess himself guilty of crime, when we can perceive no motive for him to incriminate himself falsely, his confession would tend strongly to convince us of his guilt. But its probative force is lessened as motive to pervert the truth appears. Whether there appears to have been here any such motive in the mind of Death, and what weight shall be given to the evidence of his confession as proof of his guilt in this case, are matters for your determination.

So, also when you are considering the testimony of Death and Campell in the defence of the prisoners, you should remember the testimony of the officers that both

of these defendants made statements contradictory to the testimony which these defendants now give.

A witness swearing to matters in exculpation of himself is naturally less worthy of credence, if it be shown that, on other occasions, he has made inconsistent statements admitting guilt.

If it be not satisfactorily proved that any of the four defendants named in this indictment had sexual connection with Jennie Bosschietter near the Rock Road that night, then the defendants are not guilty of rape.

But, if it be satisfactorily proved that any of those four defendants had such connection, while Jennie Bosschietter was in a state of insensibility, so that she was manifestly incapable of consenting thereto, or of resisting, then the person or persons having such connection were guilty of rape; and every person present there aiding and abetting was likewise guilty.

Thus, if any of the defendants assisted in lifting her from the carriage, or in obtaining or spreading the blanket, or in placing her upon it, or if they had assisted in bringing her to that place, or in preparing her to be brought to that place, believing when they so assisted, that the ultimate object of their efforts was that some person should have sexual connection with her while she was so insensible as to be unable either to consent or resist, then the defendants rendering such assistance were as guilty of rape as if they had personally ravished her.

You see, gentlemen, on this question of rape, the administration of a drug is not a necessary ingredient.

If she, by her voluntary intoxication, had been reduced to such a condition as to be manifestly incapable of consenting to or resisting sexual connection, and then, without her consent, any of these defendants, knowing her condition, had sexual intercourse with her without her consent rape was thereby perpetrated.

I turn now to the graver charge of murder.

The State contends that in Saal's saloon, before the drive to the Rock road, some one of these defendants had placed a drug in her glass, in order to stupify her, so that while she was in a state of stupefaction, some of these defendants might have connection with her without her consent.

Here becomes manifest the importance of first determining what occurred at the Rock road.

If the defendants had, in Saal's saloon, a purpose to gratify their lust upon her, without her consent, then it

would seem likely that they would carry out their purpose when the most convenient opportunity was presented, on the Rock road.

If they did not, at the Rock road accomplish such a purpose, then it is less easy to believe that, in Saal's saloon, they entertained such a purpose.

But if, at the Rock road, they did perpetrate such a crime, then it is more easy to believe that in Saal's saloon such a purpose existed, and preparation was made for its accomplishment. So it will, I think, be helpful to you, in your search for the truth, to bring into your consideration of what occurred in Saal's saloon, your determination as to what occurred at the Rock road.

Now, in addition to the occurrence at the Rock road, there is other evidence in regard to what happened at Saal's saloon.

Christopher Saal swears that in his saloon the defendant McAlister ordered four drinks for the sitting room and took them into that room. The hackman swears that as he drove away from the Rock road he heard a noise which sounded like a bottle hitting a stone, and that some days afterwards, he, in company with the officers, found near that place a small bottle with a chip broken off. This bottle is said to have come into the hands of Professor Witthaus. He swears that in that bottle he found three drops of a strong solution of chloral hydrate, and that chloral hydrate is a poisonous drug. It is also claimed by the State that the stomach of Jennie Bosschietter was delivered to Professor Witthaus, and he swears that in part of the stomach and its contents he found chloral hydrate in such quantity as to indicate the presence there of about ten grains of that drug, a remnant which he says would naturally show that she had had in her stomach enough to kill her. So, if you believe the officers Titus, Taylor and Lord, Death declared that he saw McAlister put knockout drops into her glass two or three times in Saal's saloon, and knockout drops are said to be the common name for chloral hydrate. It also appears that while in the saloon, from what she drank there she became somewhat excited and soon became stupid and helpless, and so continued until her death, and these symptoms are said naturally to ensue upon an overdose of chloral hydrate. Against this evidence is the testimony of the three defendants, that McAlister did not take any drinks into the sitting room of the saloon, that Campbell took in the first drinks and Death the second,

and the third; a bottle of champagne was taken in by Saal himself; and they further swear they didn't put any drug in that glass from which Jennie Bosschietter drank, or see any drug put there; that she drank in that room a glass of cocktail, a glass of absinthe, and two glasses of champagne. Then Dr. Laffin swears that the cocktail and absinthe and champagne taken upon an empty stomach by a person not used to absinthe would be likely to produce symptoms which the girl exhibited. I think that one of the defendants testified that in Saal's saloon Jennie Bosschietter declared that absinthe and whiskey were her favorite drinks, so it may be questioned whether she was a person not used to absinthe. Dr. Vandenberg swears that by some of the same tests applied to a mixture of cocktail, absinthe and champagne received in Saal's saloon two weeks ago, he obtained appearances similar to those revealed in Professor Witthaus' tests, but, if I remember correctly, he did not say that in the mixture he found chloral hydrate, or that he employed all the tests used by Professor Witthaus, and Professor Witthaus had said that some of these tests were not conclusive as to the presence of chloral hydrate, but might indicate the presence of other substances, that only after the use of all his tests had he become satisfied that chloral hydrate was found. It is argued that if each one of the tests was not conclusive the sum of them all could not be conclusive, but that seems hardly to be sound reasoning, gentlemen, for when you are trying to determine what any given substance is, you make that determination out of the sum of its attributes, not by a single one of its attributes. A pane of glass and a thin sheet of ice are both transparent; you know about the given substance that it is transparent and cold to the touch, you cannot tell whether it is a sheet of ice or a sheet of glass, but if you learn besides that it melts in the sunlight then you reach a conclusion that it is not glass but ice. But if in the first instance, you are only told that the substance you are trying to recognize melts in the sun, you would not be able to say it is ice, because there are many substances that melt in the sun; it is only when you have discovered these three attributes in the substance, namely, that it is transparent and cold to the touch, and that it melts in the sun, that you settle down to the conviction that that is ice. So there may be that sense and reason in the chemist's declaration that only when all his tests have been exhausted is he able to de-

