

No. 19  
Clerks Table  
1878

---

( BENJAMIN HUNTER  
vs.  
THE STATE OF NEW JERSEY. )

---

New Jersey Court of Errors and Appeals in the  
last resort of the Term of November,  
A. D. 1878.

---

IN ERROR TO THE OYER AND TERMINER OF CAMDEN ON  
INDICTMENT FOR MURDER.

---

APPELLANT'S PAPER BOOK.

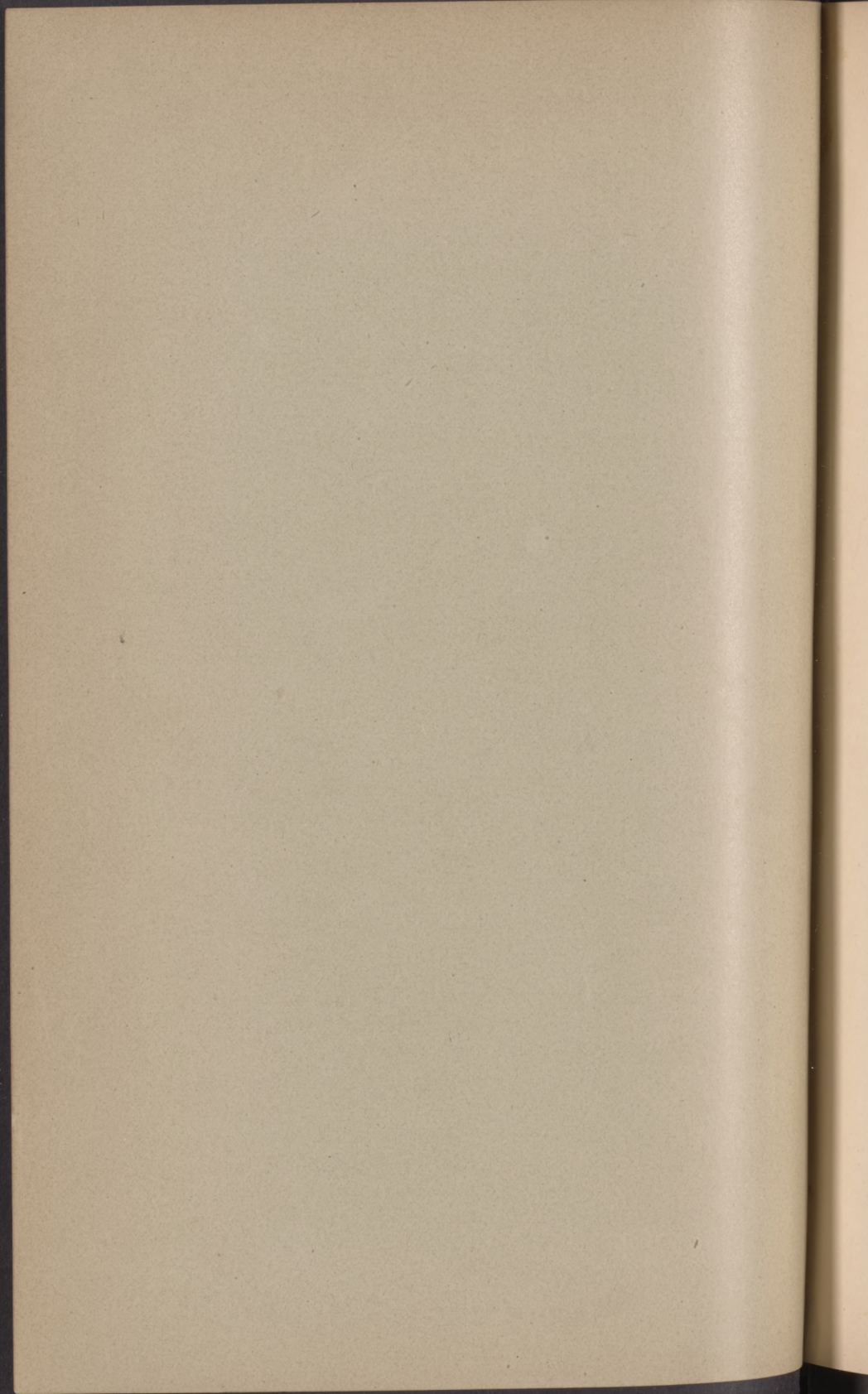
---

GEORGE M. ROBESON,

For Appellant.

---

The Times Printing House,  
Legal Emporium of Philadelphia,  
608 & 610 Chestnut Street. )



(Endorsement.)

NEW JERSEY COURT OF ERRORS AND APPEALS.

BENJAMIN HUNTER

*vs.*

THE STATE OF NEW JERSEY.

---

WRIT OF ERROR SUR. INDICTMENT FOR  
MURDER.

---

Returnable third Tuesday of November, A. D. 1878.

GEORGE M. ROBESON,

*Att'y for Plaintiff in Error.*

---

Camden Oyer and Terminer presented in open Court,  
and ordered to be filed and returned November 9, 1878.

G. S. WOODHULL, *P. J.*

---

WRIT.

NEW JERSEY, } *ss.*

The State of New Jersey to the Judges of our Court of  
Oyer and Terminer and General Jail Deliv-  
[SEAL.] ery, holden in and for one county of Camden,  
greeting: Forasmuch as in the record and  
proceedings, and also in the giving of the  
verdict and the judgment on a certain indictment made  
and presented in our said Court of Oyer and Terminer  
and General Jail Delivery against Benjamin Hunter, where-  
by the said Benjamin Hunter was charged with the mur-

der of one John M. Armstrong, whereof the said Benjamin Hunter, by a certain jury of our said county, taken thereupon between us and the said Benjamin Hunter before our said Court of Oyer and Terminer and General Jail Delivery, is thereupon convicted as is said manifest error hath intervened to the great damage of the said Benjamin Hunter, as by his complaint we are informed: We, being willing that the error (if any may be) should be in due manner corrected, and full and speedy justice done to the said Benjamin Hunter, in this behalf do command you that if judgment be thereupon given, then, without delay, you distinctly and openly, under your seals, send the record and proceedings aforesaid, and all things touching the same, to our Court of Errors and Appeals in the last resort, at Trenton, on the third Tuesday of November, instant, together with this writ, that the record and proceedings aforesaid being inspected, we may further cause to be done thereupon what of right and according to law ought to be done.

Witness the Honorable Theodore Runyon, Chancellor of the State of New Jersey, at Trenton aforesaid, the ninth day of November, Anno Domini eighteen hundred and seventy-eight.

HENRY C. KELSEY,

*Clerk.*

GEORGE M. ROBESON,

*Attorney.*

—————  
(Endorsed.)

The answer of the Court of Oyer and Terminer and General Jail Delivery within named.

The record and proceedings whereof mention is within made, with all things touching and concerning the same, we do certify and send to the Court of Errors and Appeals in the last resort in all causes in a certain schedule to this writ annexed, as within we are commanded.

G. S. WOODHULL. [L. s.]

JOEL HORNER. [L. s.]

ISAIAH WOOLSTON. [L. s.]

STATE OF NEW JERSEY, CAMDEN COUNTY.

---

COURT OF OYER AND TERMINER AND GENERAL JAIL DELIVERY.

---

May Term, 1878.

---

STATE OF NEW JERSEY, }  
 CAMDEN COUNTY, } ss.

BE IT REMEMBERED that at a Court of Oyer and Terminer and General Jail Delivery, holden at Camden, in and for the said county of Camden, on the first Tuesday of May, in the year of our Lord one thousand eight hundred and seventy-eight, before George S. Woodhull, Esquire, one of the Justices of the Supreme Court of the State of New Jersey, and David J. Pancoast, Joel Horner and Isaiah Woolston, Judges of the Inferior Court of Common Pleas in and for the said county of Camden, according to the form of the statute in such case made and provided, by the oath of John S. Reed, Charles G. Zimmerman, William H. Powell, William H. Cole, John R. Johnston, Matthew Miller, William Shearman, B. Frank Sutton, James Tatem, Charles Sharp, Elwood M. Kemble, Charles Robinson, Thomas C. Knight, Samuel T. Murphy and William C. Hay, and by the solemn affirmation of Stephen Titus, Christopher J. Mines, Senior, William Sharp, Joseph B. Tutem, John Gill, Junior, Amos Ebert, Lemuel Harner, and William M. Godfrey, having first alleged themselves to be conscientiously scrupulous of taking an oath, good and lawful men of the said

county of Camden, duly summoned, and then and there sworn, affirmed and charged to inquire for the State of New Jersey, in and for the body of the said county. It is presented in manner and form following, that is to say :

CAMDEN COUNTY, ss.

The Grand Inquest of the said State of New Jersey, and for the body of the county of Camden, upon their respective oath and affirmation, present: That Benjamin Hunter, late of the city of Camden, in the said county of Camden, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, on the twenty-third day of January, in the year of our Lord one thousand eight hundred and seventy-eight, with force and arms at the city aforesaid, in the county aforesaid, and within the jurisdiction of this Court, in and upon one John M. Armstrong, in the peace of God and of the said State, then and there being wilfully, feloniously, and of his malice aforethought, did make an assault, and that he, the said Benjamin Hunter, then and there with a certain hammer, which he, the said Benjamin Hunter, in his right hand, then and there had and held the said John M. Armstrong, in and upon the top of the head of him, the said John M. Armstrong, then and there wilfully, feloniously, and of his malice aforethought, did strike, giving unto him, the said John M. Armstrong, then and there with the said hammer, by the stroke aforesaid, in manner aforesaid, in and upon the top of the head of him, the said John M. Armstrong, one mortal wound, of which said mortal wound he, the said John M. Armstrong, from the said twenty-third day of January, in the year of our Lord one thousand eight hundred and seventy-eight, until the twenty-fifth day of the same month of January, in the year aforesaid, did languish, and languishing did live, on which said twenty-fifth day of January, in the year aforesaid, he, the said John M. Armstrong, of the said mortal wound, died.

And so the Grand Inquest aforesaid, upon their oath and affirmation aforesaid, do say that the said Benjamin

Hunter, him, the said John M. Armstrong, in manner and form aforesaid, wilfully, feloniously, and of his malice aforethought did kill and murder, to the evil example of all others in like case offending contrary to the form of the statute in such case made and provided, and against the peace of the State, the government and dignity of the same. And the Grand Inquest aforesaid, upon their oath and affirmation aforesaid, do further present: That the said Benjamin Hunter, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, on the said twenty-third day of January, in the year of our Lord one thousand eight hundred and seventy-eight, with force and arms at the city of Camden aforesaid, in the county of Camden aforesaid, and within the jurisdiction of this Court, in and upon one John M. Armstrong, in the peace of God and of the said State, then and there being wilfully, feloniously, and of his malice aforethought, did make an assault, and that he the said Benjamin Hunter then and there with a certain hammer, which he, the said Benjamin Hunter, in his right hand then and there had and held the said John M. Armstrong, in and upon the top of the head of him, the said John M. Armstrong, then and there wilfully, feloniously, and of his malice aforethought, did strike, giving unto him, the said John M. Armstrong, then and there with the said hammer by the stroke aforesaid, in manner aforesaid, in and upon the top of the head of him, the said John M. Armstrong, one mortal wound, of which said mortal wound he, the said John M. Armstrong, from the said twenty-third day of January, in the year of our Lord one thousand eight hundred and seventy-eight, until the twenty-fifth day of the same month of January, in the year last aforesaid, did languish, and languishing did live; on which said twenty-fifth day of January, in the year last aforesaid, he the said John M. Armstrong, at the city of Philadelphia, in the State of Pennsylvania (whither he the said John M. Armstrong, after the said Benjamin Hunter had wilfully, feloniously, and of his malice aforethought, so stricken him, the said John M. Armstrong, in manner and form aforesaid, and given unto him, the said John M.

Armstrong, by the stroke aforesaid, one mortal wound in manner and form as aforesaid, to wit, on the said twenty-third day of January in the year of our Lord one thousand eight hundred and seventy-eight aforesaid, at the city of Camden, in the county of Camden, and within the jurisdiction of this Court aforesaid)—of the said mortal wound, died. And so the Grand Inquest aforesaid, upon their oath and affirmation aforesaid, do say that the said Benjamin Hunter, him the said John M. Armstrong, in manner and form aforesaid, wilfully, feloniously, and of his malice aforethought, did kill and murder, to the evil example of all others in like case offending, 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 Grand Inquest aforesaid, upon their oath and affirmation aforesaid, do further present: That the said Benjamin Hunter, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, on the said twenty-third day of January, in the year of our Lord one thousand eight hundred and seventy-eight, with force and arms, at the city of Camden aforesaid, in the county of Camden aforesaid, and within the jurisdiction of this Court, in and upon one John M. Armstrong, in the peace of God and the said State, then and there being wilfully, feloniously, and of his malice aforethought, did make an assault, and that he, the said Benjamin Hunter, then and there with a certain hammer, which he, the said Benjamin Hunter, in his right hand then and there had and held, the said John M. Armstrong in and upon the top of the head of him, the said John M. Armstrong, then and there wilfully, feloniously, and of his malice aforethought, did strike, giving unto him, the said John M. Armstrong, then and there, with the said hammer, by the stroke in manner aforesaid, in and upon the top of the head of him, the said John M. Armstrong, one mortal wound—the said John M. Armstrong being then and there feloniously stricken by the said Benjamin Hunter at the time and in the manner and form aforesaid within the jurisdiction of this State, to wit, on the twenty-third day of January, in the

year of our Lord one thousand eight hundred and seventy-eight, at Camden in the county of Camden aforesaid, of which said mortal wound he, the said John M. Armstrong, from the said twenty-third day of January, in the year of our Lord one thousand eight hundred and seventy-eight, until the twenty-fifth day of the same month of January, in the year last aforesaid, did languish and languishing did live, on which said twenty-fifth day of January, in the year last aforesaid, he the said John M. Armstrong of the said mortal wound so occasioned as aforesaid, by the said stroke so wilfully, feloniously, and of his malice aforethought, given and administered by the said Benjamin Hunter in and upon the top of the head of him the said John M. Armstrong, as aforesaid, died at a certain place out of the jurisdiction of this State, to wit, at the city of Philadelphia, in the State of Pennsylvania. And so the Grand Inquest aforesaid, upon their oath and affirmation aforesaid, do say that the said Benjamin Hunter, him the said John M. Armstrong, in manner and form aforesaid, wilfully, feloniously, and of his malice aforethought, 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 Grand Inquest aforesaid, upon their oath and affirmation aforesaid, do further present that the said Benjamin Hunter, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, on the said twenty-third day of January in the year of our Lord one thousand eight hundred and seventy-eight, with force and arms, at the city of Camden aforesaid, in the county of Camden aforesaid, and within the jurisdiction of this Court, in and upon one John M. Armstrong, in the peace of God and the said State, then and there being wilfully, feloniously, and of his malice aforethought, did make an assault, and with a hammer which he, the said Benjamin Hunter, then and there, in his right hand had and held, he the said Benjamin Hunter then and there in and upon the head of him the said John M. Armstrong, wilfully, feloniously, and of his malice aforethought, did strike, then and there giving to him the said John M.

Armstrong, by the said felonious striking; so as aforesaid done, had and given, *within the jurisdiction of this State*, one mortal wound, of which said mortal wound then and there so feloniously stricken as aforesaid, in manner and form aforesaid, he the said John M. Armstrong afterwards, to wit, on the twenty-fifth day of January, in the year of our Lord last aforesaid, died at a certain place *out of the jurisdiction of this State*, to wit, at the city of Philadelphia, in the State of Pennsylvania. And so the Grand Inquest aforesaid, upon their oath and affirmation aforesaid, do say that the said Benjamin Hunter, him the said John M. Armstrong, in manner and form aforesaid, wilfully, feloniously, and of his malice aforethought, 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 Grand Inquest aforesaid, upon their oath and affirmation aforesaid, do further present: That the said Benjamin Hunter, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, on the said twenty-third day of January, in the year of our Lord one thousand eight hundred and seventy-eight, with force and arms, at the city of Camden aforesaid, in the county of Camden aforesaid, and within the jurisdiction of this Court, in and upon one John M. Armstrong, in the peace of God and the said State, then and there being wilfully, feloniously, and of his malice aforethought, did make an assault, and with a certain hatchet, which he, the said Benjamin Hunter, then and there in his right hand had and held, he, the said Benjamin Hunter, then and there in and upon the forehead and top of the head of him, the said John M. Armstrong, wilfully, feloniously, and of his malice aforethought, did strike, then and there, giving to him, the said John M. Armstrong, by the said felonious striking, so as aforesaid done, had and given *within the jurisdiction of this State*, divers mortal wounds, of which said mortal wounds then and there so feloniously stricken by the said Benjamin Hunter as aforesaid, in manner and form aforesaid, he the said John M. Armstrong afterwards, to wit, on the twenty-fifth day of January, in the

year of our Lord last aforesaid, died at a certain place *out of the jurisdiction of this State*, to wit, at the city of Philadelphia, in the State of Pennsylvania. And so the Grand Inquest aforesaid, upon their oath and affirmation aforesaid, do say that the said Benjamin Hunter, him the said John M. Armstrong, in manner and form aforesaid, wilfully, feloniously, and of his malice aforethought, 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 Grand Inquest aforesaid, upon their oath and affirmation aforesaid, do further present, that the said Benjamin Hunter, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, on the said twenty-third day of January, in the year of our Lord one thousand eight hundred and seventy-eight, with force and arms, at the city of Camden aforesaid, in the county of Camden aforesaid, and within the jurisdiction of this Court, in and upon one John M. Armstrong, in the peace of God and the said State, then and there being wilfully, feloniously, and of his malice aforethought, did make an assault, and that the said Benjamin Hunter, then and there, did wilfully, feloniously, and of his malice aforethought, kill and murder him, the said John M. Armstrong, 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.

R. S. JENKINS,  
*Pros. of the Pleas.*

(Endorsed.) A true bill.

JOHN S. REED, *Foreman.*

Which said indictment is afterwards, to wit, on the eighth day of May, of the term of May, in the year of our Lord one thousand eight hundred and seventy-eight, at the Court of Oyer and Terminer and General Jail Delivery, holden at Camden aforesaid, in the county of Camden aforesaid, before George S. Woodhull, Esquire, one of the

Justices of the Supreme Court of the State of New Jersey, and David J. Pancoast, Joel Horner, and Isaiah Woolston, Judges of the Inferior Court of Common Pleas, in and for the said county of Camden, duly delivered here in Court by the General Jurors aforesaid, in due form of law to be determined. Whereupon the Sheriff of the county of Camden aforesaid is commanded to take the said Benjamin Hunter, if he may be found in his county, and him safely keep to answer to the felony and murder as he stands indicted. Afterwards, to wit, at the same Court of Oyer and Terminer and General Jail Delivery, holden at Camden aforesaid, in the county of Camden aforesaid, on the tenth day of May, of the term of May, in the year of our Lord last aforesaid, before the said George S. Woodhull, Esq., one of the Justices of the Supreme Court of the State of New Jersey, and Joel Horner and Isaiah Woolston, Esqs., Judges of the Inferior Court of Common Pleas, in and for the county of Camden, here cometh the said Benjamin Hunter, under the custody of Jacob C. Daubmann, Esq., High Sheriff of the said county of Camden (in whose custody in the jail of the county aforesaid, for the cause aforesaid, he had been committed), being brought to the Bar here in his proper person, by the said sheriff, to whom he is here also committed, and forthwith being demanded of and concerning the premises in the said indictment above specified, and charged upon him how he will acquit himself thereof, he saith that he is not guilty thereof, and therefore, for good and evil, he puts himself upon the country and Richard S. Jenkins, Esq., Prosecutor of the Pleas of the State, for the county aforesaid, who prosecutes for the State of New Jersey, in this behalf doth the like. And afterwards, to wit, at the same Court of Oyer and Terminer and General Jail Delivery, holden at Camden aforesaid, in the county of Camden aforesaid, on the tenth day of June of the Term of May, in the year of our Lord last aforesaid, before the said George S. Woodhull, Esq., one of the Justices of the Supreme Court of the State of New Jersey, and Joel Horner and Isaiah Woolston, Esqs., Judges of the Inferior Court of Common Pleas, here cometh the said Benjamin Hunter under the

custody of Jacob C. Daubmann, Esq., High Sheriff as aforesaid, accompanied by James M. Scovel, Esq., Aaron Thompson, Esq., and George M. Robeson, Esq., his counsel, and asks leave, through his said counsel, to withdraw his aforesaid plea of not guilty and move to quash the said indictment, which withdrawal of the said plea is allowed by the said Court, and which motion to quash is, after argument, overruled by the said Court. And the said Benjamin Hunter on the said day last aforesaid, at the Court aforesaid, again saith that he is not guilty of the said indictment, and therefore for good and evil he puts himself upon the country, and Richard S. Jenkins, Esq., Prosecutor of the Pleas of the State for the county aforesaid, who prosecutes for the State of New Jersey, in this behalf doth the like; wherefore let a jury thereupon here come before the said Court of Oyer and Terminer and General Jail Delivery above mentioned of the Term of May, aforesaid, at Camden, in the county of Camden aforesaid, on the said tenth day of June, in the year of our Lord one thousand eight hundred and seventy-eight aforesaid, of good and lawful men of the county aforesaid, by whom the truth of the matter may be better known, and who are not of kin to the said Benjamin Hunter, to recognize upon their oaths whether the said Benjamin Hunter be guilty of the felony and murder in the indictment aforesaid, above specified, or not guilty because as well the said Richard S. Jenkins, Esq., who prosecutes for the State of New Jersey, in this behalf, as the said Benjamin Hunter, have put themselves upon the said jury. At which day, to wit, Monday, the tenth day of June, as yet of the said term of May, in the year of our Lord one thousand eight hundred and seventy-eight, in the forenoon of the said day before the said Court of Oyer and Terminer and General Jail Delivery at Camden aforesaid, in the county of Camden aforesaid, here cometh as well the said Richard S. Jenkins, Esq., and Wilson H. Jenkins, Esq., who prosecute for the State of New Jersey, in this behalf, as the said Benjamin Hunter, under the custody of Jacob C. Daubmann, Esq., Sheriff as aforesaid, accompanied by James M. Scovel, Esq., Aaron Thompson, Esq., and George M.

Robeson, Esq., his counsel; and the trial of the said indictment being moved, the Court ordered the Sheriff to return the *venire facias* to him directed and delivered in this case; and the jurors of the said jury by the said Sheriff of the said county, for this purpose impaneled and returned agreeably to the said order and pursuant to the statute in such case made and provided, to wit, William Harvey, Isaac Kelley, William H. Doughten, Isaac L. Bigelow, George Warner, I. Clark Bradshaw, George T. Whiteraft, James Kelley, Thomas I. Hambrose, Gotlieb A. Holl, Charles H. Shinn, and Daniel Quicksall, being called, come, who, being chosen, tried, and sworn to speak the truth of and concerning the premises in the indictment aforesaid above specified, having heard the testimony of

|                           |                              |
|---------------------------|------------------------------|
| Thomas Graham, s.         | Albert F. Walter, s.         |
| Jacob H. Yocum, s.        | William Harrison Lambert, s. |
| Frank Bowker, s.          | Frederick W. Vanuxen, s.     |
| John W. Julier, s.        | Charles T. Lorriliere, s.    |
| Charles Fidell, s.        | Annie Ewel, s.               |
| David Barton, s.          | Sallie A. Smith, s.          |
| Charles E. Tucker, s.     | Mary Ulrick, s.              |
| Samuel Lewis Tucker, s.   | Harvey R. Edgar, s.          |
| Dr. E. M. Howard, s.      | Edward Pfeiffer, s.          |
| Dr. William Braddock, c.  | William Hewes, s.            |
| Peter Keen, s.            | Jacob C. Daubmann, s.        |
| John H. Miller, c.        | William L. Donnell, s.       |
| William Tucker, s.        | Ford W. Davis, s.            |
| Irvin H. Ritter, c.       | James P. Demaris, s.         |
| George W. Lewis, s.       | Lydia Graham, s.             |
| Dr. Charles M. Thomas, s. | Sarah A. Spillissey, s.      |
| Dr. Henry C. Chapman, a.  | Alice Coleman, s.            |
| Dr. William H. Hutt, s.   | James S. Jones, s.           |
| Ferris T. Brice, a.       | Stephen H. Carey, s.         |
| Frank L. Armstrong, s.    | John J. Hood, s.             |
| Joseph Ashbrook, c.       | Mrs. Armstrong, s.           |
| Dr. John C. Morgan, s.    | Annie E. Lyons, s.           |
| William A. Styles, s.     | Frederick Getz, s.           |
| Charles Gibbens, s.       | Samuel Mortland, s.          |
| John H. Hutchinson, s.    | Charles H. Shearman, s.      |

A. B. Frazee, s.  
 William Voght, s.  
 John McKenna, s.  
 Joseph C. Nichols, s.

Joseph Moore, s.  
 Thomas W. Mooney, s.  
 Charles Hart, s.  
 Annie Aurache, s.

In behalf of the State, and having heard the testimony of

Oliver Evans, a.  
 Isaac Dixon, a.  
 George W. Powell, s.  
 William Wiler, s.  
 William D. Gardiner, s.  
 Edward Getty, s.  
 George Getty, s.  
 Benjamin H. Lytell, s.  
 John W. Everman, a.  
 Robert Thompson, s.  
 John C. McNaughten, s.  
 George B. Carr, s.  
 George F. Reeves, s.  
 Martha M. Hunter, s.  
 Eliza Abel, s.  
 Emma Bethel, s.  
 Benjamin Franklin Hunter, s.  
 Rachel Dill, s.  
 Dr. Adolphus H. Ashton, s.  
 Israel W. Morris, s.  
 Abram S. Jenks, a.  
 Joseph C. Turnpenny, a.  
 Peter L. Krider, a.  
 James Evans, s.  
 William H. Trotter, a.  
 Charles H. Eldridge, s.  
 William Winterbottom, s.  
 Edward L. Mintzer, a.  
 James Andrews, a.  
 John C. Brown, a.  
 Henry Phillippi, s.  
 George Kelley, s.  
 Daniel Herron, s.

Eli Keen, s.  
 Charles Shivers, s.  
 William Montgomery, s.  
 Marcus A. Davis, a.  
 John R. Hughn, a.  
 Edward Wiler, s.  
 Jacob Moore, a.  
 David Pancoast, a.  
 Thomas A. Barlow, s.  
 William McCarter, s.  
 Caroline Vance, s.  
 Kate Hunter, s.  
 Jeremiah C. Jones, a.  
 Charles T. Shively, s.  
 George K. Cross, s.  
 Mary Hunter, s.  
 James W. Ayres, s.  
 Dr. Andrew Nebinger, s.  
 Washington Young, s.  
 Martin Royer, s.  
 Benjamin Allen, a.  
 Allen Wood, a.  
 Elbridge G. Stout, s.  
 Thomas W. Wilkinson, s.  
 James C. Booth, s.  
 William B. Grubb, s.  
 Richard L. Nicholson, a.  
 Robert S. Belisle, s.  
 Thomas P. Curly, s.  
 George K. Leas, s.  
 John Allen, s.  
 Benjamin Braker, s.  
 George W. Carse, s.

|                         |                         |
|-------------------------|-------------------------|
| Edward Cubberly, s.     | Edward Thompson, s.     |
| Samuel L. Hanulton, s.  | Thomas Armitage, s.     |
| Samuel C. West, a       | Daniel Johntry, s.      |
| Richard J. Peltz, a.    | Charles A. Miller, s.   |
| William P. Stewart, s.  | Owen R. Jones, s.       |
| Henry Green, s.         | George W. Middleton, s. |
| Mary H. Field, s.       | Peter Bowers, s.        |
| William R. Thomas, s.   | John W. Jennings, s.    |
| Samuel Townsend, s.     | Charles W. Brinux, s.   |
| James Smith, s.         | John V. Shister, s.     |
| Theodore Kile, s.       | George F. Weeks, s.     |
| William Smith, s.       | Samuel S. Gross, s.     |
| Charles H. Muerheid, a. | Benjamin Hunter, s.     |
| Charles S. Close, s.    | J. Loudon Snowden, s.   |
| Thomas Dixon, s.        | James Pollock, s.       |
| John Welsh, s.          | Joseph Pall, s.         |
| John Holton, s.         | Sarah C. Scott, s.      |
| Collins C. Cooper, a.   | Aaron Hand, s.          |
| Mary Benkert, s.        |                         |

In behalf of the Defendant and counsel having summed up the cause to them, retired, after being charged by the Court with Constables Alfred Robinson and Samuel Shears, sworn to attend them. After a short absence they returned into Court, and, being called, all appear and say they have agreed upon their verdict, and by their foreman upon their oath do further say that they find the said Benjamin Hunter guilty of the felony and murder in the first degree against him above charged in manner and form as he stands charged in the indictment; which verdict of the jury was duly rendered, taken and recorded, in the said Court, on Wednesday the third day of July, of the Term of May, in the year of our Lord one thousand eight hundred and seventy-eight, whereupon it is on the said third day of July, of the Term of May aforesaid, in the year last aforesaid, ordered by the said Court of Oyer and Terminer and General Jail Delivery at Camden aforesaid, in the county of Camden aforesaid, that the said Benjamin Hunter be remanded to the jail of the said county and there be safely kept until the ninth day of November, of the Term of October, in the year of our Lord

one thousand eight hundred and seventy-eight; and that then he be brought from the said jail, under the custody of the Sheriff aforesaid, and placed at the bar of said Court for sentence according to law.

And afterwards, to wit, on Saturday, the ninth day of November, in the year of our Lord one thousand eight hundred and seventy-eight, of the Term of October, at the hour of nine o'clock in the forenoon of said day, before the Court of Oyer and Terminer and General Jail Delivery at Camden aforesaid, in the county of Camden aforesaid, cometh the said Benjamin Hunter in the custody of the sheriff aforesaid, according to the order of the Court aforesaid, and being brought to the Bar here in his proper person by the said sheriff, to receive the judgment of the law, Richard S. Jenkins, Esq., the said prosecutor of the pleas, then moved for the judgment of the law, whereupon the said Benjamin Hunter, by George M. Robeson, Esq., his counsel, moved that judgment be given for the said Benjamin Hunter, and that he be allowed to go without day, notwithstanding the verdict against him, which motion was denied by the Court. And upon this, it is forthwith demanded of the said Benjamin Hunter, if he hath or knoweth anything to say, wherefore the said Court here ought not, upon the premises and verdict aforesaid, to proceed to judgment and execution against him, who nothing further saith, unless as before he had said.

Whereupon, on the ninth day of November of the said Term of October, in the said year of our Lord one thousand eight hundred and seventy-eight, at Camden, in the county of Camden aforesaid, all and singular the premises being seen by the said Court, here fully understood, it is considered and adjudged by the Court now here that the said Benjamin Hunter be securely kept in the jail of the said county of Camden until Friday, the tenth day of January, in the year of our Lord one thousand eight hundred and seventy-nine, and on that day, between the hours of ten o'clock in the forenoon and two o'clock in the afternoon, he be taken to the place of execution, to be provided by the sheriff of the said county of Camden, pursuant to the statute in such case made and

provided, and that he then and there be hanged by the neck  
until he be dead.

*Sus per coll.*

By the Court.

G. S. WOODHULL. [SEAL.]

JOEL HORNER. [SEAL.]

ISAIAH WOOLSON. [SEAL.]

10

20

30

In the Court of Oyer and Terminer and General Jail Delivery, in and for the County of Camden, of the State of New Jersey, of the Term of May, in the year of our Lord one thousand eight hundred and seventy-eight.

|                  |   |  |
|------------------|---|--|
| STATE            | } | Indictment for the Murder of<br>John M. Armstrong. |
| <i>vs.</i>       |   |  |
| BENJAMIN HUNTER. |   |  |

Be it remembered that at a Court of Oyer and Terminer and General Jail Delivery, holden in the city of Camden and county of Camden in the State of New Jersey, before the  
 10 Honorable George S. Woodhull, one of the Justices of the Supreme Court of Indication of the State of New Jersey, and Isaiah Woolston and Joel Horner, Esquires, Judges of the Court of Common Pleas of the city of Camden, county of Camden, and State of New Jersey, on the tenth day of June, as yet of the said Term of May, Anno Domini one thousand eight hundred and seventy-eight, Richard S. Jenkins, Esquire, Prosecutor of the Pleas for the said County and Attorney for the State in this case,  
 20 having in the presence of James M. Scovel, Aaron Thompson and George M. Robeson, Attorneys and Counsel for the prisoner, Benjamin Hunter, moved for the trial of the said prisoner, on the indictment found in this case in the words and figures following :

Camden County, to wit: The Grand Inquest of the State of New Jersey and for the body of the county of Camden, upon their respective oath and affirmation present: That Benjamin Hunter, late of the city of Camden, in the said county of Camden, not having the fear of God before  
 30 his eyes, but being moved and seduced by the instigation of the devil, on the twenty-third day of January, in the year of our Lord one thousand eight hundred and seventy-eight,

with force and arms at the city aforesaid in the county aforesaid, and within the jurisdiction of this Court, in and upon one John M. Armstrong, in the peace of God and of the said State then and there being, wilfully, feloniously and of his malice aforethought, did make an assault, and that he, the said Benjamin Hunter, then and there with a certain hammer, which he, the said Benjamin Hunter, in his right  
 40 hand then and there had and held the said John M. Armstrong in and upon the top of the head of him, the said John M. Armstrong, then and there wilfully, feloniously and of his malice aforethought, did strike, giving unto him, the said John M. Armstrong, then and there, with the said hammer, by the stroke aforesaid, in manner aforesaid, in and upon the top of the head of him, the said John M. Armstrong, one mortal wound, of which said mortal wound, he, the said John M. Armstrong, from the said twenty-third day of January in the year of our Lord one thousand eight hundred and  
 50 seventy-eight, until the twenty-fifth day of the same month of January in the year aforesaid, did languish and languishing did live; on which said twenty-fifth day of January, in the year aforesaid, he, the said John M. Armstrong, of the said mortal wound died—and so, the Grand Inquest aforesaid, upon their oath and affirmation aforesaid, do say that the said Benjamin Hunter, him, the said John M. Armstrong, in manner and form aforesaid, wilfully, feloniously and of his malice aforethought, did kill and murder, to the evil example of all others in like case offending, con-  
 60 trary 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 Grand Inquest aforesaid, upon their oath and affirmation aforesaid, do further present :

That the said Benjamin Hunter, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, on the said twenty-third day of January, in the year of our Lord one thousand eight hundred and seventy-eight, with force and arms, at the city of Camden  
 70 aforesaid, in the county of Camden aforesaid, and within the jurisdiction of this Court, in and upon one John M. Arm-

strong, in the peace of God and of said State, then and there being, wilfully, feloniously, and of his malice aforethought, did make an assault, and that he, the said Benjamin Hunter, then and there, with a certain hammer, which he, the said Benjamin Hunter, in his right hand then and there had and held, the said John M. Armstrong, in and upon the top of the head of him, the said John M. Armstrong, then and there wilfully, feloniously, and of his malice aforethought, did strike, giving unto him, the said John M. Armstrong, then and there, with the said hammer, by the stroke aforesaid, in manner aforesaid, in and upon the top of the head of him, the said John M. Armstrong, one mortal wound, of which said mortal wound, he, the said John M. Armstrong, from the said twenty-third day of January, in the year of our Lord one thousand eight hundred and seventy-eight, until the twenty-fifth day of the same month of January, in the year last aforesaid, did languish, and languishing did live; on which said twenty-fifth day of January, in the year last aforesaid, he, the said John M. Armstrong, at the city of Philadelphia, in the State of Pennsylvania, (whither he, the said John M. Armstrong, after the said Benjamin Hunter had wilfully, feloniously, and of his malice aforethought, so stricken him, the said John M. Armstrong, in manner and form as aforesaid, to wit, on the said twenty-third day of January, in the year of our Lord one thousand eight hundred and seventy-eight aforesaid, and within the jurisdiction of this Court aforesaid,) of the said mortal wound died, and so the Grand Inquest aforesaid, upon their oath and affirmation aforesaid, do say that the said Benjamin Hunter, him, the said John M. Armstrong, in manner and form aforesaid, wilfully, feloniously, and of his malice aforethought, did kill and murder, to the evil example of all others in like case offending, 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 Grand Inquest aforesaid, upon their oath and affirmation aforesaid, do further present, that the said Benjamin Hunter, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil,

on the said twenty-third day of January, in the year of our Lord one thousand eight hundred and seventy-eight, with force and arms, at the city of Camden aforesaid, in the county of Camden aforesaid, and within the jurisdiction of this Court, in and upon one John M. Armstrong, in the peace of God, and the said State, then and there, being wilfully, feloniously, and of his malice aforethought, did make an assault; and that, he, the said Benjamin Hunter, then and there, with a certain hammer, which he, the said Benjamin

120 Hunter, in his right hand, then and there had and held, the said John M. Armstrong, in and upon the top of the head of him, the said John M. Armstrong, then and there wilfully, feloniously, and of his malice aforethought, did strike, giving unto him, the said John M. Armstrong, then, and there, with the said hammer, by the stroke aforesaid, in manner aforesaid, in and upon the top of the head of him, the said John M. Armstrong, one mortal wound; the said John M. Armstrong, being then and there feloniously

130 stricken by the said Benjamin Hunter, at the time, and in the manner and form aforesaid, within the jurisdiction of this State, to wit, on the twenty-third day of January, in the year of our Lord one thousand eight hundred and seventy-eight, at Camden, in the county of Camden aforesaid; of which said mortal wound, he, the said John M. Armstrong, from the said twenty-third day of January, in the year of our Lord one thousand eight hundred and seventy-eight, until the twenty-fifth day of the same month of January, in the year last aforesaid, did languish and languishing did live; on

140 said, he, the said John M. Armstrong, of the said mortal wound so occasioned as aforesaid, by the said stroke so wilfully, feloniously and of his malice aforethought, given and administered by the said Benjamin Hunter, in and upon the top of the head of him the said John M. Armstrong, as aforesaid, died at a certain place out of the jurisdiction of this State, to wit, at the city of Philadelphia, in the State of Pennsylvania—and so the Grand Inquest aforesaid, upon their oath and affirmation aforesaid, do say that the said Benjamin Hunter him the said John M. Armstrong, in manner and

150 form aforesaid, wilfully, feloniously and of his malice aforethought, 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 Grand Inquest aforesaid, upon their oath and affirmation aforesaid, do further present: That the said Benjamin Hunter, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, on the said twenty-third day of January, in the year of our Lord one thousand eight hundred and seventy-eight, 160 with force and arms, at the city of Camden aforesaid, in the county of Camden aforesaid, and within the jurisdiction of this Court, in and upon one John M. Armstrong, in the peace of God and the said State, then and there being wilfully, feloniously, and of his malice aforethought, did make an assault, and with a hammer, which he the said Benjamin Hunter then and there in his right hand had and held, he, the said Benjamin Hunter, then and there, in and upon the head of him the said John M. Armstrong, wilfully, feloniously, and of his malice aforethought, did strike then and 170 there, giving to him the said John M. Armstrong, by the said felonious striking so as aforesaid done, had and given within the jurisdiction of this State, one mortal wound, of which said mortal wound then and there so feloniously stricken as aforesaid, in manner and form aforesaid, he, the said John M. Armstrong, afterwards, to wit, on the twenty-fifth day of January, in the year of our Lord last aforesaid, died at a certain place out of the jurisdiction of this State, to wit, at the city of Philadelphia, in the State of Pennsylvania; and so the Grand Inquest aforesaid, upon 180 their oath and affirmation aforesaid, do say that the said Benjamin Hunter, him, the said John M. Armstrong, in manner and form aforesaid, wilfully, feloniously, and of his malice aforethought, 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 Grand Inquest aforesaid upon their oath and affirmation aforesaid do further present that the said Benjamin

Hunter, not having the fear of God before his eyes, but being  
 190 moved and seduced by the instigations of the devil, on the  
 said twenty-third day of January in the year of our Lord  
 one thousand eight hundred and seventy-eight, with force and  
 arms at the city of Camden aforesaid in the county of Cam-  
 den aforesaid, and within the jurisdiction of this Court, in and  
 upon one John M. Armstrong in the peace of God and the  
 said State then and there being, wilfully, feloniously and of  
 his malice aforethought did make an assault, and with a certain  
 hatchet which he the said Benjamin Hunter then and there in  
 his right hand had and held, he the said Benjamin Hunter  
 200 then and there in and upon the forehead and top of the head  
 of him the said John M. Armstrong, wilfully, feloniously and  
 of his malice aforethought, did strike, then and there giving  
 to him, the said John M. Armstrong, by the said felonious  
 striking, so as aforesaid done, had and given within the juris-  
 diction of this State divers mortal wounds, of which said mor-  
 tal wounds then and there so feloniously stricken by the said  
 Benjamin Hunter as aforesaid, in manner and form aforesaid,  
 he the said John M. Armstrong, afterwards, to wit,  
 on the twenty-fifth day of January in the year of our Lord  
 210 last aforesaid, died at a certain place out of the jurisdic-  
 tion of this State, to wit, at the city of Philadelphia in  
 the State of Pennsylvania, and so the Grand Inquest aforesaid,  
 upon their oath and affirmation aforesaid, do say that the said  
 Benjamin Hunter, him the said John M. Armstrong in manner  
 and form aforesaid, wilfully, feloniously and of his malice  
 aforethought, 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 Grand Inquest aforesaid, upon their oath and  
 220 affirmation aforesaid, do further present, That the said  
 Benjamin Hunter, not having the fear of God before his  
 eyes, but being moved and seduced by the instigation of the  
 devil, on the said twenty-third day of January, in the year  
 of our Lord one thousand eight hundred and seventy-eight,  
 with force and arms, at the city of Camden aforesaid, in the  
 county of Camden aforesaid, and within the jurisdiction of  
 this Court, in and upon one John M. Armstrong, in the

peace of God and the said State then and there being, wilfully, feloniously, and of his malice aforethought, did make  
 230 an assault, and that the said Benjamin Hunter then and there did wilfully, feloniously, and of his malice aforethought, kill and murder him, the said John M. Armstrong, 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.

To which indictment the said prisoner, having been arraigned thereon at the bar of the said Court of Oyer and Terminer and General Jail Delivery, had previously pleaded thereto, and to the several counts thereof, "Not  
 240 Guilty."

*First.*—And afterwards, to wit, on the day and year aforesaid, the said prisoner having been again placed at the bar of the said Court, his counsel, acting in his behalf, did, by permission of the Court, withdraw his plea of "Not Guilty," by him previously made and pleaded to the said indictment, and did move and ask that the first count of the said indictment should be quashed and stricken out, upon the grounds that there was no averment therein contained, of the place at which, or jurisdiction within which, said John  
 250 M. Armstrong, therein mentioned, died of the mortal wound in the said Court alleged to have been given him by the said prisoner, which said motion having been argued by the counsel for the State and of the prisoner respectively, the Court thereupon denied the same and refused to quash the said count, to which decision and ruling of the Court the counsel of the prisoner excepted, and prayed a bill of exceptions, and that the same be sealed, and it is allowed and sealed accordingly.

G. S. WOODHULL, [SEAL.]

*Pres. Judge.*

JOEL HORNER, [SEAL.]

ISAIAH WOOLSTON. [SEAL.]

*Second.*—And afterwards, to wit: On the day and year aforesaid, the said prisoner, by his counsel aforesaid, did

move and ask that the sixth count of the said indictment should be quashed and stricken out upon the ground that the same contains no averment or allegation of the death of the said John M. Armstrong, which said motion having been argued by the counsel for the State and of the prisoner  
 270 respectively, the Court thereupon denied the same and refused to quash the said count, to which decision and ruling of the Court, the counsel of the prisoner excepted and prayed a bill of exceptions, and that the same be sealed, and it is allowed and sealed accordingly.

G. S. WOODHULL, [SEAL.]  
*Pres. Judge.*

JOEL HORNER, [SEAL.]  
 ISAIAH WOOLSTON, [SEAL.]

*Third.*—And afterwards, to wit, on the day and year  
 280 aforesaid, the said prisoner, by his counsel aforesaid, did move and ask that the second count of the said indictment (*pro ut* the record in the case) be quashed and stricken out upon the ground that the averment of the death of the said John M. Armstrong, in the said count contained, avers that he died at the city of Philadelphia in the State of Pennsylvania, at a place within the jurisdiction of the State of Pennsylvania, and out of the jurisdiction of the said State of New Jersey and of the said Court of Oyer and Terminer to which the  
 290 said indictment had been presented, and contains no other allegation of the place in which he died (*pro ut* the record), which said motion having been argued by the counsel for the State and of the prisoner respectively, the Court thereupon denied the same and refused to quash the said count, to which decision and ruling of the Court the counsel of the prisoner excepted and prayed a bill of exceptions, and that the same be sealed, and it is hereby allowed and sealed accordingly.

G. S. WOODHULL, [SEAL.]  
*Pres. Judge.*

300

JOEL HORNER, [SEAL.]  
 ISAIAH WOOLSTON, [SEAL.]

310 *Fourth.*—And afterwards, to wit, on the day and year aforesaid, the said prisoner, by his counsel aforesaid, did move and ask that the third, fourth and fifth counts of the said indictment (*pro ut* the record in the case), be each and all quashed and stricken out, upon the ground that each of the said counts aver that the death of the said John M. Armstrong, with whose murder the said prisoner is in each of the said counts charged, took place at a certain place out of the jurisdiction of this State, to wit, at the city of Philadelphia, in the State of Pennsylvania, a place within the jurisdiction of the  
 320 State of Pennsylvania, and out of the jurisdiction of the State of New Jersey, and of the said Court of Oyer and Terminer, which said motion having been argued by the Counsel for the State and of the prisoner respectively, the Court thereupon denied the same and refused to quash the said counts, to which decision and ruling of the Court, the counsel of the prisoner excepted and prayed a bill of exceptions, and that the same be sealed, and it is allowed and sealed accordingly.

330

G. S. WOODHULL, [SEAL.]  
*Pres. Judge.*

JOEL HORNER, [SEAL.]  
 ISAIAH WOOLSTON. [SEAL.]

*Fifth.*—And afterwards, to wit, on the day and year aforesaid, the said prisoner, by his counsel aforesaid, did move and ask that the said indictment be quashed, upon the ground that the only definite and specific averments of the death of the said John M. Armstrong in the said indictment and the counts thereof contained, aver that the said death occurred at a place out of the jurisdiction of the said Court of Oyer  
 340 and Terminer to which the said indictment was presented, to wit, at Philadelphia, in the State of Pennsylvania, and out of the jurisdiction of this State, which said motion having been argued by the counsel for the State and of the prisoner respectively, the Court thereupon denied the same and refused to quash the said indictment, to which decision and ruling of the Court the counsel of the prisoner excepted

and prayed a bill of exceptions, and that it be sealed, and the same is allowed and sealed accordingly.

350 G. S. WOODHULL, [SEAL.]  
*Pres. Judge.*  
 JOEL HORNER. [SEAL.]  
 ISAIAH WOOLSTON. [SEAL.]

360 *Sixth.*—And afterwards, to wit, on the day and year aforesaid, the said prisoner, by his counsel aforesaid, did move and ask that the said indictment be quashed upon the ground that the first and sixth counts of the same charge the said prisoner with the murder of a certain John M. Armstrong, in the city of Camden and county of Camden and said State of New Jersey, and within the jurisdiction of the said Court  
 370 of Oyer and Terminer, *pro ut* the record; and the second, third, fourth and fifth counts charge the said prisoner with the murder of *one* John M. Armstrong, who in each of the said counts is averred to have died in the city of Philadelphia, in the State of Pennsylvania, out of the jurisdiction of this State and of the said Court of Oyer and Terminer, *pro ut* the record, the said indictment in the several counts being thus incongruous, and containing charges and averments against the prisoner of two separate felonies and murders,  
 380 the State and of the prisoner respectively, the Court thereupon denied the same, and refused to quash the said indictment, to which decision and ruling of the Court the counsel of the prisoner excepted and prayed a bill of exceptions, and that the same be sealed, and it is allowed and sealed accordingly.

G. S. WOODHULL, [SEAL.]  
*Pres. Judge.*  
 JOEL HORNER, [SEAL.]  
 ISAIAH WOOLSTON. [SEAL.]

380 *Seventh.*—And afterwards, to wit, on the day and year aforesaid, the said cause came regularly on to be tried in the said Court of Oyer and Terminer, by a jury of the said

county impannelled to try the said issue (*pro ut* the pleadings), in the presence of Richard S. Jenkins, Esquire, Prosecutor of the Pleas for the said county, and Wilson H Jenkins, Esq., counsel for the State, and James M. Scovel, Aaron Thompson and George M. Robeson, Esquires, counsel for the prisoner, and the said Richard S. Jenkins, Esquire, Prosecutor of the Pleas as aforesaid, and the counsel for the

390 State having called and examined several witnesses to maintain and prove the issue on the part of the State, afterwards, in the progress of the said trial, and on the thirteenth day of June, in the year of our Lord one thousand eight hundred and seventy-eight, called one Henry C. Chapman, who being sworn and examined on the part of the State, testified as follows.

By Mr. R. S. Jenkins :

*Question.* You are a doctor of medicine ?

*Answer.* I am.

400 *Q.* How long has it been since you graduated ?

*A.* I graduated in 1867, it is my impression ; either 1867 or 1868 ; I think 1868.

*Q.* From what institution ?

*A.* The University of Pennsylvania.

*Q.* Did you study abroad afterwards ?

*A.* Yes, sir ; three years.

*Q.* Where ?

*A.* Paris, Vienna, Berlin, and London.

410 *Q.* Have you held an official position in the city of Philadelphia for a number of years.

*A.* I have been the coroner's physician in Philadelphia off and on for three years, eighteen months at a time, and six months at a time.

*Q.* Have you adopted any portion of your profession as a specialty ?

*A.* Well, I may say that I have given more attention to anatomy, physiology, and surgery, probably, than any other.

*Q.* Are you at present the coroner's physician of the city of Philadelphia ?

420 *A.* I am.

*Q.* Were you the coroner's physician of the city of

Philadelphia on or about the twenty-third day of January last.

A. I was.

Q. In the performance of your official duties were you required to see the body of a man named John M. Armstrong, and make an investigation, an examination?

A. I was.

Q. Do you recollect when?

430 A. January twenty-fifth, of this year.

Q. Where did you find the body?

A. At 804 North Seventeenth Street, second-story front room.

Q. Was it identified before you as the body of John M. Armstrong?

A. Erwin H. Ritter, 1232 Girard Avenue, and David S. Woodruff, 1535 Lombard Street, stated that the deceased was John M. Armstrong; they identified the body as that of John M. Armstrong.

440 [At which point the counsel for the prisoner objected to so much of this testimony and all testimony as tended to prove the death of John M. Armstrong at the city of Philadelphia, in the State of Pennsylvania, because the said testimony proved the death of the said John M. Armstrong out of the jurisdiction of this State, and of the said Court of Oyer and Terminer before which the case was being tried, and within the jurisdiction of the State of Pennsylvania, and was, therefore, incompetent and improper to maintain the issue joined in this case, and moved that the  
450 same be overruled; but the Court thereupon denied the motion and refused to overrule the said testimony or any part thereof, to which decision and ruling and allowance of the Court counsel for the prisoner excepted and prayed a bill of exceptions, and that it be sealed, and it is hereby allowed and sealed accordingly.]

G. S. WOODHULL, [SEAL.]  
*Pres. Judge.*

JOEL HORNER, [SEAL.]  
ISAIAH WOOLSTON. [SEAL.]

460 *Eighth.*—And afterwards, to wit, on the day and year last aforesaid, the counsel for the State, further to maintain and prove the issue on the part of the State, called, as a witness, one William H. Hutt, who, being sworn and examined on the part of the State, testified as follows.

By Mr. R. S. Jenkins :

*Question.* Where do you reside ?

*Answer.* No. 324 Federal Street, Philadelphia.

*Q.* What is your business ?

*A.* Physician.

470 *Q.* Did you know John M. Armstrong during his lifetime ?

*A.* I did.

*Q.* Well ?

*A.* I knew him for several years.

*Q.* Were you present as a friend of the family on the morning of his death ?

*A.* I was.

*Q.* Where ?

480 804 *A.* At North Seventeenth Street. I think it was No. North Seventeenth Street, in the city of Philadelphia.

*Q.* When had you gone there ?

*A.* I went there about eight o'clock the evening previous.

*Q.* Did you stay up with him during that night ?

*A.* I did not actually sit up with him ; I was present in the house, and in the room throughout the night.

*Q.* Did you apprehend death that night ?

*A.* I did.

*Q.* As a physician ?

490 *A.* I did ; yes, sir.

*Q.* When did he die,—what time in the morning ?

*A.* Five minutes of six o'clock on Friday morning.

At which point counsel for the prisoner objected to this testimony, and moved the Court that all the testimony of this witness tending to show the death of John M. Armstrong at the city of Philadelphia, in the State of Pennsylvania, should be overruled, but the Court thereupon denied the motion, and refused to overrule the said testimony, or

any part thereof, to which decision and ruling of the Court  
 500 counsel for the prisoner excepted and prayed a bill of excep-  
 tions, and that it be sealed, and it is hereby allowed and  
 sealed accordingly.

G. S. WOODHULL, [SEAL.]

*Pres. Judge.*

JOEL HORNER, [SEAL.]

ISAIAH WOOLSTON. [SEAL.]

*Ninth.*—And afterwards, to wit, on the day and year last  
 aforesaid, the counsel of the State, further to maintain and  
 prove the issue on the part of the State, called as a witness one  
 510 Frank L. Armstrong, who, having been sworn and examined  
 on the part of the State, testified, among other things, that  
 he was a son of the said John M. Armstrong, in the said  
 indictment mentioned, and that he had, on the said twenty-  
 third day of January, gone with his father to procure his din-  
 ner at a place which he could not then particularly designate,  
 and proceeded, in response to a question of the counsel for  
 the State, to testify as follows:

“*Question.* I think you said that you went to dinner with  
 your father that day at some place, which place you cannot  
 520 particularly designate,—the day of the murder. Did he tell  
 you where he was going that night, and with whom?”

Which question was objected to by the counsel for the  
 prisoner, because the same was improper, and the answer, if  
 given, necessarily mere heresay and illegal; but the Court  
 overruled the said objection, and permitted the said question  
 to be answered, and it was answered “Yes, sir,” to which  
 decision of the Court the counsel for the prisoner excepted,  
 and prayed a bill of exceptions, and that it be sealed, and it  
 is hereby allowed and sealed accordingly.

530

G. S. WOODHULL, [SEAL.]

*Pres. Judge.*

JOEL HORNER, [SEAL.]

ISAIAH WOOLSON. [SEAL.]

*Tenth.*—And afterwards, to wit, on the day and year last aforesaid, the said Frank L. Armstrong, having given the testimony aforesaid, in response to a question of the counsel for the State, proceeded to testify as follows :

*Question.* Did he tell you where he was going ?

540 *Answer.* Yes, sir.

*Q.* What did he say ?

To which question counsel for the prisoner there and then objected, and contended that the said question was illegal, and the answer, if given, would be merely hearsay, and the said witness ought not to be permitted to answer the same ; but the Court overruled the said objection and permitted the said question to be put, to which decision of the Court the counsel for the prisoner excepted and prayed a bill of exceptions, and that it be sealed, and it is hereby allowed  
550 and sealed accordingly.

G. S. WOODHULL, [SEAL.]

*Pres. Judge.*

JOEL HORNER, [SEAL.]

ISAIAH WOOLSTON. [SEAL.]

*Eleventh.*—And afterwards, to wit, on the day and year last aforesaid, the said Frank L. Armstrong having given the testimony aforesaid, in response to a question of the counsel for the State, proceeded to testify as follows :

*Question.* Did your father say where he was going that evening, with whom and for what purpose, when you were  
560 with him at dinner ?

To which question counsel for the prisoner there and then objected, and contended that the said question was illegal, and that the answer thereto, if given to the jury, would be merely hearsay testimony, and that the said witness should not be permitted to answer the same ; but the Court overruled the said objection and permitted the said question to be answered, to which decision of the Court the counsel for the prisoner excepted, and prayed a bill of

570 exceptions, and that it be sealed, and it is hereby allowed and sealed accordingly.

G. S. WOODHULL, [SEAL.]

*Pres. Judge.*

JOEL HORNER, [SEAL.]

ISAIAH WOOLSTON. [SEAL.]

*Twelfth.*—And afterwards, to wit, on the day and year last aforesaid; the said Frank L. Armstrong, having given the testimony aforesaid, in response to a question of the counsel for the State proceeded to testify as follows:

580 *Question.* What did he say?

*Answer.* He said in the morning, that Mr. Hunter had told him that some one had told him that Davis (meaning Ford W. Davis) had a bank account, and that he had advised my father to come over and see about it and get the money, and he would go with him. Father said he intended to go with Mr. Hunter, and he and Mr. Hunter were going to Camden that night.

To which testimony counsel for the prisoner there and then objected, and moved and contended that the same was  
590 mere hearsay testimony and otherwise illegal, and should be overruled; but the Court thereupon denied the motion and refused to overrule the said testimony or any part thereof; to which decision and ruling of the Court the Defendant excepted and prayed a bill of exceptions and that it be sealed, and it is hereby allowed and sealed accordingly.

G. S. WOODHULL, [SEAL.]

*Pres. Judge.*

JOEL HORNER, [SEAL.]

ISAIAH WOOLSTON. [SEAL.]

600 *Thirteenth.*—And afterwards, in the progress of the said trial, to wit, on the fourteenth day of June, in the year aforesaid, the counsel for the State, further to maintain and prove the issue on the part of the State, called as a witness one Joseph Ashbrook, who, being sworn and examined on the part

of the State, testified, among other things, that he was Superintendent of Agencies of the Provident Life and Trust Company of the City of Philadelphia, and that in the month of November or December previous to the alleged murder, the prisoner had called upon him in connection with the subject  
 610 of insuring the life of John M. Armstrong, for the purpose of securing a debt alleged to be due by the said John M. Armstrong to the prisoner, and to secure the prisoner from any liability as a partner in the business of the said John M. Armstrong, and that in pursuance of the arrangement then made, the said John M. Armstrong came a day or two afterwards to his office, and was examined and accepted, and an endowment policy of insurance was issued to him, payable to the prisoner, and being further examined on the part of the State, proceeded to testify as follows :

620 *Question.* When Mr. Armstrong came to your office, was he asked the question as to his having been ruptured?

*Answer.* The question was asked him, and the answer was "No."

To which testimony counsel for the prisoner there and then objected, because the same was hearsay testimony and otherwise illegal, and moved and contended that the same be overruled; but the Court thereupon denied the motion, and refused to overrule the testimony or any part thereof; to which decision and ruling of the Court the Defendant  
 630 excepted and prayed a bill of exceptions, and that it be sealed, and it is hereby allowed and sealed accordingly.

G. S. WOODHULL, [SEAL.]

*Pres. Judge.*

JOEL HORNER, [SEAL.]

ISAIAH WOOLSTON, [SEAL.]

*Fourteenth.*—And afterwards, in the progress of the said trial, to wit, on the seventeenth day of June, in the year aforesaid, the counsel for the State, further to maintain and prove the issue on the part of the State, called, as a witness, one

640 Lydia Graham, who was, and who was then and there admitted and declared, on the part of the State, to be the lawful wife of Thomas Graham, a witness who had been previously called, sworn and examined on the part of the State, and who had in substance testified that he was present at the assault upon the said John M. Armstrong, which resulted in his death; that he had himself been procured and induced to do, accomplish and commit the murder of the said John M. Armstrong by the prisoner; that he had agreed to do so; that he had followed the prisoner and the said John M.

650 Armstrong on the evening of the said twenty-third day of January, in the year aforesaid, from the city of Philadelphia to the city of Camden, and had in pursuance of a preconcerted signal between himself and the prisoner, in carrying out his said agreement to commit said murder, assaulted and attacked the said John M. Armstrong in the presence of the said prisoner, and struck him on the head with a hammer which had been produced and identified in Court, and that he himself was cognizant of, present at, and party to the said attack upon the said John M. Armstrong, which resulted in

660 his death, and that he had been informed by the said prisoner the same night that he, the said prisoner, had then and there finished him, the said John M. Armstrong, and against whom, the said Thomas Graham, a separate indictment for the said murder of the said John M. Armstrong had also been found by the Grand Jury of the County of Camden, and presented to the said Court of Oyer and Terminer, and still remains untried and undisposed of; the said Lydia Graham being called on the part of the State to testify as to certain facts which might be held to corroborate the said

670 testimony of her said husband, the testimony of the said Lydia Graham for that purpose was objected to as illegal, incompetent, and against public policy by the counsel for the prisoner, who objected to her testimony, and moved that she be not sworn for the purpose aforesaid, to which motion the counsel for the State objected, the Court thereupon refused the motion and refused to exclude the testimony of the said Lydia Graham, to which decision and ruling of the Court the Defendant excepted and prayed a bill of exceptions, and

that it be sealed, and it is hereby allowed and sealed  
680 accordingly.

G. S. WOODHULL, [SEAL.]

*Pres. Judge.*

JOEL HORNER, [SEAL.]

ISAIAH WOOLSTON. [SEAL.]

*Fifteenth.*—And afterwards, in the progress of the said trial, to wit, on the 17th day of June in the year aforesaid, the counsel for the State, further to maintain and prove the issue on the part of the State, called as a witness one William L. Donnell, who being sworn and examined on the part of the  
690 State testified as follows.

By Mr. R. S. Jenkins :

*Question.* Where do you reside ?

*Answer.* 806 Walnut Street, Philadelphia.

*Q.* What is your business ?

*A.* Grocer.

*Q.* How long have you been in business there ?

*A.* I have been in business since 1868. My family have been in business there since 1859.

*Q.* You used to be at the corner of Eighth and Walnut  
700 Streets.

*A.* Yes, sir.

*Q.* And you moved across the street ?

*A.* Yes, sir ; in 1859.

*Q.* Did you know John M. Armstrong ?

*A.* Yes, sir, very well.

*Q.* How long did you know him ?

*A.* About six or eight years.

*Q.* Do you remember the day he was hurt ?

*A.* Yes, sir.

*Q.* What day was it ?  
710

*A.* It was on a Wednesday.

*Q.* Do you recollect the day of the month ?

*A.* The twenty-third of January.

*Q.* Did you see him that day ?

*A.* Yes, sir.

Q. What time of day did you see him?

A. Between two and three o'clock in the afternoon.

Q. Where?

A. At my store.

720 Q. Do you know where he was that evening?

A. Yes, sir.

Q. Did you know he was to be there?

A. Yes, sir.

Q. Where was he that evening?

A. Camden.

Q. How did you know that he was to be at Camden?

A. He told me so.

At which point counsel for the prisoner objected to the said testimony, because the same was mere hearsay and otherwise illegal, and moved that the same be overruled; but the Court denied the motion and refused to overrule the said testimony, to which decision and ruling of the Court the Defendant excepted, and prayed a bill for exceptions and that it be sealed, and it is hereby allowed and sealed accordingly.

G. S. WOODHULL, [SEAL.]

*Pres. Judge.*

JOEL HORNER, [SEAL.]

ISAIAH WOOLSTON. [SEAL.]

740 *Sixteenth.*—And afterwards, to wit, on the day and year last aforesaid, the said William L. Donnell, having given the testimony aforesaid, and in direct continuance thereof, proceeded to testify as follows:

*Question.* For what purpose?

750 *Answer.* He was going to see Mr. Davis, I understood; he told me that he had been over the night before, and that he was going back the same night; I asked him what was the reason, I having been acquainted with his (Davis's) business matters, and he said he was over there "last night" and had seen Davis, and he was in very poor circumstances, but a certain party had told him that he had money in bank and they were going over "to-night" to see about it; and I asked him whether he thought it likely, Davis being

so poor; he said Davis had told him of his wife taking scholars, and that he was willing to work for a dollar a day; I asked him whether it was likely if a man had money in bank he would suffer that way, and I told him I did not believe it; and he said he would see that night.

Q. This was on Tuesday?

A. On Wednesday.

760 Q. Between two and three o'clock?

A. About half-past two.

To which said question, before the same was answered, counsel for the prisoner then and there objected, and contended that the witness ought not to be permitted to answer the same, and that the same and all the testimony given by him was hearsay testimony and otherwise illegal; but the Court overruled the objection and permitted the same to be answered as aforesaid, to which decision and ruling of the Court counsel for the prisoner excepted and prayed  
770 a bill of exceptions and that it be sealed, and it is hereby allowed and sealed accordingly.

G. S. WOODHULL, [SEAL.]

*Pres. Judge.*

JOEL HORNER, [SEAL.]

ISAIAH WOOLSTON. [SEAL.]

*Seventeenth.*—And, afterwards, to wit, on the day and year last aforesaid, one Stephen H. Cary, a witness called and examined on the part of the State, having previously testified in substance that he had received a letter from the said John  
780 M. Armstrong, about half-past five o'clock, on the afternoon of the said twenty-third day of January, in the year aforesaid, directed to his wife, Mrs. John M. Armstrong, and had delivered it at the house of the said John M. Armstrong about half-past six o'clock, on the evening of the said twenty-third day of January, in the year aforesaid; the counsel for the State, further to maintain and prove the issue on the part of the State, called, as a witness, one Julia Armstrong, wife of the said John M. Armstrong, and offered to prove by her the receipt by her of the said letter written to her by the

790 said John M. Armstrong; and the reception of this testimony was objected to by the counsel for the prisoner, who contended that the same was mere heresy, and otherwise illegal and incompetent; but the Court overruled the objection, and decided that the State might proceed to make such proof, to which ruling of the Court, the counsel for the prisoner excepted, and prayed a bill of exceptions, and that it be sealed, and it is hereby allowed and sealed accordingly.

G. S. WOODHULL, [SEAL.]

*Pres. Judge.*

800 JOEL HORNER, [SEAL.]

ISAIAH WOOLSTON. [SEAL.]

*Eighteenth.*—And afterwards, to wit, on the day and year last aforesaid, the said Julia Armstrong having been sworn and examined on the part of the State, testified as follows:

*Question.* Open that (envelope shown witness), and look at it, and say when you received that letter?

*Answer.* On the evening of the twenty-third of January last.

810 *Q.* Do you recognize the handwriting?

*A.* Yes, sir, that is my husband's.

*Q.* Whom did you receive it from?

*A.* From a girl that is living with me, Annie Lyons.

*Q.* Do you recollect the time in the evening you received it.

*A.* Precisely at seven o'clock.

At the close of the testimony of the said Julia Armstrong, which contained nothing more upon the subject of the said letter, the counsel for the State offered in evidence  
820 the said letter, as follows:

J. M. ARMSTRONG,

Music Typographer,

Electrotyper of

sheet-music, music books of all sizes and styles, music for

monthly and weekly periodicals, leaflets, thematic catalogues,  
music titles, etc.

No. 710 Sansom Street,  
Philadelphia, 187 .

I will not be home much before 9 o'clock. Am going  
830 over to Camden again with Mr. Hunter, on business con-  
nected with Davis' matter.

JOHN M. A.

Frank will not be home to supper, he is going down to  
Goudey's to tea.

J. M. A.

The envelope is addressed to

MRS. J. M. ARMSTRONG,  
804 N. 17th St.

But previous to this being received and read, the recep-  
840 tion and reading of the same in evidence was objected to by  
counsel for the prisoner, who contended that the same was  
mere heresay testimony and was otherwise illegal and incom-  
petent, and ought not to be received in evidence; but the  
Court overruled the objection and admitted the same in  
evidence, and allowed it to be read to the jury; to which  
decision and ruling of the Court the counsel for the prisoner  
excepted and prayed a bill of exceptions, and that it be sealed,  
and it is hereby allowed and sealed accordingly.

G. S. WOODHULL, [SEAL.]

*Pres. Judge.*

JOEL HORNER, [SEAL.]

ISALAH WOOLSTON. [SEAL.]

850

*Nineteenth.*—And afterwards, in the progress of the said  
trial, to wit, on the 18th day of June, in the year aforesaid, the  
counsel for the State, further to maintain and prove the issue  
on the part of the State, called as a witness one Joseph C.  
Nichols, who, being sworn and examined, testified,

among other things, in regard to a statement made in his presence by the prisoner on the night of his arrest, and in  
860 detailing the particulars of said statement testified as follows :

*Question.* Was he (meaning the prisoner) shown this letter ?

(A letter shown witness.)

*Answer.* Yes, sir.

*Q.* Did he identify it ?

*A.* He did ; he said it was his signature.

*Q.* What did he say ?

*A.* He said he had made a mistake in regard to that ?

870 Whereupon counsel for the State offered the following letter in evidence :

J. M. ARMSTRONG,

Music Typographer,

Electrotyper of

Sheet music, music books of all sizes and styles, music for monthly and weekly periodicals, leaflets, thematic catalogues, music titles, etc.,

No. 710 Sansom Street,

PHILADELPHIA, Dec. 3, 1877.

880 Please call at the Manhattan Life Insur. office, 414 Wal. St., between 12 & 1 o'clock, to be examined.

And also call at the Provident, between 1 & 3, 108 S. 4th, for same purpose.

I will put it in two companies.

You will oblige me by attending to both of them to-day, and I will call on them to-morrow.

Resp'y,

Yours,

BENJ. HUNTER.

890 To John M. Armstrong,  
710 Sansom St.

N. B.—Leave off your truss for fear they would decline to insure you.

B. H.

But previous to the reading of the said letter in evidence, the reception and reading of the same was objected to by counsel for the prisoner, because the same was irrelevant, illegal and incompetent, whereupon the Court overruled the said objection, and directed that the same be received and  
 900 read in evidence, to which said decision and ruling of the Court the counsel for the prisoner excepted, and prayed a bill of exceptions, and that it be sealed, and it is hereby allowed and sealed accordingly.

G. S. WOODHULL, [SEAL.]

*Pres. Judge.*

JOEL HORNER, [SEAL.]

ISAIAH WOOLSTON. [SEAL.]

*Twentieth.*—And afterwards, to wit, on the 18th day of June, in the year aforesaid, and still of the term aforesaid, the  
 910 evidence on the part of the State having been all given, and the counsel for the State having rested his case, and it having appeared by all the testimony that the said John M. Armstrong, with whose murder the prisoner is charged, died at the city of Philadelphia, in the State of Pennsylvania, and within the jurisdiction of said State, and no evidence having been produced, offered or given to show that he died at any other place, counsel for the prisoner moved and asked the Court that the prisoner be not required to enter upon his defense, and that the jury be directed to acquit the prisoner  
 920 upon the ground that the said John M. Armstrong, as appeared by the testimony, died out of the jurisdiction of this State and within the jurisdiction of the State of Pennsylvania, and the crime of his murder, if committed at all, was not cognizable nor triable by the Court of Oyer and Terminer of the county of Camden aforesaid, to which the indictment of the prisoner was presented, and that the prisoner could not be legally convicted of murder in said Court, which said motion on behalf of the prisoner was denied and overruled by the Court, which refused to make  
 930 such direction and ruling as aforesaid, upon the ground that the said Court had cognizance and jurisdiction of and could

legally try and convict the prisoner of the murder of the said John M. Armstrong if the jury should so find, notwithstanding the fact was as aforesaid proved that the said John M. Armstrong did die in the city of Philadelphia, and within the jurisdiction of the said State of Pennsylvania, to which decision and ruling of the Court the counsel for the prisoner excepted, and prayed a bill of exceptions and that it be sealed, and it is hereby allowed and sealed accordingly.

940

G. S. WOODHULL, [SEAL.]

*Pres. Judge.*

JOEL HORNER, [SEAL.]

ISAAH WOOLSON. [SEAL.]

*Twenty-first.*—And afterwards, to wit, on the day and year aforesaid, and still of the term aforesaid, the evidence having been closed and rested on the part of the State, counsel for the prisoner moved and asked the Court to direct that the Prosecutor of the Pleas make his election upon which of the counts in the said indictment he would seek the conviction of the prisoner, whether upon the counts which averred the death of the said John M. Armstrong to have taken place at the city of Philadelphia and State of Pennsylvania, or upon the counts which aver that it took place in the State of New Jersey; but the said Court denied such motion, and declined to make the ruling and direction so asked for, to which decision and ruling of the Court counsel for the prisoner excepted and prayed a bill of exceptions, and that it be sealed, and it is hereby allowed and sealed accordingly.

960

G. S. WOODHULL, [SEAL.]

*Pres. Judge.*

JOEL HORNER, [SEAL.]

ISAAH WOOLSTON. [SEAL.]

*Twenty-second.*—And afterwards, to wit, on the 3d day of July of the year aforesaid, and still of the term aforesaid, the evidence having been closed on the part of the State and of the prisoner, and the counsel on both sides having summed up

the case, the Court proceeded to give its charge and direction to the jury, the counsel for the prisoner having previously requested the Court to charge the jury on several propositions of law presented to the Court in writing, and in the progress of said charge the Presiding Judge of said Court, in delivering the same, stated as follows :

“I have been requested, on the part of the defense, to charge you that the evidence of the accomplice in this case should be corroborated, not only in the details of the crime and the circumstances which surround it, but also as to the statements which relate to the person of the accused, and bring him present at the killing,” which said request to charge was refused and denied by the Court, which declined to charge upon this point otherwise than it had already charged, to which decision and ruling of the Court counsel for the prisoner excepted and prayed a bill of exceptions, and that it be sealed, and it is hereby allowed and sealed accordingly.

G. S. WOODHULL, [SEAL.]

*Pres. Judge.*

JOEL HORNER, [SEAL.]

ISAIAH WOOLSTON. [SEAL.]

*Twenty-third.*—And afterwards, to wit, on the day and year aforesaid, and still in the progress of delivering the said charge, the said Presiding Judge further stated :

“I have been requested on the part of the defense to charge you that under the proof in this case that the death of John M. Armstrong occurred in the State of Pennsylvania, there can be no conviction for murder, in this Court, under this indictment.”

To which said request the Court answered as follows :

“That question was decided in the beginning of this case, and it is one which ought not and which need not trouble the jury in the least. It will be settled by the Court above, and we decline to charge as requested ; but it is nothing that concerns the jury.”

To which decision, direction and charge of the Court, the counsel for the prisoner excepted and prayed a bill of exceptions, and that it be sealed, and it is hereby allowed and sealed accordingly.

G. S. WOODHULL, [SEAL.]  
*Pres. Judge.*

JOEL HORNER, [SEAL.]

1010

ISAIAH WOOLSTON, [SEAL.]

*Twenty-fourth.*—And afterwards, to wit, on the 9th day of November, in the year eighteen hundred and seventy-eight, the trial and argument of the said cause having been closed, and the same having been submitted to the jury impaneled and sworn to try the same, and the jury having returned their verdict that they found the prisoner “guilty as he stands charged in the indictment,” and the said verdict having been by order of said Court so recorded, the Prosecutor of the Pleas 1020 moved on behalf of the State for judgment thereon against the prisoner; whereupon the prisoner, by his counsel, moved and asked the Court that judgment be given for him, and that he do go thereof without day, notwithstanding said verdict against him, upon the ground that, it being proved and admitted in this case that the said John M. Armstrong died in the State of Pennsylvania, no murder has been committed within the jurisdiction of the State of New Jersey and of said Court, and judgment for the crime of murder could not law-fully be pronounced against the said prisoner in this case; 1030 but the Court overruled said motion and denied the same, and refused the judgment asked by the prisoner; to which decision and ruling of the Court the prisoner by his counsel excepted and prayed a bill of exceptions, and that it be sealed, and it is hereby allowed and sealed accordingly.

G. S. WOODHULL, [SEAL.]  
*Pres. Judge.*

JOEL HORNER, [SEAL.]

ISAIAH WOOLSTON. [SEAL.]

*Twenty-fifth.*—And afterwards, to wit, on the ninth  
 1040 day of November, in the year of our Lord one thousand  
 eight hundred and seventy-eight, the argument of the said  
 cause having been closed, and the same having been sub-  
 mitted to the jury sworn and impaneled to try the same,  
 and the jury having returned their verdict, that they find  
 the prisoner “Guilty as he stands charged in the indict-  
 ment,” and the said verdict having been by order of the  
 said Court so recorded, the Prosecutor of the Pleas moved  
 on behalf of the State for judgment thereon, against the  
 prisoner, of murder in the first degree, whereupon the counsel  
 1050 for the prisoner objected, and insisted that the said judg-  
 ment ought not to be given, because the said John M.  
 Armstrong died out of the State of New Jersey and in the  
 State of Pennsylvania; but the Court overruled and decided  
 against the said objection, and proceeded to give the said  
 judgment against the said prisoner; to which decision and  
 judgment of the said Court the prisoner, by his counsel,  
 excepted, and prayed a bill of exceptions and that it be  
 sealed, and it is hereby allowed and sealed accordingly.

G. S. WOODHULL, [SEAL.]

*Pres. Judge.*

JOEL HORNER, [SEAL.]

ISAIAH WOOLSTON. [SEAL.]

## NEW JERSEY COURT OF ERRORS AND APPEALS.

BENJAMIN HUNTER  
*ads.*  
 THE STATE OF NEW JERSEY. } Joinder in Error.

10 And thereupon, afterwards, to wit, on the third Tuesday of November, in the year of our Lord one thousand eight hundred and seventy-eight, etc., Richard S. Jenkins, Esq., Prosecutor of the Pleas of the State, for the county of Camden, who prosecutes for the State of New Jersey, in this behalf comes into Court and says that there is no error either in the record and proceedings aforesaid, or in giving the judgment aforesaid, and he prays here that the Court here may proceed to examine as well the record and proceedings aforesaid, as the matters aforesaid assigned for error, and that the judgment aforesaid, in manner aforesaid given, may, in all things, be affirmed, etc.

R. S. JENKINS,  
*Attorney and of Counsel with the State.*

20 New Jersey Court of Errors and Appeals, in the last resort of the term of November, in the year of our Lord one thousand eight hundred and seventy-eight.

BENJAMIN HUNTER  
*vs.*  
 THE STATE OF NEW JERSEY. } In error to the Oyer and Terminer of Camden, on indictment for murder.

And afterwards, to wit, on the third Tuesday of November, in the term of November, in the year of our Lord one thousand eight hundred and seventy-eight, before the Court of Errors and Appeals in last resort of the State of New

Jersey, comes the said Benjamin Hunter by George M. Robeson, his Attorney, and says that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid, there is manifest error in this; that at the trial of the said indictment, before the said Court of Oyer and Terminer, and General Jail Delivery, holden in and for the said county of Camden, that the said Court did admit and allow evidence to be given against the said Benjamin Hunter on the said trial, which was illegal and inadmissible in law; and there is also error in this, to wit, that the charge of the said Court to the jury was contrary to law; and there is also error in this, to wit, that the verdict of the jury in repugnant, inconsistent and void; and there is also error in this, to wit, that judgment was given against the said Benjamin Hunter; whereas, judgment should have been given in his favor; and there is also error in this, to wit, that the crimes in and by the indictment aforesaid against the said Benjamin Hunter charged, are uncertainly, doubtfully, imperfectly and improperly alleged; that the said indictment charges upon the said Benjamin Hunter several crimes entirely disagreeing, inconsistent and impossible in their nature, and that the judgment thereon given is contrary to the law of the land, and not to be pronounced for or upon such crimes as in the said indictment are supposed and charged, and in that it is manifestly erroneous.

And there is also error in this, to wit, that no averment is contained in the first count of the said indictment, of the place at which the said John M. Armstrong therein mentioned, died of the mortal wound in the said count alleged to have been given him by the said Benjamin Hunter, and in that it is manifestly erroneous. And there is also error in this, to wit, that the sixth count of the said indictment contains no averment or allegation of the death of the said John M. Armstrong in and by the said count charged to have been murdered by the said Benjamin Hunter. And in that it is manifestly erroneous. And there is also error in this, to wit, that the averment of the death of the said John M. Armstrong in the second count of the said indictment contained, avers that he died in the city of Philadelphia and

State of Pennsylvania, a place within the jurisdiction of the State of Pennsylvania and out of the jurisdiction of the State of New Jersey and of the said Court of Oyer and Terminer, to which the said indictment was presented, and contains no other allegation of the place in which he died. And that the judgment thereon given against the said Benjamin Hunter is contrary to the law of the land, and not to be given or pronounced upon said count. And in that it is manifestly erroneous. And there is also error in this, to wit, that the third, fourth, and fifth counts of the said indictment, aver that the death of the said John M. Armstrong, with whose murder the said prisoner is in each of the said counts charged, took place at a certain place out of the jurisdiction of this State, to wit, at the city of Philadelphia, in the State of Pennsylvania, a place out of the jurisdiction of the State of New Jersey and of the said Court of Oyer and Terminer, and within the jurisdiction of the State of Pennsylvania, and that the judgment thereon given against the said Benjamin Hunter is contrary to the law of the land, and not to be given or pronounced upon said counts, and in that it is manifestly erroneous. And there is also error in this, that the only definite and specific averments of the death of the said John M. Armstrong in the said indictment, and the said counts thereof contained, aver that the said death occurred at a place out of the jurisdiction of the State of New Jersey, and of the said Court of Oyer and Terminer to which the said indictment was presented, to wit, at Philadelphia, in the State of Pennsylvania, out of the jurisdiction of this State, and within the jurisdiction of the State of Pennsylvania, and that the judgment thereon given against the said Benjamin Hunter is contrary to the law of the land, and not to be given or pronounced upon said count, and in that it is manifestly erroneous. And there is also error in this, to wit, that the first and sixth counts of the said indictment charge the said Benjamin Hunter with the murder of a certain John M. Armstrong in the city of Camden, and State of New Jersey, and within the jurisdiction of the said Court of Oyer and Terminer, while the second, third, fourth, and fifth counts charge the said Benjamin Hunter with the murder of one

John M. Armstrong, who in each of the said counts is averred to have died in the city of Philadelphia, a place within the jurisdiction of the State of Pennsylvania, and out of the  
 110 jurisdiction of the State of New Jersey, and of the said Court of Oyer and Terminer; the said indictment being thus in the several counts, incongruous and inconsistent, and containing charges against the said prisoner which could not be entertained and tried in the said Court of Oyer and Terminer, and containing in the same indictment charges and averments against the said Benjamin Hunter, of two separate felonies and murders, and that the judgment thereon given is contrary to the law of the land, and not properly to be pronounced or given upon the said indictment and the  
 120 charges therein contained.

And there is also error in this that the said indictment avers and charges upon the said Benjamin Hunter the murder of John M. Armstrong, who, in fact, died in the city of Philadelphia, in the State of Pennsylvania, a place within the jurisdiction of the State of Pennsylvania, and out of the jurisdiction of the State of New Jersey, and of the Court of Oyer and Terminer of the said county of Camden, to which said indictment was presented, and that the judgment thereon rendered and given is contrary to the law of  
 130 the land, and not properly to be given or pronounced against the said prisoner on the said indictment and the charges therein contained, and in that it is manifestly erroneous.

And the said Benjamin Hunter, by his attorney aforesaid, further in fact says that, at the said Court held at Camden aforesaid, on the day and year aforesaid, before the Judges of the said Court in the record aforesaid above mentioned, on the trial of the indictment aforesaid in the said record set forth certain exceptions on behalf of the said Benjamin Hunter, by his counsel were taken and made to  
 140 the decision and opinion of the said Court by the said Judges then and there pronounced and declared, by which opinion the said Judges then and there refused to quash the said indictment, or any of the counts thereof, although the same were inconsistent, incongruous, and erroneous, and manifestly insufficient to support the charges therein made

against the said Benjamin Hunter of the murder of John M. Armstrong, or to warrant or permit any judgment for the murder of the said John M. Armstrong to be pronounced or given thereon against the said Benjamin Hunter, which said  
150 exceptions, in a certain bill, were then and there written down, and the said Judges did then and there put their seals to the same according to the form of the statute in such cases made and provided; and the said Benjamin Hunter by his attorney aforesaid, brings here into Court the bill of exceptions aforesaid, with the seals of the said Judges put and affixed to the said bill; therefore, the said Benjamin Hunter saith that in the record of the proceedings of the trial and judgment aforesaid, there is manifest error.

And the said Benjamin Hunter, by his attorney aforesaid, further in fact says that at the said Court, held at Camden aforesaid, on the day and year aforesaid, before the Judges of the said Court in the record aforesaid above mentioned, on the trial of the indictment aforesaid in the said record set forth certain exceptions on behalf of the said Benjamin Hunter by his counsel were taken and made to the decision and opinion of the said Court by the said Judges, then and there pronounced and declared, by which opinion the said Judges then and there declared, pronounced and decided that the evidence of Henry C. Chapman, a witness,  
170 then and there produced and sworn on the part of the State, in reference to the death of the said John M. Armstrong, and tending to prove the said death to have taken place at the city of Philadelphia, in the State of Pennsylvania, and within the jurisdiction of the said State of Pennsylvania, was proper, and could be received in evidence on the trial of the said indictment; and the said Judges did then and there receive the same in evidence, although the same was then and there excepted to by the said Benjamin Hunter, and did then and there refuse to overrule the same, although moved  
180 to do so by the said Benjamin Hunter; which said exceptions, in a certain bill, were then and there written down, and the said Judges did then and there put their seals to the same according to the form of the statute made and provided, and the said Benjamin Hunter, by his Attorney afore-

said, brings here into Court the bill of exceptions aforesaid, with the seals of the said Judges put and affixed to the said bill; therefore, the said Benjamin Hunter saith that in the record of the proceedings of the trial and judgment aforesaid, there is manifest error.

190 And the said Benjamin Hunter, by his attorney aforesaid, further in fact says, that at the said Court, held at Camden aforesaid, on the day and year aforesaid, before the Judges of the said Court, in the record aforesaid above mentioned on the trial of the indictment aforesaid, in the said record set forth certain exceptions on behalf of the said Benjamin Hunter, by his counsel were taken and made to the decision and opinion of the said Court by the said Judges, then and there pronounced and declared, by which opinion the said Judges then and there declared,  
200 pronounced, and decided that the evidence of one William H. Hutt, proving the death of the said John M. Armstrong at the city of Philadelphia, a place out of the jurisdiction of the State of New Jersey and within the jurisdiction of the State of Pennsylvania, was proper, and could be received in evidence on the trial of the said indictment; and the said Judges did then and there receive the same in evidence, although the same was then and there excepted to by the said Benjamin Hunter, and did then and there refuse to overrule the same  
210 although moved to do so by the said Benjamin Hunter, which said exceptions in a certain bill were then and there written down, and the said Judges did then and there put their seals to the same according to the form of the statute made and provided; and the said Benjamin Hunter, by his attorney aforesaid, brings here into Court the bill of exceptions aforesaid, with the seals of the said Judges put and affixed to the said bill; therefore the said Benjamin Hunter saith that in the record of the proceedings of the trial and judgment aforesaid there is a manifest  
220 error.

And the said Benjamin Hunter, by his attorney aforesaid, further, in fact, says that at the said Court, held at Camden aforesaid, on the day and year aforesaid, before the

Judges of the said Court in the record aforesaid, above mentioned on the trial of the indictment aforesaid, in the said record set forth, certain exceptions on behalf of the said Benjamin Hunter, by his counsel, were taken and made to the decision and opinion of the said Court by the said Judges, then and there pronounced and declared, by which opinion  
 230 the said Judges then and there declared, pronounced and decided that the evidence of one Frank L. Armstrong, a son of the said John M. Armstrong, a witness then and there produced and sworn on the part of the State in reference to a conversation had between himself and the said John M. Armstrong, about half-past twelve o'clock on the said twenty-third day of January, in the year one thousand eight hundred and seventy-eight, and the statements of the said John M. Armstrong as to where he was going on the evening of that day, and with whom and for what purpose, and his state-  
 240 ment made at that time that he intended to go that evening to Camden with the said Benjamin Hunter, were proper, and could be received in evidence in the trial of the said indictment, and the said Judges did then and there receive the said evidence of the said Frank L. Armstrong, and did allow him to detail to the jury his conversation on the subject aforesaid had with the said John M. Armstrong, and did admit the statement of the said John M. Armstrong as aforesaid in evidence, although the said evidence of the said Frank L. Armstrong and the said  
 250 statements of the said John M. Armstrong and the rulings and decisions of the Court admitting the same were then and there excepted to by the said Benjamin Hunter, which said exceptions in certain bills were then and there written down, and the said Judges did then and there put their seals thereto, according to the form of the statute in such case made and provided, and the said Benjamin Hunter, by his attorney aforesaid, brings into Court the bills of exceptions aforesaid, with the seals of the said Judges thereto affixed, and, therefore, the said Benjamin Hunter saith that in the record of the  
 260 proceedings of the trial and judgment aforesaid, there is manifest error.

And the said Benjamin Hunter by his attorney afore-

said, further in fact says that at the said Court held at Camden aforesaid, on the day and year aforesaid, before the Judges of the said Court in the record aforesaid above mentioned on the trial of the indictment aforesaid, in the said record set forth certain exceptions on behalf of the said Benjamin Hunter by his counsel, were taken and made to the decision and opinion of the said Court by the said  
 270 Judges then and there pronounced and declared, by which opinion the said Judges then and there declared, pronounced and decided that the evidence of one Joseph Ashbrook, a witness then and there produced and sworn on the part of the State in reference to certain statements made by the said John M. Armstrong at the time he made application for and procured a certain policy of insurance through the said Joseph Ashbrook, and the statements of the said John M. Armstrong made at that time to the effect that he had not  
 280 been ruptured, were competent and could be received in evidence, and the said Judges did then and there receive the evidence of the said Joseph Ashbrook upon the subject aforesaid, and did then and there permit him to detail to the jury and give in evidence the aforesaid statements of the said John M. Armstrong, and did then and there refuse to overrule the same, although then and there moved to do so by the counsel of the said Benjamin Hunter, which said exceptions in a certain bill were then and there written down and the said Judges did then and there put their seals thereto according  
 290 to the form of the statute in such case made and provided, and the said Benjamin Hunter by his attorney aforesaid, brings into Court the bill of exceptions aforesaid, with the seals of the said Judges thereto affixed, and therefore the said Benjamin Hunter saith that in the record of the proceedings of the trial and judgment aforesaid, there is manifest error.

And the said Benjamin Hunter, by his attorney aforesaid, further in fact says that at the said Court held at Camden aforesaid, on the day and year aforesaid, before  
 300 the Judges of the said Court, in the record aforesaid, above mentioned, on the trial of the indictment aforesaid, in the said record set forth, certain exceptions on behalf of the

said Benjamin Hunter by his counsel, were taken and made to the decision and opinion of the said Court, by the said Judges, then and there pronounced and declared, by which opinion the said Judges then and there pronounced and decided that one Lydia Graham, who was then and there admitted and declared by the State to be the lawful wife of Thomas Graham, a witness previously called, sworn and examined on the part of the State, and who had, in substance, testified that he was present at the assault upon the  
310 said John M. Armstrong, which resulted in his (Armstrong's) death; that he had himself been procured and induced to do the murder of the said John M. Armstrong by the said Benjamin Hunter, and that he had agreed to do so; that he had followed the said Benjamin Hunter and the said John M. Armstrong, on the evening of the said twenty-third day of January, from the city of Philadelphia to the city of Camden, and had, in pursuance of a signal preconcerted, between himself and the said Benjamin Hunter, in the carrying out of his said agreement to commit  
320 said murder, assaulted and attacked the said John M. Armstrong, in the presence of the said Benjamin Hunter, and struck him on the head with a hammer, and that he was himself cognizant of present at and party to the said attack upon the said John M. Armstrong, which resulted in his death, and against whom, the said Thomas Graham, a separate indictment for the said murder of the said John M. Armstrong, had been presented to the said Court of Oyer and Terminer, and still remains untried and undisposed of; the said Lydia Graham being called, on the part of the  
330 State, to testify to certain facts, which might be held to corroborate the said testimony of her said husband, could, according to law, be called and sworn for that purpose, and did then and there permit her to be called, sworn, and to give evidence of facts tending to corroborate the statements of her said husband, although the said decision of the said Court, as to the swearing and the testimony of the said wife, was then and there excepted to by the said Benjamin Hunter, which said exceptions, in a certain bill, were then and there written down, and the said Judges did then and there put

340 their seals thereto according to the form of the statute in such case made and provided; and the said Benjamin Hunter, by his attorney aforesaid, brings into Court the bill of exceptions aforesaid, with the seals of the said Judges thereto affixed; and, therefore, the said Benjamin Hunter saith that in the record of the proceedings of the trial and judgment aforesaid there is manifest error.

And the said Benjamin Hunter, by his attorney aforesaid, further in fact says, that at the said Court, held in Camden aforesaid, on the day and year aforesaid, before the  
 350 Judges of the said Court, in the record aforesaid above mentioned, on the trial of the indictment aforesaid, in the said record aforesaid, certain exceptions on behalf of the said Benjamin Hunter, by his counsel, were taken and made to the decision and opinion of the said Court by the said Judges, then and there pronounced and declared, by which opinion the said Judges then and there declared, pronounced, and decided that the evidence of one William L. Donnell, a witness then and there produced and sworn  
 360 on the part of the State in reference to a conversation had between himself and the said John M. Armstrong on the said twenty-third day of January, in the year one thousand eight hundred and seventy-eight, and the statements of the said John M. Armstrong as to where he was going, and that he was going to the city of Camden on the evening of that day and for what purpose he was going there, was proper and could be received in evidence on the trial of the said indictment, and the said Judges did then and there receive the same in evidence, although the same was then and there excepted to by the said Benjamin Hunter, and  
 370 did then and there refuse to overrule the same, although moved to do so by the said Benjamin Hunter, which said exceptions in a certain bill were then and there written down, and the said Judges did then and there put their seals to the same according to the form of the statute made and provided; and the said Benjamin Hunter, by his attorney aforesaid, brings here into Court the bill of exceptions aforesaid, with the seals of the said Judges put and affixed to the said bill; therefore the said Benjamin Hunter saith that in the

record of the proceedings of the trial and judgment afore-  
 380 said there is manifest error.

And the said Benjamin Hunter, by his attorney afore-  
 said, further in fact says that at the said court, held at Cam-  
 den aforesaid, on the day and year aforesaid, before the  
 Judges of the said Court, in the record aforesaid above  
 mentioned on the trial of the said indictment in the said  
 record, certain exceptions on behalf of the said Benjamin  
 Hunter by his counsel were taken and made to the decision  
 and opinion of the said Court by the said Judges, then and  
 there pronounced and declined, by which opinion the said  
 390 Judges then and there declared, pronounced, and decided  
 that the evidence of one Julia Armstrong, wife of the said  
 John M. Armstrong, in reference to the receipt by her about  
 seven o'clock on the evening of the said twenty-third day of  
 January, of a certain letter alleged to have been written to  
 her by the said John M. Armstrong and sent to her by the  
 hands of one Stephen H. Carey, about half past five o'clock  
 on the evening of the said twenty-third day of January, and  
 the said letter which is in the words and figures following,  
 to wit:

400

No. 710 SANSOM STREET,  
 PHILADELPHIA, ——— 187—.

I will not be home much before nine o'clock. Am  
 going over to Camden again with Mr. Hunter on business  
 connected with Davis matter.

JOHN M. A.

Frank will not be home to supper; he is going down to  
 Goudey's to tea.

And is addressed to

410

MRS. J. M. ARMSTRONG,  
 804 North Seventeenth Street,

Was proper and could be received in evidence on the trial of  
 the said indictment, and did then and there receive the said  
 evidence of the said Julia Armstrong, and did receive the  
 said letter, and did admit the same in evidence, and did allow  
 it to be read to the jury, although the said evidence of the

said Julia Armstrong, and the said decision of the Court admitting the same, were then and there excepted to by the said Benjamin Hunter, which said exceptions, in a certain bill, were then and there written down, and the said Judges  
 420 did then and there put their seals to the same according to the form of the statute made and provided; and the said Benjamin Hunter, by his attorney aforesaid brings here into Court the bill of exceptions aforesaid, with the seals of the said Judges put and affixed to the said bill; therefore, the said Benjamin Hunter saith that in the record of the proceedings of the trial and judgment aforesaid, there is manifest error.

And the said Benjamin Hunter by his attorney aforesaid, further in fact saith, that at the said Court held at  
 430 Camden aforesaid, on the day and year aforesaid, before the Judges of the said Court in the record aforesaid mentioned on the trial of the said indictment on behalf of the said Benjamin Hunter, certain exceptions by his counsel were then taken and made to the decision and opinion of the said Court by the said Judges then and there pronounced and declared, by which opinion the said Judges then and there declared, pronounced and decided that the evidence of one Joseph C. Nichols, a witness, then and there produced and sworn on the part of the State, in reference to a statement  
 440 made in his presence by the said Benjamin Hunter on the night of his arrest and a letter purporting to be written by the said Benjamin Hunter to the said John M. Armstrong, as follows :

No. 710 SANSOM STREET,  
 PHILADELPHIA, Dec. 3, 1877.

Please call at the Manhattan Life Insurance Office, 414 Walnut Street, between twelve and one o'clock to be examined, and also call at the Provident between one and three, 108 So. 4th, for same purpose. I will put it in two com-  
 450 panies. You will oblige me by attending to both of them to-day, and I will call upon them to-morrow.

Resp'y yours,

BENJ. HUNTER.

To John M. Armstrong,  
 710 Sansom St.

N. B.—Leave off your truss for fear they will decline to insure you.

Were proper and could be received in evidence lawfully on the trial of the said indictment, and did decide  
 460 that the evidence of the said Joseph C. Nichols and the said letter were proper, and could be received in evidence, and did admit the said evidence, and did permit the said letter to be read to the jury, although the said evidence of the said Joseph C. Nichols, and the said letter, and the said decision of the Court admitting the same were then and there excepted to by the said Benjamin Hunter, which said exceptions were then and there written down, and the said Judges did then and there put their seals to the same, according to the form of the statute made and provided, and the said  
 470 Benjamin Hunter, by his attorney aforesaid, brings here into Court the bill of exceptions aforesaid, with the seals of the said Judges put and affixed to the said bill; therefore, the said Benjamin Hunter saith that in the record of the proceedings of the trial and judgment aforesaid there is manifest error.

And the said Benjamin Hunter, by his attorney aforesaid, further, in fact, says that at the said Court held at Camden aforesaid, on the day and year aforesaid, before the Judges of the said Court in the record aforesaid above mentioned on the trial of the indictment aforesaid, certain excep-  
 480 tions on behalf of the said Benjamin Hunter, by his attorney aforesaid, were taken and made to the ruling and decision of the said Court whereby after all the evidence on the part of the State had been given and the counsel for the State had rested his case, and it had appeared by all the testimony that the said John M. Armstrong died at the city of Philadelphia, a place in the State of Pennsylvania, and within the jurisdiction of the said State, and no evidence had been offered or given to show that he died at any other  
 490 place, the said Court then and there refused to direct the jury to bring in a verdict of acquittal of the said Benjamin Hunter upon the charge of murder charged against him in the said indictment, which said direction was asked upon the ground that the said John M. Armstrong, as appeared by the testimony, died out of the jurisdiction of the State of New

Jersey and within the jurisdiction of the State of Pennsylvania, and that the crime of the murder of the said John M. Armstrong, if committed at all, was not cognizable nor tryable by the said Court of Oyer and Terminer of the county of Camden aforesaid, to which the indictment against the said Benjamin Hunter was presented, and that the said Benjamin Hunter could not be lawfully convicted of murder in the said Court, and the said Court decided and ruled that the said Court had cognizance and jurisdiction of and could lawfully try and convict the said Benjamin Hunter of the murder of the said John M. Armstrong, which said exceptions in a certain bill were then and there written down and the said Judges did then and there put their seals to the same according to the form of the statute made and provided, and the said Benjamin Hunter, by his attorney aforesaid, brings here into court the bill of exceptions aforesaid, with the seals of the said Judges put and affixed to the said bill, therefore the said Benjamin Hunter saith that in the record of the proceedings of the trial and judgment aforesaid there is manifest error

And the said Benjamin Hunter by his attorney aforesaid, further, in fact, says, that at the said Court held at Camden aforesaid, on the day and year aforesaid, before the Judges of the said Court in the record aforesaid, above mentioned, on the trial of the indictment aforesaid, certain exceptions on behalf of the said Benjamin Hunter, by his attorney aforesaid, were taken and made to the ruling and decision of the said Court, whereby the said Court declined and refused to direct the Prosecutor of the Pleas to make his election of which of the counts of the said indictment he would seek conviction of the said Benjamin Hunter, whether upon the counts which averred the death of the said John M. Armstrong to have taken place in the city of Philadelphia, in the State of Pennsylvania, or upon the counts which averred that the death took place in the State of New Jersey; although moved and requested to do so by the said Benjamin Hunter, which said exceptions in a certain bill were then and there written down and the said Judges did then and there put their seals to the same according to the form of the

statute made and provided, and the said Benjamin Hunter, by his attorney aforesaid, brings here into Court the bill of exceptions aforesaid with the seals of the said Judges put and affixed to the said bill, therefore the said Benjamin Hunter saith that in the record of the proceedings of the trial and judgment aforesaid there is manifest error.

540 And the said Benjamin Hunter, by his attorney aforesaid, further, in fact, says that at the said Court, held at Camden aforesaid, on the day and year aforesaid, before the Judges of the said Court, in the record aforesaid above mentioned on the trial of the indictment aforesaid, certain exceptions on behalf of the said Benjamin Hunter were taken and made to the charge of the said Court then and there given and delivered to the said jury impaneled and sworn, as aforesaid, to try the said indictment, in that the said charge was in divers respects then and there made, specified, and  
 550 pointed out, unlawful, which said exceptions, in a certain bill, were then and there written down, and the said Judges did then and there put their seals to the same according to the form of the statute made and provided, and the said Benjamin Hunter, by his attorney aforesaid, brings here into Court the bill of exceptions aforesaid, with the seals of the said Judges put and affixed to the said bill, therefore the said Benjamin Hunter saith that in the record of the proceedings of the trial and judgment aforesaid there is manifest error.

560 And the said Benjamin Hunter, by his attorney aforesaid, further in fact says, that at the said Court held at Camden aforesaid, on the day and year aforesaid, before the Judges of the said Court, in the record aforesaid, above mentioned, on the trial of the indictment aforesaid, certain exceptions on behalf of the said Benjamin Hunter, were taken, and made to the charge of the said Court then and there given, and delivered to the said jury, impaneled and sworn as aforesaid, to try the said indictment, in that the said Court in the said charge declined and refused to charge  
 570 the said jury, that the evidence of the accomplice in the case should be corroborated, not only in the details of the crime, and the circumstances which surrounded it, but also as to the

statements which related to the person of the accused, and bring him present at the killing, which said exceptions, in a certain bill, were then and there written down, and the said Judges did then and there put their seals to the same, according to the form of the statute made and provided; and the said Benjamin Hunter, by his attorney aforesaid, brings here into Court the bill of exceptions aforesaid, with the seals of  
 580 the said Judges put and affixed to the said bill; therefore, the said Benjamin Hunter saith that, in the record of the proceedings of the trial and judgment aforesaid, there is manifest error.

And the said Benjamin Hunter by his attorney aforesaid further in fact says that at the said Court held at Camden aforesaid, on the day and year aforesaid, before the Judges of the said Court in the record aforesaid above mentioned on the trial of the indictment aforesaid, certain exceptions on behalf of the said Benjamin Hunter were taken and made to the  
 590 charge of the said Court then and there given and delivered to the said jury impaneled and sworn as aforesaid, to try the said indictment, for that the said Court in the said charge declined and refused to charge the said jury "that under the proof in the case that the death of John M. Armstrong occurred in the State of Pennsylvania, there could be no conviction of murder in the said Court under the said indictment," which said exceptions in a certain bill were then and there written down, and the said Judges did then and there put their seals to the same according to the form of the statute made and provided, and the said Benjamin Hunter by  
 600 his attorney aforesaid brings here into Court the bill of exceptions aforesaid, with the seals of the said Judges put and affixed to the said bill, therefore the said Benjamin Hunter saith that in the record of the proceedings of the trial and judgment aforesaid, there is manifest error.

And the said Benjamin Hunter, by his attorney aforesaid, further, in fact, says that at the said Court, held at Camden aforesaid, before the Judges of the said Court in the record aforesaid above mentioned, on the day and year  
 610 therein named, certain exceptions on behalf of the said Benjamin Hunter were taken and made to the decision, rul-

ing, opinion, and judgment of the said Court, by the said Judges then and there pronounced and declared, by which opinion and ruling the said Judges then and there refused and declined to give and pronounce judgment for the said Benjamin Hunter, notwithstanding the verdict rendered against him, and to order that he go thereof, without day, notwithstanding the said verdict; which said exceptions were then and there, in a certain bill, written down, and the said  
 620 Judges did then and there put their seals to the same, according to the form of the statute in such case made and provided, and the said Benjamin Hunter, by his attorney aforesaid, brings here into Court the bill of exceptions aforesaid, with the seals of the said Judges put and affixed to the said bill, and, therefore, the said Benjamin Hunter saith that in the record of the proceedings of the trial and judgment aforesaid there is manifest error.