clare that there was in the solution which he analyzed chloral hydrate.

In endeavoring to ascertain the truth from all this evidence, in regard to the administration of poisonous drugs you will remember again the suggestion which I have already made with respect to rape, namely, the rule that the confession of one man is not legal evidence of the guilt of another, and the interest which any witness may have to pervert or deny the truth, and that statements which a witness has previously made, inconsistent with his present testimony, will tend to throw discredit on his evidence. If it is not satisfactorily proved to you that one of these defendants administered to Jennie Bosschietter that poisonous drug, then these defendants would not be guilty of murder—but if it be proved satisfactorily to you that one of the defendants did administer such a drug then arises another question for you to decide, viz.: what was the purpose of such administration.

The State contends that the purpose was to reduce the girl to such a condition that she would be unable to resist an attempt to have carnal connection with her, and so one or more of the defendants might have such connection without her consent. If the drug was administered, I think it is not suggested by anyone in this case that any other motive than that is discoverable. Still, it is a question for you to decide as to what the purpose was. If the purpose was to reduce the girl to insensibility so that some one might have sexual connection with her without her consent when she was unable to resist, then if she died from the effect of that drug the defendant who administered it with that purpose is guilty of murder in the first degree. And not only is that defendant guilty, but any other defendant who entertaining a like purpose aided and abetted in the administration of the drug is likewise guilty to the same degree. In order to aid and abet in the administration of the drug it is not necessary that one should have taken part in procuring the drug, or in placing it in her glass. It is enough if he intentionally diverted the girl's attention so that the drug might be put in her glass without her notice, or, if believing that the drug had been put in her glass, he encouraged her to drink it, by drinking with her or otherwise. One so aiding or abetting is equally guilty of murder in the first degree.

These then, gentlemen, are all the observations which I think it proper for me to lay before you. In concluding let me remind you again that it is within your legal prov-

ince to find the defendants either not guilty or guilty, and if guilty, to find each guilty of rape or of murder, and if of murder, then to declare in your verdict whether the murder is in the highest—the first degree, or in the second.

The responsibility of the case is now with you. It is a very grave responsibility, grave because of the consequences to these defendants. On the one hand, loss of life, or liberty; on the other, complete exoneration. Grave also, because of the importance to the public, important on one hand that such heinous offences as are here charged should be adequately punished; on the other hand that no man should be subjected to punishment for crime without due proof lawfully produced. But the gravity of your duty should not shake your purpose to discharge it. If you bring to its performance a manly determination to give full consideration to the evidence, to draw from that evidence the wisest conclusions which your judgments dictate, and to declare your results without fear or favor, then you will not fail in the high office which you now occupy; and I pray God you may be guided to the truth.

(The jury then retired.)

Mr. Scott :—In behalf of each one of the defendants I except to that part of your Honor's charge where you lay down the principle that if she became intoxicated voluntarily and connection was had with her by any of the defendants, that that was rape.

The Court :—What I said on that subject was not that.

Mr. Scott :—I have not your Honor's precise words before me, but your Honor will understand the portion of your charge to which I refer.

The Court :—What I said on that subject objection may be entered to.

Mr. Scott :—Likewise, I may have erred in putting down accurately the words of your Honor on this second proposition, but I think your Honor will recognize it, that if the purpose in the administration of the drug was to

make her insensible so as to rape her and she died, these defendants are guilty of murder in the first degree.

The Court :—Yes, sir.

Mr. Scott :—And also a general exception, your Honor.

Mr. Dunn :—A general exception to the charge as a whole.

The Court :—Without further specification ?

Mr. Dunn :—Yes, sir; under the statute of 1894, or 1895.

The Court :—But you present no specification which enables the Court to correct any mistake. You point out no mistake.

Mr. Dunn :—No, sir.

(The prisoners were then remanded.)

Mr. Dunn :—Your Honor, the form in which I put the general objection to the charge and my exception, if not proper, I would like to have the privilege of amending it in accordance with the statute before referred to.

VERDICT AND SENTENCE.

The jury returned a verdict of guilty of murder in the second degree against all three defendants. They were sentenced to thirty years' imprisonment.

George J. Kerr, indicted with the foregoing, applied for a separate trial, which was granted. After the jury's finding in the foregoing case, Kerr retracted his plea and pleaded non vult to rape. He was sentenced to fifteen years' imprisonment.