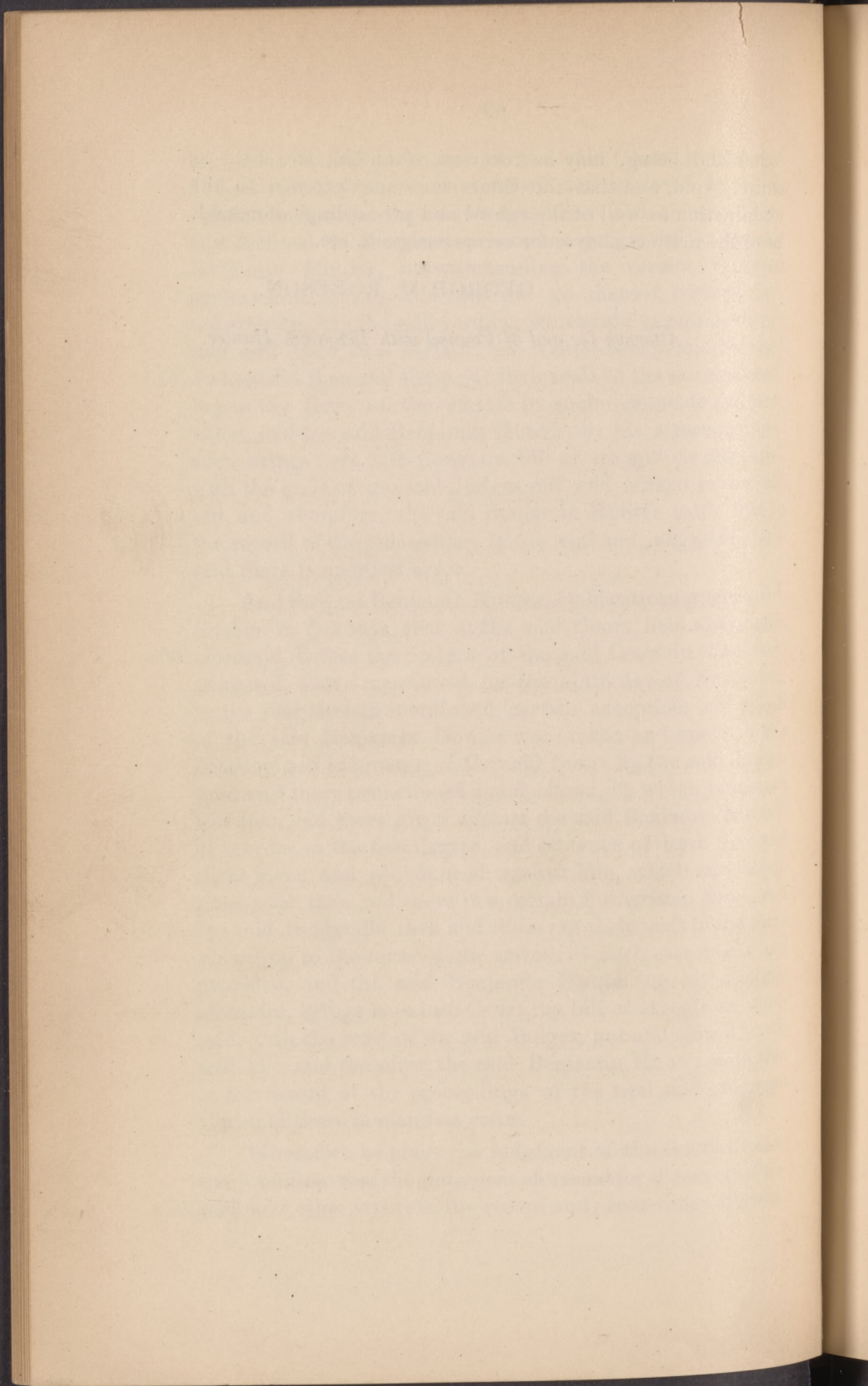
And the said Benjamin Hunter, by his attorney aforesaid, further in fact says, that at the said Court held at Camden  
 630 aforesaid, before the Judges of the said Court in the record aforesaid, above mentioned, on the ninth day of November, in the year therein mentioned, certain exceptions on behalf of the said Benjamin Hunter were taken and made to the decision and judgment of the said Court by the said Judges then and there pronounced and declared, by which judgment was then and there given against the said Benjamin Hunter, of murder in the first degree, and sentence of death then and there given and pronounced against him, which said exceptions were then and there in a certain bill written down, and  
 640 the said Judges did then and there put their seals to the same according to the form of the statute in such case made and provided, and the said Benjamin Hunter by his attorney aforesaid, brings here into Court the bill of exceptions aforesaid, with the seals of the said Judges, put and affixed to the said bill, and therefore the said Benjamin Hunter saith that in the record of the proceedings of the trial and judgment aforesaid there is manifest error.

Wherefore he prays the judgment of the Court here, in the premises, that the judgment aforesaid for the errors aforesaid,  
 650 said, and other errors in the record and proceedings aforesaid

found and being, may be reversed, annulled, and held as entirely void, and that the Court here may proceed to the examination as well of the record and proceedings aforesaid, as of the matters above, for errors assigned, etc.

GEORGE M. ROBESON,

*Attorney for and of Counsel with Benjamin Hunter.*



## THE EVIDENCE FOR THE STATE.

THOMAS GRAHAM sworn and examined.

By Mr. R. S. Jenkins.

Q. Where do you live? A. 1323 South Seventh Street, Philadelphia.

Q. How old a man are you? A. I am twenty-nine years of age.

Q. Are you a married man? A. Yes, sir.

Q. Have you a family? A. Only a child living.

Q. How long have you been married? A. Eight years and over.

Q. Is your wife also living? A. Yes, sir.

Q. What is your business? A. Sheet-iron worker by trade.

Q. How long have you been in that business? A. Since I was fifteen years of age; I was fifteen years and seven months old when I went to them.

Q. Did you serve an apprenticeship? A. Yes, sir.

Q. With whom? A. Benjamin Hunter.

Q. What was Mr. Hunter's business at the time when you served an apprenticeship? A. A manufacturer of heaters and ranges.

Q. Where was he in business? A. 231 South Tenth Street at that time.

Q. Where did he live? A. 1304 South Tenth Street.

Q. You were fifteen years and seven months old, you say, when you went to him as an apprentice? A. Yes, sir.

Q. How long did you stay with him as an apprentice?

A. Until I was twenty-one.

Q. Did you work for him after you became free?

A. Yes, sir.

Q. For how many years? A. A couple of years,—two or three.

Q. When did you quit him, if you recollect? A. When he sold out to Caldwell & Mather.

Q. When did he sell out? A. Some time in January; I forget the year.

Q. About how long ago? A. Five or six years.

Q. Whom have you been employed for since you left Mr. Hunter? A. I worked a short time for Benjamin Harris, and Edward Thompson, and William H. Stiles.

Q. Where was Benjamin Harris' place of business? A. At the northeast corner of Ninth and Callowhill.

Q. What was his business? A. Heaters and ranges.

Q. Where was Mr. Thompson's place of business? A. 64 North Second Street.

Q. Was he in the same business? A. Yes, sir.

Q. Where was Mr. Stiles' place of business? A. 146 North Second Street; he was in the same business.

Q. When did you work for Stiles? A. Last fall.

Q. How long did you work for him? A. Until Saturday evening before Christmas.

Q. You said you were a married man? A. Yes, sir.

Q. Do you live with your wife? A. Yes, sir.

Q. Have you had any other family than this one child? A. Three besides that.

Q. Have they died? A. Yes, sir.

Q. Is this child a boy or a girl? A. A little girl.

Q. How old is this child? A. Ten months.

Q. From the time that you left Mr. Hunter until the time that you were in Stiles' employment, were you in the habit of seeing much of Mr. Hunter? A. Not much; no, sir.

Q. Where did he live? A. On Tenth Street, below Wharton; 1304.

Q. How far from you? A. Three squares from me.

Q. Were you keeping house or boarding? A. I was boarding and keeping rooms together.

Q. With whom were you boarding? A. Mrs. Ulrich, 1323 South Seventh Street.

*Q.* Some time in December last did you see Mr. Hunter? *A.* In the early part of December I did.

*Q.* In whose employ were you then? *A.* Mr. Stiles'.

*Q.* Where did you see him? *A.* I seen him on Reed Street, between Ninth and Passyunk Avenue.

*Q.* In the city of Philadelphia? *A.* Yes, sir.

*Q.* Do you recollect what day of the week it was? *A.* It was on a Sunday.

*Q.* Do you recollect what day of the month it was? *A.* No, sir.

*Q.* You say it was early in December? *A.* Yes, sir.

*Q.* What time of day was it? *A.* It was very near twelve o'clock.

*Q.* In the day time? *A.* Yes; it might have been between twelve and one; somewheres around twelve o'clock.

*Q.* Did you have any conversation with Mr. Hunter that day? *A.* Yes, sir.

*Q.* Where? *A.* On Reed Street.

*Q.* What part of Reed Street? *A.* On the north side, between Passyunk Road and Ninth Street.

*Q.* What was the conversation? *A.* He came and asked me if I knew John Armstrong.

*Q.* What did you say? *A.* I told him "Yes, sir."

*Q.* How long had you known John Armstrong? *A.* Well, I had known him for a number of years. I could not say exactly how long. I first got acquainted with him when I was attending grocery store at Tenth and Wharton Streets—Moore's.

*Q.* He lived in the neighborhood then, did he? *A.* Yes, sir.

*Q.* What further conversation? *A.* He asked me if I knew John Armstrong. I told him "Yes, sir." He looked around and said, "Come up this little street. I do not want everybody to hear it."

*Q.* Which little street? *A.* A little street which runs north to Reed Street, above Ninth.

*Q.* Did you go up the little street? *A.* Yes, sir.

Q. How far was it from where you were standing? A. I was standing on the front pavement at the corner of the little street then.

Q. How far did you go up the little street? A. We went up above the window, between the window and gate.

Q. What happened there? A. He told me that he had to be killed, and he says, "I want you to do it;" he says: "I will give you \$500, and if you don't do it you are no friend of mine."

Q. What did you say? A. "All right."

Q. What happened then? A. Then he began to tell me what a blamed scoundrel he was, and all that, and he owed him so much money and everybody, and said it would be a good thing for him to be out of the road; it would make a better man of Frank.

Q. Who was Frank? A. Armstrong's son.

Q. What else? A. Then he told me not to come to see him, but he would send word to me where to come to see him; then I didn't go to see him.

Q. Wait a minute. Is that all the conversation you recollect at that time? A. Yes, sir.

Q. Did you part then? A. We parted.

Q. Where did you go? A. I went home.

Q. When did you next see him, if you saw him at all?

A. I next seen him? I seen him at his house.

Q. When? A. The Saturday evening before New Year's; I didn't see him at the house; he was out at the back gate.

Q. You went to what part of the house; the back gate?  
A. Yes, sir.

Q. Who did you meet there when you first went?

A. One of his daughters came out.

Q. Do you know which one? A. One of the twins; I don't know which one.

Q. Where was the back gate? A. On Austin Street, below Wharton.

Q. Was this day or night? A. In the night.

Q. What time in the night? A. Between seven and eight.

Q. You say you saw Mr. Hunter? A. Yes, sir.

Q. Did he go to the gate? A. Yes, sir.

Q. What passed between you then? A. I asked him for some money, a dollar or two, and he gave me five. He said, "No, I'll give you five."

Q. He gave you five? A. Yes, sir.

Q. Did anything further pass between you? A. No, sir. He said he would tell his wife I was after money to pay my rent or something. He didn't lend it to me, or would not lend it to me—that he would tell her that.

Q. Did you call for a loan? A. I didn't call for a loan at all; I asked him.

Q. When did you next see him? A. The next place I seen him was up at Sixteenth and Arch, or Sixteenth and Cherry, below Cherry. I seen him before that, though, at Mr. Stiles' store. I had seen him in January and December, before that.

Q. When did you leave Mr. Stiles? A. Saturday evening before Christmas.

Q. And I understood you to say you had seen Mr. Hunter when you were at Stiles'? A. Yes, sir.

Q. Do you recollect when that was—how long before you left Stiles'? A. A couple of weeks before I left.

Q. Do you recollect what day of the week it was? A. No, sir.

Q. How many times did you see him at Stiles'—how many times was he there for you? A. Once; he was there before, but I did not see him.

Q. What time of day did he come there? A. In the morning.

Q. What time in the morning? A. I could not state the hours; I was out on the pavement when he came.

Q. What were you working at? A. I was fixing a stove for the store.

Q. Who was there besides yourself? A. John McKenna, the boy in the store.

Q. Was he assisting you to fix the stove? A. Yes, sir.

Q. What passed between you and Mr. Hunter then? A. He asked me for a piece of paper; he wanted to show

me something, and he gave me a draft of the situation of the houses over here in Vine Street.

Q. What was the draft? A. It is merely a square block representing an alley and the cellars on the other side.

Q. What further passed between you? A. We went down below to a tavern on Quarry Street and took a drink.

Q. Do you know whose tavern it was? A. I do not know the name; it is right below Quarry, on the left side.

Q. What happened there when you were taking a drink? A. We got a drink and he paid for one for the young man at the bar.

Q. Was the young man with you? A. No, sir; he was at the store.

Q. What happened after you got the drink? A. We came out by the gate and he went down Second Street, and I went on to work. He told me if I would lose a day, or half a day, to go over there he would pay me for it.

Q. To go over where? A. Over to Camden to look how the place was situated.

Q. How long after that did you leave Mr. Stiles? A. Saturday night before Christmas I left him.

Q. Was it after this interview that you went to the gate to borrow the five dollars? A. Yes, sir—no. I had the interview at the gate after I left Mr. Stiles.

Q. That is what I wanted to know. It was after you left Mr. Stiles. A. Yes, sir.

Q. Did you know of Mr. Hunter going to Virginia? A. Yes, sir.

Q. How long after your interview at the gate was it that he went to Virginia? A. If I am not mistaken it was the following week—no; it was not the following week; it was the week after that.

Q. It was the week after the following week? A. Yes, sir.

Q. I understand you to say that you met him at Sixteenth Street and Cherry? A. Yes, sir.

Q. Where? A. I met him on the pavement of Hughes' store. We went inside and he brushed his shoes, and I sat down while he done it, and then we came out.

Q. In what business is Hughes? A. Tin-roofing and sheet-iron work.

Q. What was Hunter doing there? A. He had a patent on a back-log boiler.

Q. Had he an office there? A. Yes, sir.

Q. How did you happen to go there? A. He left word at the house for me to go there.

Q. You say you went there? A. Yes, sir.

Q. Where was Mr. Hunter when you got there? A. He was not there when I first got there. I waited for him to come.

Q. Where did you see him first when he got there?  
A. When I first seen him?

Q. Yes, sir. A. I was going out of the door when he came in. He opened the railing and came into the office. He took a brush and brushed off his shoes, and I waited for him and then we came out.

Q. Where did you go? A. We went to Cherry Street, and along Cherry Street.

Q. Was this before he went to Virginia? A. Yes, sir.

Q. Where did you go along Cherry Street? A. We went together toward Fifteenth Street, and he told me he was going to Virginia.

Q. What further did he say, if anything? A. He told me that he would write me a note, and that it would be here about Thursday, and not to go out of the house until the first mail came, but it did not come then.

Q. What further was said? A. He told me then that he would have correspondence here to find out if it was done.

Q. He told you that he would have correspondence there to find out if what was done? A. If Armstrong was killed.

Q. Did you ask him for any money? A. No, sir; he gave me two dollars.

Q. Without asking him? A. Yes, sir.

Q. When Mr. Hunter drew this plan for you at Stiles', about which you have been speaking, was there any conversation between you. What did he say? A. That was all; he just drew the plan for me.

Q. What did he say when he drew the plan? A. He

said "This is the plan of the house over there, keep it, do not let any one see it." I gave him a bill head and he drew it on the back of it. I rolled it up and put it in my pocket, and I went up to the stove and he asked me out to take a drink. He told me if I would go over and lose a day or so, he would pay me for it.

*Q.* Did you know who lived in that street? *A.* No, sir.

*Q.* Did he tell you who lived in that street? *A.* Yes, sir.

*Q.* Who? *A.* F. W. Davis.

*Q.* What further did he say about Davis that evening?

*A.* He told me he owed Armstrong some money and Armstrong had been over there.

*Q.* Was there anything said about cellars? *A.* No, sir; just where they was—on the other side of the house.

*Q.* Did you see Mr. Hunter on New Year's day. *A.* No, sir.

*Q.* Did you see him on New Year's eve? *A.* Yes, sir.

*Q.* Where? *A.* I saw him at the house.

*Q.* What house? *A.* In the Seventh Street house, where I live.

*Q.* What time in the evening was it? *A.* It was about seven o'clock or half-past seven o'clock.

*Q.* Where were you going—out of the house? *A.* I met him on the steps.

*Q.* On the steps of your house? *A.* Yes, sir.

*Q.* What passed between you? *A.* We took a walk down Seventh Street to Reed, and went along Reed Street to Sixth, and down Sixth to Owen, and went in Major McGuire's and took a drink together, and we came out and he told me he had something for me—

*Q.* Where is Major McGuire's? *A.* At the corner of Owen and Sixth; it is a tavern.

*Q.* What did he say? *A.* We got a drink together. We walked up Sixth Street again to Reed, along Reed to Eighth, and up Eighth to Wharton, and we went along Wharton to Ninth Street, and when we got to the corner of Ninth and Wharton, at Scott's tavern, he pulled a ham-

mer out of his pocket and gave it to me. He said: "I had liked to forgotten this; you had better put it in your pocket."

*Q.* What did he say it was for, if anything? *A.* He told me it was what he wanted used.

*Q.* What kind of a hammer was it? *A.* It was a square-faced hammer; plain, long handle, ferrule on the end of it and a rivet through the handle.

*Q.* What did you do with the hammer? *A.* Put it in my pocket, went up Ninth Street to Passyunk Avenue, went up to Plover Street, and went through to Reed to see a party getting ready to go out New Year's shooting.

*Q.* Who was the party? *A.* Richard Hamm was the only party I went to see.

*Q.* Who else? *A.* That was all.

*Q.* Where does Richard Hamm live? *A.* He lives on Morse Street, between Seventh and Eighth. I do not know the number.

*Q.* What do you mean by New Year's shooting? *A.* They were getting ready in costumes to go out.

*Q.* Where did they go to shoot? *A.* Down around the neck.

*Q.* Were you in the habit of going with them? *A.* I just merely went around with them to look at them.

*Q.* What did you do after that? *A.* After seeing him I went down home.

*Q.* Who did you see at home? *A.* John McKenna and my wife and Mrs. Ulrich.

*Q.* Anybody else? *A.* No, sir; I went up stairs and did not undo the hammer at all; I put it back in a closet and left it there.

*Q.* Was the hammer done up? *A.* It was done up in paper.

*Q.* When did you undo it? *A.* A couple of weeks afterwards.

*Q.* Where did you put it? *A.* I put it in the bottom of the closet.

Q. When did you next see Mr. Hunter after he went to Virginia? A. On the Tuesday morning after he came back.

Q. Where did you see him? A. I seen Mr. Hunter at Sixteenth and Cherry.

Q. What time of the day? A. In the morning, between 10 and 12. On the Monday before he was at the house half a dozen times for me, but I did not see him.

Q. What passed between Mr. Hunter and you this Tuesday morning? A. I went up to him and he shook hands with me, and I asked him how he was, and he shook hands with Mr. Hughes, and he said he had some business to attend to down the street; and we went along Cherry Street, and he gave me a postal card and said: "This thing has got to be done to-night;" and he gave me a postal card for Mr. Davis stating that Mr. Armstrong—

Mr. Robeson—I object to what is on the postal card.

By Mr. R. S. Jenkins.

Q. He gave you a postal card addressed to Mr. Davis?

A. Yes, sir.

Q. What did you do with it? A. Put it in the letter box.

Q. Where was that letter box? A. At Thirteenth and Arch or Filbert, I do not know which.

Q. What time in the day did you put it in? A. Right after I left him in the morning.

Q. About what time of the day did you leave him? A. About 11; between 11 and 12 o'clock.

Mr. R. S. Jenkins—I propose to ask this witness what was on the postal card, for the purpose of identifying the postal card when it is brought here.

Judge Woodhull—It is not admissible at this point.

By Mr. R. S. Jenkins.

Q. Where did you go then? A. I left Mr. Hunter and went home.

Q. I understood you to say he said it must be done that night; did he? A. Yes, sir.

Q. What further did he say in relation to it? A. He

told me it must be done that night and that Armstrong would be over there at that time, at 7 o'clock.

*Q.* What did you say to him? *A.* I said "all right," and I left him and went down home—I did not go right to home. I went down Arch Street, along the avenue, along Spruce Street, and had several drinks around.

*Q.* How long before Armstrong was hurt was this Tuesday that you are talking of now? *A.* The Tuesday before.

*Q.* Did you go to Camden that night? *A.* No, sir.

*Q.* Had you any conversation with Mr. Hunter in relation to this matter after he returned from Virginia? *A.* On Tuesday morning.

*Q.* Was anything said about its not being done while he was away? *A.* That was on Wednesday morning.

*Q.* On Wednesday morning what happened? *A.* I met him then at Sixteenth and Arch, the drug store corner, between 10 and 12 o'clock.

*Q.* What passed between you then? *A.* I told him that Armstrong did not go over there. I told him I was over there, but Armstrong did not come. He said "that was queer; he was to be there." But he did not go to the office, and we turned around and went down Arch Street, toward the Delaware, and I left him at Broad Street; he told me to meet him at Eighth and Pine.

*Q.* What time? *A.* He did not say what time, and he just told me to meet him; he said he was going down to find out why Armstrong did not meet him there (Hunter).

*Q.* Where did you go? *A.* I went to Eighth and Pine.

*Q.* How great an interval of time elapsed between when you left him until you got to Eighth and Pine? *A.* How long an interval?

*Q.* Did you go with Hunter or did he go by himself?  
*A.* He went by himself.

*Q.* Where did you go? *A.* I went down Broad to Chestnut.

*Q.* You went down to Eighth and Pine? *A.* Yes, sir.

*Q.* Did you see Hunter again there? *A.* Yes, sir; on Eighth, above Pine, I seen him.

*Q.* About what time of day was it? *A.* About eleven or a little after eleven o'clock.

*Q.* And this was Wednesday? *A.* Yes, sir.

*Q.* What passed between you? *A.* He said he had to make up a lie to tell him, that he had given him the wrong number of the house, and he was to meet him at that Tuesday night.

*Q.* That he was to meet Armstrong? *A.* Yes, sir; he was to meet Armstrong over in Camden.

*Q.* Where was he to meet him, if he told you? *A.* He was to meet him on Vine Street, Camden, at one of the houses, and go to Davis' with him.

*Q.* What night was this that he was to go to Davis' with him? *A.* Tuesday night.

*Q.* What else passed? *A.* And he said he was over there

*Q.* Who was over there? *A.* Armstrong was, and he, Armstrong, looked along the windows of the houses to see Mr. Hunter, but did not see him.

*Q.* What further passed between you and Hunter at that time—what further conversation? *A.* We started and went down Eighth Street then, and he asked me about buying a cheap hat; where he could get one.

*Q.* What did you say? *A.* I told him we could get plenty of cheap hats on South Street, or down the road.

*Q.* Down what road? *A.* Passyunk Road—Passyunk Avenue it is called. Then we went down to Spellissey's, Passyunk Road, above Eighth Street.

*Q.* About what time of day did you get there? *A.* Just before dinner.

*Q.* Who did you see there? *A.* I seen Mrs. Spellissey herself. She waited on us.

*Q.* Who else? *A.* The servant girl was there; she stood up on the stairs; there is four steps goes up—three or four—she stood up in the room above where the stair is.

*Q.* What passed there? *A.* He tried on a hat.

*Q.* Who tried on a hat? *A.* Mr. Hunter; and he asked the price of it. She told him \$1 25, and he said he just wanted a common one to go a gunning in, and she gave him

another kind for \$1—a Kossuth hat—and he tried it on and looked in the glass, and said that would do. She asked him where he generally went gunning at, and he said down the Neck, over Rope Ferry Bridge.

*Q.* What else? *A.* Then he said “Wrap the hat up,” and he would stop for it that evening.

*Q.* What time did you take dinner? *A.* I never had no particular hours; I didn’t go home at all that day to dinner.

*Q.* About what time of day was it? *A.* It was not quite twelve o’clock.

*Q.* Was the hat paid for? *A.* He gave her, Mrs. Spellissey, a \$5 bill, and she had not change, and she went out to get the change for it while we waited for it; she came back and gave him the change, and we came out and he gave me a dollar, and I left him. He went down Passyunk Road and I went down Eighth Street.

*Q.* Where did you go then? *A.* I went around to Seventh Street and went in a tavern and had a couple of drinks; I went up to Robins’ stable, Seventh Street, below Washington Avenue, and set there a while.

*Q.* On the road to Mrs. Spellissey’s was there any arrangement made with Hunter to go to Camden that evening? *A.* Yes, sir.

*Q.* What was said about? *Q.* He told me to meet him at Eighth and Sansom that evening at 8 o’clock, and he would go with me.

*Q.* Did you see anything more of Hunter that day? *A.* No, sir; not after I left home, until the evening.

*Q.* What did you do before you went to Eighth and Sansom; did you go home? *A.* I went home in the afternoon.

*Q.* What happened? *A.* I went in the house and sat down awhile, and got the hammer and came out again.

*Q.* What hammer? *A.* The hammer that Mr. Hunter gave me.

*Q.* About what time did you come out? *A.* Somewheres around 4 o’clock.

Q. Where did you put the hammer? In my pants pocket.

Q. Have you got the pants here? A. Down stairs.

Q. Which pocket? A. The right-hand pocket. I put it down in my pocket and pulled my vest up over it.

Q. Where did you go to, that day? A. Then I went up to the stable and sat there a while; I had three or four drinks before I got there, and then I went up to Robins' stable and sat and took my time. It was getting on to dark and I walked slowly up to Eighth and Sansom, and I was on the southeast corner.

Q. About what time did you go to Eighth and Sansom? A. About six o'clock, or a little after.

Q. Where were you? A. I stood on the southeast corner, and heard a whistle, and looked across and seen Mr. Hunter on the northeast corner.

Q. What happened then? A. I went over to him, and told him I hardly knew him, the way he looked.

Q. Why? A. With that hat on his head and a handkerchief around his whiskers.

Q. What did he say? A. He told me to go down to Seventh Street and stand there.

Q. Where were you? A. On the corner of Eighth and Sansom.

Q. What did you do? A. I went there and stood.

Q. What did Hunter do? A. He came down and got in the entry right opposite to Armstrong's place and stood there.

Q. What happened, if you saw anything? A. A young man came down stairs, after he was there a while, and went down Seventh Street, and shortly after that there was another young fellow came down and he stood on the pavement, a couple of doors away from Hunter, this side of Armstrong's place.

Q. What happened then? A. Then Mr. Armstrong came down and shut the door, and this young man stopped him and got talking to him on the pavement, and, as he left him, Mr. Hunter went up to him and took hold of Armstrong's arm.

Q. Was there anything passed between you and Hunter in relation to the hatchet? A. Yes, sir. He gave me the hatchet that evening.

Q. Where? A. At Eighth and Sansom.

Q. Where did you carry it? A. In my pocket.

Q. What kind of a hatchet was it? A. A regular carpenter's hatchet, nicked on the face.

Q. When Mr. Hunter took Armstrong by the arm what happened then? A. They started, then, on down Sansom Street themselves, and went through the Square.

Q. What did you do when they started? A. Followed behind them. They went through Independence Square, went to Library Street, down through to the post office, and went in the back way to the post office, and Mr. Armstrong had some bundles in his hand and put them in the post office in a box.

Q. Where were you all this time? A. Following right behind them.

Q. Did you go through the post office? A. Yes, sir.

Q. After he put these bundles in the post office where did he go then? A. He went out the front door to Chestnut, down Chestnut to Delaware Avenue, and up Delaware Avenue to Market.

Q. You followed all the time? A. Yes, sir.

Q. When you got to Market Street what happened? A. They went and paid the fare and got on the boat. I followed behind them.

Q. Did you get in the boat, too? A. Yes, sir.

Q. Where did you go in the boat? A. They went out in the bow of the boat.

Q. Where did you go? A. I got on the left-hand side of the boat on the bench that leads out from the cabin.

Q. Did you cross the river? A. Yes, sir.

Q. What happened when you got on the other side? A. They got in the car; I didn't get in.

Q. What did you do? A. I ran alongside of the car.

Q. Which way did the car go? A. It went out Market Street.

*Q.* Do you recollect which way it ran? *A.* No, sir; I do not know the street.

*Q.* You followed the car? *A.* Yes, sir.

*Q.* When they got out of the car what happened? *A.* They went along Vine Street.

*Q.* You said that you received from Mr. Hunter a hammer and a hatchet. Was there any name or initials on those weapons? *A.* On the hammer there was.

*Q.* What was it? *A.* "F. Davis"—"F. A. D."

*Q.* Was anything said about their being on there? *A.* No, sir.

*Q.* Did Mr. Hunter say anything to you why they were there? *A.* No, sir.

*Q.* You don't know whether there was anything on the hatchet or not? *A.* No, sir.

*Q.* Where did Mr. Armstrong and Mr. Hunter go? *A.* They went up Vine Street, above Fifth.

*Q.* Where did you go? *A.* I followed behind them.

*Q.* What happened then? *A.* Mr. Hunter stepped up the alley.

*Q.* What was done then? *A.* I don't know what he done; he went up the alley. He said he was going up to urinate, and when he came out he said "Yes."

*Q.* What was done then? *A.* I went to Armstrong, and, as I went to hit him, the hammer went out of my hand and struck him across the face or forehead, and I seen a light in the cellar, and Hunter got between us.

*Q.* What cellar? *A.* The cellar above, in one of the houses.

*Q.* One of those houses where you struck him? *A.* Yes, sir—the alley; and then my heart failed me, and I looked again, and he was on the pavement with Hunter standing over him, and Hunter said to me: "Hit him! hit him!" and I started out Vine Street, and I looked back and threwed the hatchet back, and jumped in a cellar.

*Q.* I understood you to say that there was a cellar near this house where the blow was struck? *A.* Just above the house.

*Q.* What was said about the hatchet? *A.* I said I threw it out of my hand and went out Vine Street; Hunter told me to hit him; he was standing over him when he was down this way (indicating a stooping position); he says: "Hit him! hit him!" and I looked around again and threw the hatchet back and went out Vine Street to a cellar and went down the cellar; I went across to it and jumped up to the other side to the lot; there was some back gates and I went up to that lot, and I went through the lot into a street; I didn't know the name of it, and I went out on Fifth Street again; I went down Fifth Street and walked down to the ferry and I paid my fare.

*Q.* Did you leave Hunter standing there in the position you have detailed? *A.* Yes, sir; I left him there.

*Q.* Did you see any vehicle there at the time? *A.* No, sir.

*Q.* Did you notice any? *A.* No, sir.

*Q.* I understood you to say that Hunter went up the alley, and then came out and said, "Yes"? *A.* Yes, sir.

*Q.* What did you understand he meant? *A.* He told me that, before he went over that day—that that was to be the signal.

*Q.* Do you recollect what Armstrong had on his head?

*A.* A fur cap.

*Q.* What part of his head did you strike? *A.* Across the forehead.

*Q.* When you got on the boat, what happened, if anything? *A.* I walked slowly up toward the bow, and Mr. Hunter was standing by the chain.

*Q.* Mr. Hunter was standing by the chain of the boat?

*A.* Yes, sir.

*Q.* What passed between you then? *A.* I went up to him and he said, "Well, I have finished him." Then we came from there and sat down on the bench at the side of the cabin. He said: "You threw the hatchet so far away I had to go as far as from here to there," pointing to the outside post of the boat, "before I could find it." We got into the dock, and we went off and went up Market Street, and at Water Street I asked him if he had any change, and he

gave me a quarter, and I went in and got a drink. He then says, "We had better part; I will go out Market and you can go down." So I went down Front Street.

Q. Where did you go? A. I went down Front, along through Little Dock to Second and down to South, out South to Passyunk Avenue and down to Seventh Street. I went down to the stable and sat down there.

Q. Where did you go from the stable? A. I went home.

Q. Did you see Mr. Hunter again? A. I seen him the next day.

Q. What time did you see him? A. In the afternoon; that is, to speak to.

Q. Did you see him before that night to speak to him?  
A. Yes, sir.

Q. Where? A. Tenth and Wharton.

Q. How far from where you live? A. Three squares.

Q. How far from where he lived? A. It was not quite half a square.

Q. Where were you when you saw him in the morning: was it in the morning? A. Yes, sir.

Q. What time in the morning? A. Before dinner time.

Q. Where were you? A. Standing at the corner of Eleventh and Wharton.

Q. Where was he? A. At Tenth and Wharton. He walked up Tenth Street and went into a grocery store. I suppose he went in there. He went to that corner and then came out, and then went toward his own house, and he was not gone long, and he came out and went toward the store again, and then came down. I met him in Wharton Street, below Tenth. He came out of the store and went along the graveyard pavement, and I met him on Passyunk Road, and then he told me to meet him at Girard Avenue and Broad, at half-past three, and I did. I was there ahead of him. I turned around and looked down Broad, and he was coming up.

Q. Do you know Mr. Jones? A. No, sir.

Q. Did you see anybody there? A. I know a Mr. Jones, a bricklayer.

Q. Did you see anybody there that you knew? A. No, sir; only Mr. Hunter.

Q. What time was this that you saw Hunter—you staid awhile, I think you said? A. No; I just got there as he came up Broad Street, and he whistled for me to come up; he shook his head for me to go out, and I went out toward Fifteenth Street, and he shook hands with man at the corner of Broad and Girard Avenue.

Q. What kind of a looking man was he? A. He was an oldish man with an overcoat on, and with a black hat. He stood on the southwest corner and talked awhile with this oldish man.

Q. How far up did you go? A. I went up to the corner of Fifteenth and Girard Avenue.

Q. Did you get there before he did? A. Yes, sir.

Q. What happened there? A. He shook hands with me.

Q. He came, then, did he? A. Yes, he shook hands with me and put notes in my hand.

Q. What kind of notes? A. Two five-dollar bills.

Q. You have described the hammer. Does this hammer look like it? (Hammer shown witness.) A. Yes, sir; but it has not got the ferule.

Q. Had it a ferule on when you struck the blow? A. Yes, sir.

Q. Does this look like the ferule? (Hammer with ferule on it shown witness.) A. Yes, sir; it was on tight then, when I got it.

Q. Does this look like the hatchet? (Hatchet shown witness.) A. Yes, sir; that is the hatchet.

Q. Are those the letters of which you have spoken? (Referring to the letters "F. W. D., on the hammer.)

A. Yes, sir: those were on it.

Q. When Mr. Hunter gave you the hammer? A. Yes, sir; when I opened it and looked at it.

Q. When did you open it and look at it? A. I didn't for a couple of weeks after I got it; I never paid no attention to it. I just left it lying there.

Q. In the closet, where you put it? A. Yes, sir.

Q. And then it had those letters and this ferule on it?  
A. Yes, sir; just as you see it now.

Q. Is that the man from whom you got the hatchet?  
(Pointing to the Defendant.) A. Yes, sir.

Q. And he was with you at the time you struck the  
blow? A. Yes, sir.

Q. And at his instigation you struck it? A. Yes, sir.

Cross-examined.—By Mr. Thompson :

Q. How old were you when you became Hunter's  
apprentice? A. Fifteen years and seven months old.

Q. How long did you stay with him? A. Until I was  
twenty-one, as apprentice.

Q. Then you left? A. No, sir.

Q. How long did you remain with him after you were  
of age? Two or three years.

Q. How old are you now? A. Twenty-nine.

Q. Did you work steadily for him after you became of  
age? A. Till he sold out.

Q. Where was his place then? A. 233 South Tenth  
Street then.

Q. Were you receiving wages? A. Yes, sir.

Q. Were you married then? A. Yes, sir.

Q. When did you marry? A. Right after I was free.

Q. Where did you live after you became of age and  
married and was in Hunter's employ? A. 714 Bayard  
Street.

Q. What was your part of the business? A. I worked  
at the bench, at the shop in Tenth Street.

Q. Did you go out working? A. Yes, sir; I went out  
jobbing.

Q. And you remained there about three years? A.  
Somewhere up to three years.

Q. After you left Hunter where did you go? A. I didn't  
leave him; I was discharged, when Caldwell & Mather took  
the shop, by Mr. Hunter; he told me there was no more  
work for me.

Q. You did not go into the employ of Caldwell & Mather?  
A. Not then; no, sir.

Q. In whose employ did you go after you were discharged? A. I went to work at the pork house, Ninth and Reed.

Q. How long did you remain there? A. I remained there until the Spring opened.

Q. Whose house was it? A. Cheeseborough & Allen.

Q. What were you doing then? A. Helping around, laboring.

Q. Did you get wages? A. Yes, sir; \$2 a day.

Q. Where did you go next? A. Mr. Hunter came for me and told me I could go back to the shop of Caldwell & Mather's and go to work.

Q. Did you go back? A. Yes, sir.

Q. How long did you remain? A. I do not know exactly; somewhere over a year.

Q. Where did you go next? A. They discharged me.

Q. For what? A. For neglecting my work.

Q. Occasioned by what? A. Well, I got drunk.

Q. To great excess? A. No, sir; not to great excess.

Q. Could you attend to your business? A. Yes, sir; I could attend to it, but I would take two or three days off in the week.

Q. And in consequence of that you were discharged? A. Yes, sir.

Q. For drinking? A. Yes, sir.

Q. Where did you go next? A. I went to selling potatoes, and after that I went to huckstering, as they call it.

Q. For how long? A. For the summer and better part of the fall.

Q. Where did you go next? A. I went to work then, in the spring, for Benjamin Harris, sheet iron working, heaters and ranges, at Ninth and Callowhill.

Q. How long did you remain with him? A. A couple of months, I guess.

Q. Why did you leave him? A. He had no work.

Q. Did you still keep up your habits of drinking? A. Saturday nights, when I was working, I would go off and take a drink, and keep it up for Sunday.

Q. Did you leave your home? A. No, sir.

Q. Did you drink at home? A. No, sir; I would go out and drink.

Q. And keep it up all the time out? A. Yes, sir; Saturday night and Sunday.

Q. And go back to work on Monday? A. Yes, sir, when I had work.

Q. And when you had not work, what did you do? A. Went around the streets.

Q. Drunk? A. Yes, sir.

Q. Who were your associates? A. I had so many I couldn't tell you them.

Q. Did they drink with you? A. Sometimes.

Q. Where did you go next? A. I came back to Caldwell & Mather's again.

Q. How long did you remain with them? A. I don't know how long.

Q. Were you discharged again by them? A. Yes, sir.

Q. For what? A. Not going to work.

Q. Neglect of duty? A. Yes, sir.

Q. Neglect of work? A. Yes, sir.

Q. Occasioned by drunkenness? A. It wasn't occasioned by drunkenness; it was occasioned by not going there.

Q. Your habit of drinking still kept up? A. Sometimes; yes.

Q. How long did you remain with them at that time? A. I don't know how long I was with them.

Q. Where did you go then? A. Edward Thompson's, 64 North Second Street.

Q. How long did you remain there? A. One season; what we call a season; one fall; up to Christmas.

Q. Why did you leave Thompson? A. He had no work.

Q. Did you keep up your habits of drink there? A. On Saturday night and Sunday, too.

Q. When did you leave Thompson? A. The Saturday night before Christmas, a couple of years ago.

Q. Why did you leave? A. Because I had no work.

Q. Did you drink whilst you were there? A. Yes, sir.

Q. Saturday night and Sunday? A. Yes, sir.

Q. No other days? A. I would take a drink occasionally during the day.

Q. Were you discharged by them? A. No, sir; I was laid off on account of work; I did not go back again.

Q. Since you left them, what have you been doing? A. Huckstering.

Q. Confined to what place? A. I wasn't confined to any place—all around the city.

Q. For what time? A. Off and on for a year.

Q. Drunk off and on? A. Yes, sir.

Q. Very much, have you not been, of late? A. Yes, sir; of late I have.

Q. Keeping away from home a great deal? A. No, sir; I did not keep away only through the day.

Q. Through the night? A. Yes, sir.

Q. During this time did you see Hunter? A. During the time of huckstering?

Q. Yes, sir. A. No, sir; not that time I didn't.

Q. And that was about how long a time? A. Very nearly a year.

Q. When did you first commence to see Hunter? A. After I got to work at Stiles'.

Q. When was that? A. Last fall, 1877.

Q. What time in the fall? A. Somewheres in November, or the latter part of October.

Q. And then up to that time you had not seen Hunter to have anything to do with him, or he with you? A. Until that time, no, sir.

Q. What is Stiles' business? A. Stoves, heaters and ranges.

Q. Where is his place? A. 146 North Second Street.

Q. How long did you remain there? A. Until Saturday night before Christmas.

Q. With steady work or not? A. With steady work; yes, sir; it was until then.

Q. When did you and Hunter first meet? A. In the early part of last December.

Q. And where? A. On Reed Street, between Ninth and Passyunk Avenue.

Q. What led you to meet there? A. I was on my way home, and he came from my house.

Q. Was it day or night? A. In the day.

Q. What took place? A. The interview was about Armstrong.

Q. What was it? A. He asked me if I had known him, and I told him yes.

Q. Where had you become acquainted with him? A. When he lived on Tenth, below Wharton, from going to the store of Mr. Moore.

Q. Where is Mr. Moore's store? A. Tenth and Wharton.

Q. Were you introduced to him? A. No, sir; I was not introduced to him.

Q. Then Hunter asked you if you knew Armstrong?  
A. Yes, sir.

Q. And you told him you did? A. Yes, sir.

Q. What next? A. He said he had to be killed.

Q. That was the first thing he said? A. Yes, sir; that was the first words that came out. He said, "he has got to."

Q. Then, without anything being said, that was the introduction at once? A. Yes, sir.

Q. As to the killing? A. Yes, sir.

Q. What did you say? A. I said, "All right."

Q. Where was that? A. Off Reed Street, up a little street; there's no name for it; it doesn't run right through; it runs off an alley.

Q. The conversation took place there? A. Yes, sir.

Q. An open conversation? A. Yes, sir; an open conversation.

Q. What next? A. He began to tell me then about what he owed him; what a blamed scoundrel he was and something or other.

Q. What did he say he owed him? A. Some six or seven thousand dollars.

Q. How long did that conversation occupy? A. That wasn't more than ten minutes—somewhere about that.

Q. Was that all that took place? A. That was all. He told me by his being out of the road it would make a better man of Frank—that was Armstrong's son—and he said he wanted me to do it, and he would give me \$500 to do it, and if I did not do it I was no friend of his, and he told me then not to come to see him, but he would send to me where I was to meet him at.

Q. What then? A. He left and went to his home, I believe; he went toward home.

Q. Where did you see him again? A. I seen him at the shop during December.

Q. Then you had not seen him for some time? A. After that Sunday I did not see him until he came to the shop.

Q. How long was that—an interval of what time? A. A week or two.

Q. You did not see him, and he did not see you? A. No, sir.

Q. That was from the time you say this talk took place in the street? A. Yes, sir.

Q. Where did you see him? A. At the shop—Stiles' shop.

Q. What occurred there? A. He came in and asked me for a piece of paper; I gave him a billhead, and on the back of it he wrote the plan of these houses.

Q. Where is that billhead? A. I tore it up.

Q. Why did you tear it up? A. Because I did not want to keep it.

Q. When did you tear it up? A. I tore it up three or four days after it was given to me.

Q. Who drew it? A. Benjamin Hunter.

Q. And gave it to you? A. Yes, sir.

Q. And you kept it three or four days and tore it up?  
A. Yes, sir.

Q. What else took place at the store? A. We went out on Quarry Street, and I told him what I was doing to the stove there, and we went out and took a drink there,

and he paid for a drink for the young man at the store. Then we came out, and he went along Second Street, and I returned to the store. He told me to go over to Camden, and if I lost half a day or a day, he would pay me for the time.

Q. What did you do next? A. Went back to the store.

Q. When did you see him again after that? A. I seen him at Sixteenth and Cherry.

Q. How long a time after this? A. About a week or two.

Q. Then you saw him at Sixteenth and Cherry? A. Yes, sir.

Q. How did you happen to meet him there? A. He went for me to come there.

Q. How do you know he went for you to come there? A. He left a note at the house; a card.

Q. Have you the note? A. No, sir.

Q. You went to Sixteenth and Cherry and saw him there? A. Yes, sir.

Q. What time was this? A. In the morning.

Q. What time of the month? A. In the early part of January.

Q. Where was he? A. At Hughes' store.

Q. What took place there? A. He got talking about going to Virginia, and said he was going to be away for a week; that he would have correspondence to know if this thing was done while he was away.

Q. What else took place? A. I told him it was all right. He told me to go down and see Armstrong. He said he didn't care if it was done in his hearing. He told me it was easy enough to go upstairs and turn the light down and give him a smack there.

Q. What did you say to that? A. I said "All right."

Q. Then did you separate? A. Yes, sir.

Q. Where did you go? A. We separated after that. He told me he would send a note to me, that I would have it the following Thursday of the week; he went to Virginia and I didn't get no note. He told me not to go from the house where I lived until the first mail came round, but I didn't stay home. I went to the wharf.

Q. What next? A. I got a load and went out to sell it.

Q. Where did you see Hunter again? A. I did not see him until the Tuesday morning he came home from Virginia.

Q. Where had you been all this interval of time? A. Huckstering.

Q. Where did you see him? A. At Sixteenth and Cherry.

Q. How did you see him there? A. He was at the house and left word for me to meet him there.

Q. Had you seen him? A. No, sir.

Q. How do you know he left word? A. My wife told me.

Q. And you went up to see him? A. Yes, sir.

Q. What took place then? A. He came and shook hands with me and asked me how I was; shook hands with Mr. Hughes and stood talking a few minutes; said he was going down Cherry Street and asked me if I would go along. I said I would, and he put his hand in his pocket and pulled out a postal card and says: "You put this in the box and Armstrong will be over there." He said Armstrong would be over there.

Q. How long was this conversation? A. About ten minutes, while we were in the street.

Q. An open conversation? A. Yes, sir.

Q. Where did you separate? A. At Thirteenth and Cherry.

Q. Where did you meet again? A. I didn't meet him at all until the next morning, Wednesday morning.

Q. Where did you meet then? A. Sixteenth and Cherry.

Q. What time in the morning? A. Between 10 and 12 o'clock.

Q. How did you happen to meet there? A. I went there to meet him.

Q. Did you go alone? A. Yes, sir.

Q. Did you see him? A. I did.

*Q.* What took place? *A.* I told him Mr. Armstrong did not go over there Tuesday, and he said that was queer. Then he turned around; he did not go to the office, and he told me to meet him at Eighth and Pine, and he told me he would go and see the reason why he did not go over there.

*Q.* Did you meet him that day? *A.* Yes, sir.

*Q.* When? *A.* Before dinner time.

*Q.* Where? *A.* At Eighth and Pine, opposite the Pennsylvania Hospital.

*Q.* What did he say? *A.* He said he would have to make up a lie, to show why he did not meet him and give him the wrong number of the house, and he asked me what ferry I went over, and I told him Vine Street, and he said: "I always keep telling you to go over Market Street Ferry, and that's the reason you missed him."

*Q.* You did not go there the night before? *A.* No, sir.

*Q.* Did you tell him you had? *A.* Yes, sir.

*Q.* What did you tell him you had gone for? *A.* Well, I made up my mind to tell him that.

*Q.* Then you lied to him on that occasion? *A.* Yes, sir; I told him that I did go over.

*Q.* For what purpose? *A.* I had no particular purpose to tell him that.

*Q.* And then you parted, did you? *A.* After that he told me to meet him at Eighth and Pine; he said he would go to see Armstrong, and tell him the reason why he did not go over.

*Q.* You met him at Eighth and Pine, when? *A.* The same morning—Wednesday morning.

*Q.* Did you meet him? *A.* I did.

*Q.* Who was there first? *A.* I was there.

*Q.* How long did that interview take place? *A.* I was there somewhere about twenty minutes, I know, waiting for him.

*Q.* What took place at this interview at Eighth and Pine? *A.* He came up and told me he had been there—Armstrong had—and he looked along the different windows to see Hunter, and Hunter told him that he had given him the wrong number of the house; and that is how he got out

of it. Then he went on down Eighth Street to Passyunk Avenue and bought a hat at Spellissey's, and paid a dollar for a hat.

*Q.* What time was this? *A.* In the morning, before dinner, that he bought the hat, and then he told her that he would leave it there, that he was going gunning in it, and that he wanted to leave it there until he stopped and got it that evening. He bought a hat and gave her a five dollar note, and she went out to get the change and fetched it back to him, and we came out together.

*Q.* Where did you go? *A.* I went up Passyunk Avenue to Eighth Street, and he gave me a dollar, and he went down Passyunk Avenue and I went down Eighth Street.

*Q.* What time was that? *A.* Before dinner.

*Q.* Where did you see him again? *A.* I seen him that evening again at Eighth and Sansom.

*Q.* What time? *A.* At 6 o'clock or a little after.

*Q.* How were you dressed? *A.* I had on a Chesterfield coat, I had an overcoat on, plaid pants and blue waistcoat and a stiff-rimmed hat.

*Q.* How was he dressed? *A.* He had an overcoat on, with this low Kossuth hat on, with a handkerchief around his whiskers.

*Q.* What kind of a handkerchief? *A.* A white one.

*Q.* How long did you remain at Eighth and Sansom?  
*A.* I did not remain there very long; I went to Seventh Street.

*Q.* What had you with you? *A.* I had a hammer with me when I first met him.

*Q.* When you first met where? *A.* At Eighth and Sansom.

*Q.* The hammer that was marked "R. A. D.?" *A.* No, sir; there was no mark "R. A. D." about it.

*Q.* What was the mark? *A.* F. W. D.

*Q.* Did you not say F. A. D. in your examination in chief? *A.* I do not remember of saying that.

*Q.* Try and remember whether you did not say that

the hammer had the initials "F. A. D." upon it? A. I cannot remember it.

Q. What did you say; did you say so or not? A. I say I do not remember it.

Q. Is that the only answer that you can give—that you cannot remember what took place in this Court room a short time ago? A. In this Court?

Q. Yes, sir. A. In the Court I said "F. A. D."

Q. Do you say that now? A. I say "F. W. D."

Q. Why do you say it now? A. Because I seen the letters afterward.

Q. If you had not seen the letters would you not have stuck to "F. A. D.?" A. I do not know as I would have stuck to "F. A. D."

Q. But you had the hammer with you on that occasion? A. Yes, sir.

Q. In your pocket? A. Yes, sir.

Q. In those clothes? A. No, sir.

Q. How was it carried? A. In my pants pocket.

Q. Show us how it was carried? A. It was carried in my pants pocket with the handle up under my waistcoat.

Q. Was it wrapped up? A. No, sir.

Q. Where had you put it in your pocket? A. I carried it home.

Q. Where was your home? A. 1323 South Seventh Street.

Q. What time did you put it in there? A. In the afternoon.

Q. And you carried it all the afternoon, did you? A. Yes, sir.

Q. To Eighth and Sansom? A. Yes, sir.

Q. Did you say how long you and Hunter were together at Eighth and Sansom, or how long you were there, altogether? A. We were not five minutes together there.

Q. What did you do? A. I went to Seventh Street. He gave me a hatchet and told me to put that in my pocket.

Q. Where? A. At Eighth and Sansom.

Q. In the open street? Yes, sir.

Q. Where did you put it? A. In my pocket.

Q. In the same pocket with the hammer? No, sir.

Q. What pocket did you put it in? A. In my left pocket. I put it in my pocket and threwed the handle up under my vest in the left-hand pocket of my other pants.

Q. Did you look at the hatchet when he gave it to you?

A. No, sir.

Q. Was it wrapped up? A. No, sir.

Q. You did not look at it? A. I felt the edge of it and I seen it was broke out.

Q. How could you feel the edge of it? A. Because he handed it to me that way.

Q. And then you felt the edge of it? A. Yes, sir.

Q. It was not wrapped up? A. No, sir.

Q. Was it marked? A. I did not see it marked. It was dark when he gave it to me.

Q. Then what did you do after leaving Eighth and Sansom? A. From Eighth and Sansom I went to Seventh and Sansom.

Q. On which side of the street? A. I went on the north side.

Q. Did he follow you? A. Yes, sir.

Q. On the same side of the street? A. Yes, sir.

Q. How far down? A. He did not go quite to Seventh Street; he went in an entry.

Q. Where did you remain? A. I kept walking from one side of the street to the other on Seventh.

Q. When he went into the entry, on which side of the street were you? A. I seen him from the south side of Sansom Street.

Q. Did you not say that you crossed over on the south side of the street back and forth? A. On Seventh Street, I said, I crossed over.

Q. Did you not say you crossed over on Sansom Street, from the north side to the south side, back and forth? A. I went to Seventh Street, I said, and crossed over on the south side of Sansom on Seventh.

Q. Then you stood on the south side of Sansom Street? A. I walked on the south side of Sansom Street, opposite Mr. Armstrong's door.

*Q.* Why did you not say that before? *A.* You did not give me time enough.

*Q.* You say you walked up to Armstrong's place; that was the first time you said you walked up to Armstrong's place; how far had you walked up? *A.* Five or six pavements.

*Q.* Why did you not say so before to the State's Attorney? *A.* You did not give me a chance; I kept on walking, crossing from one side to the other.

*Q.* Did not the State's Attorney give you a chance? *A.* No, sir.

*Q.* And you pretend to say now that you did not stand at the corner, but that you walked up to Armstrong's place?

*A.* I say that now.

*Q.* Where was Hunter when you got up there? *A.* He was standing in this entry looking up at the window.

*Q.* Did you see him in the entry? *A.* I did not see him go there, but I saw him standing there.

*Q.* What led you to go up to Armstrong's place? *A.* Mr. Hunter said he was so near-sighted that he could hardly tell him when he came out, and for me to keep my eye on him.

*Q.* Why did you not say that before? *A.* I just come to it now by the question.

*Q.* You got in front of Armstrong's place and remained there? *A.* No, sir; I did not.

*Q.* What then happened? *A.* I walked back again and came over to Hunter.

*Q.* You did not stay in front of Mr. Armstrong's place? *A.* No, sir.

*Q.* I think you said you saw Hunter there? *A.* I did not say that I seen him there. I saw him across the street in the entry from there.

*Q.* The entry from where? *A.* From Armstrong's place. I saw Hunter in the entry across the street on the north side of Sansom.

*Q.* Through the entry of the house there? *A.* Yes, sir.

Q. What was he doing there? A. Standing there, looking up at the window.

Q. What were you doing there? A. I came back there, and he came across the street, then, with me.

Q. To Armstrong's place? A. Yes, sir.

Q. Where did you separate? A. I left him standing there. He said he had a notion of going up stairs then to do it.

Q. To do what? A. To hit Armstrong then.

Q. That was about what o'clock? A. After six o'clock.

Q. Was Armstrong's place open? A. It was.

Q. After he said he had a mind to go over and hit him, what did you do? A. I stayed there with him awhile.

Q. Did he go in? A. No, sir.

Q. Did you go in? A. No, sir.

Q. Where did you go? A. I went back again to Seventh Street, and Hunter went across the street, and I went back to the corner of Seventh and Sansom again.

Q. How long did you remain there? A. I cannot tell how long I remained there.

Q. About how long? A. I judge five or ten minutes; somewhere around there.

Q. What time was it when you got there? A. I cannot tell you what time it was.

Q. Cannot you fix the time? A. No, sir; but it was not much after six o'clock.

Q. How much after six o'clock? A. I cannot say.

Q. Ten minutes? A. It might have been ten; it might have been fifteen.

Q. Twenty minutes? A. I could not tell.

Q. Thirty minutes? A. I could not say.

Q. It might have been thirty minutes? A. It might have been and it might not have been; I do not say that it might.

Q. What time was it? A. I said it was after 6 o'clock.

Q. And that is all you can say? A. That is all.

Q. And you cannot say whether it was five minutes or whether it was twenty minutes? A. No, sir.

Q. As you stood there what happened then? A. While

I was standing there, there was a young man came down stairs.

Q. Came down whose stairs? A. Armstrong's,—from the building: he came out of the door.

Q. Who was the young man? A. I do not know.

Q. What then took place? A. He went away.

Q. What next? A. Then there was another young man came down. He stood on the pavement, a couple of pavements away from the door of Armstrong's place, and then Mr. Armstrong came down and shut the door, and he walked toward Seventh Street, and he came up and spoke to him, and they had a conversation there together. I do not know what it was about.

Q. How far from you? A. I was standing at Seventh Street, and I came across and told Mr. Hunter that that was him talking, and, when that young man left, Mr. Hunter went up to him and took his arm.

Q. Where was Mr. Hunter when you told him that was Armstrong? A. On the other side of Sansom Street.

Q. Then what took place when you told Hunter that it was Armstrong? A. I followed him, keeping an eye on him, and then this young man went away from him.

Q. What did Hunter do? A. He went up to him and took hold of his arm.

Q. Crossed over, did he? A. Yes, sir.

Q. You were standing at the corner? A. I was standing at the corner.

Q. And he took hold of his arm? A. Yes, sir.

Q. Then what next? A. We walked down Sansom Street.

Q. How was Armstrong dressed? A. He had an overcoat on and a fur cap.

Q. He went down Sansom Street to where? A. To Independence Square.

Q. What then happened? A. He went through the Square.

Q. By what gate? A. He went in off of Sixth Street, opposite Sansom.

Q. Crossed the Square? A. Yes, sir.

*Q.* Out of what gate did he go? *A.* Out of the gate at Library Street, on Fifth Street.

*Q.* Then where? *A.* Then along Library Street to the back of the Post Office, in the door, through to Chestnut, and down Chestnut to Delaware Avenue.

*Q.* Any stoppages? *A.* No stoppages at all.

*Q.* In going along in the Post Office there was a stoppage then? *A.* Yes, sir.

*Q.* Where? *A.* Armstrong stopped to put some letters and bundles in.

*Q.* Were you there? *A.* I was behind him.

*Q.* Then what next happened? *A.* We went out down Chestnut Street then.

*Q.* On which side? *A.* On this side; crossed over to Fourth and down on the north side.

*Q.* And then what was the route? *A.* Down to Delaware Avenue, up to Market and then across in the boat.

*Q.* Which boat was it? I do not know the name of it, but it was the Market Street boat.

*Q.* Which boat was it, which ferry was it? *A.* The lower ferry.

*Q.* Where were you on the boat? *A.* I was sitting on a bench, on the north side of the boat, right opposite the cabin door.

*Q.* How far were they from you? *A.* They were out on the bow of the boat, by the chains.

*Q.* What were you doing with the hammer and hatchet all this time? *A.* They were in my pocket, I was sitting there.

*Q.* What did you do after you got across the river? *A.* I watched them, and saw them get into a car.

*Q.* What car? *A.* One of the horse cars; a one-horse car.

*Q.* What did you do? *A.* I stood there until the car started and followed the car on the pavements.

*Q.* You were on foot? *A.* Yes, sir.

*Q.* Which route did the car take? *A.* It came out this way. I do not know what street. I kept on following the car.

Q. Did you walk? A. I ran with the car.

Q. Where did you see them next? A. I saw them at Vine Street.

Q. What did they do? A. They went on ahead, and I followed behind.

Q. How far were you from them? A. I guess about thirty or forty feet.

Q. Then when did you first make a halt? A. When the car stopped and they got out. That was the first halt I made after they got in the car.

Q. When did you make the next halt? A. When Mr. Hunter went up the alley.

Q. What alley was that? A. Just above Fifth Street, on Vine.

Q. How far from Fifth Street? A. I didn't measure it; I do not know how far it is; but there is a beer saloon on the corner, and a side yard runs back to the alley; some kind of a tavern anyhow.

Q. Where were you when Hunter went up the alley? A. I was following right behind him, on the pavement.

Q. How far away? A. I was alongside of the window of this house when he went up the alley; and then I walked up, and, just as he came out, he said, "Yes."

Q. What did you do? A. I had the hammer and hatchet in my hand?

Q. The same hand? A. No, sir; not the same hand.

Q. You said hand, did you not? A. I said hand.

Q. Which hand was it? A. I had the hammer in my right hand and the hatchet in my left hand.

Q. One of your hands, then, was filled with the hammer and the other with the hatchet—where, then, was Armstrong? A. Standing on the pavement.

Q. And he stopped? A. Yes, sir.

Q. What was the first thing you did? A. The first thing I did? Hunter said: "Yes," and I went and struck him, and the hammer went out of my hand and struck him on the forehead; and the ferule slipped right out of my hand.

Q. And the hammer struck him on the forehead? A. Yes, sir.

*Q.* And then slipped from your hand? *A.* Yes, sir, and I went toward the house, and then Mr. Hunter went out between us and Armstrong said—

*Q.* Wait a moment. The hammer went out of your hand and struck him on the forehead? *A.* Yes, sir.

*Q.* You kept hold of the hatchet all this time? *A.* Yes, sir.

*Q.* When you struck him on the forehead, what did Armstrong say? *A.* He said: "God spare his life."

*Q.* What you say? *A.* I didn't say nothing. Hunter jumped between us, and then I looked ahead, and I seen a light in the cellar.

*Q.* Hunter jumped between you, and you with the hatchet in your hand saw a light in the cellar? *A.* The hammer was out of my hand. I turned around again and he was lying down, and Hunter was standing over him, and Hunter told me: "Hit him! hit him!"

*Q.* You had the hatchet in your left hand? *A.* Yes, sir; I looked around again and I seen him there, and I throwed the hatchet back and I went out Vine Street.

*Q.* After you had struck this blow you got ready to throw what instrument—the hatchet or the hammer? *A.* The hammer slipped out of my hand when I was striking him.

*Q.* And the hatchet you threw away? *A.* The hatchet I threw out of my hand when I was running.

*Q.* And Hunter was standing between you and Armstrong? *A.* Hunter had Armstrong down on the pavement.

*Q.* Did you not knock him down? *A.* No, sir.

*Q.* How did he get down? *A.* I do not know how he got down.

*Q.* Did you see him fall? *A.* I did not see him fall.

*Q.* You were there? *A.* I was there; I was above them, though; I was ahead of them looking out Vine Street,

*Q.* How could you be ahead of them? *A.* How could I be ahead of them? I started to run.

*Q.* After you struck him? *A.* I didn't say I struck him; the hammer struck him when it went out of my hand.

*Q.* I suppose you were back of the hammer? *A.* Yes, I was back of the hammer.

Q. You started to run as soon as the hammer hit him?  
A. Yes, sir.

Q. You had thrown the hatchet away? A. I threw it when I was running; I threw it back.

Q. And as you ran away you saw Hunter there standing over Armstrong? A. He had hold of Armstrong and told me to hit him.

Q. Was he up or down? A. He was down.

Q. Then you must have seen him down? A. I seen him down when I turned around.

Q. How did he get down? A. I do not know how he got down.

Q. He was down and you saw Hunter over him? A. Yes, sir.

Q. And he told you to hit him? A. Yes, sir.

Q. Did you? A. No, sir, I didn't.

Q. You ran? A. I did.

Q. Where did you run? A. I went out Vine Street to the first cellar and jumped down the cellar. I went back through and jumped up the back end, and there was a gate there, and I went to the back gate, and there was an alley going out to the street.

Q. What time was that? A. It was not after seven o'clock.

Q. How long did this occupy? A. My time in getting away?

Q. Yes. A. Two or three minutes, I guess.

Q. The whole time you were there? A. The whole time I was there.

Q. Did you grapple with Armstrong? A. No, sir.

Q. Did he with you? A. No, sir.

Q. Did he touch you? A. No, sir.

Q. Only you touched him with the hammer? A. That is all.

Q. Was there any one about? A. No one but Mr. Hunter.

Q. Did you see any lights? A. Only in the cellar above me.

Q. Did you see an express wagon there? A. No, sir.

- Q. Did you hear any wagon there? A. No, sir.
- Q. What kind of a night was it? A. Dark and cold.
- Q. Do you know, of your own knowledge, what became of the hatchet? A. No, sir.
- Q. Where in the forehead did you strike Armstrong?  
A. Somewhere about the front of the forehead.
- Q. Did the blow which you gave him draw blood? A. I did not see none.
- Q. Did it or not? A. Not that I know of; I didn't see whether it did or not.
- Q. In what position was Armstrong when you left? A. He was lying down on the pavement.
- Q. How? A. Toward the gutter.
- Q. Opposite to whose house? A. The first house on Vine Street.
- Q. What direction did you take afterward? A. I went out Vine Street.
- Q. You went which way—east? A. East.
- Q. What did you do? A. I went to the cellar and jumped down the cellar.
- Q. What then? A. I went through the little street below Vine.
- Q. How did you know that there were alleys there?  
A. I didn't know until I got there,—until I seen it.
- Q. Was it a dark night? A. Yes, sir.
- Q. You had been there before? A. No, sir.
- Q. You had never been there? A. I had never been there.
- Q. You jumped in the cellar and took up the street through the alley and got away? A. Yes, sir.
- Q. What route did you take? A. I came into Fifth street again, and went down Fifth.
- Q. To the same ferry? A. Yes, sir.
- Q. What time was that? A. I don't know what time it was; I didn't see it.
- Q. You could not say the time when you reached the ferry? A. No, sir.
- Q. You cannot say what hour it was? A. No, sir; I

could not say what hour it was; it was not quite seven o'clock yet, I don't think.

Q. What part of the boat did you take? A. I went out to the bow of the boat.

Q. Who did you see there that you knew? A. Mr. Hunter.

Q. What did you say, or what conversation was there between you? A. I went up to him, and he said, "Well, I have fixed him,—finished him."

Q. What did you say? A. I said, "Did you?" and then he began to tell me about hunting for the hammer.

Q. What did he say? A. He said he had to go a certain length to find the hatchet or the hammer,—I don't know which he said; it was either one of them; he said, "I fixed him, anyhow;" he said he was bound to do it.

Q. That is all the conversation you had? A. That is all the conversation we had there, and we went and sat on the bench.

Q. What did you do when you left the boat; where did you go? A. We went up Market Street, and he gave me a quarter, and I went in to take a drink at the corner of Water and Market Streets, and I left him there, and he said he would go out Market, and I went down Front Street.

Q. When did you meet him again? A. We met the next afternoon.

Q. Where? A. He spoke to me on Passyunk Road, above Wharton; he didn't stop, but he told me to meet him at Broad and Girard Avenue at half-past three o'clock.

Q. Did you meet him there? A. Yes, sir; he came up Front Street and whistled for me to go out Girard Avenue. He went up to the corner of Broad and Girard Avenue and shook hands with a gentleman.

Q. That was on Thursday morning? A. Thursday afternoon.

Q. Between what hours? A. Between three and half-past three; it was not half-past three.

Q. How long did you remain there together? A. He came on up to Fifteenth Street and shook hands with me, and told me that he had been with Armstrong all that

morning. I asked him if he was dead; he said, no, but that he would soon be, and then he left and went down Fifteenth Street. I came into Broad and went down Broad Street to Ridge Road.

*Q.* What did you do then? *A.* I went and got drunk.

*Q.* Where did you drink? *A.* At different places on the road home.

*Q.* That same afternoon? *A.* Yes, sir.

*Q.* How long did you remain drunk? *A.* I don't know.

*Q.* What have you been doing since? *A.* Huckstering.

*Q.* When did you first tell anybody of your participation in this affair? *A.* I never told no one.

*Q.* Until you have told it to day? *A.* Until I told the District Attorney.

*Q.* You didn't tell it to anybody until you told the District Attorney? *Q.* No, sir.

*Q.* And that you say under oath? *A.* Yes, sir.

*Q.* When did you tell him first? *A.* The night I was arrested.

*Q.* What night was that? *A.* In March.

*Q.* Then you mean to say that you went from January to March huckstering around, and never told anybody of this occurrence until you told the District Attorney?

*A.* Yes, sir.

*Q.* That is so, is it? *A.* Yes, sir.

*Q.* You kept it all to yourself? *A.* Yes, sir.

*Q.* What led you to tell the District Attorney? *A.* I felt like telling it.

*Q.* Whom did you first tell it to—directly to the District Attorney? *A.* Yes, sir.

*Q.* To nobody else? *A.* Nobody else. Sheriff Daubman was there and the Mayor.

*Q.* Where did you tell it; in Jersey or in Philadelphia?  
*A.* In New Jersey.

*Q.* And then you did not disclose it to anybody until you came into the State of New Jersey? *A.* No, sir.

*Q.* What inducements were held out to you to make the statement to the District Attorney? *A.* None at all.

- Q. Were you drunk at the time? A. No, sir.
- Q. Had you been drinking? A. I drank through the day.
- Q. Had you not been arrested previously? A. No, sir.
- Q. Nor had you seen any one about it before? A. No, sir.
- Q. Not the Sheriff? A. No, sir.
- Q. Nor any detective? A. I seen him the Saturday morning that I was arrested, at the wharf.
- Q. What day were you arrested? A. I was arrested on a Tuesday night.
- Q. You saw them on the Saturday night before? A. The Saturday before—that Saturday morning.
- Q. At Philadelphia? A. Yes, sir.
- Q. Whom did you see? A. I seen officer McHenry, Detective Yoder, and Sheriff Daubman.
- Q. Did you tell them? A. No, sir.
- Q. Were any promises made to you to make a statement? No, sir.
- Q. Were there any inducements held out to you? A. No, sir.
- Q. Where were you taken from when you were brought over to New Jersey? A. On the steps at the house.
- Q. At your house? A. Yes, sir.
- Q. Where were you brought into Jersey, and where were you taken then in Camden? A. I was brought over to the District Attorney's house.
- Q. Who was present? A. Mayor Ayres, Sheriff Daubman, Detective Yoder, and the District Attorney.
- Q. Did you not commence to make one or two statements, and then were they not torn up? A. I didn't make two; I made one.
- Q. That was torn up, was it not? A. Yes, sir.
- Q. Why was it torn up? A. Because I said: "Then, I will make a clean breast of it."
- Q. Did you not say you did not know anything about it? A. I did at the first go off.
- Q. And after you said that and the statement was torn

up, then you made a different statement? *A.* Yes, sir; I made a clean breast of it then.

*Q.* How long were you there when you made the first statement which was torn up? *A.* I do not know; I didn't keep time of the hours.

*Q.* Were you there half an hour? *A.* Yes, sir.

*Q.* An hour? *A.* Two hours, I guess.

*Q.* When you made this statement, who put it down in writing? *A.* The District Attorney put it down.

*Q.* Who tore it up? *A.* I didn't see it torn up.

*Q.* How do you know it was torn up? *A.* I didn't say that it was torn up.

*Q.* What became of the first statement? *A.* I do not know what became of it.

*Q.* Was the first statement which you made true?  
*A.* No sir; it was not true.

*Q.* Were you under oath? *A.* No, sir.

*Q.* You were not sworn by anyone? *A.* No, sir.

*Q.* Were you sworn by anyone until you came upon the stand to-day? *A.* I was sworn after I made a clean statement.

*Q.* Then you were sworn after you made both statements; is that it? *A.* I was sworn after I made these statements.

*Q.* You were sworn after you made both statements; is that it? *A.* Yes, sir; I was sworn after these statements were made.

*Q.* What became of the first statement which you made? *A.* I do not know.

*Q.* Have you seen it? *A.* I have not seen it since I seen it there on the table.

*Q.* Not since you saw it on the table; at whose office—at Mr. Jenkins' office? *A.* I don't know whether it was his office or not; but it was at his house.

*Q.* Did you drink anything there? *A.* After I was through.

*Q.* What did you drink? *A.* I drank a little whisky.

*Q.* It was after the first statement was made? *A.* After the whole of them—after the last statement.

*Q.* Who wrote down the first statement which was made by you? *A.* It was copied by Mayor Ayres.

*Q.* About what bulk was it; how many pages did it take up? *A.* I don't know; four or five sheets.

*Q.* Did you not, in that statement, say you did not know anything about the murder? *A.* No; I did not say that.

*Q.* What did you say? *A.* I said I didn't know anything about the tools.

*Q.* What else did you say? *A.* I cannot remember what I said then.

*Q.* Did you not say that Hunter had nothing to do with it? *A.* No, sir; I did not say that.

*Q.* Did you say that he had? *A.* I did not say that he had.

*Q.* When was it you made up your mind to say that you did know about the tools, and that Hunter had something to do with it? *A.* It was the morning after I was arrested.

*Q.* Did you come over to make a clean breast of it? *A.* Yes, sir.

*Q.* Why did you not make a clean breast of it at the time? *A.* I didn't feel like doing it then.

*Q.* But you feel like doing it now? *A.* I just felt like doing it afterward.

*Q.* Was that before you got the whisky or afterward? *A.* Before I got the whisky.

*Q.* How many drinks had you that day? *A.* I didn't keep count of them.

*Q.* Too many? *A.* I did not have too many.

*Q.* Had you a dozen? *A.* I don't know; I guess I had.

*Q.* That same afternoon, was it? *A.* In the morning and afternoon.

*Q.* Had you any money with you? *A.* I had a little money with me.

*Q.* Who gave it to you? *A.* That was my day's work.

*Q.* Had you been working that day? *A.* Yes, sir.

*Q.* Up to what time? *A.* Up to seven o'clock.

*Q.* And when were you taken over? *A.* It was before twelve o'clock when I got arrested.

*Q.* You have not seen that statement since, you say?

*A.* No, sir.

*Q.* It was first taken down as you stated it? *A.* Yes, sir.

*Q.* Did the man who took down the first statement take down the second statement? *A.* Mayor Ayres took it down, and it was left there to be copied by the District Attorney.

*Q.* I am speaking of the first statement? *A.* The first statement? I don't know what became of that.

*Q.* How long were you there, altogether, in making the two statements? *A.* It was seven o'clock, I guess, in the morning when we left.

*Q.* Then you were there seven hours? *A.* I was there from after 12 o'clock.

*Q.* And you were two or three hours making that first statement, is that so? *A.* A couple of hours, I guess.

*Q.* Have you not told persons that you did not know anything at all about this murder?

*Mr. R. S. Jenkins*—Wait a moment. Who, when and where?

*Mr. Thompson*—I will first ask the particular question whether he has not made statements to persons.

*Judge Woodhull*—*Mr. Thompson* may ask all his questions, if he chooses, in that way, but he cannot then contradict the witness.

By *Mr. Thompson*.

*Q.* You made no statements in Philadelphia to any one? *A.* No, sir.

*Q.* That you are certain of? *A.* Yes, sir.

*Q.* Did you hear of any reward offered? *A.* No, sir.

*Q.* For the murderer? *A.* No, sir.

*Q.* Was that statement you made in Philadelphia written down? *A.* No, sir; I never made any statement in Philadelphia.

*Q.* And you never talked to anybody in Philadelphia, or told anything about it? *A.* No, sir.

*Q.* Have you not been accused in Philadelphia, and

been guilty in Philadelphia, of taking improper familiarities with children? *A.* No, sir.

*Q.* Have you not been under arrest? *A.* I was arrested for being drunk.

*Q.* How often? *A.* Once.

*Q.* Only once? *A.* Yes, sir.

*Q.* Were you not discharged on one occasion, for stealing from your employer? *A.* No, sir.

*Q.* Not by Mr. Thompson. *A.* No, sir.

By Mr. Scovel.

*Q.* Did not you use to go by the name of Tobe Graham?  
*A.* No, sir.

*Q.* How long did you board with Mrs. Ulrich? *A.* I didn't keep the run of the time.

*Q.* Is she your mother-in-law? *A.* No; she is not my mother-in-law.

*Q.* Did you live there a couple of years? *A.* No, sir.

*Q.* Do you not owe her a bill for board now? *A.* I owe her a little money.

*Q.* For boarding with the family? *A.* No sir; not for boarding with the family.

*Q.* Do you know John Patton, of 1321 South Eighth Street? *A.* I know John Patton.

*Q.* Did you not tell him that for three weeks during the summer you used to sleep in your Schaefer cart or oyster cart rather than go home to your family? *A.* No, sir; I didn't.

*Q.* Is it not a fact that you used to sleep out in this cart? *A.* We used to do it. Bill Worrel and I did that in the stable. We used to sleep there so as to get up early in the morning to go to the wharf.

*Q.* Could you not have got up early in the morning at home? *A.* I stopped there at the stable, but it was not to keep away from home that I did it.

*Q.* You did that for three weeks at a time? *A.* I don't know how long it was.

*Q.* You would get drunk those nights, would you not, before you went into your cart? *A.* No, sir; we would not get drunk.

*Q.* Were you not drinking all through the day? *A.* Yes, sir.

*Q.* How many drinks did you habitually take during the day? *A.* I never kept no account.

*Q.* Have you not taken twenty-five or thirty drinks during the day? *A.* I don't say that I did.

*Q.* Do you say that you did not? *A.* I don't say that I did and I don't say that I didn't; I never kept an account of how many drinks I took.

*Q.* Answer me whether you have not taken twenty-five or thirty drinks a day? *A.* I might have taken twenty-five or thirty drinks a day.

*Q.* About the twenty-third of January were you drinking as much as that then? *A.* I was not drinking twenty or thirty a day; I was drinking ten or fifteen; just as many as I could get.

*Q.* What did you drink? *A.* Whisky.

*Q.* Where did you drink, at Eighth and Reed? *A.* Eighth and Reed. I went to Morse's. I was not particular of the quality of it where I went.

*Q.* Has there ever been any difficulty between you and your wife? *A.* No, sir.

*Q.* Have you never separated? *A.* I was off one time two or three weeks on a spree. I stayed away.

*Q.* What was the cause; jealousy? *A.* No, sir; there was no jealousy about it.

*Q.* You went away and stayed away? *A.* I was on a spree and I went away.

*Q.* You went away on a spree for a couple or three weeks? *A.* A couple or three weeks.

*Q.* What time of the year was it? It was when I worked for Caldwell & Mather.

*Q.* How many years ago was that,—after you were twenty-one? *A.* No, sir; I didn't work for them after I was twenty-one; it was somewhere around three or four years ago.

*Q.* Was it within the last three or four years ago? *A.* Yes, sir.

*Q.* Your wife did not separate from you then? *A.* No sir.

*Q.* Before you were arrested did you not know you were suspected? *A.* No, sir, I didn't.

*Q.* Did you not take a drink with Sheriff Daubman, at some tavern down in Dock Street, the Saturday before?

*A.* I didn't take a drink with Sheriff Daubman; I took a drink with Officer McHenry, and Sheriff Daubman was in the tavern.

*Q.* Who else? *A.* I could not tell you the other men.

*Q.* Did he come to arrest you then? *A.* No, sir.

*Q.* Did you slip out? *A.* No, sir; I didn't slip out.

*Q.* Did you walk out? *A.* I told Sam. McHenry I was going to get a load, and I bid him good day, and he bid me good day, and I went to the wharf.

*Q.* Did you suspect they were there to arrest you then?  
*A.* No, sir.

*Q.* Did Sheriff Daubman say anything to you? *A.* No, sir.

*Q.* Had you ever seen Sheriff Daubman before? *A.* No, sir.

*Q.* Was he not there the night you were arrested in town at your place? *A.* Yes, sir.

*Q.* Who else? *A.* Detective Yoder.

*Q.* Anybody else? *A.* That was all.

*Q.* Is that Detective Yoder over there, that handsome man (pointing to Detective Yoder)? *A.* It looks like him.

*Q.* He was there, was he? *A.* Yes, sir.

*Q.* Who else? *A.* McHenry was up in Sears Street.

*Q.* How did Daubman induce you to come over, *A.* He didn't induce me at all; Detective Yoder asked me if I was willing to go; I said "Yes."

*Q.* Did you all go to Mr. Jenkins' house? *A.* Yes, sir.

*Q.* Who was present there? *A.* Mr. Jenkins was there, Mayor Ayres, and Detective Yoder, and Sheriff Daubman, and myself.

*Q.* How long were you chaffing about the first statement, as it is called, and about which you were asked whether

it was torn up or not; were you two hours over it. *A.* About two hours.

*Q.* You stuck to it that you didn't do this thing, and didn't know anything about it? *A.* I did.

*Q.* And knew nothing about the hatchet and hammer? *A.* I didn't say that I didn't know nothing about the hatchet and the hammer.

*Q.* What, then, did Jenkins say to you about the hatchet which changed your mind, and which led you to make a clear statement? *A.* He didn't say anything to me at all about it; I told him that I would make a clear statement.

*Q.* Did he not say that you had said at Flaherty's, when you were drunk, that you had used it? *A.* No, sir.

*Q.* Did they not tell you that it would go light with you? *A.* No, sir.

*Q.* And that you would only be sent up the road? *A.* No, sir.

*Q.* Have you not seen the Coroner since then, and has he not told you that as you only struck him the first blow you would only be sent up the road for one year? *A.* No, sir.

*Q.* Do you say that you made no such statement; that you were not at Flaherty's and did not use the word "signal" or "that the signal was given," or "the hit was given?" *A.* No, sir; I never was in Flaherty's place.

*Q.* Do you know Flaherty? *A.* No, sir.

*Q.* Have you had any conversation with him? *A.* I never spoke to the man; I seen him when he was a Lieutenant of the police.

*Q.* How long were you there; until the gray dawn? *A.* Yes, sir.

*Q.* Did Mr. Jenkins take a drink with you? *A.* Took a drink, but he didn't take a drink with me. He drank first.

*Q.* Was it at the same time you did? *A.* He took a drink before he gave me one.

*Q.* It was after the statement was made that he gave you the drink? *A.* Yes, sir.

Q. Did Detective Yoder drink with you? A. Yoder had a drink after I did.

Q. Did Mayor Ayres drink? A. No, sir; I did not see him drink.

Q. Then there were four persons there—Mayor Ayres, Mr. Jenkins, Detective Yoder and Sheriff Daubman?

A. Yes, sir.

Q. Who did the questioning to you when you made the statement? A. The District Attorney.

Q. You did not see what was done with the first statement? A. No, sir.

Q. You say it was torn up? A. No, sir.

Q. You say that the first statement you made was a lie? A. Yes, sir.

Q. Why was so long a time consumed between that first statement and the time you left? A. They were not going on questioning as fast as you are, but they waited a little between times.

Q. You were all there having a rather social time? A. We were sitting there.

Q. You were talking pleasantly to these gentlemen? A. Giving them answers.

Q. They took their own time? A. Yes, sir.

Q. Did you have any of your own friends there? A. No on ebut myself.

Q. This was all done in two hours? A. Yes, sir.

Q. They kept plying you with question? They asked me different questions.

Q. How long was this statement? A. I do not know how long it was.

Q. Was it six or seven pages of foolscap? A. Five or six sheets—half sheets —: full sheets, they were, but they put them on each side.

Mr. Scovel—We now call on the Prosecutor to furnish the first statement which the witness stated he made at that time.

Mr. Jenkins—I decline to furnish any statement.

Mr. Robeson—Then I appeal to the Court to require you to do so.

The Court—The Court has nothing to say; you have made your call.

Mr. Scovel—Then we take an exception to the action of the Court.

Mr. Robeson—Are we not entitled to it from the Prosecutor?

The Court—If there is anything to say we will say it afterwards.

(Here the Court took a recess for twenty minutes.)

AFTERNOON SESSION.

Cross-examination of Thomas Graham resumed.

By Mr. Scovel—

Q. Who questioned you while you were at the house of the District Attorney? A. Mr. Jenkins.

Q. Was he the only one who did? A. He was the only one who asked me any questions.

Q. Were you in the centre, and did the others, Mayor Ayres, Captain Yoder and the Sheriff, sit around you at the table? A. Detective Yoder sat on the right-hand side of me, and Mayor Ayres sat to the left-hand side, and Mr. Jenkins sat in front of me.

Q. And questioned you? A. Yes, sir; I sat in front of him.

Q. Did he tell you you would be tried for murder? A. He didn't tell me anything at all.

Q. He did not tell you anything? A. No, sir.

Q. Did any of them tell you anything? A. No, sir.

Q. Did Mr. Daubman have any such conversation with you? A. No, sir.

Q. Did not he say: "Graham, you know these are damned lies; now tell us the truth?" A. No, sir.

Q. Did he use any such language as that? A. No, sir.

Q. Did he not use any such language to you? A. No, sir.

Q. The whole conversation, then, was carried on by Mr. Jenkins to you? A. Yes, sir.

Q. Do you know Benjamin Lytle, one of the keepers of the prison? A. No, sir.

Q. Do you know a man who answers to that name who sometimes carries your food to you? A. No, sir; I don't know anybody of that name. The only one who carries me my food is Mr. Kennedy.

Q. Is there not another man who sometimes carries food to you? A. Sometimes Charley Daubman carries it up.

Q. Have you not had a conversation with a short man, a man who is a short man, who is called Lytle, or "Ben," and sometimes called Rocks? A. I had some conversation with him in Philadelphia, where he was in the habit of going.

Q. Have you spoken to him here? I have spoken to him here.

Q. Did not you say to him last Sunday, "Doesn't the old man," meaning Sheriff Daubman, "ever whack up with you?" A. No, sir.

Q. Then did you not say, "I have had \$6 from the Sheriff since I have been here?" A. No, sir.

Q. Did you not say so? A. No, sir.

Q. Did you not say that the Sheriff had been very kind to you since you had been in prison? A. No, sir.

Q. Has he not spent a great deal of time with you since you have been in prison? A. No, sir.

Q. Has he not given you money at times? No, sir.

Q. Have you not seen him give your wife money? A. No, sir.

Q. Did not you see him give her five dollars the day some reporter was at the cell there with you? A. No, sir; I did not.

Q. Now, you do remember this man I called Rocks, do you? A. I remember Rocks now.

Q. Did not you, on the 26th of May, when Lytle or Rocks took your supper to you, say, in your cell, "I'll save myself and put Hunter away if I can?" A. No, sir, I did not.

Q. Did not you repeat these words then, and then did not you add, "to save myself, I've got to do it?" A. No, sir.

Q. Did not you say to him "when you take me up the road, and bid me good-bye, won't you come and see me again?" A. No, sir.

Q. You did not use any such language as that? A. No, sir.

Q. Did you not say repeatedly to Lytle: "I will not be hung?" A. No, sir.

Q. Nor words to that effect? A. No, sir.

Q. Did not you say to him that the Coroner of this county came to you and said you would only have to go up the road for four or five years, as you had only hit one blow? A. No, sir.

Q. You admit having repeated conversations with this Rocks? A. Merely passing the time of day, and asking about fellows whom I used to meet over there.

Q. You deny having any such conversation, then? A. Yes, sir.

A. Did not you repeatedly say to this man Rocks or Lytle that the only thing that would be done to you would be that you would go to Trenton for two or three years for your crime? A. No, sir.

Q. Were you allowed to visit Emma Bethel while she was in jail here? A. No, sir.

Q. Did you not visit her? A. I went to her cell door and spoke to her.

Q. Did not you have any conversation with her? A. No, sir.

Q. Did you not go to the cell door and see her? A. No, sir.

Q. Did not she send her regards to you by letter? A. No, sir; not that I know of.

Q. Do not you know that she sent her regards to you by letter? A. I do not know.

Q. You deny, then, visiting her in prison? A. I said I had been at her cell door and spoke to her.

Q. How long did you speak to her? A. From the time

that the Sheriff went out and Kennedy came in and locked me up; and my folks was there then.

*Q.* How often did that occur? *A.* Once or twice.

*Q.* You got pretty well acquainted? *A.* The same as other prisoners did, speaking to one another.

*Q.* Did you spend a good deal of your time with her?  
*A.* No, sir, I did not; I spent most of my time reading.

*Q.* What did you read? *A.* Reading different books.

*Q.* Did not you spend a great deal of your time talking to Sheriff Daubmann? *A.* No, sir.

*Q.* Did not he advise you as to your course on this trial?  
*A.* No, sir.

*Q.* Did not he advise you as to your conduct in this trial? *A.* No, sir.

*Q.* Were you allowed to send out for whisky when you wanted it? *A.* No, sir.

*Q.* Were not you allowed to bring whisky in your cell?  
*A.* No, sir, I was not allowed.

*Q.* Have not you drank whisky in your cell since you were there? *A.* Once.

*Q.* When was that? *A.* Sheriff Daubmann allowed me that the morning after I came here.

*Q.* Have you had more than one drink of whisky since you have been here? *A.* No, sir.

*Q.* Do you mean to tell me that you have not had more than one drink of whisky since you have been in that cell?

*A.* Yes, sir; I have only had one drink. I have had whisky outside, in the entry, outside of my cell.

*Q.* How often? *A.* Once or twice.

*Q.* Who brought it to you? *A.* It was brought to me by Mr. Edward Kennedy.

*Q.* Did you have a conversation with one Edward Keil at the Garman House, 206 Front Street, Philadelphia, some time in the latter part of March, where you took a drink, and at which time you said, "I have got in trouble," and did you not say, "They are after me for the Armstrong murder?" *A.* No, sir.

*Q.* Wait until I give you the whole question: Did not you say, "They are after me for the Armstrong murder and

there is a party by the name of Hunter arrested, whom I know very well?" *A.* No, sir.

*Q.* Did not you then say, "Hunter is a rich man and I mean to put it on him?" *A.* No, sir.

*Q.* Did not you say, "Hunter has got money and I have got none?" *A.* No, sir.

*Q.* Do you deny having that conversation? *A.* Yes, sir.

*Q.* Or anything like it? *A.* Yes, sir.

*Q.* Were you down sometimes at Spruce Street wharf, when the Schaefer carts or huckster carts came in? *A.* I was generally there when I was huckstering.

*Q.* Did you, at the time the Chesapeake oysters came in, in the early part of March, have a conversation with one John Kelly, near Pier 16? *A.* No, sir.

*Q.* While there, while the carts were loading, did you ask Kelly to go over to Dock Street and Delaware Avenue to get a drink? *A.* No, sir.

*Q.* Did not he say, "You have got enough?" *A.* No, sir.

*Q.* Did not you say that something troubled you, and did not Kelly reply, "What is wrong?" *A.* No, sir.

*Q.* And did not you say, "The Armstrong murder over in Camden," and "I think parties are after me for it?" *A.* No, sir.

*Q.* And did not Kelly then say, "I don't want to know anything about your business?" *A.* No, sir.

*Q.* And then did not you say, "This man Hunter that they have arrested over there for it, I'll put it on him, so as to save myself?" *A.* No, sir.

*Q.* "He's got the money; I know he has"—Did you say that? *A.* I did not see the man, and never knowed such a man.

Mr. R. S. Jenkins (to Mr. Scovel)—Who is Kelly?

Mr. Scovel.—I do not know who Kelly is. Mr. Smith, who narrates the conversation, is, or was, of 127 Spruce Street, Philadelphia.

By Mr. Scovel—

*Q.* Was not this conversation had in the presence of

Mr. James Smith, of 127 Spruce Street, Philadelphia?

A. No, sir; I never had a conversation with a man by the name of Kelly.

Q. Did not you have a conversation, such as I have narrated, sentence by sentence, or one to that effect, with this man Kelly, in the presence of this man Smith, at or about this Pier 16? A. No, sir.

Q. Not in the month of March or any other time? A. No, sir; nor at any other time; I never knowed him.

Judge Woodhull (to Mr. Scovel)—

If you propose to bring testimony to contradict this statement of the witness, you ought to fix the time and place more definitely.

Mr. Scovel.

As near as I can fix it, it was about the first of March, and that is as near as I can call the attention of the witness to the time and circumstance. Then I fix this conversation at the first of March. It may not be the first day. My information is that it was the first of March or about that time, and is not that near enough?

(To the witness.)

Now I ask you again: Did any such conversation between you and this Kelly and this man Smith take place, about the first of March, about the time the Chesapeake oysters arrive? A. No, sir.

Mr. Scovel.

So that there may not be any dispute about the other witness I will state that he is Mr. Theodore Keil, of No. 256 Front Street, and the conversation was in the latter part of February.

Judge Woodhull.

I understood the question to refer to March, and if that is the case your question has not been put to the witness.

By Mr. Scovel.

(To the witness.)

Then the question I put to you is whether you had such

a conversation with Theodore Keil at the Garman House, in the latter part of February, or about that time, such a conversation as I have narrated, when you said that they were after you for the Armstrong murder and you would put it on Hunter? A. No, sir; I had not.

Q; Do you deny that conversation or anything approaching to it? A. Yes, sir.

Mr. Scovel.

I now ask again for the first written statement made by this witness (to Mr. R. S. Jenkins); are you ready to produce it?

Mr. R. S. Jenkins.

No, sir.

Judge Woodhull.

Our impression is that if there is such a statement, which was taken down from the lips of this witness, in existence, it is proper that it should be handed to the defence in order that they should cross-examine upon it, if they think necessary to do it.

Mr. R. S. Jenkins.

I would rather have argued that question before your Honors decided it, but I am not really able to say whether I have that paper or not. I will go to my house and look for it if the Court desires me to do it. The witness is mistaken as to the extent of that statement. It did not occupy but a sheet and a half of foolscap, and if it is in my possession it is in a book where I keep such papers. I will look it up during this trial, and will produce it in Court if I have it; but I regret very much that upon so important a question, in which I differ from the Court, I was not allowed to be heard before the Court had made its decision. My impression is that instead of tearing the paper up I put it away, and if I can find it I will produce it.

By Mr. Robeson—

Q. I want to fix the time a little, first; you say you met Mr. Hunter at the corner of Sansom Street and Eighth, about six o'clock? A. Yes, sir.

Q. How do you know it? A. I said six, or a little after six.

Q. What do you say now? A. I say it now.

Q. How do you know it was six, or a little after six?  
A. It struck six o'clock at Eighth and Walnut by the State House, and by the time it took me to get to Sansom it was a little after.

Q. You came from Eighth and Walnut, then, there?  
A. I came along Walnut to Eighth, and up Eighth.

Q. You remember distinctly that it was six o'clock?  
A. I remember it struck six o'clock when I was at Eighth and Walnut.

Q. You remember the stroke of the clock? A. I remember the striking of the bell; the State House bell.

Q. When did you first state that you heard that clock strike. A. When did I first state it? Just at present.

Q. I mean since you have been here in Court? A. Since I have been here, yes, sir; just as you asked me the question.

Q. This is, then, the first time it has occurred to you?  
A. This is the first time I was asked that question.

Q. Well, the first time it has occurred to you to fix the time in that way? A. No, sir; it is not the first time it occurred to me.

Q. But you never mentioned it before? A. No, sir; because I wasn't asked the question.

Q. Did you notice the clock as it struck seven? A. No, sir.

Q. Where were you then? A. I could not tell you where I was then.

Q. How often does the State House strike? A. I believe it strikes every hour.

Q. Does it strike oftener than every hour? A. I don't think it does.

Q. Do you remember hearing it strike at any other hour that day? A. No, sir.

Q. Did you notice it strike five? A. No, sir.

Q. Where were you at five o'clock? A. I could not tell you.

*Q.* You do not know where you were at five? *A.* No, sir.

*Q.* Where were you at half-past five? *A.* I couldn't tell you where I was at half-past five.

*Q.* Where were you at a quarter of six? *A.* I couldn't tell you that.

*Q.* You only know you were there at six o'clock? *A.* I was there when six o'clock struck, at Eighth and Walnut.

*Q.* Then you have detailed how you came down; what time of day was it that Mr. Hunter, standing talking with you on the sidewalk in Sansom Street, suggested that you should go upstairs and hit Mr. Armstrong in his office? *A.* He did not suggest at all for me to go up stairs and hit him in his store.

*Q.* He did not say at all that you should go upstairs and turn out the light and strike him? *A.* Not that day.

*Q.* What day was it? *A.* A couple of weeks back.

*Q.* A couple of weeks after the twenty third? *A.* Yes, sir.

*Q.* Where was it? *A.* It was on Sixteenth Street.

*Q.* Whereabouts on Sixteenth Street? *A.* Sixteenth, below Cherry.

*Q.* What hour of the day? *A.* I couldn't tell you the hour; I didn't keep a memorandum of it.

*Q.* About what time of day was it? *A.* In the morning, between ten and twelve.

*Q.* What was it that Mr. Hunter said to you, on the sidewalk in Sansom Street, after you had walked down from Eighth? *A.* He told me to keep an eye to see when he came out; that he was near-sighted; that he could not tell me.

*Q.* Is he near-sighted? *A.* Mr. Hunter? I suppose he is, he wears glasses.

*Q.* Mr. Budd wears glasses; is he near-sighted? *A.* I suppose so; if he wasn't he would not have them on.

*Q.* Do not you know that four-fifths of the people that wear glasses wear them because they are far-sighted rather than near-sighted? *A.* Four-fifths of them?—I don't know anything about that.

Q: Where was it that he said he had a great mind to go up and "strike him" or "whack him in the office?" A. Right in front of the door.

Q. On the pavement? A. Yes, sir; a little after six o'clock.

Q. Was it before or after the young men came down out of the office? A. It was after.

Q. You are sure of that? A. Yes, sir.

Q. After both of them came down? A. No, sir; after one of the young men came down. The other young man was down on the pavement when Hunter walked across. One was down and walked ahead and walked to Seventh Street, and the other young man stood on the pavement, and Hunter walked across and said he had a notion of doing it then. Mr. Hunter did not see him come down from the office.

Q. How did you know he did not? A. I don't believe he did. He told me to watch for Armstrong coming down, and I seen Armstrong and the young man talking together, and I went across and told Hunter he was there.

Q. Where was it he said he had a notion of striking him in the office? A. Right as you go up Sansom, in front of the office.

Q. After the young man had come down? A. Yes, sir; Armstrong had not come down and the young man was waiting for him.

Q. Did you not start across the street and tell him he had come down? A. No, sir.

Q. I thought you said you had told him? A. I had went across the street and told him Armstrong had come down, and I went across the street and waited again.

Q. Did you think he meant to do it? A. I don't know what he thought about doing.

Q. What did you think? A. What did I think? I didn't think anything; I was standing there, looking at him.

Q. You had both weapons then? A. Yes, sir.

Q. One in each pocket? A. One in each pocket.

*Q.* How long was the young man who came down out of the store standing on the pavement? *A.* About five or ten minutes.

*Q.* Are you sure it was as long as five minutes? *A.* Yes, sir.

*Q.* Now five minutes is a good while; I want you to remember that? *A.* I know that. Hunter seen him washing and wiping his face on the towel and starting to comb his hair; he told me he did.

*Q.* While he was standing on the pavement? *A.* Yes, sir.

*Q.* I am speaking of the young man? *A.* Yes, sir; that is what I am speaking of.

*Q.* The young man stood on the pavement washing himself and combing his hair? *A.* No, sir; Armstrong was up stairs washing himself and combing his hair, and the young man was on the pavement waiting for him.

*Q.* And he stood there five minutes? *A.* Yes, sir.

*Q.* And you came there as you have described? Tell me how you came there? *A.* Where?

*Q.* When Armstrong came down tell us what happened *A.* He got talking to the young man, and then the young man left him, and then Mr. Hunter went up to him and they took arms and went down Sansom to Sixth, and then crossed Sixth into Independence Square at Sixth Street, and across the square and into Library Street, and into the Post Office.

*Q.* You are sure he went through the Sixth Street gate?

*A.* There is only one gate for him to go in.

*Q.* Do you remember which side of the circle he took as he went in? *A.* He went right straight as he went through.

*Q.* There is a circle in the centre; which side did he take? *A.* He didn't touch the circle at all; he went right straight through to Fifth.

*Q.* Is there not a circle in the centre? *A.* I did not take notice of any circle there.

*Q.* Go on? *A.* Then they went across Fifth street to Library, and into the post-office into the back way, and

stopped to put a bundle of papers Hunter had in his hands into the box; went out the Chestnut Street door, and went down Chestnut Street to Chestnut Street wharf, and then went to Market street and went across the ferry, and Mr. Hunter and Armstrong went up to Vine Street, and I followed them.

Q. This is the statement you made that night to the Prosecutor of the Pleas? A. Yes.

Q. How often have you made it since? A. I made it here in Court to-day.

Q. Is that all you have made it before to-day? A. Yes, sir.

Q. You have never been over it with anybody at all? A. No, sir.

Q. Never been over it at all? No, sir.

Q. Then we have got over here;—you followed them up to Vine street? A. Yes, sir; I followed them to Vine street.

Q. And saw them get out of the car there? A. Saw them get out of the car.

Q. What happened then? A. They walked along Vine Street.

Q. Up to where? A. Up to above Fifth.

Q. Did you know that at the time? A. Did I know what?

Q. Where they stopped? A. I knowed where the alley was where he stopped. I seen him go in it, and I knowed it then.

Q. Had you ever been over to Camden before? A. Yes, sir.

Q. Often? A. Not this last year back.

Q. How long since? A. Well, I was over there one time for Mr. Stiles.

Q. Over where? A. Over in Camden.

Q. Whereabouts? A. To the mills, wherever it is; back of Cooper's Point, wherever it is—back of Vine Street ferry; I don't know where it is.

Q. What I want to get at is whether you were in the habit of going over to Camden? A. No, sir.

*Q.* How far behind were you? *A.* I told you about thirty feet or so.

*Q.* Was it dark? *A.* Yes, sir; it was dark.

*Q.* Clear or stormy? *A.* Clear.

*Q.* It was a clear night, was it? *A.* Yes, sir.

*Q.* Was there a lamp lighted on the corner of Fifth Street? *A.* I did not notice no lamp at all.

*Q.* Is there a lamp there? *A.* I don't know.

*Q.* Is there a store on the corner of Fifth and Vine?  
*A.* There is a beer saloon there, or was; a tavern of some kind.

*Q.* Was that opened? *A.* The tavern was shut, but it was light inside.

Mr. Robeson (To Mr. R. S. Jenkins)—Is there not a plan of this place?

Mr. R. S. Jenkins.—I have one when the time comes.

Mr. Robeson.—Is not this the time?

Mr. R. S. Jenkins.—No, sir; not until the plan is described.

Mr. Robeson.—Then I will ask the Court to adjourn the examination of this witness until the plan comes. I believe it is the duty of the State to put upon the stand any witness who knows anything about the case.

Mr. R. S. Jenkins.—I suppose the State knows its duty as well as you do.

Judge Woodhull (To Mr. Robeson).—You have a right to recall this witness and examine him when the plan is produced.

Mr. R. S. Jenkins.—Then I will try to accommodate my friend.

(Here the examination of Mr. Graham was suspended.)

Cross-examination of THOMAS GRAHAM, resumed.

By Mr. Robeson—

*Q.* When Mr. Hunter went up the alley where were you; show us on that map? *A.* I was about here. (Indicating the first window of the corner house from the alley.)

Q. How long was he up the alley? A. About a minute or two.

Q. What was Mr. Armstrong doing? A. Standing on the pavement, waiting for him to come out.

Q. You supposed that, I suppose? A. I suppose he was waiting for him.

Q. He was standing on the pavement waiting? A. Yes, sir.

Q. Did you see which way he was looking? A. He was looking over this way from the pavement, toward Fifth Street.

Q. Did you stop? A. No, sir.

Q. During that minute then that Mr. Hunter was up the alley you kept on advancing toward Armstrong? A. I came right up.

Q. Did you pass him? A. No, sir.

Q. He was looking toward you? A. Looking toward me.

Q. Did it take you less than three minutes to go that distance? A. It did not take me much less to go from there up. Mr. Hunter was up before I got there.

Q. You are sure you were right there at the corner when they stopped? A. What corner.

Q. I mean right there by the window? A. Between this gate and the window. (Indicating on plan No. 1.)

Q. You are sure of that? A. Yes, sir.

Q. And as Mr. Hunter came he said— A. "Yes."

Q. That is all? A. That is all.

Q. Nothing else? A. That is all at that present time.

Q. I mean, then, what did you do? A. I went up to make a smack with the hammer and it slipped out of my hands.

Q. You went up to Mr. Armstrong? A. Yes, sir.

Q. Was he facing you? A. Yes, sir.

Q. Did he make any resistance? A. No, sir.

Q. How long had you known Armstrong? A. I judge eight years; I guess eight or ten years; somewhere around there.

Q. Did he know you? A. He knowed me to speak to.

Q. Did he recognize you when you came up? A. No, sir; I do not know whether he did or not. I had not seen him for a long time before that night; not since the time that he left Tenth Street, when he moved from Tenth Street.

Q. You walked right up to him? A. Yes, sir.

Q. Did you have a hammer in your hand? A. Yes, sir.

Q. And a hatchet in the other? A. Yes, sir.

Q. Where did you take those weapons out? A. Coming along Vine Street, below Fifth, or above Fifth Street, they call it here.

Q. Did you look him in the face when you struck him? A. I looked right square at him.

Q. And he looked square at you? A. He looked right at me.

Q. Did he say anything? A. No, sir.

Q. Did he throw up his hands? A. He threw up his hands when the hammer flew.

Q. Did you throw the hammer at him? A. I did not throw it. I struck at him and it fell out of my hands. I did not hit him; the hammer hit him. I meant to hit him, but it went out of my hands and went against the house.

Q. How near were you to him? A. About as far as from here to that desk. (Five feet.)

Q. Did he cry out? A. He said, "God spare his life."

Q. Very loud? A. You could not hear him very far.

Q. Could you hear him ten feet? A. O! yes, sir; you could hear him ten feet; I judge you could hear him ten feet.

Q. How much further? A. I cannot tell how much further.

Q. Did he make any other noise? A. That is all.

Q. The handle, you say, slipped out of your hand? A. The hammer slipped out of my hand.

Q. The handle of the hammer slipped out, I suppose? A. Yes, sir.

Q. You said the ferule slipped? A. The ferule came off.

Q. Did you know it at the time? A. I heard it ring on the pavement.

Q. You heard the ferule ring on the pavement? A. Yes, sir.

Q. Did you not tell the prosecutor when you first told him about this affair that there was a ferule on that hammer? A. I told him there was a ferule on it when I had it.

Q. You did not tell him that it slipped off? A. No, sir; I did not tell him that it slipped off.

Q. You did not tell that story then? A. When?

Q. You did not say that it slipped off, and that you heard it ring on the pavement? A. No, sir; I did not tell him that I heard it slip off then.

Q. Was there not some question, when the statement was going on in the Prosecutor's house, as to whether this hammer had a ferule on it or not? A. No, sir; they did not ask me nothing about whether it had a ferule on it or not, then.

Q. There was nothing said about that? A. No, sir.

Q. When did he ask you about it? A. When I was before the Grand Jury.

Q. You were never asked that before? A. No, sir.

Q. What did you say then? A. I told him there was one on.

Q. Did you tell him then, that it slipped off? A. No, sir; I did not; he did not ask me the question.

Q. You never told him about its slipping off until now? A. No, sir.

Q. You say you spend your time reading down stairs a great deal; you read the newspapers a great deal, I suppose? A. No, sir; did not get any newspapers.

Q. You do not have any newspapers? A. I have had a few of them, Philadelphia papers. I have not had any for a couple or three weeks back.

Q. Did you not read anything in the newspapers, after you were arrested, about the account of your arrest? A. No, sir.

Q. You did not have any papers at all? A. No, sir; there were none given to me.

Q. You never had any papers after you were arrested?

A. Not after I was arrested; I did not. Sheriff Daubmann would not allow me to have them.

Q. Well, we will take up the other point, then. Where was the hatchet all the time? A. In my left hand.

Q. With which end of the hammer did you strike him? A. With the face of it; I did not strike him; the hammer slipped out of my hand. I judge the face of it struck him and the ferule slipped.

Q. You saw it hit him? A. I cannot say whether I saw it hit him or not.

Q. You cannot say whether it hit him or not? A. I cannot say.

Q. Did you not say that? A. I said where the hammer hit. After it left my hand I said it hit him on the forehead.

Q. You saw it hit? A. I saw it hit him.

Q. Did he fall down? A. No, sir.

Q. Did he shout? A. He said: "God spare my life."

Q. Is that all he said? A. That is all he said.

Q. Anything else? Q. Well, I did not hear him say anything else, because I started away.

Q. You ran right away? A. No. I didn't run right away; I turned around and looked back again; I started to run and Mr. Hunter told me to "Hit him! Hit him!" Then he was down and Mr. Hunter was down with him on the pavement.

Q. Did your blow knock him down? A. No, sir; it didn't knock him down; I went out Viue Street and I jumped into this first cellar.

Q. You ran away? A. Yes, sir, and as I was running I threw the hatchet back.

Q. Was that after you had stopped to look around? A. After I stopped to look around I threw the hatchet back.

Q. Where were you when you threw the hatchet back? A. I was about *this* pavement *here* near the third house (indicating on plan No. 1).

Q. How long was that after you had struck him the first time? A. It was about a minute or two, somewhere in that neighborhood, when I turned around again.

Q. You are sure when you struck him that he did not fall down? A. Yes, sir; I am sure of it.

Q. Absolutely sure? A. Yes, sir.

Q. Now be careful about that? A. I am careful.

Q. I do not want to catch you. I want to find out exactly what you can tell. You are perfectly certain, then, that he did not fall when you struck him? A. Yes, sir.

Q. And the hammer flew out of your hand? A. Yes, sir.

Q. Where did it fly? A. Towards the house.

Q. And the hatchet you had with you when you started? A. Yes sir.

Q. And when you turned round he was down and Mr. Hunter was standing over him? A. Yes, sir; and he told me to hit him twice.

Q. I know; you have told that half a dozen times? A. Well, you want to get the points of it.

Q. That is right; give us the points. Then you ran and jumped into this first cellar? A. Yes, sir.

Q. Are you sure it was the first cellar? A. Yes, sir.

Q. You were not frightened, I suppose? A. Well, I was frightened a little; certainly I was.

Q. Nor excited? A. I didn't get excited; after I was away from there I was not much excited.

Q. It was the first cellar? A. Yes, sir.

Q. You are sure it was not the second? A. I am sure it was the first.

Q. What makes you sure it was the first and not the second? A. I ought to know what one I got down.

Q. It was dark? A. Yes; it was dark.

Q. And you had just struck this man? A. The hammer had struck him in the face; it went out of my hand.

Q. The hammer just flew up and struck him? A. Yes, sir.

Q. And you had run away in fright, or excitement, or remorse, or whatever it was; and you are sure it was the first cellar? A. Yes, sir; I am sure it was the first cellar; that is the entrance of it.

*Q.* How wide was the cellar? *A.* I do not know how wide they are. I didn't stop to measure them.

*Q.* Fifteen feet, are they not? *A.* I could not tell you that. I didn't take much time to look.

*Q.* Did you go over there again; have you been there since? *A.* No, sir.

*Q.* What makes you sure that it was the first cellar?  
*A.* Because I know it was the first cellar.

*Q.* Have you anything special in knowing? *A.* I know it was the first cellar I came to after I left the house—the pavement.

*Q.* You can be perfectly accurate now within fifteen feet, I suppose. You are positive that it was fifteen feet above the side of the house? *A.* What was fifteen feet?

*Q.* That you got into the cellar? *A.* No, sir; it was not fifteen feet above it.

*Q.* Then how did you get out of the cellar? *A.* I clumb up the back part of it on the wall; it is not very high to jump it.

*Q.* And you ran what way? *A.* I went right across that lot, right back of that alley there (indicating on plan.)

*Q.* Had you ever been there before? *A.* No, sir.

*Q.* Did you know anything about the alley being there?  
*A.* No, sir; I never did in my life.

*Q.* You could not see that there was an alley there at dark? *A.* No, sir.

*Q.* You could not see that there was any outlet there?  
*A.* I could not see until I got to this alley, and then I saw the alley, and I came down to it, and I spied the other alley and came to it, and I was into Fifth Street.

*Q.* When you started to run toward that alley, you did not know there was an alley there? *A.* No, sir.

*Q.* But you did know there was an open way the other way? *A.* No, sir; I didn't know anything about the opening there at all; I didn't know anything about the opening there at all until I seen this alley.

*Q.* You went down that alley? *A.* Yes, sir; I came down to this alley to Cedar Street, as they call it, and came on to Fifth Street.

Q. Did you know when you got on to Fifth Street?  
A. I looked up at the corner then.

Q. Where did you go from there? A. I went down Fifth Street. I judged it was Market Street. I seen there was cars on it and a track on it, and I walked right straight down to the wharf.

Q. Did you walk slow or fast? A. I walked slowly. I took my time. I was not in any hurry getting there.

Q. Did Mr. Armstrong have a hat on? A. He had a fur cap on.

Q. Did he have that on when you struck him?  
A. Yes, sir.

Q. Did it come off when you struck him? A. I do not know.

Q. You did not see it? A. No, sir.

Q. What boat was it that you came over upon?  
A. I do not know the name of the boat.

Q. Do you know the hour of the boat? A. No, sir; I do not know the hour of the boat; I did not know they had a regular time of starting.

Q. When you arrived there with Mr. Armstrong and Mr. Hunter, did you see anybody else there? A. No, sir; I did not see anybody there at Fifth Street.

Q. Was there anybody there? A. No, sir; only Mr. Hunter and Mr. Armstrong.

Q. You went on the ferry boat? A. Yes, sir.

Q. Did you pay your fare? A. Yes, sir.

Q. Which way did you go,—in through the gate, or through the passageway? A. I went through, paid my fare at the office, and I went down on to the boat through the gateway.

Q. You paid your fare at the office? A. Yes, sir; I paid it to the man inside the office. I put my fare through the hole through the office window.

Q. You are sure of that? A. Yes sir.

Q. Then you went on the boat? A. Yes sir.

Q. Were there many people on the boat? A. I did not go inside the cabin at all; there was nobody on the outside except Mr. Hunter and me.

Q. Neither front nor back? A. On the bow of the boat, where we was, there was nobody there. I did not take notice back. I passed the rear, and there was nobody there but the man who worked there.

Q. You found Mr. Hunter there? A. Yes, sir.

Q. Standing there? A. Walking up and down, in front of the chain.

Q. What was said then? A. He said, "I finished him."

Q. Go on; you know that story? A. He said "I finished him;" then we walked up and down, and he came and set down and he told me about the distance that he had to go to get—I do not know whether he said the hatchet or hammer—where I threw it,—the hatchet, I judge, by the way he talked; then we went and set down and we got across, and at Water and Market he gave me a quarter.

Q. Was that all that was said? A. There was not much more said; I did not remember anything more what he said then after he said that.

Q. Can you remember anything else? A. He said something about he would like to have a smack at his brother—Armstrong's brother.

Q. Who was his brother? A. Mr. Armstrong's brother. I did not know him then. I got a quarter from him, and I went to Water and Market Streets, and I went in and took a drink; he went out Market after I got my drink.

Q. Then you saw him next the next day? A. Yes, sir.

Q. Do I understand you to say that when you looked back both Hunter and Armstrong were down? A. Yes, sir; you understood me to say that; Armstrong was down and Hunter was over him.

Q. Lying on him? A. No, sir; he was not lying on him; he was stooping over him in this way. (Indicating stooping posture.)

Q. You said Mr. Hunter jumped in between you and Armstrong. What do you mean by that? A. He jumped in between to take hold of Armstrong—I supposed to stop him from hollering, but I did not know.

Q. You supposed that? A. I did.

Q. But you did not stop to see? A. I did not stop to see that; no, sir; I did not stop after he was down, either. I turned around and threw the hatchet back.

Q. What did you do that for? A. I had not the heart to hit the man after he told me to do it.

Q. What made you throw the hatchet back? A. I did not want to carry it with me.

Q. You had carried it with you? A. Yes, sir; I did. I carried it over with me.

Q. What did he want to do with both weapons? A. I did not know what he wanted both weapons for.

Q. What did you want with both weapons? A. They were given to me to carry.

Q. Did you say anything when the second one was given to you? A. No sir; I did not say anything. I took it and put it in my pocket.

Q. And you had them both, one in each hand, when you struck him? A. Yes, sir.

Q. You spoke of Mr. Hunter's going to Virginia? A. I did.

Q. Do you know whether he has friends in Virginia? A. I do.

Q. Has he a family there? A. He has a couple of brothers living there.

Q. He is in the habit of going there? A. He used to be.

Q. When you were with him? A. Yes, sir; when I was with him.

Q. Was it an extraordinary thing for him to go to Virginia? A. It was not an extraordinary thing, I do not suppose. He went there once a year to see them; I do not know what about.

Q. When you took this hammer home you never had the curiosity to look at it for two weeks? A. I never looked at it at all; I just kept it wrapped up in a paper.

Q. Which side of Armstrong was Hunter on as he walked up Vine Street? A. He was toward the house.

Q. Hunter told you when he went to Virginia that he would have a correspondence to tell? A. He said he would

send me a note, and he would hear all about it, and whether it was done or not.

*Q.* You did not get any note? *A.* I did not; no sir.

*Q.* Had you arranged beforehand that the word "Yes" was to be the signal? *A.* On that very day—Wednesday.

*Q.* Where? *A.* Coming down Eighth Street, from Pine.

*Q.* That is going down toward— *A.* Passyunk avenue.

*Q.* That was on the morning of that day? *A.* Yes, sir; that was on the morning of the Wednesday.

*Q.* You are sure you do not know what time you got to the ferry going back? *A.* No, sir.

*Q.* You cannot get anywhere near it? *A.* I judge about seven o'clock, or a little before seven.

*Q.* Had you any watch? *A.* No, sir.

*Q.* You can only judge of the passage of time from the fact that you heard the clock strike at the corner of Eighth and Sansom? *A.* That is all.

*Q.* You had done all that work in an hour, had you?  
*A.* About an hour.

*Q.* You had come down and waited for Armstrong, and stood in the neighborhood? *A.* I did not wait very long for him to come.

*Q.* Crossed back and forward, came down through the post office, crossed the ferry, gone up on this work and got back in an hour? *A.* I did not say it was an hour. I did not say about 7 o'clock. I said about 7, or a little after 7.

*Q.* You say now a little after 7? *A.* I said after 7 before.

*Q.* Have you been very intimate with Mr. Armstrong?  
*A.* No, sir.

*Q.* Have you known him well? *A.* I knowed him to speak to when I seen him.

*Q.* Is that all? *A.* That is about all. I never had much conversation with him.

*Q.* You just had a casual acquaintance with him? *A.* That is all; just n.erely to speak to him.

Q. Did you not live next door to him in Tenth street?

A. No, sir.

Q. Did you live within one door of him then? A. Yes, sir.

Q. How long? A. I do not know how long I lived there.

Q. Come pretty near it? A. I did not live much over six months; about six months.

Q. You know this story very accurately. How long did you live there? A. About six months; somewheres along there.

Q. How long did you live down there? A. Down where.

Q. In Tenth Street, within one door of Armstrong? A. I lived on Tenth Street in the neighborhood of twenty-two years; Tenth and Wharton.

Q. I thought you said only six months? A. I said next but one to him; that was after I was married; after I removed from Seventh and Bayard.

Q. Did you not live there before you were married? A. I lived at Tenth and Wharton; yes, sir.

Q. Did not Armstrong live there before you were married? He did.

Q. How long? A. I do not know how long he lived there before I was married.

Q. How near did he live to you? A. Five doors.

Q. For how long a time? A. I could not tell how long a time he lived there.

Q. Give us the time as near as you can tell? A. I judge I lived there five or six years.

Q. Within five doors of him? A. Yes, sir.

Q. You did not live with Mr. Hunter? A. No, sir.

Q. Did you live with Mr. Hunter's family? A. I never lived there. I stayed a week there when he went to Virginia. I eat my breakfast there and went to work.

Q. When you were an apprentice there, you did not live in his family. A. No, sir.

Q. And after you got married you lived there awhile

at Tenth and Wharton? *A.* No, sir; I lived then at 714 Bayard Street.

*Q.* Did you not live at Tenth and Wharton after you were married? *A.* After I moved from there I did. I came back to mother, for awhile, and then I went into Mrs. Taylor's house, Tenth Street, below Wharton, four doors below.

*Q.* While you were there at Tenth and Wharton, and while Armstrong lived within a door of you, were you not separated from your wife? *A.* No, sir.

*Q.* Did not your wife leave you? *A.* No, sir.

*Q.* Did you not leave her? *A.* No, sir.

*Q.* You were speaking of when you went off on a spree?  
*A.* I am speaking of when they lived there, too.

*Q.* When was it that you separated from her? *A.* I never was separated from her.

*Q.* Did you never get a pistol and say you were going to kill Armstrong? *A.* No, sir.

*Q.* Never? No, sir.

*Q.* Not to anybody? *A.* No, sir; I proposed to Mr. Hunter about a pistol and he said it would not do, because if we did he could not get the insurance; that they would think the man committed suicide to get it.

*Q.* When was that? *A.* It was at the time we had the arrangement made.

*Q.* Where? *A.* In the city of Philadelphia.

*Q.* Whereabouts in the city? *A.* I ain't supposed to know exactly where it was; it was in the city, though.

*Q.* You are not supposed of course to know, but let us see if you cannot remember? *A.* Well, what I can remember of it was on Wharton Street.

*Q.* Whereabouts on Wharton Street? *A.* Between Eighth and Ninth.

*Q.* You proposed to get the pistol? *A.* I said I would get a pistol and he said no, it would not do to get it.

*Q.* Whereabouts on Wharton Street was this? *A.* I told you it was between Eighth and Ninth.

*Q.* What interview was that? *A.* New Year's eve.

*Q.* On Wharton Street, between Eighth and Ninth, on New Year's eve? *A.* Yes, sir.

*Q.* What time on New Year's eve? *A.* It was early in the evening.

*Q.* After dark? *A.* Yes, sir; it was after dark.

*Q.* Was it in the street? *A.* It was in the street.

*Q.* On the pavement? Yes, sir; on the pavement. It was not in the middle of the street.

*Q.* Near the corner? *A.* I could not tell exactly whether it was near the corner or half way between. It was between Eighth and Ninth and Wharton.

*Q.* Did you hear any clock strike about that time? *A.* No, sir; I didn't hear none.

*Q.* You cannot fix the time? *A.* No, sir.

*Q.* Where were you going to get the pistol? *A.* I didn't intend to get it.

*Q.* You proposed it? *A.* Yes, sir; I proposed it.

*Q.* He said if you got a pistol that would not do because he could not get the insurance? *A.* He said it would not do to shoot him, because it would fetch it into suicide.

*Q.* Was there any other proposition about any other weapon at any other time? *A.* No, sir; nothing about any other weapon.

*Q.* Tell us all about it? *A.* I did tell you; I am answering every question you put to me.

*Q.* Well, tell us whether we put any questions to you or not? *A.* I told you there was no other proposition made of any other weapon; he said he had a hammer there at the stable; that is all, and he gave it to me.

*Q.* When did he tell you that? *A.* It was before New Year's.

*Q.* You never told anybody that you would shoot Armstrong? *A.* No, sir.

*Q.* You never told Mr. Hunter that? *A.* No, sir; I never told him that I would shoot him.

*Q.* Who lived next door to you on the other side when Armstrong lived next door to you? *A.* There was a party by the name of Lansdale on one side.

*Q.* Who lived on the other? I disremember now whether it was Allen or Waltman. There have been a great many people moved in that house between Armstrong's and where I lived.

*Q.* Do you remember Mr. Davis, who lived there? *A.* Yes, sir; Davis lived there; he was a shoemaker.

*Q.* What was his name? *A.* I do not know his first name.

*Q.* You did not know him by any other name but Davis? *A.* That is all the name I knew him by—Mr. Davis.

*Q.* Did you know of any difficulty between him and Mr. Armstrong? *No, sir.*

*Q.* Never heard of any at the time? *A.* No, sir.

*Q.* You did not have any? *A.* No, sir.

*Q.* Do I understand you to say, without question, in recollecting back, that your wife did not leave you at the time you lived down there? *A.* No sir; she never left me in her life.

*Q.* And that you did not leave her? *A.* I never left her, only on a spree; one time I staid away a couple or three weeks.

*Q.* That was not the time you were on a spree, the time of which you spoke this morning? *A.* Yes, sir, the time I told this morning.

*Q.* How long ago was it when you were first married? *A.* I was married when I was twenty-one years old.

*Q.* That is over eight years ago? *A.* Yes, sir; it will be nine next January.

*Q.* And that is the time you meant this morning when you said that you were off on a spree? *A.* Yes sir; that is the only time I was ever away from her.

*Q.* You said, in your direct examination, that when you met Mr. Hunter on the street,—once or twice, I have forgotten exactly where,—but I have no doubt you can remember,—he whistled to you to go on? *A.* It was at Broad and Girard Avenue.

*Q.* How did he whistle to you to go on? *A.* He just whistled and nodded his head for me to come out.

*Q.* Out where? *A.* Out Girard Avenue to Fifteenth Street.

*Q.* You understood him? *A.* I did, yes sir; I turned around and looked, and seen what he meant.

*Q.* Then he whistled to you when he came to Eighth and Sansom? Yes, sir.

*Q.* Was he in the habit of whistling to you if he wanted you to do anything? *A.* No, sir; he was not.

*Q.* Did you ever know him to go about the street whistling before to people? *A.* No, sir.

*Q.* Did you ever know a man of his age whistling in that way, or is it not confined chiefly to boys? *A.* I do not know.

*Q.* Did you ever know him to whistle at any other time to send you anywhere? *A.* No, sir; he never whistled for me to send me anywhere.

*Q.* How did he whistle; did he put up his fingers and whistle to you? *A.* No, sir.

*Q.* How did he whistle? *A.* He blowed with his mouth.

*Q.* Loud? *A.* Not so loud; not loud enough to be heard.

*Q.* Beside this first statement, of which it has been spoken as being made at the Prosecutor's house, you made another statement which was taken down in writing at that time? *A.* Yes, sir; it was.

*Q.* Was that the same story which you have told now? *A.* No, sir; it was not the same statement.

*Q.* It was not the same? *A.* No, sir; it was not.

*Q.* How did it differ? *A.* I do not know; I do not remember; I do not remember what it is now.

*Q.* It was different from the one you make now? *A.* Yes, sir. You are speaking of the first statement; that is what I understood you.

*Q.* I said after you made the first statement you made the second statement—did you not?—and that it was taken down in writing? *A.* Yes, sir.

*Q.* Was that the same story you are telling now? *A.* The last statement at the Prosecutor's house?

Q. Yes, sir. A. Yes, sir; it is the same statement I make now.

Q. In every particular? A. Yes, sir.

Q. Neither more nor less? A. You put a few more questions to me than what was there.

Q. You did not tell anything different? A. No, sir; I didn't tell nothing different.

Q. Did you swear to that statement? A. I did.

Q. Where is it; what has become of it? A. I do not know anything about it.

Q. Who did you leave it with? A. I left it where I was at.

Q. And that was at Mr. Jenkins' house? A. That is where I left it.

Q. You signed that statement? A. Yes, sir.

Q. And swore to it? A. Yes, sir.

Q. Before the Mayor? A. Before the Prosecuting Attorney; the Mayor was there.

Q. You can write? A. I can write a little.

Q. You read writing? A. Yes; some.

Q. What became of this billhead of which you have spoken? A. I tore it up.

Q. Whose billhead was it? A. William H. Stiles'.

Q. Where did you get it? A. I got it on his desk.

Q. Where from? A. From Mr. Stiles' store.

Q. Where is that? A. 146 North Second Street.

Q. Just repeat over again, if you please, where it was that Mr. Hunter said he did not want everybody to hear?

A. It was on Reed Street.

Q. Reed Street, where? A. Between Passyunk Road and Ninth.

---

### THIRD DAY'S PROCEEDINGS.

Cross-examination of THOMAS GRAHAM resumed:

By Mr. Robeson—

Q. After you left your last employers, Caldwell & Mather, did you not apply to Mr. Hunter to get work for you? A. No, sir.

- Q. Have you not said so? A. No, sir.
- Q. Never said so to anybody? A. No, sir.
- Q. At any time? A. No, sir.
- Q. Did he not agree to see if he could not get work for you? A. Not that I know of.
- Q. If you did not apply to him, do you know anything about it? A. I did not apply to him.
- Q. Did he not, on your application, agree that he would get work for you? A. No, sir.
- Q. Have you never told anybody that? A. No, sir.
- Q. At any time? A. No, sir.
- Q. Have you not ever told anybody that since you have been over here in Camden? A. No, sir.
- Q. Since you have been arrested? A. No, sir.
- Q. Since you have been in jail? A. No, sir.
- Q. You never told that to the Sheriff? A. No, sir; I never told it to the Sheriff.
- Q. Nor in his presence? A. No, sir.
- Q. Did you not when you went to Mr. Hunter, near New Year's, go to borrow money of him? A. I didn't go to borrow no money: no, sir.
- Q. Did you not borrow the money you got from him? A. I didn't borrow it.
- Q. Did you not say that you could not pay your board and wanted to get money for New Year's? A. I went and asked him if he would not give me some money—a dollar or two.
- Q. Did you not borrow \$5 of him then and pay your board? A. No, sir; I did not borrow \$5 from him.
- Q. Or for New Year's? A. No, sir.
- Q. Have you not said so? A. No, sir; I never said I borrowed it.
- Q. Never said so to anybody? A. Not that I borrowed it.
- Q. You are sure of that? A. I am sure of it.
- Q. You swore to it? A. I did; yes, sir.
- Q. You swear to it now? A. I can.
- Q. You are just as sure about that as you are of anything you have said? A. I am sure that I didn't borrow it.

Q. Just as sure as you are that you did not say that you did not borrow it? A. I didn't borrow it, and I didn't ask him to lend it.

Q. Did you say that you borrowed it to anybody?  
A. No, sir.

Q. At no time? A. At no time.

Q. Is it not a fact that you did apply to Mr. Hunter to get work for you, and that he agreed to do it, or tried to do it, and that he came to your house to see about it? A. No, sir; I never applied for him to get me work.

Q. Or that he came to see you several times about it when you were out? A. He came to see me.

Q. I am asking you whether he came to see you about getting you work? A. No, sir; I did not go to see him about work or about my trade.

Q. Just answer my question, do not run off on your same old story again. We have got that just as slick as grease. Have you never told anybody that story? A. What story?

Q. Have you never told anybody that he came to your house to see about work, or you applied to him for work?  
A. No, sir.

Q. Or to see about getting you work? A. I said he came there about work.

Q. Is that all he came there for? A. He came for this work that he got me into now.

Q. You do not mean that? A. Well, I mean it.

Q. We will not have any play about words. Have you not told anybody that you applied to Mr. Hunter to get you work at your trade? A. No, sir; I never did.

Q. Or other proper work? A. No, sir.

Q. You do not mean that you said at your trade, but to get you ordinary work? A. No, sir; I never did.

Q. Or that he agreed to do it, and that he came to your house about it? A. No, sir.

Q. Or that he came to your house about it? A. No, sir.

Q. You never said that? A. No, sir; I never said it.

Q. You have never said it since you have been over

here? A. Not since I have been here about getting me work.

Q. I have gone over the thing now; you never said that to anybody? A. No.

Q. You are sure of that? A. I am sure of it; certainly I am sure of it. He never said about getting me work, or anything of the kind, except this employment he has got me into in this case now.

Q. Then you did not tell it to anybody? A. No, sir; I did not tell of it to anybody.

Q. All right; did you not tell it to the Sheriff? A. No, sir. I did not tell it to the Sheriff that I know of.

Q. Nor in his presence? A. Nor in his presence.

Q. Nor to the Mayor or in his presence? A. Nor to the Mayor.

Q. Nor even to the Prosecutor? A. No, sir.

Q. You never told any of these gentlemen that Mr. Hunter loaned you that money for New Year's? A. I never told them that he loaned me money at all.

Q. You never told them that you borrowed it from him? A. I never told them that I borrowed it from him.

Q. Did you not tell them so when you were first arrested? A. Not that I borrowed the money; no, sir.

Q. Did you not tell them this story which I have told you,—which I have already recited to you? A. No, sir. I did not tell them any story about him getting me employment or borrowing money.

Q. I will go over it again so that you cannot make any mistake. Did you not tell them that you applied to Mr. Hunter for work and Mr. Hunter agreed to get it for you, and that is what he came to your house about or to get you work. I do not mean this work you have been talking about, but ordinary work. Did you not tell them that you went to him and borrowed money for New Year's? A. I did not tell them that I went to him to borrow money for New Year's.

Q. Just answer my question. A. I am answering it.

Q. Answer "yes" or "no" to what I say? A. I say no; I did not borrow it.

*Q.* You are sure of that? *A.* Yes, sir; I am sure of it.

*Q.* Have you never told people, over and over again, that you did not know anything against Ben Hunter, about this murder? *A.* About which murder?

*Q.* About this murder of John M. Armstrong? *A.* I said I knowed nothing about it; I did not say about him being in it; I said I knowed nothing about it.

*Q.* You never said that you did not know anything against him? *A.* I did not say that.

*Q.* You never said so? *A.* No, sir.

*Q.* I want to go back and fix it in my mind once more. You arrived at the corner of Seventh and Sansom Streets about what time? *A.* I did not say about what time. I said a little after six. I did not say exactly the time or how much after.

*Q.* How much after do you think it was? *A.* I could not tell; I don't know. I did not look at any clock to see what time it was.

*Q.* You did not hear any clock strike? *A.* Not then I did not; at Seventh and Sansom.

*Q.* Where did you hear it? *A.* I did not hear any clock at all. I heard the bell strike at Eighth and Walnut.

*Q.* Then you went from Eighth and Walnut to Seventh and Sansom, did you not? *A.* No, sir; I did not.

*Q.* Where did you go to? *Q.* I went to Eighth and Sansom.

*Q.* And from there to where? *A.* To Seventh.

*Q.* And how long were you going; did you go fast or slow? *A.* I walked a regular walk, I guess.

*Q.* How long did you wait there before you saw Mr. Hunter? *A.* Where?

*Q.* At Seventh and Sansom. *A.* I did not wait at all there to see him.

*Q.* Where did you wait to see him? *A.* I did not wait; he seen me first at Eighth and Sansom.

*Q.* You did not wait, then, at all at either place? *A.* No, sir; I did not wait to see him. He had seen me already at Eighth and Sansom.

Q. He had seen you at Eighth, and you went down to Seventh? A. Yes, sir.

Q. How long were you there, between Seventh and Sansom and Sixth and Sansom, before they parted? A. Between Seventh and Sansom and Sixth and Sansom?

Q. Yes, sir; how long were you there before Mr. Armstrong went up when these people came down and were talking to him? A. I judge about ten minutes, or a little over.

Q. More or less than ten minutes? A. It was over ten minutes.

Q. You are confident of that? A. I am.

Q. Then when you had started down the street and then went through the post office, did they go fast or slow? A. About a regular gait.

Q. And then you went down to the ferry, did you? A. Yes, sir.

Q. Was the boat in the dock? A. Yes, sir.

Q. And you went on and came off? A. Certainly.

Q. When did you see first this ferule that was on this handle, after that night? A. In the Grand Jury room.

Q. Was there any mark there? A. Any mark on what?

Q. Any mark on this ferule? A. I did not take it in my hand to examine it.

Q. (Hammer shown witness.) You say when you struck this blow at Armstrong with this hammer the ferule slipped off and the hammer flew out from your hand. A. Yes, sir; I do.

Q. Where did you grasp it? A. Down at the end, and when I struck with it it flew.

Q. You had only half hold of it. A. No, sir; I did not have a half hold; I grasped it in my hand and it slipped.

Q. Had you hold of the handle or the ferule? A. I had hold of the handle and ferule both.

Q. Did you let your fingers go around the bottom? A. No, sir.

Q. How had you it; show me? A. (The witness does so.)

Q. Show it to the jury again? A. The jury has seen it.

Q. Show us again? A. That is the way I held it (indicating).

Q. And, when you struck at him, the ferule slipped?  
A. The hammer slipped and the ferule slipped off.

Q. Did not you say, yesterday, that you went with Mr. Hunter to Mr. Spellissey's hat store? A. I did.

Q. Did not you tell anybody that you went in there at that hat store? A. I told in my statement that I was there.

Q. Have you never told anybody that you were not there? A. No, sir.

Q. You are sure of that? A. I am sure of it.

Q. Have you never told anybody that you were not at that hat store? A. No, sir; I never told anybody that I were not at that hat store.

Q. Not since you have been over here? A. No, sir; not since I have been over here.

Q. To nobody? A. To nobody.

Q. Are sure of that? A. Yes.

Q. Did not you tell Sheriff Daubman so? A. That I was not there?

Q. Yes, sir. A. No, sir; I did not tell him that I was not there.

A. Did you tell Mayor Ayers so? A. No, sir; I did not tell Mayor Ayers so.

Q. Did you not tell the Prosecutor so? No, sir.

Q. Are you sure of that? A. I am sure of that, or I would not say so.

Q. Just as sure of that as that the hammer slipped out of your hand? A. I am.

Q. Just as sure of that as that Ben Hunter was over here with you? A. I am.

Q. You are sure you never told any such story or made any such statement? A. I am sure that I never said that I wasn't there.

Q. How long were you with Mr. Hunter on the other side of the river after you came over on the boat? A.

I do not think I was with him over three or four minutes ; five minutes at the most.

*Q.* You went off to take a drink? *A.* No, sir. Do you mean on this side?

*Q.* No, sir; on the other side? *A.* On the other side I left him at Water and Market; I went to take a drink myself, and left him there.

*Q.* How long were you there with him before you left? *A.* Just as long as it would take us to walk from the boat to Water Street.

*Q.* You do not know how many minutes? *A.* No, sir; I didn't take any account of the minutes.

*Q.* How long were you on the boat before she started? *A.* When I got on the boat the bell struck for her to go off; I wasn't there more than a couple of minutes before the boat started.

*Q.* In coming over you crossed at the lower ferry, did you? *A.* The lower ferry, yes, sir; this side of Market.

*Q.* That is, the lower one on the other side? *A.* The lower one on the Philadelphia side; yes, sir.

*Q.* And when you went back you landed at the same slip? *A.* The same slip.

*Q.* Have you your pantaloons here in which you carried these weapons? *A.* Yes, sir; here they are. (Pantaloons produced.)

*Q.* Just put the weapons in the pockets as you had them? *A.* (The witness put the hammer in the right hand pocket and the hatchet in the left, the iron part down and the handles up.)

*Q.* Is that as far as they will go? *A.* That is as far as they would go.

*Q.* You had nothing else in that pocket, I suppose? *A.* I had some pennies, but nothing else, unless some tobacco.

*Q.* And the handles went up under your vest? *A.* They went up under my vest.

*Q.* You are sure you had that hatchet in that pocket? *A.* Yes, sir; I am sure I had that hatchet in that pocket.

*Q.* Where did you take it out of your pocket? *A.* On this side of the river.

*Q.* Whereabouts? *A.* On Vine Street.

*Q.* I understood you to say, yesterday, that when Armstrong and Hunter stopped on Vine Street and Hunter went up the alley you were then opposite the window of the last house facing on Vine Street, at the corner of Vine Street?

*A.* Yes, sir; between that and the gate.

*Q.* Is there a gate marked on the plan (No. 1)? *A.* Yes, sir.

*Q.* Did you notice the gate there that night? *A.* I did not notice the gate; no, sir.

FRANK BOWKER, sworn and examined.

By Mr. R. S. Jenkins:

*Q.* Where do you reside? *A.* Tabernacle.

*Q.* Where is Tabernacle? *A.* Chemong township, Burlington county, N. J.

*Q.* How old are you? *A.* Nineteen years old.

*Q.* Where were you on the twenty-third of January last? *A.* I came down with a load of charcoal.

*Q.* What time did you come down? *A.* I started in the morning about seven o'clock.

*Q.* From where? *A.* Tabernacle.

*Q.* Where were you on the evening of that day? *A.* At Mr. Fidell's.

*Q.* Where does Mr. Fidell live? *A.* On Vine Street, 508, in the city of Camden.

*Q.* Did you stay all night there? *A.* Yes, sir.

*Q.* Can you point out 508 on the plan behind you (plan No. 1); do you recognize that locality? *A.* (The witness pointed out No. 508).

*Q.* How many houses is it from the corner of Fifth and Vine Streets; which one is it, the first or the second house? *A.* The first house.

*Q.* Did you take supper there that evening? *A.* Yes, sir.

*Q.* About what time did you take supper? *A.* About half-past six, I suppose.

Q. Had you occasion to go out after supper to the front door? A. Yes, sir.

Q. How soon after supper? A. About ten minutes, I suppose.

Q. What happened when you got to the front door of Mr. Fidell's? A. I say Mr. Armstrong laying there.

Q. Did you know it was Armstrong then? A. No, sir.

Q. You saw a man laying there, then? A. Yes, sir.

Q. Where did you see the man laying? A. Very near in front of the door.

Q. Cannot you describe it more clearly than that; was he nearer the gutter than he was to the door? A. Yes, sir.

Q. Did you notice which way his head was? A. His head laid toward the curbstone.

Q. Was the inclination of the body toward Sixth Street or toward Vine Street? A. Toward Sixth Street.

Q. What did you do; was anybody with you when you went out? A. Yes, sir; Mr. John Julier.

Q. What did you do? A. I stood on the step and John Julier went to him.

Q. What did he do? A. He went back to the house after Charley Fidell.

Q. What next? A. Mr. Fidell came out and picked him up.

Q. What did you notice, if anything; did you see whether he was bleeding? A. Yes, sir; I seen he was bleeding.

Q. Had he a cap on? A. No, sir.

Q. What had he on his head? A. Nothing; the cap laid alongside of him; his cap laid with him.

Q. What kind of a cap was it? A. A fur cap.

Q. When Mr. Fidell picked him up, what happened?  
A. He started then and told me to take hold of him.

Q. Did you take hold of him? A. Yes, sir.

Q. What part of him did you take hold of? A. His feet.

Q. Who else assisted you? A. John Julier.

Q. Where did you take him? A. To the drug store.

Q. Whose drug store? A. I do not know.

Q. Where is it? A. On the corner—I don't remember the street.

Q. On the corner of a street? A. Yes, sir.

Q. When you picked him up, did you see anything on the ground other than the blood and the cap? A. The hatchet.

Q. Where was the hatchet? A. It laid with the cap.

Q. Where was the cap? A. It laid right close by; I do not recollect rightly.

Q. At what part of him? A. I do not recollect.

Q. Who first saw the hatchet? A. I first saw it.

Q. Who picked it up? A. I did.

Q. Was that before you took him around to the drug store or afterward? A. Before.

Q. Was it lying near the man—near the cap? A. Right under the cap.

Q. Did you pick up the cap too? A. Yes, sir.

Q. What did you do with the hatchet? A. I carried it with me.

Q. Around to the drug store? A. Yes, sir.

Q. Was there any blood on it? A. Yes, sir.

Q. What did you do with the cap? A. I left it there at the drug store.

Q. Carried it around to the drug store, too? A. Yes, sir.

Q. Was there any blood on that? A. Yes, sir.

Q. Does this look like the cap you picked up? (Cap shown witness.) A. Yes, sir.

Q. Does this look like the hatchet? (Hatchet shown witness.) A. Yes, sir.

Q. Did you notice anything on the hatchet when you picked it up? A. No; not until I got to the drug store.

Q. What did you notice when you got to the drug store? A. I noticed it was broke.

Q. Did you notice anything else? A. I noticed the name on it.

Q. The letters on it? A. The letters on it,

Q. How long did you stay at the drug store? A. I staid until they took him away.

Q. How long was that? A. I think it was about twelve o'clock.

Q. About what time was this when you came out of the door, as far as you can recollect? A. Before seven; about a quarter of seven.

Q. I understood you to say that you found a hatchet and a cap like the ones I showed you near this man's body? A. Yes, sir.

Q. Nearer the head, or nearer the feet? A. Nearer the feet.

Q. Did you find any hammer there? A. No, sir.

Q. You did not see any hammer there? A. No, sir.

Q. At no time? A. No, sir.

Q. What became of this man at twelve o'clock? A. They started over in town with him.

Q. Was he conscious when you picked him up; was he able to speak? A. No, sir.

Q. Did he speak at all? A. No, sir.

Q. Was he bleeding? A. Yes, sir.

Q. Where from? A. From the head.

Q. Was he wounded? A. Yes, sir.

Q. Where? A. In the head.

Q. What kind of wounds? A. Bruises—pounds.

Q. Did he articulate at all—moan? A. Yes, sir; he moaned.

Q. Who was in the apothecary store when you got there? A. The man who tended it.

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

Q. Was there anybody else there but one man at the time you first arrived there? A. I think there was another man.

*Cross-examined.*

By Mr. Thompson—

Q. What took you to the door? A. I started out to go out.

Q. What business had you to go out for? A. I was going out to go away.

Q. To leave the house that night? A. Yes, sir.

Q. Was Mr. Fidell a relative of yours? A. Yes, sir.

Q. Then there was no noise that attracted your attention to bring you out? A. No, sir.

Q. You were simply going away from his house? A. Yes, sir.

Q. And that was about what time? A. About a quarter of seven, I think.

Q. What kind of a night was it? A. I don't recollect.

Q. You do not recollect whether it was cloudy, stormy or clear? A. No, sir; it was not stormy; I think it was clear.

Q. You have no recollection of the kind of weather? A. No, sir.

Q. Did you go to the door alone or did any one accompany you? A. No, sir.

Q. No one went with you? A. Yes, sir; Mr. John Julier went with me.

Q. He went outside of the door with you? A. Yes, sir.

Q. What did you see outside of the door that attracted your attention? A. A man laying there.

Q. How near your steps? A. About four or five foot.

Q. Which way; east, west or north? A. I don't know.

Q. Toward the curbstone or toward the door? A. Toward the curbstone.

Q. Away from the steps? A. Yes, sir.

Q. Near the curbstone? A. Yes, sir.

Q. Did you go right to him? A. No, sir; I didn't.

Q. Who did? A. John Julier.

Q. And you were there with him? A. I went on the steps; yes, sir.

Q. You stood on the steps and Julier went down to the body? A. Yes, sir.

Q. Did you follow down? A. Not until Mr. Fidell came out.

Q. Then you went down? A. Yes, sir.

Q. Then, when you went down, both these men were there before you? A. Yes, sir.

Q. What did you do when you went down? A. He told me to take hold of him after he picked him up, and I took hold of him also to carry him away.

Q. Who picked him up? A. Charley Fidell.

Q. Alone? A. Yes, sir; without any help.

Q. And then you took hold? A. Julier took hold next.

Q. What did you do? A. I started in, when he told me to take hold, and help to carry him.

Q. And then you three went to the drug store? A. Yes, sir.

Q. And that took you what time? A. I suppose ten minutes.

Q. Was he bleeding? A. Yes, sir.

Q. Did he bleed, from the time you found him, all the way to the drug store? A. Yes, sir.

Q. Did you take the body without the cap or with the cap? A. Without the cap.

Q. The cap was where? A. In my hands.

Q. Was there any light near you? A. Yes, sir; on the corner of Fifth and Vine.

Q. Did it throw any light around where you were, or not? A. Not that I saw.

Q. Then did you return from the drug store? A. No, sir.

Q. Did you carry anything with you to the drug-store?  
A. Carried the cap and hatchet.

Q. In your hand? A. Yes, sir.

Q. And assisted with the body also? A. Yes, sir.

Q. In which hand did you carry the cap and hatchet?  
A. I had the cap in one hand and the hatchet in the other, and the feet under my arms.

Q. Before you went out on the steps did you hear a wagon passing? A. Yes, sir; a little while before.

Q. When you went out, and before you got out, did you see the wagon? A. Yes, sir; I saw a wagon.

Q. How far away? A. I don't remember.

Q. Half a dozen doors? A. About three doors, I guess.

Q. What kind of a wagon was it? A. A covered wagon.

Q. Was it an express wagon? A. I don't know.

Q. Was it at rest or in motion? A. It was standing.

Q. Did you see the driver? A. No, sir.

Q. Did you see any one in the wagon? A. No, sir.

Q. Did you look to see? A. Yes, sir.

Q. Did you go up as far as the wagon? A. Yes, sir.

Q. You found the wagon empty and no driver there?  
A. Yes, sir.

Q. Was the horse hitched or unhitched? A. I don't know; I didn't notice.

Q. Did you look in the wagon, and see any disturbance there? A. No, sir.

Q. What was in the wagon? A. Nothing, as far as I saw.

Q. Was it empty? A. Yes, sir; as far as I saw.

Q. Nothing in it? A. No, sir.

Q. Did the wagon leave before you left? A. No, sir.

Q. Did you see any house door in the row open except your door then? A. No, sir.

Q. When you assisted to carry the body around had you any light sufficient to enable you to see the face? A. No, sir.

Q. When was it you first saw the face; you were talking about the wounds and the number of the wounds? A. At the drug store.

Q. And you got to the drug store about what time?

A. About 7 o'clock, I guess.

Q. You looked at the clock, did you? A. No, sir.

Q. Who did; any one? A. Yes, sir; the man at the drug store.

Q. And it was announced to be 7, was it? A. Yes, sir.

Q. The clock was looked at, was it? A. Yes, sir.

Q. And you found it to be 7 o'clock then? A. I believe so.

Q. And you stayed there how long? A. I staid until about 12 o'clock.

Q. How long did you stay at the drug store; how many hours or minutes? A. About five hours.

Q. During that time, where was the body of Armstrong? A. Lying in there.

Q. Lying down? A. Yes, sir.

Q. Was it placed in a sitting posture at one time? A. Yes, sir.

Q. Was he supporting himself? A. No, sir.

Q. Who supported him? A. The doctor.

Q. Who else was in the drug store whilst you were there, beside yourself? A. John Julier and Charlie Fidell is all I know.

Q. And the druggist? A. Yes, sir, and the druggist.

Q. What doctor was it? A. I don't know.

Q. During the time you were there, did Mr. Armstrong open his eyes or make any utterance? A. They said he did; I didn't see it.

Q. The hammer you had not with you? A. No, sir.

Q. You carried the cap and hatchet together? A. Yes, sir.

Q. Have you seen the cap since? A. Yes, sir.

Q. Where? A. Just a little bit ago.

Q. T'his is the first time you have seen the cap since you saw it at the drug store? A. Yes, sir.

Q. Where did you last see the hatchet? A. Right here to-day.

Q. Where did you see it before that? A. At the drug store.

Q. And not since? A. Not since.

Q. Why do you say that that is the hatchet? A. It is marked.

Q. What is the mark? A. The corner is broke off.

Q. Is that the only way you designate it. A. The initials on it—the letters on it.

Q. Is there anything peculiar about the mark by which you say that is the hatchet? A. Yes, sir.

Q. What is it? A. I can tell by the letters on it.

Q. No! No! I am speaking apart from the letters. You say it was broken or notched. What do you mean; just point out please? A. There is a notch broken out *here* in the middle (referring to the hatchet).

Q. That is the only way in which you pretend to say that you identify the hatchet—by the notch? A. Yes, sir.

Q. Is there anything peculiar about that notch; can you distinguish it from any other simply because there is a break in it? A. No, sir.

Q. How, otherwise, could you distinguish the hatchet from any other hatchet, if there were no marks upon it? A. I could not.

Q. Where did you look at the initials? A. At the drug store.

Q. What did you find on the hatchet handle? A. "F. W. D."

Q. Who called your attention to them? A. Mr. Fidell.

Q. Where is there any blood on that hatchet? A. It is on the blade.

Q. Where? A. *Here* (indicating).

Q. Do you swear that is blood? A. Yes, sir.

Q. Why do you swear that is blood? A. I suppose I can't swear it is blood.

Q. Then why did you say that it was blood? A. I supposed it was blood.

Q. Then you are giving a mere supposition? A. Yes, sir.

Q. You never analyzed it or examined it? A. No, sir.

Q. It is, then, a guess of yours that it is blood? A. Yes, sir.

Q. Does it look like it did when you saw it at the drug store? A. The blood was fresher then on it; that is, it showed plainer on it—the blood dried.

Q. How showed plainer? Just point out if you please? A. The blood was not dry. I suppose it is dry now is the reason you cannot tell it.

Q. Do you mean to say that what you saw on the side of the hatchet was not dry then? A. Yes, sir.

Q. And that you saw? A. Yes, sir.

Q. And now you say it is dry, and that you cannot say what it is? A. Yes, sir.

Q. Do you swear that it was blood which you saw upon the hatchet upon that occasion at the drug store? A. Yes, sir.

Q. Did that get on it when you were carrying the body? A. No, sir.

Q. From the cap? A. No, sir.

Q. Was the cap bloody? A. Yes, sir.

Q. You carried the cap and hatchet near each other? A. No, sir; I had one in one hand and the other in the other.

Q. Was there any blood at all upon the cap? A. Yes, sir.

Q. Where was the hatchet and the cap when you picked them up? A. The hatchet laid under the cap.

Q. To whom did you give the hatchet or cap? A. I laid them down in the drug store.

Q. And you don't know who got them? A. No, sir.

Q. You put them in charge of no one? A. No, sir.

Q. I understood you to point out on the side of the hatchet what you supposed to be blood; will you point out the spot on the hatchet which you say is blood, or what you suppose to be blood? A. Here (from the hammer end running toward the blade).

Q. It was on the one side only? A. Yes, sir.

*Re-examined.*

By Mr. R. S. Jenkins.

Q. I understood you to say that the blood was moist when you found this man? A. Yes, sir.

Q. It was not dry? A. No, sir.

Q. And on the cap? A. On the cap and hatchet.

Q. This was a red substance which you took for blood? A. Yes, sir.

Q. You say you saw blood dropping from the man as you carried him along? A. Yes, sir.

Q. The same kind of substance, apparently? A. Yes, sir.

Q. I understood you to say that you saw blood on the pavement? A. Yes, sir.

Q. Was that moist or dry? A. Moist.

Q. Similar in substance and color, apparently, to what you saw on the hatchet? A. Yes, sir.

Q. Point out to the jury exactly where this blood was on the hatchet? A. On *here* (indicating).

Q. You mean from the extreme point of the hatchet to the front? A. Yes, sir.

Q. From the extreme end to the butt? A. No, sir; not from the extreme end to the butt.

*Re-cross-examined.*

By Mr. Thompson.—Q. Just let me ask you one question. Point out again—for you did not tell me the same thing that you told Mr. Jenkins—where you saw the blood? A. From *here* to *there* (from near the end of the butt down to the top edge of the blade).

JOHN W. JULIER, sworn and examined.

By Mr. R. S. Jenkins.—Q. Where do you live? A. 508 Vine Street.

Q. With whom? A. Mr. Fidell.

Q. 508 is east of Fifth Street and on the south side of Vine Street? A. Yes, sir.

Q. The first house from the corner? A. Yes, sir.

Q. What is your business? A. I have none at present; I am out of employment.

Q. Do you live with Mr. Fidell? A. Yes, sir.

Q. What was your business? A. Farmer: I have been working on a farm.

Q. Do you know Charles Bowker? A. Yes, sir.

Q. Do you recollect the 23d day of January last? A. Yes, sir.

Q. Where were you on that day? A. In the daytime I was down at the Federal Street Ferry.

Q. In the evening where were you? A. In the evening I was home.

Q. At Mr. Fidell's? A. Yes, sir.

Q. Who else was there beside yourself? A. Mr. Bowker and Mr. Fidell's family and myself.

Q. Do you recollect, shortly after supper, going to the front door? A. Yes, sir.

Q. What time did you take supper? A. I had my supper about half-past six o'clock.

Q. What time did you go to the front door? A. About a quarter of seven.

Q. Who went with you to the front door, if anybody? A. Frank Bowker.

Q. Who went out first? A. I did.

Q. What happened when you went to the door? A. I opened the door and saw a man lying on the pavement. I went to him, and saw that he was lying in his blood. I did not touch him, and I went and called for the assistance of Mr. Fidell. We picked him up and carried him around to the drug store at the corner of Fifth and Elm.

Q. Did you see anybody by the man? A. No, sir; I did not.

Q. Whom do you mean by: "We carried him around?" A. Mr. Fidell, Mr. Bowker and myself.

Q. Was he bleeding on the route? A. Yes, sir.

Q. Where did the blood come from, apparently? A. His head.

Q. Did you see whether he was wounded on the head? A. Not until we had carried him to the drug store.

Q. Had he any covering on his head? A. No, sir.

Q. Did you see the cap? A. Yes, sir.

Q. Where was the cap? A. Lying about a foot from the head.

Q. Toward his feet? A. No, sir.

Q. Who picked the cap up? A. Mr. Bowker.

Q. Did you see anything of the hatchet? A. Yes, sir; he picked up the hatchet when he picked the cap up.

Q. And showed it to you? A. I saw it at the drug store; I did not see it then.

Q. Was the hatchet like this one? (Hatchet shown witness.) A. Yes, sir; that is the hatchet.

Q. Did you notice any initials on it at the time? A. Yes, sir.

Q. Do you recollect what they were? A. "F. W. D."

Q. Does this look like the cap? (Cap shown witness.)

A. Yes, sir; that is the cap.

Q. How was your attention called to this man, who was lying upon the pavement? A. I heard heavy breathing.

Q. Were you able to recognize him as a man before you went to the spot? A. Not by the noise.

Q. By your sight, from the door, you could see that it was a man? A. Yes, sir.

Q. Did you see any one there when you came to the door, other than this man? A. No, sir.

Q. Was there a wagon there? A. Yes, sir.

Q. Where? A. About four doors above our house.

Q. Whose house was it by? A. Mr. Russell's, I believe.

Q. Was the door of the house open or shut? A. It was shut.

Q. Whom did you see when you got to the drug store? A. Mr. Braddock.

Q. Whose drug store was it? A. R. S. Justice's, I believe.

Q. Where is it located? A. At the southeast corner of Fifth and Elm.

Q. When Frank Bowker picked up the cap and hatchet, what did he do with them? A. He carried them around with him to the drug store.

Q. At the same time that he was assisting you with the body? A. Yes, sir.

Q. Did you know the man? A. No, sir; I did not.

Q. Were you present when they discovered who he was? A. Yes, sir.

Q. Who discovered who he was? A. Mr. Braddock, I think, was the one. He looked over his papers.

Q. Mr. Braddock, the attendant at the store? A. Yes, sir.

Cross-examined.

By Mr. Thompson.

Q. What time did you fix as the time when you were at the drug store? A. Ten minutes of seven o'clock.

Q. How was the time ascertained? A. By the druggist's watch.

Q. Did he pull it out? A. Yes, sir.

Q. And state the time, ten minutes of seven? A. Yes, sir.

Q. And you say this is the hatchet which was taken from the drug store? (Indicating hatchet already shown witness.) A. Yes, sir.

Q. Just as it is? A. Yes, sir.

Q. Complete. A. Yes, sir.

Q. You and the other witness who has been here on the stand and Mr. Fidell accompanied the body to the store? A. Yes, sir.

Q. Did you see this wagon drive past your house? A. No, sir.

Q. When did you first know that there was a wagon there? A. When I opened the door and stepped off the stoop I saw the wagon standing there.

Q. What kind of a wagon was it? A. It looked to me to be an express wagon.

Q. I think you said before that it was an express wagon? A. Yes, sir.

Q. Did you go up to it? A. No, sir.

Q. Did you see any one in it? A. No, sir.

Q. Was the horse tied or not? A. It was not tied.

Q. Did you see the driver? A. No, sir.

Q. Did you see any door open? A. No, sir.

Q. Did you see any one around the wagon? A. No, sir.

Q. Did you see anything in the wagon? A. No, sir.

Q. How far did you go from your steps, and your pavement? Did you leave your pavement at all? A. No, sir.

Q. Did you see anything around your pavement to indi-

cate that there had been a struggle? *A.* I seen the blood, that was all.

*Q.* No spatter of blood around? *A.* No, sir; there was no spatterings.

*Q.* Any pool? *A.* Yes, sir; there was one pool.

*Q.* Where? *A.* About eight or ten inches below the head,—where the head laid.

*Q.* About what size? *A.* I suppose it was about the size of a wash-basin.

*Q.* That was a very cold night, was it not? *A.* Yes, sir.

*Q.* Did the blood congeal? *A.* No, sir, not then.

*Q.* What was done with him at the drug store? *A.* We took him there, and the druggist gave him some ammonia to fetch him to, and sent for Dr. Howard.

*Q.* Did he come to? *A.* Yes, sir.

*Q.* Was he put in a chair? *A.* No, sir; not then.

*Q.* Was he afterwards? *A.* Yes, sir.

*Q.* Sat up? *A.* Yes, sir.

*Q.* Opened his eyes? *A.* He rolled his eyes about several times.

*Q.* Did he speak? *A.* No, sir.

*Q.* Did he attempt to speak? *A.* No, sir.

*Q.* He supported himself in the chair afterwards? *A.* No, sir.

*Q.* And you remained, did you? *A.* Yes, sir.

*Q.* For how long a time? *A.* Until about twelve o'clock.

*Q.* And he was alive then? *A.* Yes, sir.

*Q.* Did you notice the wounds on his head? *A.* Yes, sir.

*Q.* How many were there? *A.* Three.

*Q.* Where were they? *A.* There was one here, and one here, and one back. (Indicating one on the right temple, one near the crown, and one on the top of the head.)

*Q.* You saw no person on the street by your house that night? *A.* No, sir.

*Q.* Where did you see the hatchet next after it was left at the drug store? *A.* I didn't see it until afterwards.

Q. You never saw it until after you saw it here? A. No, sir.

Q. Are you able to recognize the hatchet at all? A. Yes, sir.

Q. In what way? A. By the initials on the handle and the piece out of the face of it.

Q. Without the initials on the handle could you? A. Yes, sir; I could recognize it by the piece out of the face.

Q. Only by the piece out of the face? A. Yes, sir.

*Re-examined.*

By Mr. Jenkins.

Q. Did you ever see the hammer? A. Yes, sir.

Q. When did you first see the hammer? A. In the drug store.

Q. When? A. After Mr. Fidell had fetched it in.

Q. When did he bring it in? A. When he had taken the body round there.

Q. How long had you been there before Mr. Fidell brought the hammer in? A. I suppose about ten minutes.

Q. What kind of a hammer was it? A. It looked like a machinist's hammer.

Q. Did you notice whether it had a ferule on? A. No, sir.

Q. Did you look at it and take it up in your hand? A. No, sir; I did not.

Q. Or read any letters on it? A. No, sir.

Q. You just saw Mr. Fidell bring in a hammer in his hand? A. Yes, sir.

By Mr. Thompson.

Q. How near were you to it? A. I suppose about six feet.

Q. Not nearer than that? A. No, sir.

CHARLES FIDELL sworn and examined.

By Mr. R. S. Jenkins.—Q. Where do you reside? A. 508 Vine Street, Camden.

Q. What is your business? A. I am in the coal business.

Q. How long have you lived in Vine Street? A. I moved there, I think, the 3d of January.

Q. How long have you lived in Camden? A. Since the 3d of January.

Q. Where did you come from? A. Burlington county, Chemong township, close to Tabernacle.

Q. Do you recollect the 23d day of January last? A. I do.

Q. Where were you that evening? A. I was at home, in the dining room.

Q. Do you recollect what day of the week it was? A. Wednesday night.

Q. Who was there with you? A. The family, Mr. Julier, the last witness on the stand, and Frank Bowker.

Q. Did you have supper that evening? A. Yes, sir.

Q. About what time did you sit down to supper? A. I suppose twenty minutes or a quarter-past six o'clock, somewhere along there; I cannot tell exactly.

Q. What became of Bowker and Julier after supper? A. After we were done supper my nephew, Frank Bowker, had left his overcoat at the ferry, and he and Julier had started to go and get it, and as they started out from the front door-step they saw somebody lying there, or at least said they did—I do not know anything about that—and Julier came back and called me.

Q. About what time in the evening was that? A. I suppose that was about a quarter to seven o'clock.

Q. What did you do when Julier called you? A. Run out immediately.

Q. Ran out where? A. Out front.

Q. What did you see? A. I saw a man lying on the pavement.

Q. Where was he lying? A. Directly opposite my steps and the neighbor's steps and toward the curb.

Q. How wide is the sidewalk there? A. I suppose about fifteen feet; I am not positive.

Q. How wide are your stoopways, your doorsteps? A. I suppose they cover about four or five foot; four foot; I never measured them.

Q. Is the doorway immediately adjoining yours?

A. Yes, sir.

Q. And was it between those two doorways—yours and your neighbor's? A. Yes, sir; about in the middle, but a little more on my pavement than there was on his.

Q. Your houses are eighteen feet wide, are they not?

A. I think they are fifteen feet.

Q. What was the position of the body? A. He was lying kind of crossways on the pavement, his feet near the step and his head toward the gas-stop.

Q. How near to the gas-stop was his head? A. I suppose eight or ten inches.

Q. Is that before your house or your neighbor's? A. Before my neighbor's.

Q. Was it between the stoopway and the gas-stop, or between the gas-stop or the curb, that the head was? A. Toward the house.

Q. This gas-stop is an iron plate? A. Yes, sir.

Q. Did you know the man lying there? A. No, sir.

Q. Did he have anything on his head? A. No, sir.

Q. I understand you to say you went to him? A. Yes, sir.

Q. What did you do? A. Raised him up.

Q. What did you find? A. Found he was bleeding from the head.

Q. Much? A. Yes, sir; bleeding right free.

Q. Was he conscious? A. No, sir.

Q. Did he articulate at all? A. You could hear him breathe.

Q. Moan? A. A kind of moan.

Q. Was your attention attracted to anything else at the time? A. A wagon was standing on the curb.

Q. When did you first see the wagon? A. After I raised him up.

Q. Did you see anything else there? A. No, sir.

Q. Did you see a cap? A. I saw a cap by his head.

Q. Was it after you first raised him up that you saw the cap? A. No; I saw the cap before I raised him up, lying nearly on the cover of the gas-stop.

*Q.* Did you see anything else? *A.* Not at the time I did not.

*Q.* When did you see anything else? *A.* When I went to take him up I saw the hatchet there; I didn't take him up—just raised him up and laid him down again.

*Q.* What did you do? *A.* Ran to that wagon.

*Q.* What did you see? *A.* I didn't see anything there but an express wagon and the horses standing there; my impression was that he was throwed out of the wagon, at first, but I saw the horses standing there perfectly quiet and I gave that up and went back, picked him up and carried him to the drug store; then I saw the hatchet.

*Q.* Did you see the hatchet before you went to the wagon? *A.* No, sir; after I came back.

*Q.* Where was the hatchet when you first saw it? *A.* Laying nearly under the cap; as we raised the cap up we saw a hatchet.

*Q.* How far from the head was the cap? *A.* Very near to it, almost touched, and the hatchet was right under it.

*Q.* What did you do with him? *A.* Carried him around to Justice's drug-store.

*Q.* Who did you find there? *A.* Found Braddock there; he was in attendance that night, I believe.

*Q.* What did you do when you got there? *A.* Took him behind the screen there and laid him down on the floor first.

*Q.* What was done then? *A.* We thought he was not in a very good position, and raised him up and put him in the big rocking-chair and left him there until Dr. Howard came. He came almost as soon as we got there, and then we picked him up and put him on the floor again.

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

*Q.* When did you find out who he was? *A.* After the doctor came.

*Q.* How? *A.* By the papers on his person.

*Q.* Did you see the papers found? *A.* Yes, sir.

*Q.* What else was found on his person? *A.* Eye-glasses, papers, musical instruments and something of that kind and a large pocket-book.

*Q.* Any money? *A.* Yes, sir; three or four dollars in money.

*Q.* A watch? *A.* Yes, sir.

*Q.* A pocket-book with three or four dollars in it? *A.* I don't know whether the money was in the pocket-book or loose in his pocket. There were some mouth-pieces of musical instruments.

*Q.* What did you do when you found out who he was? *A.* Despatched a man to Philadelphia to let his folks know.

*Q.* Who did you despatch? *A.* I don't know his name; he was a bricklayer up town.

*Q.* Are you able to fix the time when you arrived with the body at the drug-store? *A.* Yes, sir; it was ten minutes to seven.

*Q.* How do you know that? *A.* By calling the attention of Mr. Braddock to it, and he looked at his watch and I looked at the clock.

*Q.* For the purpose of knowing, if it should be necessary to know? *A.* Yes, sir.

*Q.* How long did you stay there? *A.* Until they took the body away.

*Q.* All the time? *A.* I went back to the wagon again.

*Q.* How long did you stay there when you first took the body there? *A.* Only just long enough to lay him down.

*Q.* Had you inquired the time? *A.* Yes, sir; I had inquired the time.

*Q.* And then you went back again? *A.* Yes, sir.

*Q.* Where did you go? *A.* I went to see about the wagon, went back to where I had found the body.

*Q.* What happened then? *A.* Then I discovered a hammer lying on the sidewalk.

*Q.* Whereabouts? *A.* About three feet from where the hatchet lay.

*Q.* In which direction? *A.* Toward the house.

*Q.* Near the house? *A.* Toward the house from where the body lay.

*Q.* Whose house? *A.* My neighbor's there, Morris', I think it is.

Q. Can you show on the diagram where you found the hammer; can you recognize where your house is?

A. Yes, sir; I live on the corner (indicating on the plan.)

Q. Whose house is the next house? A. Morris', I think the name is; a widow lady.

Q. Whose is the next? A. Tucker's.

Q. Whereabouts was the hammer? A. It was in front of the next house to mine; about three feet from where the hatchet lay.

Q. Do you know Ford W. Davis? A. Yes, sir.

Q. Where does he live? A. 520 Vine Street is where he did live at that time.

Q. What did you do with the hammer? A. Took it around to the drug store.

Q. What kind of a hammer was it? A. A machinist's hammer.

Q. Did you examine it when you got there? A. I did.

Q. Was there any blood on it? A. Yes, sir; supposed to be blood; red.

Q. Fluid or dry? A. Fluid.

Q. Moist, I mean? A. Yes, sir.

Q. Can you describe the hammer? A. It was as large as a machinist's hammer, is about the only way I can describe it.

Q. Was it a hammer similar to this (hammer in evidence shown witness). A. It had not the ferule on.

Q. In other respects was it like it? A. Yes, sir; that is the hammer, excepting the ferule.

Q. There was no ferule on it? A. No, sir.

Q. Did you notice any place for a ferule? A. I noticed a kind of a groove there, but didn't think anything about a ferule at the time.

Q. What did you do with it? A. Took it and put it alongside of the hatchet, back where we had Armstrong until the Mayor came, to give them to the Mayor.

Q. Where was the blood on the hammer? A. On the side and on the handle. I know the hammer was bloody and the handle too; I think both sides.

Q. Was there much blood or little blood? A. There was a good deal of blood on it.

Q. Did you notice much blood on the pavement? A. Yes, sir; there was a big pool there.

Q. Where was the pool? A. Close to the gas-stop.

Q. What do you mean by a big pool? A. A foot or eighteen inches in diameter.

Q. Was the blood moist? A. Yes, sir.

Q. What kind of an evening was this? A. A very blustery evening and cold.

Q. Was it clear? A. I think it was kind of cloudy.

Q. Are you sure? A. No, I am not positive; my impression is it was cloudy, but it was very blustery.

Q. Dark? A. Rather dark.

Q. Where are the gas lights in your street? A. On each corner of the street.

Q. Did you notice whether they were lighted? A. It was.

Q. The gas lights were lighted? A. It was on the corner of Fifth Street, I know.

Q. Did you notice any other light in the neighborhood? A. In Tucker's cellar I noticed a light.

Q. Where is Tucker's cellar? A. The third house from the corner of Fifth and Vine; the second house above me.

Q. This light was in the cellar? Yes, sir.

Q. A bright light? A. A bright light for a cellar light.

Q. I think you said that you left the drug store to look after the wagon? A. Yes, sir.

Q. And you found the hammer? A. Yes, sir.

Q. Did you look after the wagon? A. Yes, sir.

Q. Did you find it? A. No, sir; it had gone.

Q. Can you show us on the diagram where the wagon was? A. In front of Mr. Russell's house—No. 516.

Q. What interval of time elapsed, do you suppose, from the time you first saw his body on the sidewalk until the time you returned to look after the wagon: you seem to

have been very careful about it? *A.* I suppose there elapsed about five minutes.

*Q.* How long did it take you to carry the body around to Justice's drug store? *A.* I suppose it took about three minutes.

*Q.* And you waited there how long? *A.* I did not wait at all; we just laid the body down.

*Q.* You asked the time? *A.* Yes, sir.

*Q.* And then immediately returned? *A.* Immediately returned to see about the wagon, and it had gone when I got there.

*Q.* What kind of a wagon was it? *A.* An express wagon.

*Q.* Did you notice the initials on the hatchet? *A.* I did.

*Q.* As well as on the hammer? *A.* Yes, sir.

*Q.* Did you ever see that ferule? (ferule shown witness.)  
*A.* I never saw it before to-day, and never heard of it until yesterday.

Cross-examined.

By Mr. Thompson:

*Q.* Had you the hammer in your hand? *A.* I had.

*Q.* Where? *A.* I had it when I picked it up and until I got to the drug store with it.

*Q.* When you picked it up on your pavement? *A.* No, sir; it was not on my pavement; it was on my neighbor's pavement.

*Q.* Had it blood on it then? *A.* Yes, sir; I supposed it to be blood; it was red.

*Q.* Where was it? *A.* On the handle and hammer part.

*Q.* And you say pretty much bloody? *A.* Yes, sir.

*Q.* Had you hold of it in the middle? *A.* No, sir.

*Q.* Where did you take hold of it? *A.* About the bottom of the handle.

*Q.* How far up did the blood extend? *A.* I am not able to tell you exactly.

*Q.* Was it in the neighborhood of your hand? *A.* No, sir; near the head of the hammer.

Q. Where did you take hold of it? A. At the end of the handle.

Q. Without this ferule? A. Without that; yes, sir.

Q. Was there any blood on the butt of the hammer?  
A. I didn't notice any there.

Q. How are you able to detect this hammer? A. By the general appearance of it.

Q. Only from the general appearance? A. The general appearance and initials.

Q. When did you first see the initials? A. When I took it around to the drug store.

Q. Do you know what they were? A. "F. W. D."

Q. Did the blood extend beyond the initials? A. I don't think it did.

Q. Did it extend to the initials? A. I think it did; I can't say exactly.

Q. About up to the beginning of the initials? A. Somewhere along there.

Q. Was your hand bloody by taking hold of it? A. By taking hold of the body?

Q. Yes, sir. A. I think it was.

Q. By taking hold of the hammer? A. I am not positive about that; probably it was. I got blood on me before I left there; I know that.

Q. When you went to the wagon did you look into the wagon? A. I did.

Q. What did you see? A. I seen a barrel or box, or something in there; I didn't see what it was; I didn't take time to examine very closely.

Q. Was the horse hitched or tied to a post? No, sir.

Q. Where was the driver? A. I don't know.

Q. Was there any door open near? No, sir.

Q. You saw no person about? A. There was no person about except us three on the street.

Q. Did you notice any disturbance in the wagon? A. No, sir.

Q. Did you hear anything to indicate a struggle about your house? A. I did not hear anything.

Q. Did you notice any outcries? A. No, sir.

Q. Did you see any spattering of blood on the pavement? A. Only where the man lay; there were blood spots around, but not a great deal.

Q. Will you show me on the plan the position of the man's body from your house;—was it straight or diagonal? A. His feet lay across the pavement toward my pavement, quartering, and the head toward the curb; his head lay toward the gas-stop.

Q. A little northeast? A. I suppose it was something like that.

Q. Where was the cap;—under his head? A. The cap was close to the gas-stop.

Q. Was his body upon the cap? A. No, sir.

Q. Was the cap covered or uncovered? A. Uncovered; the cap was clear.

Q. When did you see the hatchet? A. I didn't see the hatchet until I picked the cap up.

Q. And the hammer you did not see until you came back from the drug store? A. Yes, sir.

Q. How far did you find the hammer from where the body was? A. About three feet.

Q. Was it near the blood? A. No; a good piece from the blood.

Q. In which direction? A. Toward my neighbor's step.

Q. Between the body and the step? A. Yes, sir.

Q. How long did it take you to go to the drug store? A. I believe about three minutes it took taking him around there.

Q. And you came back and found the hammer? A. Yes, sir.

Q. What did you do with it? A. Put the hammer and hatchet together at the drug store and gave them to the Mayor.

Q. If the initials were not upon the hammer could you identify it by this merely? A. Well, I think I could by the general appearance of the hammer.

Q. Only by the general appearance; there is no other

mark there? *A.* I don't know that I could. There is a crack in it; I remember that.

*Q.* And the time you are certain about—ten minutes of seven? *A.* Ten minutes of seven when I first got to the drug store.

*Q.* When you saw Armstrong's body, how was it lying; how was it exposed? *A.* Lying on his back, with his coat all unbuttoned; one foot drawn up and his head toward the curb.

*Q.* Were his arms straight out? *A.* No; I don't think they were; I don't recollect exactly how his arms did lay.

*Q.* At that time did you see any blood on the body? *A.* Nothing, only on his forehead here.

*Q.* What time was it that you sent the messenger away to Philadelphia; about what time? *A.* I guess about a quarter-past seven; somewhere along there.

*Q.* That is about twenty minutes after he was taken to the drug store? *A.* Somewhere along there. We dispatched a man as soon as we found where to send; maybe it might be a little longer.

*Q.* Do you remember who was sent? *A.* I know who he was, but I didn't know his name; that is, I know him when I see him; he was a bricklayer, who worked around town for Cox & Bros., and officiated around the drug store for them.

By Mr. Robeson.

*Q.* Did Mr. Armstrong have much or little hair? *A.* I don't recollect distinctly; I think he had pretty plenty of hair; I did not examine very closely.

*Q.* Was the blood much congealed, or was it flowing? *A.* It was flowing.

THOMAS GRAHAM recalled and cross-examined.

By Mr. Robeson.

*Q.* Did you ever tell anybody that you were never on Vine Street when a man was struck? *A.* What is that?

*Q.* Did you ever tell anybody that you were never on Vine Street, Camden, when a man was struck? *A.* I never told nobody; no, sir.

Q. Did you never tell anybody that you were on Vine Street, Camden, when a man was murdered? A. No, sir.

Q. Did you say that to Mayor Ayers? A. Did I say what to Mayor Ayers?

Q. That you were not on Vine Street when anybody was murdered? A. Did I say that I was not there?

Q. Yes, sir. A. I did not say that I was not there.

Q. You never said that to anybody? A. No, sir.

Q. Nor to Sheriff Daubman, that you were not there, on Vine Street, when a man was murdered? A. I was there, but I never said that I was not there.

Q. Did you say so to Mr. Jenkins? A. I told him that.

Q. Did you tell him you were not there? A. No, sir; I didn't tell him I was not there?

Q. Didn't you tell him that on the evening when you were arrested and came over here? A. In the first statement I might have told him that.

Q. Then you did tell him? A. I might have told him in the first statement, but after I made a clear confession I didn't tell anybody so.

Q. I didn't ask you whether you did it after you had made a clear confession, or whether you had stuck to your story close, I asked you whether you had ever done it; did not you tell anybody that you did not hear Armstrong cry out at all? A. Didn't I tell them that?

Q. Yes, sir. A. No, sir; I didn't tell them that.

Q. You said, here, you heard him cry out, "God spare my life?" A. Yes, sir; I said that here.

Q. Did not you say you never heard him cry out at all? A. No, sir; I didn't say that.

Q. Are you sure of that? A. I am sure of it.

Q. Did you not swear to that? A. Swear to what?

Q. That you did not hear him cry out at all? A. No; I didn't swear I did not hear him cry out at all.

Q. You are sure of that? A. I am sure of that.

Q. I speak of your statement made at Prosecutor Jenkins' house. A. I say I didn't swear to it.

Q. Did you not say, there, that you struck him with the hammer? A. Did not I say where?

Q. At the Prosecutor's—that you struck him with the hammer, and then you dropped the hammer and hatchet and ran away? A. I said I dropped the hatchet and ran away.

Q. Did not you say you struck him with the hammer and dropped the hammer and hatchet and ran away? A. I said I struck at him with the hammer and it slipped out of my hand, and I dropped the hatchet and ran away.

Q. Is that what you said here on this stand? A. Yes, sir.

Q. You said you struck at him with the hammer and it slipped, and you ran away? A. I said I struck at him with the hammer and it slipped out of my hand, and then I ran away.

Q. You did not say that Armstrong was standing facing the alley instead of facing you, standing facing the alley; that you struck him with the hammer and your heart failed you and you dropped the hammer and hatchet and ran away? A. I didn't say that I dropped the hammer, nor I didn't say that he faced the alley; I said that he faced me and when I was told to hit him my heart failed me and I dropped the hammer and threw the hatchet away.

Q. You said here, that when you struck with that hammer, it slipped out of your hand because the ferule slipped off, and that then you turned and run away, and, as you run away, you threw the hatchet back, or threw it down. Now, I want to know if you have not said to somebody here, in Camden, that you came up to Armstrong as he was facing the alley; that you struck him with a hammer, and that it slipped out of your hand, and then your heart failed you, and you dropped the hammer and hatchet and then ran away? A. I didn't say that I dropped the hammer.

Q. Did you say what I have stated to you? A. I told you what I said. I said that the hammer slipped out of my hand.

Q. I will go over it again? A. Well, you will go over it again all you like.

Q. I ask you whether you have not said to anybody

that you struck him with the hammer, that he was facing the alley, that your heart failed you, that you dropped the hammer and hatchet and ran away? *A.* I say—

*Q.* Yes or no to that question! *A.* I didn't say it exactly as it was put to me by you.

*Q.* How did you say it? *A.* I said I went up and made the blow, and the hammer slipped out of my hand, and it struck him, as it slipped, on the forehead, and went to the house, and, when the man was down and Mr. Hunter over him and he told me to hit him, my heart failed me, and I turned and run.

*Q.* You never made any other statement than that?  
*A.* No, sir; on the clear confession that is what I said.

*Q.* You are sure you made no other statement? *A.* I never made nothing else on the clear statement.

*Q.* You never made such a statement at the Prosecutor's house? *A.* I never made any other statement than that. I made a first statement, and then I denied that statement and made a clear statement afterward.

*Q.* You made a first statement, and then you made a second one; I want to come to the second part. Let us see that there is no mistake about this other thing: What was the color of the hat Hunter bought? *A.* It was a dark hat.

*Q.* What do you call dark? *A.* Well, there is different colors of dark.

*Q.* What do you call dark? *A.* Well, it was black, if you want to know.

Judge Woodhull—I think it proper, at this time, that the Court should state to the counsel for the Defendant that if the questions which they have been putting to this witness are intended as forming a foundation for contradicting him, they were not sufficiently specific; for instance, he is asked if he ever said so and so to Mayor Ayers—

Mr. Robeson—In every one of these questions I carefully asked him where it was that he said he said it, whether at the Prosecutor's or wherever else.

Mr. R. S. Jenkins—In every instance, after consultation between the representatives of the State, we have held that it was not sufficient.

Mr. Robeson—I think that Your Honor will find, in every instance, that I asked this witness whether such and such a thing happened at the Prosecutor's house or at the Prosecutor's office.

Judge Woodhull—But on what occasion?

Mr. Robeson—Of course we could have no dispute upon that question. I suppose that would be shown by the confessions themselves.

Judge Woodhull—As the matter stands, the attention of the witness ought to be called to the statements made by him in his preliminary examination; and whichever of the statements is meant should be specified, and his attention ought to be called to the first statement or to the second statement, as the case may be, and to the time and place and circumstances under which each of those statements were made.

Mr. Robeson.—We have already gone over all these things which I have spoken to the witness about.

(To the witness)—This statement about not hearing Mr. Armstrong cry out—I want to refer to that which you say you have never said, and to the statement made by you as to Mr. Armstrong's facing the alley, and about your striking him with the hammer, and then your heart failed you, and your dropping the hatchet and hammer and running away, which you say you did not say in that way—did not you say that, at the time your clear statement was taken down and was sworn to before Mayor Ayers at the Prosecutor's house? A. Didn't I say that? I said what I told you before about the hammer slipping and about my throwing the hatchet afterward.

Q. I merely call your attention to that fact, to that event, to that time, in order to fix it with regard to the other statement which I asked you about this morning, and which you denied, and which I mean to fix, and which I do fix at the Prosecutor's house—perhaps not this last statement—I mean did not you make those statements there, at the Prosecutor's house that night, when Sheriff Daubman and Mayor Ayers and the Prosecutor were there present, or to one of them? A. Make what statement?

*Q.* The statement I spoke about this morning? *A.* I made two statements there. I made the first statement, and then I made a clear statement of all of it.

*Q.* I want to know whether you did not there, at that time—and I call your attention to it particularly to that time—say that you applied to Mr. Hunter for work? *A.* No, sir; I did not say that I applied to Mr. Hunter for work.

*Q.* Wait until I go over that again—

Judge Woodhull—

It is not necessary to go over the examination particularly. You have asked him as to all these statements, and he has said that he did not make them. Now, ask him, if you so desire, as to the first or second statement which was made before Mayor Ayers, and if he denies that that of which you ask him was said on either of those occasions, that is all that you can do.

The Witness—

I told him no a dozen times.

By Mr. Robeson—

*Q.* Let me ask you one other question. Are you sure that when you went on to the boat and met Mr. Hunter he said, "I finished him?" *A.* Yes, sir; I am sure he said it.

*Q.* Are those the words? *A.* Yes, sir.

*Q.* You are sure it was not "I fixed him?" *A.* He "finished" him.

*Q.* Did you not say when you were making what you say was your truthful confession that the words were "I fixed him?" *A.* I do not remember whether I said "fixed" him there or not. I remember, though, that it was "finished him."

*Q.* You remember now what it was, better than you did then? *A.* I remember what it was. I might have said "fixed him" then; but I say "finished him" now, and I mean finished.

*Q.* Now you say that then you swore it was "fixed him," and now you swear that it was "finished him?" *A.* I swear now that it was "finished him."

*Q.* Were you sworn at the Prosecutor's house? *A.* Yes, sir; I was sworn there.

Q. I am speaking in regard to what you call your clear confession; to what was taken down and sworn to before Mayor Ayers? A. That is what I am talking about.

Q. You did not say it? A. Did not say what?

Q. That the words were "I fixed him?" A. I said "finished" here.

By Mr. R. S. Jenkins.

Q. I understood you to say, when you came to my house on the evening when this confession was made, that you made two statements? A. Yes, sir.

Q. One was a false statement you say in every respect? A. Yes, sir.

Q. And the other was a true statement? A. Yes, sir.

Q. Which was the first; a false statement in every respect? A. The first one I made.

Q. Do you recollect exactly what you did say when you made your first statement? A. No, sir; I do not,—not the first statement.

Q. Were you sworn upon the first statement? A. No, sir.

Q. When were you sworn upon the first statement? A. After it was over.

Q. Some time in the morning? A. Yes, sir.

Q. How long were we engaged in that examination, if you recollect? A. I do not recollect; it was after twelve o'clock when I got there.

Q. What time were you taken up to the prison? A. It was daylight; it was seven o'clock; breakfast was ready.

Q. You had nothing at all to drink, I think you said, until you had gone all through your examination and signed your statement? A. Yes, sir.

Q. And then I gave you a drink? A. Yes, sir.

Q. You say that the first statement you made to me was all false? A. Yes, sir; I said that.

Q. Whatever you did say was all false? A. Yes, sir.

Q. The second statement you made you swore to? A. Yes, sir.

Q. You spoke in your examination about having posted a postal card to Mr. Davis? A. Yes, sir.

Q. Do recollect how it was signed? A. "J. M. A."

Mr. Robeson—We object to this.

Mr. R. S. Jenkins—Here is a postal card which five or six months ago this witness posted to Ford W. Davis, in Camden, with the initials of "J. M. A." attached to it, and I now intend to prove by this witness that he has never seen that postal card from that time to this; that nobody has spoken to him about it; and I propose to prove that it was directed in such a way, and signed in such a way; and then I propose to produce the postal card and show it to the witness and ask him if that is not the card. How can I prove, beyond peradventure, that this was the identical postal card that this witness posted except by putting some marks of identification upon it? There may have been a dozen postal cards sent to Mr. Ford W. Davis on that day, and this witness can know nothing in reference to this card except by having seen it. It is in this aspect of the case we deem it important. Suppose I present it to him, and, after he sees it, all that he can say is that it looks like the card which he posted, and that its contents are about like the card which he posted. I guarantee to prove that he has never seen it since he posted it, and if, not having seen it since it was posted, he gives a description of it which answers exactly to the very card itself, is not that valuable? I intend to follow up this proof by the production of the postal card, which I have in my possession now, but for the purpose of identification, so that there can be no question about it hereafter, I submit that I ought to be allowed to prove how this card was directed and who signed it.

Judge Woodhull—All this would be very well if it could be done legally. The trouble, as far as I can see, is that you will be no better off if you do that. You have this man's oath, for whatever it is worth, for the purposes of identification, but it is a well-settled principle of law that you cannot prove the contents of a written instrument by parol testimony when the instrument itself is in existence, and I take

it for granted that a postal card is on the same footing as a letter or any other instrument of writing.

Mr. R. S. Jenkins—Cannot I go further than that, and cannot I prove, in any Court, that this was a letter written by so and so and addressed to so and so? Is not that allowable? That is, suppose I was to prove that this was a letter, or a postal card, purporting to have been written by such a person and addressed to such a person. As to the contents of the card, the card speaks for itself; but have the Courts ever gone so far as to say that the identification of a letter cannot be proved in that way, and that it cannot be shown who wrote the letter and to whom it was addressed?

Judge Woodhull—As far as my experience goes you are confined in your identification of the proof to handing the letter to the witness and asking him if that is the letter referred to, or if it looks like it.

Mr. R. S. Jenkins—But we are corroborating the evidence of an accomplice.

Judge Woodhull—And you cannot do it in the way you propose

Mr. R. S. Jenkins—Then I understand Your Honor to overrule the offer.

Judge Woodhull—I think you can go no further than to put this postal card in the witness' hands, and ask him if he recognizes it.

By Mr. R. S. Jenkins—

Q. (Postal card shown witness.) Did you ever see this card before? A. I can say that is the card that I had, and I put it in on a Tuesday morning.

Mr. R. S. Jenkins.

I will offer the card in evidence at the proper time. (To the witness.)

There was a question asked you about some money that was given to you. There was a question asked you if you received any money while you were in jail, and you stated that there was a correction that you wished to make in regard to your statement. A. A question was asked me if my wife received any money.

Q. Was it with your knowledge? What do you say

about your wife having received it? *A.* I say that she did not receive it.

*Q.* Who did? *A.* I did.

*Q.* How much money was it? *A.* Five dollars, through Mr. Yoder.

*Q.* What was it for? *A.* It was gave to me to give to my wife.

*Q.* And you gave it to your wife? *A.* Yes, sir.

*Q.* For her support while you were here? *A.* Yes, sir.

*Q.* You never received any money from the sheriff?  
*A.* I received it from the sheriff through Mr. Yoder.

By Mr. Robeson.

*Q.* When did you post this postal card? *A.* On the 22d; on a Tuesday it was put in.

*Q.* What time on Tuesday? *A.* In the morning.

*Q.* What time? *A.* Between ten and twelve o'clock.

*Q.* Near twelve or near ten? *A.* I cannot tell you whether it was near twelve; it was between ten and twelve.

*Q.* You were arrested when—what day? *A.* On a Tuesday night.

*Q.* I mean on what day of the month and what month?

*A.* I don't know whether it was the 19th or 20th of March, but somewhere around there.

*Q.* You read the newspapers in the interval? *A.* I did not read them.

Mr. R. S. Jenkins—I would like to ask if this is cross-examination.

Mr. Robeson—I am cross-examining him about your postal card now.

Judge Woodhull—The counsel has the right to cross-examine about the postal card before it is offered in evidence.

Mr. Robeson—I am going to see whether he did not see this card published in the newspapers.

The Witness—No, sir; I did not see it published in the newspapers.

Mr. Robeson—There are some things he knows all

about; and there are some things he does not know all about.

The Witness—I know that much.

By Mr. Robeson—

Q. You sometimes read the newspapers? A. Yes, sir.

Q. If your story is true you had an interest in the accounts of this murder, or in the stories about this murder?

A. I did not read much of it.

Q. You did not pay any attention to it? A. No, sir; I did not.

Q. Was not this postal card and all about it, its date and its signature and everything of that kind published in the newspapers? A. How do I know when I did not see it?

Q. You did not see it? A. No, sir.

By Mr. R. S. Jenkins—

Q. You were asked, in your cross-examination, whether you had ever separated from your wife? A. Yes, sir.

Q. What did you say? A. I said "No."

Q. Have you always lived with her upon good terms? A. I lived on good terms with her, except three weeks I was off on a spree.

Q. There has been no trouble between you? A. No, sir; never.

Q. You are still on good terms with her? A. Yes, sir.

ERVING M. HOWARD, M. D., sworn and examined.

By Mr. R. S. Jenkins—

Q. Where do you reside? A. 401 Linden Street, Camden.

Q. You are a physician? A. Yes, sir.

Q. Of what school? A. Homœopathic.

Q. How old are you? A. Twenty-nine.

Q. How long have you been a physician? A. I have been a graduate over a year; a year ago last March.

Q. Do you recollect, on the evening of the 23d of January last, being called to see a patient at Dr. Justice's drug store? A. I do.

Q. Where was it? A. At the corner of Fifth and Elm.

Q. What time in the evening were you called?  
A. Somewhere between seven and half-past; I cannot exactly fix the time.

Q. Where were you when you were called? A. At my office.

Q. Where is your office? A. 411 Linden Street.

Q. Who called you? A. There were two gentlemen came.

Q. Do you know either of them? A. I know one of them; I cannot recollect his name just now.

Q. Is he an officer? A. No, sir; his name is Orcott.

Q. Did you go to the drug store? A. I did.

Q. Who did you find there? A. I found no one there that I ever knew personally before.

Q. Did you find a wounded man there? A. I did.

Q. Where did you find him? A. I found him in the back part of the drug store.

Q. In what condition and what position? A. He was in a sitting posture, in a large rocking chair.

Q. Did you give him your attention? A. I did.

Q. Describe what attention you gave him? A. I found him suffering from extreme symptoms of shock, and immediately had him placed in a recumbent position and administered the proper restoratives.

Q. Let us hear what the restoratives are? A. I gave him some brandy and ammonia by inhalation.

Q. What appeared to be the matter with him other than this shock? A. Wounds upon the head.

Q. Did you make a critical examination? A. I did.

Q. On what part of the head did you find the wounds?  
A. On the top of the head and the left temple, just without and within the hair; also on the back of the head; in all, four.

Q. What kind of wounds were they? A. They were all of them contused wounds.

Q. Were they bleeding? A. They were oozing; no active hemorrhage.

Q. Was the skull fractured? A. It was.

Q. In all of the four wounds? A. In three of them.

Q. Which three? A. The two upon the temple and the one upon the back of the head.

Q. Did I understand you to say that there were two upon the temple? A. Yes, sir.

Q. Where? A. One just without the hair and the other just within.

Q. The other on the top of the head and the other on the back, did you say? A. Yes, sir.

Q. Which part of the back of the head? A. At the apex of the occipital bone.

Q. Did you examine the wounds sufficiently to form some estimate of their character? A. I did.

Q. What was the estimate that you formed? A. The wound upon the back of the head was simply a scalp wound. There was no injury to the bone at that point, but the other wounds were penetrating wounds, that is, they entered the skull and made a complete fracture of the bone—a comminuted fracture. The edge of the bones were broken in four pieces.

Q. What was the result of that examination as to the mortality or otherwise of the wounds? A. I did not consider there was any possibility of his recovery.

Q. You considered them certainly mortal wounds? A. Yes, sir.

Q. How long did you stay with him? A. I was with him until the next day about between ten and eleven o'clock.

Q. How long did you stay with him on this side of the river? A. Until between eleven and twelve o'clock.

Q. What were you doing that time? A. I was caring for him a part of the time, until his pulse was in condition that I could leave him; he did not require any attention during all the time.

Q. Did he rally any? A. Somewhat.

Q. What do you mean by "somewhat?" A. I mean that his pulse was quite strong; that his breathing became

less labored, and he opened his eyes once or twice, perhaps more times, and looked around.

*Q.* Was any consciousness apparent? *A.* Not at all. I thought, when he opened his eyes, probably he would speak, and spoke to him and tried to arouse him.

*Q.* You stayed taking care of him until what time? *A.* Until, I think, about half-past eleven.

*Q.* What happened then? *A.* Then we removed him to the other side.

*Q.* Who came at that time? *A.* Mr. Armstrong's son and some one else.

*Q.* Who removed him? *A.* I assisted; I saw him put into a proper vehicle.

*Q.* What kind of a vehicle was he put into? *A.* We got a grocery wagon, or something like a grocery wagon.

*Q.* How did you stow him away? *A.* I put in straw, and then placed upon that blankets or buffalo robes, or something of that kind to make it as soft as possible, and covered him as warmly as possible, and I rode beside him and held one of his hands.

*Q.* And his son held the other? *A.* Yes, sir.

*Q.* Did you take him home in that way? *A.* Yes, sir.

*Q.* Where was his home, if you recollect? *A.* I do not recollect now.

*Q.* Do you recollect what kind of an evening it was? *A.* It was a cold, cloudy evening.

*Q.* Was it clear or cloudy? *A.* I do not remember; I should think it was somewhat cloudy.

*Q.* Do you know what street you went to in Philadelphia, with this man? *A.* North Seventeenth Street.

*Q.* It was Mr. Armstrong's house, was it? *A.* Yes, sir.

*Q.* Did you find his family when you got there? *A.* Yes, sir.

*Q.* What was done when you arrived at his house? *A.* We placed him in a bed and immediately sent for Dr. C. M. Thomas.

*Q.* Where was his place of business? *A.* 1527 Arch Street.

*Q.* What was his condition when you put him in the

wagon to take him over—I mean as to strength—if you recollect? *A.* His pulse was good and his breathing was good, his breathing was a little labored, but I mean good for a man in that condition.

*Q.* When Dr. Thomas arrived how was he? *A.* He was in rather a better condition when Dr. Thomas arrived than when he left here.

*Q.* You took charge of him until Dr. Thomas came? *A.* Yes, sir.

*Q.* How long was it before Dr. Thomas came? *A.* I think it must have been between two or three o'clock in the morning.

*Q.* You had been with him all the time until he came? *A.* Yes, sir; I did not leave him.

*Q.* After Dr. Thomas came did you assist in his treatment during the night? *A.* After Dr. Thomas came there was a consultation, and it was decided best not to operate at all, and the doctor went away and left me in charge.

*Q.* Upon consultation, then, between you and Dr. Thomas, you decided to make no operation for the present? *A.* Yes, sir.

*Q.* He left you in charge of the case for what length of time; what time was it when he came back? *A.* In the morning, between seven and eight o'clock.

*Q.* And you took charge of the case until then? *A.* Yes, sir.

*Q.* What did you do in the interval? *A.* There was no chance for anything being done.

*Q.* What did you do, if anything? *A.* When his pulse seemed to be running down we gave him stimulants.

*Q.* What kind of stimulants? *A.* Brandy.

*Q.* Did you have to administer much stimulants? *A.* Not a great deal.

*Q.* At seven o'clock, or thereabouts, did Dr. Thomas put in an appearance? *A.* He came,—I could not say at what time.

*Q.* Was there any one else with you besides the son and yourself in the wagon,—of Camden people? *A.* There was the driver.

*Q.* Who was he,—do you know? *A.* I do not know, sir.

*Q.* When the doctor came in the morning what was done? *A.* He operated, removing pieces of broken bone from the skull.

*Q.* What was his condition at that time? *A.* A short time before the operation he had shown signs of prostration, greater signs, and had begun to vomit.

*Q.* What was that an indication of? *A.* An indication of brain irritation; severe.

*Q.* How long were you engaged in the operation; removing the pieces of skull? *A.* Perhaps three-quarters of an hour.

*Q.* What was the result of the operation? *A.* He seemed easier. Still there was no return of consciousness.

*Q.* How long after that did you stay; for what length of time? *A.* I left immediately after the operation.

*Q.* In what condition did you leave him? *A.* As I said before, he was in a more comfortable condition than he had been at any time.

*Q.* And as to recovery what was your judgment as a physician? *A.* We did not think there was any chance for him.

*Q.* That was the conclusion you and Dr. Thomas had arrived at? *A.* Yes, sir.

*Q.* Have you any way of fixing the exact time when you got to that apothecary's store? *A.* No, sir; only from the time at which I went to my office.

*Q.* Have you any way of fixing the exact time at which you left your office? *A.* No, sir; I know I went to my office at seven o'clock.

*Q.* But you do not know when you left it? *A.* I know it was not a great while after, but how long I don't know. I do not think it was an hour.

*Q.* When you got to the apothecary's shop had this man been identified? *A.* No, sir.

*Q.* By anybody? *A.* No, sir.

*Q.* How was his identity established so as to know

where to take him home? *A.* They searched his pockets.

*Q.* Who searched his pockets? *A.* I helped.

*Q.* What did find in his pockets? *A.* As the contents of his pockets were poured or fished out they were handed over to the policeman, or else the druggist.

*Q.* Who was the policemen? *A.* I don't know his name.

*Q.* Do you know him when you see him? *A.* I believe I do.

*Q.* (Policeman John H. Miller called.) Is that the man?

*A.* Yes, sir. My impression is that the pocketbook was handed to Mr. Miller.

*Q.* What was found upon the person of this man, as far as you can recollect? *A.* There was a bunch of letters, besides the pocketbook, and that is the only thing definite that I remember. There were some other little things in his pocket, and perhaps a knife.

*Q.* Do you recollect a watch? *A.* Yes, sir.

*Q.* That is not such a little thing, is it? *A.* I had forgotten it.

*Q.* Do you recollect any money in any of the pockets? *A.* Yes, sir.

*Q.* You see that is not so small a thing either; how much money was there? *A.* I don't know; I didn't count it.

*Q.* Did you assist in the search? *A.* I assisted to take them out of the pockets.

*Q.* Did you find any marks of violence in the clothing, and, if so, state what they were? *A.* I found no evidences of violence. I have an impression that the pocket-book was projecting from the pocket, as though it might have been partially pulled out by the moving of the clothes.

*Q.* The pockets were not turned out, were they? *A.* No, sir.

*Q.* From what portion of the goods and chattels that you got from the person of this man did you discover his whereabouts and residence, so as to establish his identity? *A.* I did not establish it.

Q. Who did, if you recollect? A. The clerk in the drug store.

Q. Who was that—Mr. Braddock? A. Mr. Braddock; at least, I suppose he did it.

*Cross-examined.*

By Mr. Robeson—

Q. There were two wounds on the left temple, were there? A. Yes, sir.

Q. Near together? A. I should say half an inch apart.

Q. Separate wounds, apparently? A. Yes, sir.

Q. And another one on the crown of the head? A. Right on the top; the vertex.

Q. And the other back? A. Yes, sir.

Q. You said they were all contused wounds? A. Yes, sir.

Q. You mean both of them were bruises as by a heavy instrument rather than a sharp instrument? A. Yes, sir.

Q. Bruised rather than cut? A. Made by some blunt instrument.

Q. The one behind, you say, was a mere scalp wound? A. Yes, sir.

Q. And did not enter into the flesh or into the bone in any way? A. It did not enter upon the bone at all.

Q. Was that wound behind a wound which could have been made by falling on a stone? A. It might have been.

Q. If a person had fallen heavily on the back of his head on a stone or on a brick? A. Not on a flat surface. I do not think it could have been made.

Q. You think it was a definite blow? A. Yes, sir.

Q. Could you tell that merely from an examination of the scalp: was the crown broken? A. The crown was broken, yes, sir; and laid open an inch and a half, at least, in length.

Q. Then it was evidently a heavy wound? A. Yes, sir.

Q. Your language was that when you left him you did not think there was much of a chance of his living; was there any chance of his living? A. All we could say then was that men have lived through very severe injuries of the

skull. There was a possibility of his living; but not a probability.

*Q.* Which wounds were operated upon? *A.* The two upon the temple and the one upon the top of the head.

*Q.* The one behind did not affect the bone at all? *A.* No, sir.

*Q.* Might not that wound behind have been made by falling heavily upon the edge of a gas cover in a street pavement? *A.* It might; yes, sir.

*Q.* Suppose an iron gas-stop was raised a little over the edge of the pavement, and the man fell upon that heavily, what then? *A.* It might have been made by any blunt instrument, or by falling upon any blunt protuberance.

*Q.* Show me, with your finger, where the wounds were?  
*A.* (The witness does so.) One was just without the hair, and the other just within.

*Q.* Would they produce death? *A.* Either one might. The brain substance was protruding from the lower one.

Re-examined.

By Mr. R. S. Jenkins—

*Q.* How about this man; had he a thick or thin head of hair? *A.* Rather thick.

*Q.* Was there a great deal of blood in his hair? *A.* It was thoroughly matted all through.

*Q.* When you saw him, then, he had lost a great deal of blood? *A.* Yes, sir.

*Q.* So that he was suffering not only from the shock, but from exhaustion from the loss of blood, was he not?  
*A.* Yes, sir; he must have been.

*Q.* Was he a large man or small man? *A.* About ordinary height; medium height.

*Q.* Was he heavy? *A.* Rather thick-set.

William Braddock, sworn and examined.

By Mr. R. S. Jenkins—

*Q.* Where do you reside? *A.* 413 North Second Street.

*Q.* What is your business? *A.* Druggist.

Q. Where do you carry on your business? A. Fifth and Elm Streets.

Q. With whom? A. R. S. Justice.

Q. Were you in business in that locality on the twenty-third day of January last? A. I was.

Q. Do you recollect the evening of the twenty-third of January? A. I do.

Q. Sometime in the evening was there a wounded man brought to your establishment? A. There was.

Q. Who brought him? A. Mr. Fidell, Mr. Julier and Mr. Bowker.

Q. Did you know those gentlemen before? A. I did not.

Q. Neither of them? A. No, sir.

Q. About what time in the evening did they bring him? A. Ten minutes before seven.

Q. How do you know that? A. Mr. Fidell requested me to take the time, and I pulled out the watch and took the time—ten minutes before seven.

Q. What kind of time did your watch keep? A. Very good.

Q. You saw the man I suppose? A. I did.

Q. What did you do when he arrived there? A. I ordered him carried back to the back part of the store, and he was laid out on the floor and I applied ammonia to him. He seemed to be in an unconscious condition. I then ordered men to go in all directions for doctors.

Q. How did you apply the ammonia? A. To the nose.

Q. Inhaling? A. Yes, sir.

Q. What was the result of sending for the doctors? A. Doctor Howard was the first one that made his appearance, and I gave the case over to him. I told him there was a wounded man there and to take charge of him.

Q. Are you a regularly graduated doctor or only a pharmacist? A. Only a pharmacist.

Q. How long did the wounded man remain in your establishment? A. From ten minutes to seven to ten minutes before twelve.

Q. Did he rally or recover? A. He seemed to rally a little.

Q. Under your treatment or under the doctor's? A. Under the doctor's—under my treatment first. In the first place, after he arrived there, they thought he was dead, and I told them I thought I could restore him by applying ammonia, and I applied ammonia and it seemed to bring him to.

Q. Did you stimulate him at all until the doctor came? A. I did not.

Q. Was he sensible at all? A. He was not.

Q. Insensible all the time he stayed at your place? A. He was.

Q. Were you present when he was searched to establish his identity? A. I was.

Q. Be kind enough to detail what was found on his person? A. There was an evening paper published in Philadelphia—I cannot state whether it was the *Bulletin* or *Telegraph*—and a large pocketbook, which was given to me to open and see whether I could find out his name. I found out his name was Armstrong.

Q. From what did you find that? A. From a letter directed to him inside. Then Officer Miller put in his appearance and everything was transferred to him.

Q. What else was found upon his person? A. A watch, chain and a small pocketbook, if I remember rightly.

Q. And a large book beside? A. Yes, sir.

Q. Any money? A. Yes, sir; one five dollar bill and some small currency, I think.

Q. What became of the man; did he remain at your place? A. He was taken from our place and taken across the river.

Q. Did you assist in removing him? A. No, sir; I did not.

*Cross-examined.*

By Mr. Robeson—

Q. You noted the time when he was brought there?

A. Yes, sir.

Q. By the clock? A. By my watch.

*Q.* And what was it exactly? *A.* Ten minutes before seven.

PETER KEEN, sworn and examined.

By Mr. R. S. Jenkins—

*Q.* Where do you reside? *A.* I reside at 327 Mickle Street at the present.

*Q.* What is your business? *A.* I am keeping a saloon at the present time under the Opera House.

*Q.* Do you recollect the evening of the 23d of January last? *A.* I do.

*Q.* Where did you live then? *A.* 628 Cedar Street.

*Q.* What was your business then? *A.* Night watchman.

*Q.* Do you recollect, upon that evening, being at Mr. Justice's drug store? *A.* I do.

*Q.* What time did you go there? *A.* It was a little after seven o'clock.

*Q.* Do you recollect how much after seven o'clock it was? *A.* Not positively.

*Q.* What did you find there when you got there? *A.* I found there was a man hurt.

*Q.* Were you present when his identity was established, and they found out who he probably was? *A.* Only by a postal card in his pocket.

*Q.* You were present when they found that out? *A.* Yes, sir.

*Q.* Who discovered that—do you recollect? *A.* No, sir.

*Q.* From what you saw upon the postal card, did you go over to town? *A.* I was sent by Officer Miller.

*Q.* You found the family, did you? *A.* I did.

*Q.* And came back? *A.* Yes, sir.

*Q.* What time did you get back? *A.* I do not know the time I came back; but the time of going over I do. I was at Mr. Armstrong's residence at ten minutes before nine.

*Q.* What time did you leave to go over? *A.* I do not know.

Q. What ferry did you take? A. Federal Street—no, sir, Market Street.

Q. Was it the seven o'clock boat, or the half-past seven o'clock boat, or the eight o'clock boat? A. I do not know. I cannot tell you.

Q. With whom did you come over here, if with anybody? A. Mr. Armstrong's son and Mrs. Armstrong's brother, I believe, were the two.

Q. What did you come over in? A. In a hack; we hired a hack.

Q. I suppose you went to the drug-store? A. Yes, sir.

Q. Did you find Mr. Armstrong there? A. I found the one who was over here.

Q. Did these people identify him in your presence? A. Yes, sir.

Q. What was done with him then? He was then attended to by the doctor.

Q. What doctor? A. The doctor that was just on the stand; and then he was given a mouthful of brandy, and he groaned, and I helped carry him into the wagon.

Q. Did you drive over with him? A. No, sir.

Q. Whose wagon was it? A. I believe it was a grocer's wagon from Third Street. I forget the name.

Q. Who drove it over—do you know? A. No, sir.

Q. Did you know whose wagon it was? A. I cannot tell the name that was on the wagon.

Q. Did you assist to fix the wagon for the body? A. No, sir.

Q. Was it Pratt's wagon? A. It was Pratt's wagon, I believe, as nearly as I can tell.

Q. Is that all you know about it? A. Yes, sir.

*Cross-examined.*

By Mr Robeson—

Q. Did anybody go with you when you went over? A. No, sir.

Q. You went alone? A. Yes, sir.

Q. Where did Mr. Armstrong live? A. In Seven-

teenth Street, the third door above Brown; I do not know the number exactly.

*Q.* How did you go, by wagon or cars? *A.* I went on foot to the ferry and got in a Market Street car and rode to Sixteenth Street, and up Sixteenth to Brown.

*Re-examined.*

By Mr. R. S. Jenkins.

*Q.* Do you know what time you arrived over the river?  
*A.* I was at Mr. Armstrong's house at ten minutes before nine o'clock. I pulled out my watch and looked then.

*Q.* You did not look, when you landed over here, what time it was? *A.* No, sir.

*Q.* You took the cars at the foot of Market Street, did you? *A.* Yes, sir; at Front Street.

*Q.* And rode up to Sixteenth and took an exchange ticket, and rode to where? *A.* To Brown.

*Q.* Then walked up Brown to Seventeenth? *A.* Yes, sir.

*Q.* And down Seventeenth to Mr. Armstrong's? *A.* Yes, sir.

*Q.* How long did it occupy you for your car ride? *A.* I don't exactly know that. I stood a few minutes on the corner of Sixteenth and Market waiting for another car, and I cannot tell you now about the exact time.

By Mr. Thompson.

*Q.* Did it take you three-quarters of an hour to make the trip from the ferry to Armstrong's house? *A.* Yes, sir; I should think it would, and a little more than that.

JOHN H. MILLER, sworn and examined.

By Mr. R. S. Jenkins:

*Q.* Where do you live? *A.* No. 42 North Fifth Street, Camden.

*Q.* What is your business? *A.* Police officer.

*Q.* Were you a policeman on the 23d day of January last? *A.* Yes, sir.

*Q.* What is your beat? *A.* I have from the east side of Fourth to the west side of Sixth; and from Arch Street to State, Second ward.

*Q.* Is Mr. Justice's drug store in your beat? *A.* Yes, sir.

*Q.* Do you recollect your attention being called, on the 23d day of January last, to a wounded man who was there at that drug store? *A.* I do.

*Q.* About what time was it so called? *A.* It was in the neighborhood of half-past seven.

*Q.* Who called your attention to him? *A.* I went in the drug store, and Mr. Justice told me "There is a case back there for you."

*Q.* What did you do? *A.* I went back and seen the man lying on the floor, and immediately asked if any one knew him, and they said no. I put my hand in his pocket and pulled out a book and it was full of papers. I looked over it and found a postal card and some letters, open letters, and found out his name and residence and place of business. I then asked Mr. Keen if he would go over to Philadelphia and notify his folks, and he said he would. I also asked another party to go and notify the Mayor, and he did.

*Q.* What else did you find on the person of this man? *A.* I then found another book, which was used as a pocket-book, that is, for money I suppose, and some papers; and it had a five-dollar bill in it, and I took that five-dollar bill—

*Q.* No matter about that; what did you find on his person? *A.* I then found a watch and some mouthpieces of instruments, in his pockets loose, also some small change,— I forget the amount. I took them, and I took the gold studs out of his shirt, and took all that I could find about him, and wrapped them up in paper, in bundles, and when his son, Frank Armstrong, came, I delivered them to him.

*Q.* Did you send over for his family? *A.* Yes, sir.

*Q.* Were you present when they came? *A.* Yes, sir.

*Q.* Did you see him sent home? *A.* Yes, sir.

*Q.* Did you go with him? *A.* No, sir.

*Q.* The doctor went? *A.* Yes, sir.

*Q.* You found all these articles upon his person? *A.* Yes, sir.

*Q.* Was there evidence in his clothing of his body hav-

ing been rifled? *A.* There did not appear to me as though there had been.

*Q.* Where did you find the pocketbook? *A.* I found one pocketbook in each side, I think, of his vest inside.

*Q.* Where did you find the money? *A.* It was loose in his right-hand pants pocket.

*Q.* Where did you find the watch? *A.* The watch was in his vest pocket.

*Q.* And the five-dollar bill? *A.* The five-dollar bill was in his pocketbook

*Q.* Where did you find the postal cards? *A.* Inside of these books; I could not say whether it was a pocketbook or other memorandum book.

No cross-examination.

ERWIN H. RITTER, sworn and examined.

By Mr. Wilson H. Jenkins.

*Q.* Where do you reside? *A.* 1232 Girard Avenue.

*Q.* Did you know Mr. John M. Armstrong? *A.* I did.

*Q.* Do you remember the night of the 23d of January last? *A.* I do.

*Q.* Where were you that night? *A.* I believe I was on Twelfth Street, below Girard Avenue.

*Q.* Were you at Mr. Armstrong's? *A.* After I left home and heard the news I went over there to Mr. Armstrong's house.

*Q.* Heard what news? *A.* The news that Mr. Armstrong was hurt in Camden.

*Q.* What time did you go to his house? *A.* I suppose about half-past ten, probably before that.

*Q.* Were you there when he was brought over? *A.* I was.

*Q.* Do you know what time that was? *A.* About one o'clock.

*Q.* Do you know who brought him over? *A.* I do not know who brought him over. I do not know the expressman. I know the party who was with him, the doctor and his son.

*Q.* Was his son Frank with him? *A.* Yes, sir.

Q. Did you assist to take him in the house? A. Yes, sir; I helped to carry him in.

Q. Did you stay there that night? A. I did all night.

Q. Did you stay up with him? A. Part of the time.

Q. When did you leave? A. I left about eight o'clock the next morning.

Q. When did you return again? A. I am not positive, I think I returned the next evening; I think not before. I am not positive whether I was over there the next evening or not.

Q. Were you there at the time the *post-mortem* was made? A. I was in the house; yes, sir.

Q. Who made it? A. I could not tell you that.

Q. Were you called upon to identify the body at that time? A. I was.

Q. Did you identify it? A. I did.

Q. As whose body? A. John M. Armstrong's.

Q. The person who was brought over from Camden that night? A. Yes, sir.

Q. Who was present at the time? A. In the room Mr. Armstrong was in?

Q. Yes, sir. A. The coroner and the doctor, I suppose, and Mr. Woodruff and myself.

Cross-examined.

By Mr. Thompson.

Q. It was about one o'clock at night or in the morning that you were at Mr. Armstrong's house? A. Yes; about one o'clock.

Q. He was alive then, was he? A. Yes, sir.

Q. When was it that you were at the Coroner's inquest or examination? A. I do not know what morning the Coroner was there.

Q. Do you know how long he was there? A. I could not tell you that.

Q. You knew Mr. Armstrong very well, I suppose? A. Yes, sir.

Q. There was no question that he was the Mr. Armstrong that you knew? A. No, sir.

GEORGE W. LEWIS, sworn and examined.

By Mr. Wilson H. Jenkins.

Q. Where do you reside? A. 1613 Swain Street, Philadelphia.

Q. Did you know John M. Armstrong? A. I did.

Q. Do you remember the night of the twenty-third of January last? A. I do.

Q. Did you see him that night? A. I saw him when he was brought home.

Q. Were you at his house? A. I went there after I heard the news.

Q. Then you were there at the time he was brought home? A. Yes, sir.

Q. Do you know what time that was? A. Somewhere near one o'clock; about fifteen minutes of one o'clock on the morning of the twenty-fourth.

Q. Was his son with him? A. Yes, sir.

Q. Did you know any of the other parties that were with him? A. Mr. Charles Lorrilliere was with him. He was his brother-in-law.

Q. Did you assist to take him in the house? A. I did.

Q. Did you stay there that night? A. I stayed there during the night.

Q. Where was he hurt? A. He was hurt here (the left temple) and on the top of the head.

Q. Was he conscious? A. No, sir; I don't think he was.

*Cross examined.*

By Mr. Thompson.

Q. You pointed to *here* (left temple) as one of the hurts? A. Yes, sir; somewhat to the side.

Q. Was it on the left side? Q. I did not take particular notice.

Q. How near were the two wounds apart on the left side? A. I did not take much care of the hurt.

Q. You saw the two wounds on the left side of the forehead? A. One was about there somewheres and the other

was on the top of the head. He was laying down, and I did not care to look at him.

*Q.* Did you say you saw two wounds? *A.* There were two there and one on the top of the head. I did not count them, and do not know how many there were.

*Q.* What kind was the front wound; did you notice that? *A.* No, sir; after they took the bandage off I left the room; I did not want to stay.

*Q.* You are not able to say what kind of a wound it was? *A.* No, sir; I could not tell you.

*Q.* And he was alive at that time? *A.* Yes, sir.

CHARLES M. THOMAS, M. D., sworn and examined.

By Mr. R. S. Jenkins.

*Q.* Where do you reside? *A.* 1319 Arch Street, Philadelphia.

*Q.* You are a doctor of medicine? *A.* Yes, sir.

*Q.* Of what school? *A.* Homœopathic.

*Q.* How long have you been a doctor of medicine? *A.* Since 1870.

*Q.* In active practice all that time? *A.* A good part of the time. About two years or more I was studying abroad, in Germany and Scotland.

*Q.* Do you know a family residing in Philadelphia by the name of Armstrong, of whom John M. Armstrong is the head? *A.* Yes, sir.

*Q.* Were you called upon, professionally, to attend John M. Armstrong at his house recently? *A.* I was.

*Q.* When? *A.* On the twenty-third of January.

*Q.* What time of the twenty-third? *A.* I believe it was the twenty-third—no, it was the morning of the twenty-fourth.

*Q.* What time in the morning? *A.* About two o'clock, I suppose. I did not look at the time; but I believe it was about that time.

*Q.* Where did Mr. Armstrong live at that time? *A.* On Seventeenth Street, above Master.

*Q.* You went there, did you? *A.* Yes, sir.

*Q.* Who did you see when you got there? *A.* When I got there I saw Mr. Armstrong's son and Dr. Howard, of Camden. I think nobody else. There may have been a lady present, but I am not certain; I think there was.

*Q.* Do you make any particular branch of your profession a specialty? *A.* Yes, sir.

*Q.* What? *A.* Surgery of the eye and ear.

*Q.* You met Dr. Howard, you say, of Camden? *A.* Yes, sir.

*Q.* And who else? *A.* And Mr. Armstrong's son, and possibly a lady—I am not sure of that—a member of the family.

*Q.* Did you find Mr. Armstrong there too? *A.* Yes, sir.

*Q.* What was his condition? *A.* When I saw him first he was lying upon the bed insensible, and his physical condition was about as follows: His respiration was somewhat labored, and running at about twenty odd, twenty-four or twenty-five. His pulse was about sixty to the minute; his pupils were somewhat contracted, but mobile. There was no paralysis, but occasional twitching of both the upper and lower extremities, with occasional moanings. The region of the left eye was blackened, somewhat swollen, and, on examination, I found in the upper left temporal region a wound about an inch and a quarter in length, running nearly vertically, and, in the upper left frontal region, another wound running obliquely downward toward the first, reaching up into the hair. Through both of these wounds I could feel bare bone, broken. There was a third wound at the top of the head, a little back, toward the centre, crushed, and through that I could feel rough bone, as though a portion of the outer layer of the skull had been removed. Then there was a fourth wound at the back of the head, quite far back, which I believe had been sutured, but that was a wound of trifling extent, and I made no further examination of that.

*Q.* Do you recollect which eye the wound was over?  
*A.* Over the left eye.

*Q.* Did that amount to a fracture? *A.* There was a fracture beneath it.

*Q.* Was there a fracture beneath the wound on the centre of the top of the head? *A.* Yes, sir.

*Q.* And a fracture beneath that over the left eye? *A.* Yes, sir.

*Q.* And that on the back of the head? *A.* I think there was no fracture beneath the fourth wound at the back of the head. I did not examine through that wound. It was sewed up.

*Q.* Did you make that examination immediately that evening when you got there? *A.* As soon as I saw him.

*Q.* What was your treatment after making that examination? *A.* After examining him carefully the doctor and myself watched with him a while, watching the symptoms, and, as the doctor told me, he was considerably better; his respiration and pulse and general condition seemed to be somewhat better, and, as he had made some effort to speak and as he seemed to be somewhat better after I had been there for a while, we decided that it would be policy to let the case go until the morning, and I could then have time to go back and get my trepanning instruments and make a further examination.

*Q.* And you left the case in that way until the morning, did you? *A.* Yes, sir; I was going to say I appointed about seven o'clock to meet Dr. Morgan there in consultation.

*Q.* About seven o'clock did you go there? *A.* Yes, sir; I went home and got my instruments together and sent one of my students to the house to watch with Dr. Howard, and sent word to Dr. Morgan to meet me there at seven o'clock, and, as the condition of Mr. Armstrong was not so good as when we left, I proceeded to the operation for removing the bones.

*Q.* Was Mr. Armstrong conscious at the time? *A.* No, sir.

*Q.* What was his condition before you performed the operation? *A.* His pulse was quicker, there was more jerking of the extremities; there was more irritability of the

brain evidently. His respirations were more rapid, and those symptoms induced us to proceed to the removal of the bones.

*Q.* Did you consider him to be in a very bad condition?

*A.* Yes, sir; very.

*Q.* Where did you remove the bones? *A.* We removed the bones from the three anterior wounds; from the one in the temple, the one in the forehead, over the eye, and the one at the top of the head.

*Q.* Were the bones all loose that you removed? *A.* Yes, sir.

*Q.* Perfectly loose? *A.* Not perfectly loose; some of them were slightly attached.

*Q.* Had you any trouble in removing them? *A.* No, sir.

*Q.* How did you find these pieces of bone that you removed as to their condition in the brain? *A.* Some of them had penetrated the membranes of the brain and had lacerated them; a portion of the brain matter had oozed out, I think, from the temporal wound mainly.

*Q.* What was the result of your operation? *A.* After the operation he seemed to be somewhat better. There was not much difference, but he seemed to be somewhat better; his pulse was about eighty-odd. I found the respiration somewhat easier, although quite rapid, I think not far from thirty; and the temperature—I think I took that for the first time—was 101°. There was less moaning and less of jerking.

*Q.* Did you see him again? *A.* Yes, sir.

*Q.* When? *A.* About the middle of the day, I think.

*Q.* How did you find him then? *A.* In the same condition as before the operation; somewhat better than before, but still in a very precarious condition.

*Q.* Did you see it again? *A.* Yes, sir.

*Q.* When? *A.* I saw him in the evening at eleven o'clock. I was to have met the Mayor of Camden there at ten o'clock, but I got there a little later—no, I beg pardon; I saw him before that, in the afternoon, about five o'clock, when I was to have met Dr. Morgan there at half-past five in consultation, and about five o'clock, or a few minutes before, a messenger came to the office saying Mr. Armstrong

was bleeding, and, as I was about getting into my carriage, I drove straight there and found him there with blood beneath the dressing, but in about the same condition as I left him. I then saw him with the doctor, and then I saw him again at eleven o'clock at night.

*Q.* Who dressed the wounds after the operation? *A.* I did.

*Q.* And you fixed the bandages? *A.* Yes, sir.

*Q.* When you were sent for, by reason of the wounds being bleeding, how did you find the bandages? *A.* In the same position as they were placed when dressing the wounds. I ought to now say, in answer to your question about dressing the wound, that my assistant, Mr. Price, fixed the bandages, but I had the supervision of the whole thing.

*Q.* When you went there, at eleven o'clock, how was he then? *A.* He was a little better, if anything; his temperature had risen some and his pulse was very rapid, but still he was a little better.

*Q.* Did you see him again that night? *A.* No, sir; one of my students came to my office in the morning and said he had died a little before then.

*Q.* Who was that student? *A.* Mr. Price.

*Q.* Where does he live? *A.* 1402 South Penn Square.

*Q.* What is his first name? *A.* Ferris T. Price.

*Q.* Will you be kind enough to describe the wounds?  
*A.* There is very little to be said outside of what I have said. The temporal wound was about an inch and a quarter long, and running directly through; a kind of a crushed wound, very nearly straight; the second wound was in the frontal region, and running from about the line of the hair, backward, obliquely, from the first wound; that was of the same length, I think, and of the same character, and, connecting both, were broken bones; the upper wound was still more crushed, I think, than the front, and running across the centre of the top of the head, a little back of the centre, and, through that I could feel broken bones or rough bones. The fourth wound was a straight one, and, I think, had been

sutured; I am not certain about that, but at any rate that was a trifling matter compared with the others.

*Q.* Could either of those wounds have been inflicted by an instrument like these? (Hatchet and hammer shown witness.) *A.* Yes, sir.

*Q.* Either or all of them? *A.* Yes, sir.

*Q.* Were the wounds that you saw, necessarily, mortal wounds? *A.* Well, I can only say, in answer to that, that people have survived wounds of that character, but they are what ordinarily are fatal wounds. The brain had been seriously damaged and part of the brain had been lost.

*Q.* Then the ordinary result from such wounds would be death, would it? *A.* Yes, sir.

*Q.* Are you able to say, from your knowledge derived as attending him as a physician, from what did John M. Armstrong die? *A.* He died from the shock of the bruise, laceration, the result of the injuries he received.

*Q.* The result of the injuries you have enumerated? *A.* Yes, sir.

*Q.* During the forty-eight hours that you were his physician will you be kind enough to detail the treatment other than that you have detailed? *A.* He was kept at perfect rest, quiet, and cold cloths wet with arnica kept about his head, and hot bottles of water to his extremities. At the same time I administered arnica internally.

*Q.* Did you give him any stimulants of any sort? *A.* Yes, sir; occasionally a little brandy and a little milk or cream, I believe.

*Cross-examined.*

By Mr. Thompson.

*Q.* Will you please point out on your forehead where the lower wound was? *A.* The lower wound was through the left temporal region, running through the anterior vertically nearly down to about the level of the eye. That I cannot give exactly, as the region is not very large.

*Q.* Was that a contused wound? *A.* Yes, sir.

*Q.* Where was the next? *A.* In the frontal region, running down obliquely toward the first.

*Q.* Commencing a little higher above the first? *A.* Yes, sir; and running downward obliquely not to the first, so that there was a sound integument between the two wounds.

*Q.* Was that a contused wound also? *A.* Yes, sir.

*Q.* Where was the other wound you have spoken of?  
*A.* That was back to the centre in the middle line.

*Q.* What character of a wound was that? *A.* That was of the same character.

*Q.* That wound was at the top of the head? *A.* Yes, sir; in the middle line and a little back of the centre, and a little, perhaps, to the left of the middle line.

*Q.* Was that a distinct wound from the other two you have mentioned? *A.* Yes, sir.

*Q.* Entirely so? *A.* Yes, sir; separated by the distance between the frontal wound on the upper part of the forehead, and the other wound I have given you—three inches of sound part.

*Q.* Having no connection with the other? *A.* No, sir.

*Q.* Where was the last? *A.* Low down in the back of the head.

*Q.* They were all, then, contused wounds? *A.* Yes, sir.

*Q.* Could those temporal wounds have been made with the butt end of a hammer? *A.* Yes, sir.

*Q.* With that instrument (hammer shown witness)?  
*A.* Yes, sir.

*Q.* Was the motion of the eye voluntary on the part of the injured man? *A.* No, sir.

*Q.* Did he open his eyes, or were his eyes open whilst you were there? *A.* I think the eyes did open once or twice, but they were most of the time closed; I do not remember positively.

*Q.* That motion of the opening of the eyes was the only one? *A.* Yes, sir.

*Q.* Not aided by you? *A.* Well, I did open his eyes a number of times, but he raised the lids himself; I think it was unconsciously.

*Q.* It was done as a fact? *A.* I believe it was; yes.

Q. This last wound at the back of the head, you say, was sutured? A. I think it was sewed.

Q. Was it to any extent? A. No, sir.

Q. Which, if any, of the wounds, at the time you first saw him, was bleeding? A. I think they were all bleeding, sometimes very slightly.

Q. Which was the most profuse? A. That I cannot tell you. There was very little bleeding at the time I first saw him.

Q. At that time did you consider them mortal wounds? A. The front wound appeared to me the more serious.

Q. Was that the front? A. Yes, sir.

Q. And to the others you did not attach much importance as mortal wounds? A. Yes, sir, I did; I did not attach much to the fourth, but to the third I did; I thought the two front wounds were the more serious.

Q. But either of those, in your opinion, might have produced death? A. Yes, sir; or the top, or the other end, either.

Q. What did the appearance of the wounds indicate, that they had been struck and in what position? A. The position of the striker?

Q. Yes, sir. A. The temporal and frontal wounds might have been made by a man standing in front of the victim and striking with his right hand.

Q. And the victim standing also? A. Yes, sir. For that matter he might have been lying.

Q. You do not know, of course? A. No, sir.

Q. You only suppose that the striker was standing in front of him? A. I say that he might have been there.

Q. You have no definite opinion on that at all? A. Oh, no, sir. I cannot have.

Q. I want to know from you whether you are able, as an expert, to say that the character of the wounds indicated the position of the striker? A. There was nothing in the wounds to indicate that.

Q. Whether it came from the top or whether it came

from a parallel line? *A.* No, sir; I mean in the two wounds in the frontal and temporal region.

*Q.* Do I understand you to say that there was no incised wound of a similar character? *A.* No, sir.

*Q.* Did you say that there was an incised wound of a similar character? *A.* I did not say so.

*Q.* About what height was Mr. Armstrong, as far as you are able to judge? *A.* He was about the medium height; not above. I should say he was a short man.

*Q.* Was he a heavily-built man? *A.* Rather thick set, perhaps; not very heavily-built.

*Q.* Might the wounds at the back of the head have been occasioned by his falling upon a projection in the pavement? *A.* It might; yes, sir.

*Q.* Might the wound at the back of the head have been occasioned by an instrument thrown and striking him, or by a direct stroke—which would you say? *A.* I cannot tell.

*Q.* Could you say whether the temporal wounds were occasioned by an instrument thrown or not? *A.* No, sir, I cannot.

*Q.* How long did you attend Mr. Armstrong in Philadelphia? *A.* I attended him until his death.

*Q.* Whom did you say were the consulting physicians with you, or associates? *A.* Dr. Howard, of Camden, whom we met first, and Dr. John C. Morgan, of Philadelphia.

*Q.* Was there any attempt at articulation on the part of Mr. Armstrong while you attended him? *A.* No, sir; I do not think there was; there were moanings; there was a motion of the lips, but no attempts at distinct articulation.

*Q.* Any whisperings? *A.* I think not; not that I remember.

*Q.* You did not test that? *A.* No, sir.

*Q.* What was his condition whilst you attended him; was his state a tranquil state? *A.* No, sir; he was unconscious, but he was not quiet; he was twitching, his body was not quiet.

*Q.* Was there tossing of the body to and fro? *A.*

Well, no tossing of the whole body, but jerking of the extremities.

*Q.* Did you notice any other wounds or bruises or abrasions of the body except those you have named? *A.* No, sir; nothing of any importance.

*Q.* Nothing on the hand? *A.* I think there was a bruise under the hand, on the wrist; I will not be sure about that; but it was of so trifling a character, if there was anything there, that I never made a note of it.

*Q.* Do you remember which hand? *A.* That I do not remember. I would not be positive about the presence of any bruises at all; but it seems to me that there was a trifling bruise on the extremities—one of them, but I do not remember which. I will not be positive about it.

*Q.* On the outer or the inner side of the hand? *A.* That I do not remember; I am not sure whether there was one there or not.

By Mr. Robeson.

*Q.* Were all the wounds apparently made by the same instrument, or one of like character? *A.* Yes, sir; they might have been; they might, all of them, have been made by the same instrument.

*Q.* Or one of like character? *A.* Yes, sir.

By Mr. R. S. Jenkins.

*Q.* Might they not, all of them, have been made with a different blunt instrument, too? *A.* Yes, sir; that is, instruments that were not very much larger or smaller.

*Q.* For instance, an instrument like this? (Hatchet shown witness.) *A.* Yes, sir.

By Mr. Thompson.

*Q.* In answer to a question of Mr. Jenkins, do you mean to say that you could determine, from the character of the wounds, which of these instruments made them? (Referring to the hatchet and hammer.) *A.* No, sir.

*Q.* From the appearance of the butts? *A.* No, sir.

*Q.* I mean from the character of the mark? *A.* No; it would be utterly impossible.

By Mr. R. S. Jenkins.

*Q.* Could the wounds, of which you have spoken, in

the back of the head, have been made by his falling upon the extreme back of his head, and not the one on the top of the back of the head? *A.* No, sir.

By Mr. Robeson.

*Q.* Show me exactly where the fourth wound was? *A.* The fourth wound was just about there (pointing to the centre of the back of Mr. Robeson's head.)

*Q.* Right where a man would strike his head in falling?  
*A.* Yes, sir.

By Mr. R. S. Jenkins.

*Q.* When you say that it would, of course, depend upon where he struck his head? *A.* If he fell directly backwards.

HENRY C. CHAPMAN, M. D., affirmed and examined.

By Mr. R. S. Jenkins.

*Q.* You are a doctor of medicine? *A.* I am.

*Q.* How long has it been since you graduated? *A.* I graduated in 1867, it is my impression; either 1867 or 1868; I think 1868.

*Q.* From what institution? *A.* The University of Pennsylvania.

*Q.* Did you study abroad afterward? *A.* Yes, sir, three years.

*Q.* Where? *A.* Paris, Vienna, Berlin, and London.

*Q.* Have you held an official position in the city of Philadelphia for a number of years? *A.* I have been the Coroner's physician in Philadelphia, off and on, for three years; eighteen months at a time and six months at a time.

*Q.* Have you adopted any portion of your profession as a specialty? *A.* Well, I may say I have given more attention to anatomy, physiology, and surgery, probably, than any other.

*Q.* Are you, at present, the Coroner's physician of the city of Philadelphia? *A.* I am.

*Q.* Were you the Coroner's physician of the city of Philadelphia on or about the twenty-third day of January last? *A.* I was.

*Q.* In the performance of your official duties, were you required to see the body of a man named John M. Arm-

strong, and make an investigation, an examination? A. I was.

Q. Do you recollect when? A. January twenty-fifth, of this year.

Q. Where did you find the body? A. At 804 North Seventeenth Street, second story, front room.

Q. Was it identified before you as the body of John M. Armstrong? A. Erwin H. Ritter, 1232 Girard Avenue, and David S. Woodruff, 1535 Lombard Street, stated that the deceased was John M. Armstrong; they identified the body as that of John M. Armstrong.

Mr. Robeson—I desire to enter an objection to so much of this testimony as tends to prove the death of John M. Armstrong in the city of Philadelphia, in the State of Pennsylvania.

(Objection overruled; the ruling of the Court excepted to by counsel for Defendant and exception allowed.)

By Mr. R. S. Jenkins.—

Q. Describe, in your own way, the condition in which you found the body, and then we will go into the details afterward? A. I should like to preface, before beginning, and it is not worth while to note it, simply that a gentleman has preceded me in giving testimony, and I understand other physicians are to follow me, and, of course, what I say is simply what I saw during the *post-mortem*. I know nothing of what they did or what was done; so, if my evidence conflicts with theirs, I do not wish it to be understood that I am making any reflections upon their statements at all. I am only stating what I found. Of course, what they saw may have been different from what I saw, because they may have seen it earlier or later, and of that I know nothing. The man was said to be forty years of age by the people who identified him. His height was five feet eight inches. I noticed a bruise over the left eye; there was an incised wound an inch long and one and one-half inches above the left ear; that is, it was exactly one and one-half inches above the top of the ear. This wound was about an inch long, as near as I could measure it with a tape measure. There was a similar wound—that is, an incised wound—an inch long

and one inch above the left eyebrow. There then was a third wound half way between the ears; that is, on a line drawn right through the top of the head from both of the tops of the ears, right in the middle of the head. In the middle of that line there was a third wound, and that was an inch long; and it was the same character of wound as the two others. There was a fourth wound back of this, and it was five inches from the left ear; that is, on a line directly drawn from the left ear, five inches from the left ear. It was a little to the right of the medial line of the head. It was about half an inch long, as near as I could measure it with a tape measure. Those were all the wounds I saw on the body.

*Q.* You were examining his head? *A.* I was examining his scalp; that is, what you could see by an ocular view, without making any cutting.

*Q.* This was the view you made? *A.* I measured them; all these wounds were measured as I have given them here. On removing the scalp I found some clotted blood underneath it. I noticed that there were two openings in the skull; one of these openings was directly in the center of the vault of the skull, and that was an inch and a half in diameter; that is, the opening was an inch and a half in diameter. There was a second opening right over the ear—what is called the temporal region, or, as we express it in common talk, right over the ear. That hole, or opening, was  $2\frac{1}{2}$  inches long; that is, a perfectly open hole in the skull. That was  $2\frac{1}{2}$  inches long. I found that the skull was fractured and the fracture involved the bone over the left eye, which is called the orbital plate—the left eye. This fracture also extended through the whole of this side of the skull, which is called the parietal bone. The skull was also split in two directions. The two splits crossed each other; it was not fractured entirely. It was just split; that expresses it. It was so split that it required the greatest care not to separate the skull into the two halves. The brain itself was torn to pieces and disintegrated down almost to the base of the brain. The organs of the man's chest, that is, his heart and lungs, intestines, liver, spleen and so on, were all healthy.

*Q.* Where was this bruise of which you have spoken?

*A.* Over the left eye.

*Q.* You say the skull was fractured; was the bruise over the fracture? *A.* The bruise on the left eye was directly over the fracture of that part of the skull which involved this bony plate over the left eye.

*Q.* How far from that bruise was the straight wound in the temporal region? *A.* It would differ in different individuals. I gave the measurement exactly where it was on that man's skull, and it was exactly one and a half inches from his left ear—that is, the bruise was over the left eye.

*Q.* What I want to know is, whether there were two distinct blows required to give those wounds? *A.* I do not say that there were two distinct blows; I say that there were two distinct wounds.

*Q.* In addition to this wound further back, I believe you mentioned another wound? *A.* Above the ear; it was the same character as the wound above the eye. The bruise of the eye was one thing, and the wound above the eye was another thing. I first stated that there was a well-marked bruise over the left eye; that was a bruise—a bruise, you know, is simply a black eye—and then there was an incised wound over the eyebrow, which was a different thing from the bruise. One was a bruise, and the other was an incised wound or a cut wound.

*Q.* Could the wound above the ear, and the wound behind the ear of which you have spoken, have been made by the same blow? *A.* I do not think it is possible; it is not impossible, but it is hardly possible.

*Q.* I mean all the wounds, including the one on the top of the head? *A.* I do not think it hardly possible that all those wounds could have been made by the same blow.

*Q.* What character of instrument would produce this wound? *A.* It might have been done in many ways; a man falling out of a second-story window and striking his head on the curbstone might produce those wounds.

*Q.* Could a hammer like this, or a hatchet like this, have produced those wounds? (Hatchet and hammer shown witness.) *A.* Yes, sir.

Q. Did you make an examination of these weapons so as to form an opinion as to whether there was blood on them or not—I do not ask you what kind of blood it was? A. My impression is that at the first hearing at the Coroner's office something was shown to me, and my opinion was asked, but I gave no opinion positively. I simply stated, in a general way, what I thought. I did not commit myself in any way to anything about those instruments that were shown that day.

Q. From the view you made during the *post-mortem* examination, are you able to express an opinion, as a physician, as to what caused the death of John M. Armstrong? A. The cause of death was undoubtedly the fracturing of the skull.

*Cross-examined.*

By Mr. Thompson.

Q. Do you remember what interval of time elapsed between the examination by Dr. Thomas and yourself? A. Do you mean the *post-mortem*?

Q. Yes, sir? A. Dr. Thomas was present at the *post-mortem* examination.

Q. Do you know what interval of time elapsed between the operation performed by him and the *post-mortem* examination? A. No, sir; I do not.

Q. The two large holes in the skull which you have spoken of were not the only holes on the skull that were produced by the blows, but were occasioned by the removal of the bone, were they not? A. Dr. Thomas said that he removed certain pieces of bone, and those pieces of bone no doubt fitted the holes that I saw in the skull.

Q. But those two pieces of bone were absent? A. I have them in my possession; they were out of the skull when I made the *post-mortem*; I only state my *post-mortem*—exactly what I saw in the *post-mortem*; he handed me certain pieces of bone which he said he had removed from the skull.

Q. You did not see the operation? A. I did not see him perform any operation and only know, from what he said, that he had performed an operation.

*Q.* But it must have been performed? *A.* Yes, sir, it must have been performed; it would not be natural for a man to have had two such openings.

*Q.* Would the use of this instrument, and blows from that (hammer shown witness), have produced the wounds that you saw upon that skull? *A.* Yes, sir; that would have done it.

*Q.* The use of the butt end of the instrument? *A.* I do not say it could not have been done by the other end.

*Q.* But that could have done it? *A.* Yes, sir.

*Q.* I perceive that you and Dr. Thomas differ as to the character of the wounds. He says they were contused and you say they were incised; is there a difference as to the expression? *A.* No, sir; I think the difference is due probably to the different times in which the examinations were made. I do not think there was any radical difference. What I mean to say by an incised wound is that it looks to me like a cut, but, of course, the doctor, in doing what was necessary under the circumstances, may have converted what was a contused wound into an incised wound.

*Q.* Were either of those temporal wounds, in your opinion, mortal wounds? *A.* Well, any wound at all on the skull, even a scratch, may result in death, or a wound of very considerable magnitude may not be followed by death. It is not safe for a surgeon to give any opinion at all about a wound on the head. There is a case on record where an iron bar went right through a man's head and he lived for many years afterward, and there are other cases on record where the most simple scratch on the head, by being thrown from a wagon, has resulted in death in a short time. All that can be said is that any wound on the head is a very serious difficulty, and ought to be so considered.

*Q.* (Hammer shown witness.) At the Coroner's investigation, I do not know whether you remember that I handed you this instrument and asked you to say whether the marks upon it indicated blood marks, but I did, and I think you said you could not give an opinion? *A.* I do not know whether this was the instrument or not; I remember that two instruments were shown me.

Q. You said you could not give an opinion without a microscopical examination? A. Yes, sir.

Q. And you had made none then and have made none since? A. No, sir.

Q. And you said on that occasion, and probably meant to say to-day—and I will ascertain whether you have so said precisely or not—that you did not mean that it was a fractured skull, but a split skull, a well-defined split? A. I mean to say that if the skull had been taken apart roughly the skull would undoubtedly have split into two pieces. It was just hanging together; but still, as I saw it, it looked more like a split than a fracture. I had to describe it in that way.

Q. Did you make any examination of the remaining organs? A. Yes, sir; I said I examined the heart, lungs, intestines, liver, spleen, the various organs of the abdomen and chest, and found no disease.

Re-examined.

By Mr. R. S. Jenkins.

Q. Would an instrument like that (hatchet shown witness) have caused these wounds? A. Yes, sir.

Q. Was it not absolutely necessary for Dr. Thomas, in his operation, to make an incised wound? A. I have no doubt but that Dr. Thomas did whatever was proper; I could not answer such a question as that, because I did not see the person and I could not tell what ought to have been done; he might have done something that I would not have done, and *vice versa*; I could not say as to that.

Q. Could not this incised wound that you saw, have been done by Dr. Thomas, in performing the operation, which he testifies he did perform? A. I understand him to have said that he performed an operation and removed certain pieces of bone, that were lying loose where these two openings were; possibly he might have had to do some cutting; I could not say about that.

By Mr. Thompson.

Q. From the character of the wounds can you say—looking at the butt ends of these two instruments—which of the two instruments produced these wounds? A. No, sir; I cannot say.

CHARES M. THOMAS, M. D., recalled and examined.

By Mr. R. S. Jenkins.

*Q.* In performing the operation which you had, did you have to cut? *A.* Yes, sir.

*Q.* That would cause an incised wound, then—that cutting? *A.* Yes, sir; I was obliged to enlarge all three of the wounds—the two anterior and the one in the vertex.

By Mr. Robeson.

*Q.* Then it was you that converted the wound from a contused into an incised wound? *A.* After I had operated, it was of a mixed character, partially contused.

*Q.* It was a cut wound? *A.* Yes, sir; I had to cut where I put the knife in.

*Q.* This apparent bruise over the eyebrow, what was that? *A.* That might have been from a wound there, or extravasated blood from the other wounds.

*Q.* The skull was fractured, as Dr. Chapman says, in that place? *A.* Yes, sir; and the extravasated blood might have come from that fracture or from the wound either.

By Mr. R. S. Jenkins.

*Q.* It might have been extravasated blood from the fracture, or might have come from the wound itself? *A.* Yes, sir.

By Mr. Robeson:

*Q.* Was there a separate wound there? *A.* No. That is a frontal wound that I spoke of as being the first wound.

*Q.* Extravasated blood might have come from the frontal wound that you spoke of first? *A.* Yes, sir.

*Q.* You examined the man when he first came over there? *A.* Yes, sir.

*Q.* Was there a wound over the eyebrow? *A.* Yes, sir.

*Q.* Where? *A.* Obliquely across.

*Q.* That is the wound you have described? *A.* Yes, sir.

*Q.* That is one of the four wounds you have described? *A.* Yes, sir.

Q. And that is the one the doctor puts above the hair?  
A. No, sir; I described a second wound in the temporal region, and that wound I was obliged to enlarge backward to get at the wounds underneath.

Q. And it had got there because you had to enlarge backward? A. Yes, sir.

Q. I want to know now whether, on your first examination, you found two distinct wounds in the frontal region or three? A. Two.

Q. And two only? A. Two only.

Q. And that any prolongation of those wounds, running back behind the ear, or extending, came from your operation? A. Yes, sir.

Q. And that any extravasated blood that looked like a bruise came from what, in your opinion; what fracture; from the one wound or the two? A. From either wound, but probably from the anterior.

By Mr. R. S. Jenkins.

Q. Do not you say that there were four distinct wounds on the head? A. Yes, sir; when I first saw it.

Q. And that this bruise was a distinct wound from those four wounds that you saw over the eye? A. The bruise was around the front wound.

Q. When you speak of wounds you do not mean the bruise—that is a distinct thing from the four wounds that you are speaking of? A. By a bruise I mean a swelling, a discoloration, or the extravasated blood about one of the wounds, and probably caused by one of the wounds.

Q. But it is not positively caused by that? A. Not positive; no.

Q. So that you speak of four distinct wounds and a bruise? A. Yes, sir.

Q. And you think that that bruise might have resulted from the extravasated blood coming from the upper wound? A. Very probably.

Q. But not positively? A. Not positively, but probably.

By Mr. Robeson.

Q. You are the first doctor who was called, and you examined these wounds there? A. No, sir; I am not.

Q. I am speaking of you; the other one agreed with you? I want to know whether or not in the frontal region, when you examined and operated, and laid bare the skin and the skull there, were three distinct wounds or only two?

A. There were only two; there were two wounds there, one on the frontal region and one on the temporal, and, of course, there was swelling and bruising about each one of them, and particularly about the frontal wound. There was more bruising and more swelling and more extravasation of blood than about the other two, and by my operation, I converted the two wounds of the frontal region into one irregular one, which looked very much like two wounds.

HENRY C. CHAPMAN, M. D., recalled and examined.

By Mr. R. S. Jenkins.

Q. I want you to describe these wounds on the brow again, as to their number? A. I should like to say it is only a question of the way they are described. I agree essentially with what the doctor said; there were two wounds that I described, one on the forehead and the other in the hair. I also stated that the eye was bruised. But, of course, in making the *post-mortem* you see all these things, and you know all these things are taken into consideration. I was not asked in reference to that. If any gentleman had asked me if it was possible that the bruise of the eye was caused by the wound above the eye I would have stated that; but I was not asked that, and, of course, I said only what I saw. Of course, that bruise of the eye might have come from the wound over the eye or might have been occasioned before he received the wound. The man might have got a black eye half an hour before he got the wound. It is not impossible. I only stated what I saw—two wounds and a bruise. If the bruise of the eye was caused by the wound above the eye, then there would only be two, and if not, then there would be certainly three wounds, and not two wounds and a bruise.

Q. No one can say positively that that bruise came from the wound above the eye? A. No, sir; it might have come from the wound or have been caused by it.

By Mr. Robeson.

Q. You mean no one could say positively, at the time you saw it? A. No, sir.

Q. But, if a man, in dressing the wounds, had made it himself by an irregular cut, that might have caused it, might it not? A. Yes, sir; but the doctor did not make the wounds by an irregular cut.

Q. He said he joined them in one? A. Yes, sir; but that would not account for the bruise; the bruise would have been there before he cut.

By Mr. Thompson.

Q. The extravasated blood could have come from the wound? A. Yes, sir.

Q. A wound generally causes a bruise, does it not? A. Yes, sir; of course.

Judge Woodhull—I do not see any disagreement between the two physicians.

By Mr. Robeson.—

Q. The wound on the top of the head was also a mortal wound, you think? A. Yes, sir.

Q. Did you examine the wound *here*? A. I stated that there was a wound about half an inch long immediately behind the other and to the right of the medium line of the head.

Q. Was that a serious or a trifling wound? A. Being smaller, I think it really formed a portion of the wound in the middle of the head, but I cannot say that. It was so near it that I cannot say.

Q. It may have been a crack from the splitting from the other? A. Yes, sir.

Q. Might it have caused death itself? A. Yes, sir; it might have caused death in itself, even such a slight wound as that.

WILLIAM H. HUTT, M. D., sworn and examined.

By Mr. R. S. Jenkins.—Q. Where do you reside? A. 324 Federal street, Philadelphia.

Q. What is your business? A. A Physician.

Q. Did you know John M. Armstrong during his lifetime? A. I did.

*Q.* Well? *A.* I knew him for several years.

*Q.* Were you present, as a friend of the family, on the morning of his death? *A.* I was.

*Q.* Where? *A.* At North Seventeenth Street; I think it was 804 North Seventeenth Street, in the city of Philadelphia.

*Q.* When had you gone there? *A.* I went there about eight o'clock the evening previous.

*Q.* Did you stay up with him during that night? *A.* I did not actually sit up with him; I was present in the house and in the room throughout the night.

*Q.* Did you apprehend death that night? *A.* I did.

*Q.* As a physician? *A.* I did; yes, sir.

*Q.* When did he die; what time in the morning? *A.* Five minutes of six o'clock on Friday morning.

Mr. Robeson—As this is the first formal proof of death, I desire to renew my objection to the testimony and desire a ruling from the Court.

(Testimony admitted; the ruling of the Court excepted to by Defendant's counsel and exception allowed.)

By Mr. R. S. Jenkins.

*Q.* You saw him after he was dead and you saw him die, did you not? *A.* I was in the room at the time he died and I was in the room a few minutes after his death.

*Q.* Are you able, as a physician, to state with the knowledge you had of the case, from what he had died?  
*A.* He died from injuries received upon the head.

No cross-examination.

FERRIS T. PRICE, sworn and examined.

By Mr. R. S. Jenkins—

*Q.* Where do you reside? *A.* 1412 South Penn Square, Philadelphia.

*Q.* What is your business? *A.* Medical student.

*Q.* With whom; are you studying with any physician?  
*A.* Yes, sir; Dr. Charles M. Thomas.

*Q.* From what college are you? *A.* Hahnemann Medical College.

*Q.* Do you recollect being called upon to give your

services to a sick man, one John M. Armstrong? A. Yes, sir.

Q. When was it, if you recollect? A. It was Thursday, I think, the 24th day of January.

Q. What time of the day? A. Five o'clock in the morning.

Q. Who called upon you for that service? A. Dr. Thomas.

Q. Where did you go to give them? A. I think it was 806 North Seventeenth Street; it was above Brown.

Q. You went there? A. Yes, sir.

Q. What did you find when you got there? A. I found Mr. Armstrong lying on the bed, and his son was there, I believe, and Mrs. Smith; I think that was the lady's name. I do not remember who else at present.

Q. Was there any other student with you? A. Not on that occasion.

Q. Was Mr. Armstrong wounded or well when you got there? A. Wounded.

Q. Did you nurse him off and on, and stay and watch with him? A. I staid with him all day until three o'clock in the afternoon.

Q. Did you come back again, then? A. I left at three and came back at seven in the evening in company with another student.

Q. Who was he? A. Lewis Gerhard, of Lewisburg, Penna.

Q. Is he a student at Philadelphia now? A. No, sir; he is at Lewisburg, Pa.

Q. Were you nursing him, off and on, until his death? A. From half-past five that Thursday morning, when I reached the house, until three o'clock in the afternoon I was there constantly, save to go down stairs to breakfast and dinner. Then I went away, and came back at seven o'clock, and stayed there until the next morning. Mr. Armstrong died at five minutes to six the next morning.

Q. Were you present when he died? A. Yes, sir.

Q. You saw him die? A. Yes, sir.

Q. And saw him after he was dead? A. Yes, sir.

Q. Was his death apprehended some time before he died? A. We thought he would die.

Q. You were watching him then, were you? A. Yes, sir.

Q. How was his end—a peaceful end? A. Yes, sir; he seemed to fail about ten or fifteen minutes before he died. He was pretty much the same thing some hours before he died until about ten or fifteen minutes before he died, and then he seemed to fail and I called the others to come up.

No cross-examination.

FRANK L. ARMSTRONG, sworn and examined.

By Mr. R. S. Jenkins—

Q. Are you a son of John M. Armstrong? A. Yes, sir.

Q. How old are you? A. Twenty years and four months.

Q. Where do you live? A. 1508 North Twelfth Street.

Q. Where did you live at the time of your father's death? A. 804 North Seventeenth Street.

Q. What is your business? Music typographer.

Q. How long have you been in that business? A. Four years and four months.

Q. What was your father's business? A. Music typographer.

Q. How long had he been in that business to your knowledge? A. For himself or for others?

Q. For any time; as near as you can recollect, how long had he been in that business? A. Ever since I can recollect; that is, as a foreman of a musical typographical establishment.

Q. That is, as long as you can remember, he was a music typographer? A. He was foreman of the music typographical department of McKeller, Smiths & Jordan's foundry.

Q. How old was your father? A. I think he was forty-one or forty-two.

Q. Is your mother living? A. Yes, sir.

Q. Is any of the family of your father living besides yourself? A. I have a brother and sister.

Q. How old are they? A. My brother is between eleven and twelve, and my sister four years.

Q. Where was your father's place of business during his lifetime? A. He first started in a place on Seventh, below Sansom.

Q. I mean his last place of business? A. 710 Sansom Street.

Q. Is that between Seventh and Eighth? A. Yes, sir.

Q. Which side of the street? A. The south side.

Q. On the ground floor? A. No, sir; the third floor.

Q. Are there any windows on the street from the office?  
A. Yes, sir.

Q. And blinds to the windows? A. No, sir.

Q. At the time of your father's decease who constituted the firm of which he was a member, if you know, or was there any firm except your father? A. There was no firm.

Q. Your father was carrying on business alone? A. Yes, sir.

Q. How long had he been carrying on business alone?  
A. I cannot say positively how long; between three and five years.

Q. Had he had a partner previously? A. He had a special partner.

Q. Who was that? A. Benjamin Hunter.

Q. This Defendant? A. Yes, sir.

Q. Do you know Benjamin Hunter? A. Yes, sir.

Q. How long have you known him? A. Ever since I can recollect.

Q. Were you in the habit of seeing him? A. Yes, sir.

Q. How often? A. He lived opposite us, or nearly so, and I saw him nearly daily.

Q. Was he in the habit of coming to your father's place of business? A. Occasionally.

Q. What do you mean by "occasionally"? A. Sometimes once or twice a week, and then once a week, and then again, perhaps, once in two weeks.

Q. And was it at that rate that he was in the habit of

coming to your father's place of business? *A.* Yes, sir; he had no stated time of coming; no regular time of coming.

*Q.* You have said that your father's place of business was located on the third floor? *A.* Yes, sir.

*Q.* Was it a front room; was it the whole of the third floor? *A.* Yes, sir; the whole floor.

*Q.* With windows on the street in the rear? *A.* Yes, sir.

*Q.* Can you not describe that room to us? *A.* Yes, sir; it had three windows on the front and two on the back; there was a cut in the side to admit light below, and four windows on the side. There was a staircase which comes up near the centre of the room.

*Q.* The staircase come up on which side of the room?  
*A.* The right hand side, coming up on the west side.

*Q.* On which side are the windows which are on the street? *A.* The east side: that is, one at the north, two at the south, and two at the east.

*Q.* How does Sansom Street run—north and south or east and west? *A.* East and west.

*Q.* What was about the size of the room? *A.* It is something over one hundred feet in depth.

*Q.* What width? *A.* I could not say positively; about eighteen feet.

*Q.* And what is in the room? *A.* Things necessary to carry on music typography.

*Q.* What are they? *A.* Stands, cases, press and type and other things incident to the business.

*Q.* What else is in the room? *A.* A piano, a fire-proof and a couple of writing desks.

*Q.* And the office is there? *A.* Yes, sir.

*Q.* Where is the office situated? *A.* In the north corner of the room.

*Q.* Fronting Sansom Street? *A.* Yes, sir.

*Q.* How many windows are there in the office fronting Sansom Street? *A.* Two.

*Q.* Large windows? *A.* Yes, sir.

*Q.* How large? *A.* About the size of the windows of an ordinary house.

Q. Are they as large as the windows of this Court-room? A. No, sir.

Q. As large as half their size? A. Not quite as wide.

Q. As long? A. About.

Q. How is this office constructed; of what material—a plastered partition, or a wooden partition? A. Wood and glass.

Q. Is it tight from ceiling to floor? A. No, sir.

Q. Where is it not tight? A. There is an opening at the top.

Q. About what width? A. Nearly an inch.

Q. Not more than an inch—do you mean a foot or an inch? A. Perhaps over an inch; I am not positive.

Q. Is there a door to it? A. Yes, sir.

Q. What kind of a door was it? A. There are glass partitions in the door.

Q. Where are the desks of the composers in reference to this office? A. At that time the majority of them were at the end of the room.

Q. Which end of the room? A. The south end.

Q. Were there any at the north end? A. There was two at the head of the staircase.

Q. Whose places were these? A. Mr. Carey's and mine.

Q. When was it that those cases were so located? A. From the time that we moved into the building until the first of March; somewhere around there.

Q. When did you move into the building? A. Last February a year.

Q. How far were these cases from the office? A. About thirty feet to the office and thirty-five feet to the desk.

Q. Have you measured that distance? A. Yes, sir.

Q. What was your business? A. I was learning my trade setting music.

Q. Setting type? A. Setting type.

Q. Was your desk the nearer desk of the two, or Mr. Carey's? A. They stood alongside of each other.

Q. Both equi-distant? A. Yes, sir.

*Q.* What was Mr. Carey's business? *A.* The same as mine, only he was a journeyman and I was an apprentice.

*Q.* Do you recollect the fact of your father being brought home wounded? *A.* Yes, sir.

*Q.* When was that? *A.* It was on the night of the twenty-third of January—the morning of the twenty-fourth.

*Q.* Had you been to work on that day at the office?  
*A.* Yes, sir.

*Q.* What day of the week was it? *A.* On a Wednesday, I think.

*Q.* Had you been to work on the Tuesday previous?  
*A.* Yes, sir.

*Q.* And on Monday? *A.* Yes, sir.

*Q.* You said Mr. Hunter came to the office occasionally and you defined what you meant by occasionally; when previously to the Monday had you seen Mr. Hunter at the office? *A.* I saw him after his return from Virginia, but I do not know the day.

*Q.* How did you know that he was going to Virginia. Did he tell you? *A.* He told me.

*Q.* When was it he went to Virginia, if you know? *A.* I cannot fix the date.

*Q.* Was it after New Year's? *A.* I think so.

*Q.* Where did he tell you he was going to Virginia?  
*A.* I think it was at the office.

*Q.* Your father's office? *A.* Yes, sir.

*Q.* Where was your father in the habit of locating himself in the establishment? *A.* In the private office.

*Q.* This partitioned part is what you mean by the private office? *A.* Yes, sir.

*Q.* Where did he sit; at the east desk or at the west desk? *A.* At the east desk.

*Q.* How was your father's hearing? Was he actually deaf so that you had to speak to speak loud to him? *A.* Yes, sir; you had to elevate your voice.

*Q.* How long had he been deaf? *A.* Ever since I can remember.

*Q.* Did you notice whether he got more deaf as his years advanced, or otherwise? *A.* Yes, sir; it grew worse.

*Q.* When, after Mr. Hunter told you he was going to Virginia, did you see him again? *A.* After he had returned.

*Q.* Can you tell me when that was? *A.* I think it was a week or two before the murder; I am not positive.

*Q.* Is there any way by which you can fix the time definitely, so that you can let me know this afternoon? *A.* I do not think so, but it was a week or two weeks before the murder.

*Q.* Where did you see him? *A.* At the office.

*Q.* What part of the office? *A.* I think it was half way between the private office and the staircase, at the composing-stone.

*Q.* Who was there beside yourself, in your immediate neighborhood? *A.* I do not know as there was any one there; they might have been.

*Q.* What passed between you and Mr. Hunter, if anything, at that time? *A.* I told him I was pleased to see him; I asked him how he enjoyed himself, and other remarks.

*Q.* What became of him then? *A.* I cannot say positively whether he went in the office or went home. I do not know.

*Q.* Did you see him again between that time and the Monday, and, if so, when did you see him the Monday previously to the murder? *A.* I saw him on the day of the murder?

*Q.* No; I have not come to that yet? *A.* I cannot recollect.

*Q.* Did you see him the Tuesday previous to the murder? *A.* I think he came to our office that day.

*Q.* Did you see him there? *A.* I cannot remember that I did.

*Q.* Did you see him on the Wednesday, the day of the murder? *A.* Yes, sir.

*Q.* What time of the day did you see him? *A.* Between nine and eleven.

*Q.* Where? *A.* At our office.

*Q.* 710 Sansom Street? *A.* Yes, sir.

Q. Who was in the office; give the names of every person whom you can recollect? A. My father, Stephen H. Carey, William F. Jones, Harvey Edgar, John O'Neil, Charles Waterman, Charles Crissman and myself and Edwards Phiffer.

Q. Where was your father? A. In the private office.

Q. Where was he located in the private office? A. Sitting at the desk facing east.

Q. Where was Hunter? A. Mr. Hunter was talking with him.

Q. Where was he sitting? A. He was leaning over him.

Q. Did you not see him sitting at all? A. I did not see him sitting.

Q. Where were you? A. Part of the time I was working and it was necessary for me to go to the other end of the room, the rear end.

Q. When you were working where were you? A. Standing at the stand.

Q. The stand which you have designated? A. Yes, sir; at the top of the staircase.

Q. Are the desks located exactly as they were during that time? A. No, sir.

Q. Where was Mr. Carey at the time Mr. Hunter was with your father? A. Standing with his back to me.

Q. Was he at his office all the time that your father and Mr. Hunter were there? A. I think so.

Q. Was his office at the post you have designated? A. We stood three feet apart.

Q. Where was Mr. Edgar? A. I think he was at the lower end of the room; the south end.

Q. Where was Mr. Jones? A. He stood at the desk, between the two windows, in the centre of the room.

Q. Which two windows? A. The two windows facing east.

Q. Where was Mr. Phiffer? A. At the extreme end of the room; the south end.

Q. Where was Mr. O'Neil? A. Back of Mr. Phiffer, three feet, near the window.

Q. Where was Charles Waterman? A. They all stood around there; they seem to change their position, and I forget exactly how he was standing.

Q. Where was his place? A. At that time he stood about twelve feet, I should say, north of O'Neil.

Q. Where was Mr. Crissman? A. He was the errand boy.

Q. Where was he? A. I do not know.

Q. What time did you get to the office that day? A. Seven o'clock in the morning.

Q. Did you come alone? A. Yes, sir.

Q. What time did your father come there, if you know? A. About nine o'clock; in that neighborhood.

Q. Who got there first, your father or Mr. Hunter? A. My father.

Q. Are you able to fix the time more definitely as to when Mr. Hunter came there than you have? You say between nine and eleven when you saw him there? Are you able to say when you saw him come there? A. It was nearer ten than nine.

Q. What were you doing when he came? A. Working at my desk.

Q. Where did you see him first? A. I saw him come up the staircase.

Q. Did you have any conversation with him at that time? A. Not just then.

Q. Did you pass the time of day with him? A. I spoke and nodded.

Q. When he came up the stairs where did he go? A. Into the private office.

Q. Did he have any conversation which you heard at that time with your father? A. I saw them conversing.

Q. Did you notice what they were conversing about? A. Not particularly.

Q. Then I understand you to say that while they were so conversing you were, off and on, up and down the room? A. Yes, sir.

Q. How long were they conversing? A. Perhaps five, ten or fifteen minutes.

Q. Might it have been longer? A. It might have been, but I do not think so.

Q. Did you see Mr. Hunter go away? A. Yes, sir.

Q. Where were you when he went away? A. Standing at one of the composing stones in the centre of the room.

Q. Did you have any conversation with him as he went away? A. Yes, sir.

Q. What was it? A. He said that my father and he were going out together, only that he would go first, and it would not look well for my father and he to go together, that it might create suspicion; that he would go out and father would follow shortly after.

Q. What did you say to him? A. I do not remember that I said anything.

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

Q. And left your father behind? A. Yes, sir.

Q. Where did he leave your father? A. In the private office.

Mr. Robeson—I understand, but perhaps the jury do not, that when the Prosecutor speaks of the office, he means the whole room.

Mr. R. S. Jenkins—Yes, sir; I mean the whole office; and when I speak of the private office I refer to a little recess partitioned off.

(To the witness)—He left your father in the private office? A. Yes, sir.

Q. Where? A. Sitting at the desk.

Q. How long did your father remain there after Mr. Hunter went out? A. Five or ten minutes.

Q. And then he did what? A. He left the establishment.

Q. Did he come back again? A. Yes, sir.

Q. When? A. He was in the habit of coming in and out all day. I do not know exactly when he returned.

Q. When did you next see him again in the office? A. When we went to dinner.

Q. When did he go to dinner? A. We had no regular time to go; we went between the hour of half-past twelve and half-past one.

Q. Do you recollect when you went that day? A. No, sir; it was between those hours.

Q. Did he go by himself? A. No, sir; I went with him.

Q. Where did you go to dinner? A. It was one of two places. I can't tell which of the two. Lauber's, on Fifth Street, above Chestnut, or a saloon near Sixth Street, on the north side of Arch.

Q. Do you know who keeps the saloon? A. No, sir.

Q. What time did you get back from dinner? A. About half-past one.

Q. Were you by yourself, or was your father with you? A. I cannot say positively.

Q. Was your father in his place of business during the afternoon? A. Yes, sir.

Q. When did you first see him? A. I saw him the greater part of the afternoon.

Q. What were you doing? A. Working; setting music.

Q. When did you last see him that afternoon? A. Ten minutes of six.

Q. Where were you when you saw him? A. I was going down the staircase.

Q. Where was he? A. In the back part of the room.

Q. Who with? A. Standing there with no one particularly.

Q. Was Mr. Carey there? A. I think so.

Q. Were Mr. Edgar and Mr. Phiffer? A. Yes, sir.

Q. Did you see your father write a letter that afternoon? A. No, sir.

Q. Did you see him with a letter? A. I saw him hand Mr. Carey a letter.

Q. Which Mr. Carey; Stephen W. Carey? A. Stephen H. Carey.

Q. When did you see him hand him the letter? A. Between five and half-past five in the afternoon.

Q. Did you see the direction of the letter? A. No, sir.

(Here the Court took a recess for thirty minutes.)

## AFTERNOON SESSION.

Examination of FRANK L. ARMSTRONG resumed.

By Mr. R. S. Jenkins.

Q. You stated this morning, I think, what time you left the office in the evening? A. Yes, sir.

Q. Whom did you leave behind you when you left? A. The employees named.

Q. All of them? A. I am positive all except Mr. Carey; he might have left at five, as he was in the habit of leaving.

Q. And you left at what time? A. Ten minutes before six.

Q. When you left was your father at the office? A. Yes, sir.

Q. You left him behind you? A. Yes, sir.

Q. Was he in the private office or in the general office?

A. In the general office.

Q. Where? A. In the back part of the room.

Q. That is, the south side? A. Yes, sir.

Q. Where did you go—home? A. No, sir.

Q. Where? A. I first went to Johnson's type foundry.

Q. And from there? A. To Sixth and Watkins Streets.

Q. To whose house? A. Mr. Goudy's.

Q. What number? A. I don't know.

Q. How long did you stay there? A. Until ten o'clock.

Q. What happened at ten o'clock? A. I heard the bell ring and my uncle was shown in the room.

Q. From what your uncle said to you what did you do?

A. I left and went to grandma's.

Q. And from there? A. I came to Camden.

Q. Where at Camden? A. Justice's drug store.

Q. What did you find there? A. My father.

Q. What was his condition? A. A very critical condition.

Q. What was the matter with him; was he well or otherwise? A. He was lying on the floor with his head all bandaged.

Q. How did you come to Camden—on foot or in a car-

riage? *A.* Took a Third Street car, on foot to the ferry, and hired a cab across the ferry and drove to the store.

*Q.* Were you and your uncle alone, or was there some one from New Jersey? *A.* There was an officer.

*Q.* Sent from New Jersey? *A.* Yes, sir.

*Q.* And you went to Justice's drug store; do you know where that was? *A.* I believe at Fifth and Elm Streets.

*Q.* Was your father conscious when you saw him?  
*A.* No, sir.

*Q.* You recognized the wounded man there as your father? *A.* Yes, sir.

*Q.* What did you say? *A.* I called aloud to him, and received no reply, and then made arrangements to have him taken home.

*Q.* You tried to make him recognize you, did you?  
*A.* Yes, sir.

*Q.* What arrangements did you make to take him home? *A.* I saw that the cab would not be comfortable for him, and I stated that to some gentleman there, and he said he could get a wagon, and by means of a blanket and straw and so on, make a comfortable bed for him.

*Q.* What was the result of his saying that? *A.* He left, and in the course of three-quarters of an hour returned with the wagon.

*Q.* In the interval of that three-quarters of an hour, did you try to make your father recognize you? *A.* No, sir; I sat alongside of him.

*Q.* Did you see any recognition in that time? *A.* None whatever.

*Q.* When he returned with the wagon, what happened?  
*A.* He was lifted in the wagon, I assisting him, and he was then driven to the ferry.

*Q.* How driven to the ferry? *A.* Slowly.

*Q.* Who was in the wagon with him? *A.* Dr. Howard, uncle, and myself.

*Q.* What were you doing? *A.* I held one hand—Dr. Howard held the other.

*Q.* Did you take him home in that way? *A.* Yes, sir.

*Q.* And when you got home, what? *A.* We carried him to the second story front room.

*Q.* What else? *A.* Dr. Howard suggested that Dr. Thomas be sent for, being a skilful physician, and an uncle of mine went for him.

*Q.* Did he come? *A.* Yes, sir.

*Q.* What happened then—did you go to bed? *A.* No, sir.

*Q.* You sat up all night? *A.* Yes, sir.

*Q.* Were you with your father for that length of time?  
*A.* Yes, sir.

*Q.* When the morning came what did you do? *A.* At half-past four Dr. Thomas gave me a note to take to Dr. Morgan, and I arrived at Dr. Morgan's house, I think, at perhaps a quarter of five; perhaps earlier. I saw Dr. Morgan. I gave Dr. Morgan a note and he said he would attend to it; he would be there.

*Q.* It is no matter about that—

*Q.* From there I went to Mr. Benjamin Hunter's house.

*Q.* Where was his house? *A.* 1304 South Tenth Street.

*Q.* This was the morning after your father was injured?  
*A.* Yes, sir.

*Q.* About what time in the morning was this? *A.* In the neighborhood of five o'clock.

*Q.* That you started or that you arrived at Hunter's house? *A.* That I arrived there.

*Q.* What did you do when you arrived there? *A.* Rang the bell.

*Q.* What happened upon your ringing the bell? *A.* After ringing, Mrs. Hunter opened the window.

*Q.* How many times did you ring before the window was opened? *A.* I did not ring over twice.

*Q.* Did you say that this was a little after or a little before five o'clock in the morning? *A.* I think it was a little before.

*Q.* Well, Mrs. Hunter put her head out of the window; what happened then? *A.* She wanted to know who was there; I said, "Frank;" she said, "Frank who?" I said, "Frank Armstrong," and she told me she did not recognize

my voice. She went in and Mr. Benjamin Hunter came to the door.

Q. Did Benjamin Hunter open the door and let you in?

A. Yes, sir.

Q. Was he dressed? A. He was in his night dress.

Q. What did he say and what did you say? A. He wanted to know what was the matter.

Q. That was the first thing he addressed to you? A. Yes, sir; I told him if he would come back in the dining room I would tell him all.

Q. What happened? A. He followed.

Q. Did he say anything to that? A. No, sir; he come to the dining room, and I told him that father had been assaulted in Camden. I asked him if he had been along with my father. He said "No." I told him that my father had told me that he was going over to Camden with him that night, and he said he did not say so; that it was not so.

Q. What did he say; do you use his own language? A. He said it was not so; he had no arrangement to go; he had no idea of going to Camden.

Q. What else was said about going to Camden; anything? A. Yes, sir.

Q. Tell us the whole of it? A. I told Mr. Hunter that the individuals who told him that Davis had a bank account perhaps had proven treacherous; and Mr. Hunter said "perhaps so."

Q. What next was said; anything more about going to Camden? A. No, sir.

Q. What next was said? A. He says: "Frank, on Saturday I only indorsed a note for your father," and, he says, "don't say anything to mamma about it; I can stand it." He then mentioned a note for four hundred dollars, and then buried his head in his hands, just before Mrs. Hunter came down from the doorway leading to the back part of the house.

Q. Up to this point you had told him, I understand you to say, that Mr. Armstrong had been assaulted in Camden; had he asked whether he was seriously hurt or anything about it? A. No, sir.

*Q.* Not a word? *A.* Not a word.

*Q.* He commenced, a little after your speaking about your understanding he was to go to Camden with Mr. Armstrong, to talk about these business affairs? *A.* Yes, sir.

*Q.* When Mrs. Hunter came in the room what did you say? *A.* I told her my father had been struck in Camden. I told her that there had been a hammer and hatchet found near by with the initials of "F. W. D." on it. Mrs. Hunter said she would go to the house.

*Q.* Was there anything said to Mr. Hunter in the presence of Mrs. Hunter, about Mr. Hunter going to Camden with your father? *A.* No, sir.

*Q.* What happened then? *A.* I left the house.

*Q.* Was there not a conversation between you and Mr. Hunter relative to your father's business? *A.* None, that I can remember.

*Q.* Did he say nothing about your father, his business habits, or anything of that sort at that time? *A.* No.

*Q.* You left the house you say? *A.* Yes, sir.

*Q.* During all this interview had Mr. Hunter asked you how your father was, or what his wounds were? *A.*

(Objected to by Mr. Robeson; objection overruled; the ruling of the Court excepted to by counsel for the Defendant and exception allowed.)

*Q.* Did Mr. Hunter, during that interview with him, ask how your father was injured or not? *A.* Not that I remember.

*Q.* Did he go with you around to the house? *A.* No, sir.

(Question and answer objected to by Mr. Robeson; objection overruled; the ruling of the Court excepted to by counsel for the Defendant; the exception allowed.)

*Q.* Did he dress himself and go with you around to see your father? *A.* No, sir.

*Q.* Did he say when he would be there? *A.* I think he said he would go with Mrs. Hunter.

*Q.* Where did you go then? *A.* I went home.

*Q.* I think you said that you went to dinner with your father, that day, at some place—which place you cannot

particularly designate—the day of the murder; did he tell you where he was going that night and with whom? *A.* Yes, sir.

(Objected to by Mr. Robeson; objection overruled; the ruling of the Court excepted to by counsel for the Defendant; the exception allowed.)

*Q.* Did he tell you where he was going? *A.* Yes, sir.

*Q.* What did he say?

(Objected to by Mr. Robeson; objection overruled; the ruling of the Court excepted to by counsel for the Defendant; the exception allowed.)

By Judge Woodhull.

*Q.* Mr. Armstrong, I understand, was not at home, after this? *A.* Yes, sir.

By Mr. R. S. Jenkins.

*Q.* Did your father say where he was going and with whom and for what purpose that morning when you were with him at dinner? *A.* Yes, sir.

(Objected to by Mr. Robeson; objection overruled; the ruling of the Court objected to by counsel for Defendant, and exception allowed.)

*Q.* What did he say? *A.* He said, in the morning, that Mr. Hunter had told him that some one had told him that Davis had a bank account; that he had advised my father to come over and see about it and get the money, and he would go with him. Father said he intended to go with Mr. Hunter, and he and Mr. Hunter were going to Camden that night.

*Q.* Was there anything said about a letter to your mother? *Yes, sir.*

*Q.* From further conversation, which you had with your father about his going to Camden, was the letter, of which you have spoken, written at your suggestion? *A.* Yes, sir.

*Q.* Were you at home that night? *A.* No sir.

*Q.* You were away, also? *A.* Yes, sir.

*Q.* Do you not remember anything your father said in the afternoon as to whether there was a letter written to your mother in reference to his going to Camden?

(Objected to.)

The Court.—My impression is that the question is improper.

By Mr. R. S. Jenkins.

Q. I think you testified that you saw your father deliver a letter to Mr. Carey? A. Yes, sir.

Q. Were you at home the next morning when Mr. Hunter came down? A. I did not see him.]

Q. Do you now want to make any explanation? A. Yes, sir.

Q. What is it? A. I have been thinking that there were three other men working at the office at that time.

Q. That is right; who were they? A. One was Frederick Kinzle, Dudley Limerick and John J. Hood.

Cross-examined.

By Mr. Thompson.

Q. What is your age? A. Twenty years and four months.

Q. What was your usual time of going to the Sansom Street office? A. Generally seven o'clock in the summer and 7.30 in the winter.

Q. What time did you go to the office on this Wednesday morning you have spoken of? A. I said seven o'clock, but I remember now, it being winter time, that 7.30 was the hour I went to work.

Q. Where was your stand then; your occupation was what? A. Music typographer.

Q. And you had an alley there? A. I stood in an alley.

Q. What part of the building? A. At the head of the staircase; about the centre of the building.

Q. Second story? A. The third story.

Q. Who, among the men, stood nearest to you? A. Stephen H. Carey.

Q. What distance from you? A. About thirty feet.

Q. How far from your alley or stand was the private office? A. About thirty-five feet.

Q. Who generally sat in the private office? A. My father.

Q. And how was that furnished to accommodate persons? A. there was a number of chairs there and two desks.

Q. I mean the private office of which you have spoken? A. Yes, sir.

Q. Your place was about thirty-five feet from that? A. Yes, sir.

Q. On that morning, for the first time, what hour did Hunter get there? A. Between the hours of nine and eleven.

Q. Can you approximate nearer as to the time? A. It was nearer ten than nine.

Q. How long did he remain? A. Five, ten or fifteen minutes.

Q. Had you a conversation with him then? A. Yes, sir.

Q. What did you say to him? A. When he entered the room I spoke to him—nodded.

Q. Did you hold any conversation with him? A. Not when he entered.

Q. After he was in? A. As he was leaving.

Q. You had none while he was there, and only excepting at the time of his leaving? A. Just before he left.

Q. While he was there where was he? A. In the private office.

Q. That is, you did not see him; you went inside the private office? A. Yes, sir; I saw him.

Q. How could you see him if he was inside the office? A. There was a glass partition there.

Q. Then you only saw him by looking up from your work through the glass partition? A. Yes, sir.

Q. You were engaged at your work then? A. Yes, sir.

Q. How high up does the glass partition run? A. Within a few inches of the top.

Q. Within a few inches of the ceiling? A. Yes, sir.

Q. Where was the door or entrance from the room into the private office? A. On the west side.

Q. Was that diagonally from you, or opposite to you; in what position was it from where you stood? A. To my right.

*Q.* Then you stood facing what, the south? *A.* No, sir; I stood facing west.

*Q.* Did any one go into the private office where your father was while Hunter was there? *A.* Not that I saw.

*Q.* Your father was very deaf was he not? *A.* It was necessary to elevate your voice to make him hear.

*Q.* To elevate it as much as I am elevating mine now?  
*A.* More, I think.

*Q.* That is, he could not hear ordinary conversation?  
*A.* No, sir.

*Q.* Was the door closed after Hunter went in? *A.* No, sir; I think the door was open.

*Q.* You remember, do you, whether it was open or closed? *A.* The door was always standing open.

*Q.* Do you remember, upon that occasion, whether it was open or not? *A.* No, sir.

*Q.* Did he come out by himself from the private office?  
*A.* Yes, sir.

*Q.* Where were you when he came out—still at your alley? *A.* No, sir.

*Q.* Where then? *A.* I was standing by the composing stone.

*Q.* What relation had that as to distance from where you were standing toward the door of the private office; was it nearer or further away? *A.* Ten or twelve feet nearer the private office.

*Q.* And what were you doing at the composing stone?  
*A.* I supposing I was attending to my work.

*Q.* Did it require noise to be made; did the work in which you were engaged make any noise? *A.* No, sir; I was standing alongside of a form on a stone.

*Q.* Was there any noise made? *A.* None whatever.

*Q.* What instrument did he use at the stone? *A.* Did who use?

*Q.* The man who was at the stone? *A.* I said I was at the stone.

*Q.* What instrument did you use? *A.* I had not used any at that time.

*Q.* Did your father accompany Hunter out of the private

office? *A.* No, sir.

*Q.* Hunter came out alone? *A.* Yes, sir.

*Q.* What did he do, or where did he go? *A.* He stopped on his way out and spoke to me.

*Q.* What did he say? *A.* He said him and my father were going out, and he would go first; that it would not look well to go out together, that it would create suspicion.

*Q.* That was at this interview? *A.* Yes, sir.

*Q.* Then he went out; did your father follow him? *A.* Sometime after.

*Q.* How long after? *A.* Ten or fifteen minutes.

*Q.* Did you go out with them? *A.* No, sir.

*Q.* Do you know whether your father saw him or not, when he went out? *A.* No, sir.

*Q.* Then it was about ten o'clock? *A.* Between nine and eleven; I suppose nearer ten.

*Q.* How long did your father remain away? *A.* I cannot say.

*Q.* About how long? *A.* He was there at noon; he was back, perhaps, before.

*Q.* Did he come back alone? *A.* Yes, sir.

*Q.* When did you next see Hunter that day? *A.* I did not see him any more that day.

*Q.* Your father came back about noon? *A.* Yes, sir.

*Q.* Did he remain in, all the afternoon of Wednesday?  
*A.* No, sir.

*Q.* How long was he out after this noon return? *A.* The next time he went out was with me.

*Q.* That was about what time? *A.* Between half-past twelve and half-past one.

*Q.* That was the time you were out for your dinner?  
*A.* Yes, sir.

*Q.* Did he return with you? *A.* I cannot say, positively, whether he did or not.

*Q.* He came back after noon, did he not? *A.* Yes, sir.

*Q.* You do not know whether he came with you or not? *A.* No, sir.

*Q.* Did he go out after his return from dinner? *A.* Yes, sir.

*Q.* How long did he remain away? *A.* Not long; he was out and in during the whole afternoon.

*Q.* Out and in several times during that afternoon?

*A.* Yes, sir.

*Q.* And he remained away a longer or shorter time?

*A.* Yes, sir.

*Q.* Do you know where he had been during the afternoon? *A.* No, sir.

*Q.* Do you know whether he had been to a lawyer's office in Philadelphia that afternoon? *A.* No, sir.

*Q.* Do you know a Mr. Carr in Philadelphia. *A.* Yes, sir.

*Q.* You do not know whether he had been at his house? *A.* No, sir.

*Q.* Your father did not tell you so? *A.* No, sir.

*Q.* At what time did you close your business place on that day? *A.* I left the office at ten minutes before six.

*Q.* When you left the office who were there? *A.* All the employes.

*Q.* Will you name who they were, when you left, I mean? *A.* There may have been one exception, but I think they were all there.

*Q.* Just call their names over? *A.* Stephen H. Carey, William F. Jones, John D. Hood, Dudley Limerick, Edward Phiffer, Harvey Edgar, Charles Waterman, John O'Neil and Charles Crissman.

*Q.* They were all up stairs? *A.* Yes, sir.

*Q.* Where was your father when you left? *A.* In the back part of the room.

*Q.* Did you see him again, after ten minutes before six? *A.* No, sir.

*Q.* You did not see him again that night? *A.* Yes, sir.

*Q.* Not until you went to Camden? *A.* No, sir; not until I came to Camden.

*Q.* Early in the morning? *A.* It was not morning when I arrived at Camden; it was late at night.

*Q.* You did not see him in Philadelphia after ten minutes before six? *A.* No, sir.

Q. About what time did you reach Camden? A. I think it was in the neighborhood of eleven or half-past.

Q. Is there a washstand in your business place? A. No, sir.

Q. Was there in January last? A. There was a trough there, but no washstand.

Q. To wash your face and hands? A. Yes, sir; and forms.

Q. Was there a place to wash your hands and face? A. Yes, sir.

Q. Where was that? A. At the head of the staircase.

Q. The second story or third story? A. The third story.

Q. How far back from the staircase? A. About three feet.

Q. Could you see the washstand from across the way, on the north side of Sansom Street? A. No, sir. Do you mean looking from the window.

Q. No. Could you see the washstand at the head of the stairs on the second story standing on the pavement on the north side of Sansom Street? A. No, sir.

Q. Could you see any person standing there washing themselves from the north side of Sansom Street, opposite your place? A. No, sir.

Q. You went down to Mr. Hunter's house on the next morning, which was Thursday morning, and reached there about what time? A. A little before five, or five.

Q. Was that after your father's body had been taken over? A. Yes, sir.

Q. You found Mr. Hunter up stairs? A. No, sir.

Q. You rung the bell? A. Yes, sir.

Q. Who opened the door? A. Mrs. Hunter.

Q. Who let you in? A. Mr. Hunter.

Q. He was up stairs, was he not? A. He came down and let me in. I presume he came down.

Q. Was he attired in his night clothes or his daily apparel? A. In his night clothes.

Q. You went in? A. Yes, sir.

Q. To what part of the house? A. The dining room.

Q. That is on the same floor—right straight along past the entry? A. Yes, sir.

Q. Was there a light in the room? A. I think he lit the light.

Q. The gas? A. The gas was lit, but whether it was turned up or not I do not know. The gas was lit while I was in there, but I do not know whether Mr. Hunter lit it.

Q. It was lighted anyhow when you went in? A. Yes, sir. I do not know whether he lit it or turned it up.

Q. Did you sit down? A. Yes, sir.

Q. Did he? A. Yes, sir.

Q. Then his wife came down stairs? A. She came down and stood in the doorway.

Q. The doorway of what? A. The doorway leading to the back staircase.

Q. About how long did you remain there? A. About fifteen minutes, I judge; not over that.

Q. What was the first thing you said to him when you went in and took a seat? A. Mr. Hunter asked me what was the matter. I told him to come back in the dining room and I would tell him all.

Q. That was at the door? A. Yes, sir.

Q. And then you went back? A. Yes, sir.

Q. What did you first say to him? A. There were two questions, I am not positive which was asked first.

Q. What did you say? A. I asked him if he saw my father last night.

Q. What did he say? A. He said "No."

Q. What was the next question? A. I told him what happened to my father; there was no question.

Q. What did you say to him? A. I told him my father had been assaulted in Camden.

Q. And then what; what did he say to you or what did you say to him? A. I told him that they found a hatchet and hammer alongside of him with the initials "F. W. D." on them; he then thought a few minutes and he said: "Why, Frank, only on Saturday I indorsed a note for your father."

- Q. What amount? A. \$100.
- Q. I thought you said \$400 a little while ago? A. That was another note.
- Q. You did not mention that? A. Yes, sir; I did.
- Q. Did you mention both of them? A. Yes, sir.
- Q. Then what did he say? A. He said there was a note he indorsed coming due in June, and it was for \$400; that he had indorsed it, and he told me not to say anything to "Momma" about it.
- Q. That was his wife? A. Yes, sir.
- Q. That is, he told you to say nothing to his wife about the indorsement he had made? A. Yes, sir.
- Q. Was it not then that he put his hands to his face? A. Yes, sir.
- Q. What followed then? A. Mrs. Hunter came.
- Q. What was said then? A. I told her the same I had told Mr. Hunter.
- Q. That is you told her that your father had been assaulted in Camden? A. Yes, sir.
- Q. What did he say then? A. Mrs. Hunter said she would go to the house.
- Q. She said she would go to your father's house? A. Yes, sir; I do not remember what else she said.
- Q. Of course you were excited, were you not—you were very much excited? Do you remember on that occasion saying to Hunter that you would make him show where he was or locate himself? A. No, sir.
- Q. You did not say that? A. No, sir.
- Q. Did you not get quite angry? A. No, sir.
- Q. Were as calm as you are now? A. I think so.
- Q. Then you were not very much excited? A. (No answer.)
- Q. Did you leave the house? A. Yes, sir.
- Q. Immediately, and went home? A. Yes, sir.
- Q. And that is all that occurred at that time between you? A. That is all.
- Q. When did you come over to Camden first, after that? A. I think I came to Camden the following morning.

Q. That was Thursday morning? A. Friday morning I came to Camden.

Q. And not Thursday? A. Not that I recollect.

Q. You told us all that occurred at the house and you have given us a detailed account of it? A. Yes, sir.

Q. Then how is it you said that reference was made to Davis' bank account before? A. I forgot that.

Q. What else occurred that you have not told us now? A. I said Mr. Hunter thought perhaps this party that had told him, that Davis had a bank account had proven treacherous.

Q. How did you happen to tell Hunter that when he said nothing about it? You said that Mr. Hunter thought perhaps this party who told "us" that Davis had a bank account, proved treacherous—who do you mean by "us"? A. I did not say "us" I said "told him"—told Mr. Hunter.

Q. What led you to make that remark then; why did you make it? A. It looked to me, my father being hurt, as if there had been a conspiracy.

Q. That was a notion of yours? A. Yes, sir.

Q. No one ever told you anything of that kind? A. No, sir.

Q. You volunteered to make that remark without having any foundation for it? A. Yes, sir.

Q. And yet you were perfectly calm? A. Yes, sir.

Q. And told him that perhaps the party who told him that Davis had a bank account had proved a traitor. A. Yes, sir.

Q. That is to say, you made that up? No, sir; I didn't make it up?

Q. Where did you get the information? A. Because my father had told me that Mr. Hunter had told him.

Q. When did he tell you that? A. He told me that on Wednesday at noon.

Q. Where? A. Out at dinner.

Q. Do you mean to say that was a part of the conversation you had with your father at the eating saloon? A. Either at the saloon or on the way to it.

Q. What did he say to that? A. He said "perhaps so."

Q. Did you make any reply? A. No, sir.

Q. Your father and Mr. Hunter were always on good terms, were they not? A. Apparently.

Q. Do you not know that they were? A. Mr. Hunter often done things that hurt my father.

Q. Were they not on good terms? that is the question; A. Yes, sir.

Q. They had been partners together? A. Yes, sir.

Q. And the dissolution of the partnership had occurred but a few months before; is that not so? A. Yes, sir.

Q. Mr. Hunter was a special partner? A. Yes, sir.

Q. He furnished the money and your father carried on the business? A. No, sir; my father had a large business before Mr. Hunter came in.

Q. But Mr. Hunter furnished money—several thousand dollars; do you not know that? A. Yes, sir; I know it.

Q. And the dissolution had occurred sometime in the summer; they had never quarrelled together? A. No, sir.

Q. And, for ought you know, they were on the best of terms? A. Yes, sir.

Q. And exchanged the usual courtesies together when they met and talked together? A. Yes, sir.

Q. Your father expressed kindness toward Mr. Hunter? A. Yes, sir.

Q. Mr. Hunter had also accommodated your uncle, Mr. Philip Armstrong, with money?

Mr. R. S. Jenkins—I object to that.

Mr. Thompson—It is part of the *res gestæ*, and I think it is competent for us to show the kindly relation which Mr. Hunter entertained toward the Armstrong family and the fact that this feeling was reciprocated by them.

By Mr. R. S. Jenkins.

Q. You do not know anything about that except from hearsay? A. No, sir.

By Mr. Thompson.

Q. You came over to see Mr. Jenkins on the Friday following? A. Yes, sir.

Q. When was your father buried? A. On a Tuesday.

Q. Tuesday following? A. I think so; yes, sir.

Q. That is to say you were over here before the burial took place? A. Yes, sir.

Q. Mr. Hunter came to your house, did he not? A. Yes, sir.

By Mr. R. S. Jenkins.

Q. Did you see him? A. Not the first time he came.

By Mr. Thompson.

Q. But you did see him, whether it was the first, second, or third time? A. Yes, sir.

Q. What day was it that he was there, after this alleged assault, after that Wednesday night? A. I think I saw him there at noon.

Q. At noon of Thursday? A. Yes, sir.

Q. Was he alone, or accompanied by any one? A. He was accompanied by Rev. S. A. K. Francis and his wife and another lady, I think; that is, I presume he came with him; they were there at the time.

Q. How long did he remain? A. I do not know.

Q. Was he there again? A. Yes, sir; I saw him there on Monday.

Q. You were in the habit of visiting his family, were you not? A. Not very frequently within the last two years.

Q. Your father was a music teacher? A. Yes, sir.

Q. Had he given lessons on the piano to Mr. Hunter's daughter? A. Yes, sir.

Q. Was that tuition or instruction on his part kept up after he moved to North Seventeenth Street? A. No, sir.

Q. When you got there to Camden on Wednesday night, did you see your father at the drug store? A. Yes, sir.

Q. Will you state what he was doing, how he was attended then; was he sitting up in a chair? A. He was lying on the floor.

---

#### FIFTH DAY'S PROCEEDINGS.

The Court was opened at 10 A. M.

Cross-examination of FRANK L. ARMSTRONG resumed.

By Mr. Robeson.

Q. The relations with your family and Mr. Hunter previous to this occurrence had been very friendly, had they not? A. To the best of my knowledge.

Q. Mr. Hunter was esteemed and considered as one of the best friends of your family, was he not? A. To the best of my knowledge.

Q. By the family, I mean; had not he been in the habit of advancing money for your father, large sums of money for him in his business, as far as you know—your language cannot be very accurate, I suppose? A. Not that I know of, only that which he put in in the first place.

Q. Had not he indorsed for your father; was he not in the habit of indorsing for your father? A. Not until the last year of his partnership.

Q. Since the last year of the partnership? A. Yes, sir.

Q. And when was the last year of the partnership? A. It expired the present June a year ago.

Q. Then in the last two years, he had not been in that habit? A. Yes, sir.

Q. The families had not been intimate? A. Not very.

Q. Had not you been very intimate with his family? A. Not within the last two years.

Q. Previous to that? A. Yes, sir.

Q. When you went there on the morning after your father was struck, on the morning of the 24th, it was before daylight, was it not? A. Yes, sir.

Q. Still quite dark at five o'clock in the morning? A. I think the moon was shining then, but it was dark.

Q. I mean to say it was not morning yet; I do not mean that it was not dark? A. Yes, sir.

Q. You had been up all night with your father? A. Yes, sir.

Q. You had been excited and worried, I suppose? A. I think so,

Q. Naturally? A. Yes, sir.

Q. You said Mr. Hunter said to you that he had no engagement to go with your father to Camden? A. Yes, sir.

Q. Are you able to say definitely, now, on the stand, all that occurred at that interview; can you trust yourself now to recall, under those circumstances, accurately, all that occurred at that interview? A. I can recall another remark he made.

Q. I am asking you about this; we will come to that directly? A. I cannot recall everything.

Q. Are you able to say that your statement of that occasion under those circumstances must be absolutely accurate? A. All that I said was accurate.

Q. You are sure of that? A. Yes, sir.

Q. There could be no possibility of inaccuracy, on such an occasion as that, about your recollection? A. No, sir.

Q. Are you sure that Mr. Hunter did not say to you, that he had an engagement to go with your father, but could not go; that he found he could not go, at the last moment, or something to that effect? A. No, sir.

Q. I speak of that time when you went there? A. Yes, sir.

Q. Was not that said in the presence of Mrs. Hunter? A. No, sir.

Q. Nor any of the children? A. None of the children were present.

Q. It was not said at all, according to your recollection? A. No, sir.

Q. When I say these things I am not imputing any suggestion that you would tell what is not true, or mean to tell what is not true; I mean to suggest that it is likely that, under those circumstances, you would not be able to recall every little thing—very few people could. Did not you say to Mr. Hunter at that time, "Of course, Mr. Hunter, you can locate yourself that night?" A. No, sir; I did not.

Q. Nor anything to that effect? A. Nothing.

Q. You are sure of that? A. Yes, sir; positive.

Q. You would be just as much surprised if that should turn out to be true, as you would be if the other state-

ments I have made should turn out to be true? *A.* Yes, sir.

*Q.* You are just as sure of one point as of the other?

*A.* Yes, sir.

*Q.* Just as confident? *A.* Yes, sir.

Cross-examination of FRANK L. ARMSTRONG resumed.

By Mr. Robeson.

*Q.* Whereabouts in that room was your stand? *A.* My stand was across the room on the side opposite the stairway, which was on the west side.

*Q.* Where was Mr. Carey's stand? *A.* It adjoined mine, nearer the wall.

*Q.* On the other side from the stairway? *A.* Yes, sir.

*Q.* I want to ask you whether or not Mr. Hunter had not been esteemed, up to this time, as a special friend of your father? *A.* To the best of my knowledge.

*Q.* State whether or not he was not the man to whom your father turned in difficulty for help and assistance?

*A.* He assisted my father to help himself.

*Q.* I did not ask what the motive of Mr. Hunter was. I asked you the fact whether Mr. Hunter was not the man to whom your father turned in difficulty and trouble for assistance? *A.* Yes, sir

*Q.* And to whom he had been accustomed to turn for the last two years at least? *A.* The last year and a half.

*Q.* After he left the partnership? *A.* A year preceding the partnership?

*Q.* You say you had not been intimate with the family for the last two years—your want of intimacy did not grow out of anything which destroyed the friendship of the families, did it? *A.* No, sir.

*Q.* It was a matter personal to yourself? *A.* Yes, sir.

*Q.* You had been desirous of becoming a member of Mr. Hunter's family? *A.* No, sir.

*Q.* Had you not applied to be? *A.* No, sir.

*Q.* The intimacy was broken off between you and the family, was it not? *A.* Yes, sir; very gradually.

Q. You retained no enmity toward Mr. Hunter on that account? A. No, sir.

Q. How long were you at that house on the morning of the 24th? A. I do not think I was there over fifteen minutes.

Q. You went from there, where? A. I went home.

Re-examined.

By Mr. R. S. Jenkins.

Q. Where did you say the washstand was; point it out on the plan? A. (The witness does so.)

Q. Were you all in the habit of washing there? A. Yes, sir.

Q. Your business soiled your hands more or less, did it? A. Yes, sir.

Q. Was your father in the habit of washing there? A. He was in the habit of washing there.

Q. Where did he keep his towel? A. On a rack on top of the fireproof.

Q. In his private office? A. Yes, sir.

Q. Right by the window, there? A. Yes, sir.

JOSEPH ASHBROOK, sworn and examined.

By Mr. R. S. Jenkins.

Q. Where do you reside? A. My private residence is 316 Carpenter street, Philadelphia.

Q. What is your business? A. I am a Superintendent of Agencies of the Provident Life and Trust Company, 108 South Fourth street, Philadelphia.

Q. How long have you been in that position? A. With the exception of a short interval—an interval of a little over a year—about twelve years; continuously for the last eight or nine years.

Q. Were you engaged in that business as superintendent during the months of November and December last? A. Yes, sir.

Q. Do you know Benjamin Hunter? A. Yes, sir.

Q. This is the man here (pointing to the Defendant)? A. Yes, sir.

Q. Did you see him, at any time, either in the months

of November or December last, at your office? *A.* I saw him in my office about the 4th of December, but I do not know the exact date.

*Q.* Of what year? *A.* Last year.

*Q.* What time of the day did you see him? *A.* I cannot answer. I do not remember.

*Q.* Did you have any conversation with him? *A.* He came into my private room, which is on the second story of the building, and commenced a conversation on the subject of insuring the life of a debtor. The conversation was introduced by him. I had not known him previously. The conversation continued over some minutes.

*Q.* Give us the whole conversation?

*Mr. Robeson*—We object to what the conversation was, as utterly irrelevant to this issue.

(Objection overruled; the ruling of the Court excepted to by Defendant's counsel and exception noted.)

*Q.* Give us the whole conversation, as far as you can recollect? *A.* He spoke of his business relations with Mr. Armstrong being such that he was or had been a special partner; that he had put a few thousand dollars—I think some \$5,000—in the concern, and that he was a little afraid, in consequence of his having been seen about Armstrong's place of business so often, and being seen driving a nail or doing something of that kind, that he had incurred a greater liability as a general partner and not as a special partner, and he desired an insurance on the life of Mr. Armstrong. He mentioned that he wanted the insurance effected in such a way that in the event of the death of the person insured there would be no trouble as to the collection of the money. By arrangement Mr. Armstrong came in, I think a day or two afterward and was examined and accepted, and the policy was issued.

*Q.* Of what amount? *A.* \$10,000; an endowment at seventy.

*Q.* What do you mean by an endowment policy? *A.* An endowment policy at seventy in this particular instance is one payable certainly at seventy, if the person insured

should reach that age, or payable sooner if the person insured should die.

*Q.* So that if Mr. Armstrong had lived until he was seventy years of age, the whole of the principal of the policy would have been paid to Mr. Hunter? *A.* Yes, sir; by arrangement the policy was made out—the transaction was with Mr. Hunter only, Mr. Armstrong was simply the subject of the examination and the policy was made out payable to Mr. Hunter, and all the payments are receipted as coming from Mr. Hunter and a memorandum of that fact was made on the margin of the application, which I hold in my hand.

*Q.* When were the payments to be made? *A.* They were to be made quarterly. The first payment was due on December 4. They would be due at intervals of three months. The next payment would not have been due until the following March.

*Q.* What were the payments? *A.* The payments were \$94.20 a quarter.

*Q.* Was Mr. Hunter there more than once in relation to this matter? *A.* I do not remember that he was there more than once prior to the examination of Mr. Armstrong. He came in subsequently, I think, on the day of the examination.

*Q.* What passed then? *A.* I do not remember anything in particular that passed. I have no definite recollection about what passed at that time.

*Q.* I understand you to say that the beneficiary of the policy is Mr. Benjamin Hunter? *A.* Yes, sir.

*Q.* What do you hold in your hand? *A.* The application for the policy of insurance.

(Application produced, and offered in evidence by the State.)

*Cross-examined.*

By Mr. Thompson.

*Q.* Your office is where? *A.* 108 South Fourth.

*Q.* You are with the Provident Life and Trust?  
*A.* Yes, sir.

*Q.* A part of your business is the insurance of lives?  
*A.* Yes, sir.

*Q.* Had you known Mr. Hunter before this business transaction? *A.* No, sir; not before the day he came in and introduced himself to me.

*Q.* Who called first upon you, he or Mr. Armstrong, in reference to the insurance? *A.* Mr. Hunter; I did not see Mr. Armstrong until the time of the examination.

*Q.* Was Mr. Hunter alone? *A.* He was alone when he called; yes, sir.

*Q.* Did he see you? *A.* Yes, sir; he saw me.

*Q.* The interview was with you altogether? *A.* Yes, sir; the interview in regard to the insurance was. I explained and he came subsequently and saw my brother.

*Q.* I am speaking of the first interview? *A.* It was only with me.

*Q.* What took place? *A.* I cannot remember all the words of a conversation extending over ten minutes; he came in and said he desired to insure the life of a debtor. He spoke of Mr. Armstrong as being his debtor; described their business relations as being, at that time, or having been a special partner; and the circumstance, which I mentioned a little while ago, of his apprehension of greater liabilities.

*Q.* What amount of indebtedness did he name then? *A.* I do not remember exactly the amount.

*Q.* About \$5,000 or \$6,000? *A.* Somewhere along there.

*Q.* Then he was to be a creditor insurer? *A.* A creditor insurer.

*Q.* You take applications for insurance both from creditor and debtor? *A.* Yes, sir; a debtor can insure his life for the benefit of the creditor, or the creditor can insure the life of a debtor for his own benefit.

*Q.* And that is a common thing—a creditor policy, as well as the other? *A.* Well, the proportion of them is not great, but they are not uncommon.

*Q.* How soon after the call by Mr. Hunter upon you in reference to the insurance upon Armstrong's life did Armstrong appear? *A.* I think it was two or three days; I do not remember precisely.

*Q.* Did he come alone? *A.* He came alone; he was there alone, I suppose.

*Q.* How did you know that he was the subject of insurance? *A.* He came in and introduced himself to me; I think Mr. Hunter had mentioned the fact of his being deaf; he came in and introduced himself; I do not know precisely how he was identified, but I was satisfied he was the man.

*Q.* He stated the object of his call to get his life insured? *A.* I do not remember what he said; I remember what was said to me when he came out of the room.

*Q.* What room: the examining room? *A.* The examining room; it was across the hall from my room.

*Q.* Then, when he came out of the examining room, he had been in the office of the physician? *A.* Yes, sir.

*Q.* And had passed? *A.* Yes, sir; he had passed.

*Q.* And there you had the conversation with him? *A.* Yes, sir.

*Q.* What was said then? *A.* He said the policy was for \$10,000, and he said that his indebtedness to Mr. Hunter was not so much, and that he did not need so much, but, as the transaction was with Mr. Hunter, I did not trouble myself particularly about that.

*Q.* (Referring to the application.) I perceive the writing of the ink figures in this application is over pencil? *A.* Yes, sir.

*Q.* Who made the pencilling of \$10,000? *A.* I presume I did.

*Q.* Why did you make the first in pencil and the next in ink? *A.* I shall have to conjecture. I cannot remember perfectly; but I know why I have done it in other cases, and I have no doubt I did it for the same reason in this case.

*Q.* Did you do it for the purpose of consulting with the man who was to be insured? *A.* The policy was not to exceed \$10,000; I believe the amount was not definitely decided upon, and I had the calculation made upon the \$10,000, and it was accepted by the doctor for \$10,000; when Mr. Hunter came in it was then fixed at \$10,000.

*Q.* When was the premium paid upon that policy? *A.* I think it was paid on the sixth.

Q. What is the date of the policy? A. The policy is dated on the fourth.

Q. What is your usual habit as to the payment of premiums? A. The premiums are paid invariably in advance, and the policy does not take effect until the premium is paid.

Q. The payment of the premium was in the usual way? A. In the sense of having been paid in advance? Yes, sir.

Q. Is that a paid up policy? A. In what sense?

Q. What kind of a policy is it; what do you call it? A. An endowment, perhaps, you mean.

Q. An endowment policy is what? A. What kind of a policy is an endowment?

Q. Yes, sir. A. An endowment policy is a promise to pay definitely at a certain time, or sooner, if death should occur before the time named.

Q. Does it not fix a definite amount at a given time? A. Yes, sir; the amount in this case, \$10,000, was payable to Mr. Hunter, if Mr. Armstrong lived to be seventy years of age; should death occur sooner, the amount was payable sooner.

Q. Is that policy worth \$10,000 on its face? A. I really do not understand you.

Q. Did you consider it, when it was issued, worth \$10,000 in the form of an endowment policy? A. You will pardon me, but I do not understand.

Q. Do you consider it was worth \$10,000 in the form it was issued? A. Perhaps I could meet your point by saying that it was a conditional promise on our part to pay \$10,000, as I have described, the condition being the payment of the subsequent premiums. Of course, at the end of the year, the premiums not being paid, the policy fell.

Q. What is the result of the examination of John M. Armstrong; does it appear there? A. Yes, sir; the application was recommended for acceptance.

Q. But as to his bodily condition and health? A. The result of the examination was favorable.

Q. Without any qualification? A. There is no qualification as to the acceptance.

*Q.* After the application and the examination, and your interview and the filling up of the policy for \$10,000 in ink, how long did you retain the policy? *A.* It must have been retained two days.

*Q.* To whom did you deliver it? *A.* I do not know.

*Q.* To Hunter, to Armstrong or to whom? *A.* I do not know that; I have no recollection of the delivery of it.

*Q.* There was nothing singular in the mode in which that was obtained and issued, was there? *A.* The fact of a voluntary application on the part of a stranger was just a little singular to me, but when I went down stairs and mentioned who Mr. Hunter was and his relationship to his brother which he had referred to, and the fact of his having lived near a relative of the president of the company, we assumed that it was a safe risk to assume.

*Q.* Do you mean to say you know all persons who apply to you for insurance, and you only insure acquaintances? *A.* I did not say that.

*Q.* Why did you say it was a little singular? *A.* Almost invariably applications for insurance are brought in by our solicitors upon the lives of persons who are known to them.

*Q.* I mean in an ordinary case? *A.* But they are known to the solicitors.

*Q.* Do you mean to say you never issue voluntary policies to any but acquaintances? *A.* I do say that decidedly; we have issued as much as three millions of insurance in a year, and out of that there would not be over twelve voluntary ones in a year.

*Q.* Are they not all voluntary applications? *A.* They are voluntary in the way of being insured, but they are all sent in by our agents; I mean without solicitation of the

*Q.* Do you mean to say you always know, when a man applies for an insurance to you, the name of the agent who sends him? *A.* As a matter of fact we are very apt to find out.

*Q.* You do not always find out, do you? *A.* The occurrence would be a very rare one, where an agent sent

in an application and we did not find out where it came from. The agent would come to claim his percentage on it.

*Q.* You called upon the District Attorney, did you not, after the death of John M. Armstrong? *A.* I called, I think, on Monday evening; I did not see him, though.

*Q.* Why did you call? *A.* In my position it is my duty to look after the death list; and the circumstances of this case seemed a little peculiar. My suspicions were excited and I did not think it would be right to pass that case without some inquiry.

*Q.* By passing the case do you mean not paying the money? *A.* Not pay it until it is investigated; to pass it for a few months until we have time to satisfy ourselves.

*Q.* And get rid of paying it altogether if you could? *A.* I did not say that at all.

*Q.* You called on the District Attorney? *A.* I will be very glad to make my explanation and then be glad to listen to your comments upon it.

*Q.* Go on. *A.* I had no suspicion of Mr. Hunter.

*Q.* You said you had before? *A.* No, sir; I said this, on the contrary; I had no suspicion, but I thought the circumstances of this case should be inquired into.

*Q.* By circumstances do you mean suspicions? *A.* A man may not be suspicious of a thing, but he may think it his duty to satisfy himself concerning it.

*Q.* You thought it your duty to satisfy yourself in relation to these circumstances? *A.* I am perfectly clear in my own meaning.

*Q.* You called on the District Attorney on the following Monday? *A.* Yes, sir; I came over to Camden to see the Mayor, and introduced myself pretty nearly in these words: That I came on an embarrassing errand; that I was fearful of two things—of bringing suspicion on an innocent man, and, in the next place, I was fearful of putting my company in the wrong position of being too willing apparently to escape a loss. I mentioned these circumstances, and then he told me the detectives were already on the track of Hunter, and, at his suggestion, I think, I called on Mr. Jenkins on my way to the ferry, but did not find him in.

*Q.* Who was that innocent man? *A.* At that time I supposed Hunter was innocent.

*Q.* And, therefore, being afraid of bringing suspicion upon him, when you believed him to be innocent, you went to the District Attorney? *A.* I am quite satisfied with the statement I have made.

*Q.* How often did you call on the District Attorney? *A.* I believe I never called on the District Attorney until, perhaps, a week or ten days ago.

*Q.* Some of your men have, have they not? *A.* No one from our office called upon the District Attorney.

*Q.* You employed a detective? *A.* We absolutely never employed a detective, and never employed anybody, whatever, in connection with this case.

*Q.* Did you not employ Officer Franklin? *A.* We absolutely employed no one whatever.

*Q.* Neither directly nor indirectly? *A.* Neither directly or indirectly.

*Q.* You have contributed money for the prosecution, have you not? *A.* We never contributed a single penny.

*Q.* At no period at all? *A.* Not at all.

*Q.* No conditional or qualified promise? *A.* None whatever. I should mention, however, that sometime after my being in Camden, I was notified to attend a meeting in Philadelphia at which Franklin was present. I met him on that occasion and on a subsequent occasion, and that is all.

*Q.* Was that meeting for the purpose of raising funds? *A.* The subject was not alluded to.

*Q.* But do not you know that was the object of the meeting? *A.* I will make my answer if you will give me the opportunity.

*Q.* You have the opportunity? *A.* I shall be glad to answer your questions, but you tell me what I am to say or what I have said.

*Q.* Go on; I am not interfering with you? *A.* Mr. Jenkins wanted several of the parties connected with the insurance companies to meet him in Philadelphia, that he might take their testimony in this case.

Q. Did not you understand that the object of the meeting was to raise funds? A. That was the only object;—the subject of raising funds was not alluded to.

Q. Did not you so understand that was the object alluded to? A. At the time there was no such understanding; there was a subsequent meeting.

Q. What had that reference to? A. There was a subsequent meeting, at which Mr. Jenkins produced a letter which had been submitted to him or sent to him by mail, agreeing, for the sum of \$5,000, to make certain revelations in connection with this case. We declined absolutely to have anything to do with it, for fear that the party who had sent the letter was a scoundrel, and might be willing to perjure himself. We had nothing whatever to do with it, as the District Attorney well knows.

Q. Then your only fear alluded to, was you had no confidence in the writer of the letter, yet you wanted to escape the payment of the money? A. You have no right to ask me that.

Q. I have a right and do ask you that? A. I say no, sir; positively no.

Q. Do you mean to say that at no time there was a meeting in Philadelphia, in behalf of your company, with any one, with reference to supplying money for the purpose of carrying on this prosecution? A. I can only say that except that meeting, which I have just described, where the occurrences were just as I have described, there was absolutely no meeting whatever where the subject of money for this trial was ever considered.

Q. Then, at that particular meeting, the subject of money was discussed? A. A paper was submitted by Mr. Jenkins, and he said he could have nothing to do with it.

Q. What was the amount of money necessary to be raised? A. \$5,000.

Q. How many of you were together when that was named? A. There were two representatives of one other company and myself.

Q. What other company? A. The Mutual Life of New York.

*Q.* Can you give me the name of the representative?

*A.* There were two persons there.

*Q.* Name them? *A.* Mr. Bates and Mr. Lambert, of the firm of Vanuxem, Bates & Lambert.

*Q.* Was Mr. Hodges present? *A.* No, sir; he was not present.

*Q.* At no meeting? *A.* Mr. Hodges called at our office several months later than that, and I should be glad to give you what was said upon that occasion if you want to know it.

*Q.* I am simply asking you whether Mr. Hodges was present. *A.* He was not present on that occasion.

*Q.* Who proposed the raising of the \$5,000 at this meeting? *A.* There was no proposition made. Mr. Jenkins came over and showed the letter which he had received and said that he should have nothing to do with it.

*Q.* What was said about the \$5,000—I do not want to know anything else? *A.* I can get on perfectly well without your help.

*Q.* What was said about that. You do not seem to get on at all; what was said about the \$5,000? *A.* I do not remember anything, except that the subject under consideration was whether—

*Q.* What was the subject under consideration? *A.* All I have to say is, that if you have any idea you can confuse me, you can spare yourself the pains.

*Q.* You do not seem to be confused, and you do not seem to be possessed, either? *A.* I took a moment's pause to give a more careful answer.

*Q.* If you will answer the questions, there will be no difficulty between us? *A.* There certainly will be no difficulty.

*Q.* But you do not seem to answer them? *A.* There certainly will be no difficulty, and I will answer all of them.

*Q.* Who suggested the raising of the \$5,000; who spoke about the \$5,000, and what was said about the \$5,000? *A.* The note was submitted to Mr. Jenkins, and Detective Franklin, who was present, gave it as his opinion that it was a genuine letter. He had some doubt about it.

The question was also submitted: Whether the company would be willing to raise that amount of money or not.

*Q.* What company? *A.* The companies interested in the case.

*Q.* Have you the letter? *A.* No, sir.

*Q.* Do you know where it is? *A.* I do not.

*Q.* What did you do with it? *A.* It may have come into my possession for a day or so, and I returned it.

*Q.* To whom did you return it? *A.* I gave it to Detective Franklin.

*Q.* Do you remember how that letter was signed? *A.* I do not.

*Q.* I understood you to say something about a letter having been signed "Jens," or some such name? *A.* I did not say so, I do not know whether it had a signature or not. I think the letter proposed that an advertisement should be put into the *Ledger* signed "Jens," but I do not think the letter had any signature to it, although I do not recollect the fact.

*Q.* You say that you cannot say whether it was signed "Jens" or not? *A.* I have no recollection whether it was or not. I doubt if it had a regular signature.

*Q.* Did you not return the letter to Mr. Jenkins? *A.* I think I returned it to Mr. Franklin.

*Q.* Did you invite Officer Franklin to that meeting?  
*A.* The meeting was in his office.

*Q.* Whose office? *A.* Detective Franklin's.

*Q.* Where was that? *A.* His office is on Third Street, above Chestnut.

*Q.* Had you or your company previously employed Detective Franklin? *A.* I think Detective Franklin, as I understood, was employed by another company.

*Q.* What other company? *A.* I understood that he was employed by the Mutual Life.

*Q.* From whom did you get that information? *A.* Possibly from one of the firm; I do not remember precisely.

*Q.* From one of what firm? *A.* One of the firm representing the Mutual Life.

Mr. Jenkins—

We object to this testimony, not because it is immaterial, but simply because it is not the way to prove it.

Mr. Thompson—

We want to prove his knowledge. We want to show what combination brought about the employment of Detective Franklin, and I think it is legal.

Mr. Jenkins—

I do not object to it, but simply call your attention to the fact that you are not doing it in the proper way.

Judge Woodhull—

The best way, then, when no objection is to be made, is not to interrupt the examination.

By Mr. Thompson—

*Q.* Do you know by whom Detective Franklin was employed? *A.* I understand that he was employed by the Mutual Life at an early stage of the case.

*Q.* Does he represent the Pinkerton Detective Agency? *A.* I believe he does.

*Q.* You and the officers of the Mutual Life had subsequent interviews? *A.* We have seen each other a number of times—not the officers, but the agents.

*Q.* On the subject of the policy of insurance? *Q.* Yes, sir; perhaps not so much regular interviews, as, when we met, the subject might be alluded to.

Mr. Scovel—

We now ask Mr. Jenkins to produce the letter signed "Jens," or to prove its contents by secondary evidence.

Judge Woodhull—

When the time comes, proof relevant to anything the letter contains will be allowed to be given in evidence.

By Mr. Robeson.

*Q.* If a creditor insures the life of a debtor in Pennsylvania, how much of the policy can he collect at the death of a debtor? *A.* I understand the question to be: If the creditor insures the life of a debtor?

*Q.* Yes, sir, exactly as I gave it to you? *A.* Our apprehension would be that the insurer would be entitled to claim the whole amount.

*Q.* If the creditor insures the life of a debtor? *A.* Yes, sir, it might be different under an assignment, but where the policy is taken out originally by a creditor insuring the life of a debtor, our understanding would be that he would be entitled to the whole amount of the policy.

*Q.* Have you not got that just wrong? I have no doubt you can get it right. Is it not the law that if a creditor insures the life of a creditor, when the death occurs—no, I have got it wrong? *A.* I thought you had.

*Q.* I mean to say, if the debtor insures his life for the benefit of his creditor? *A.* If the debtor insures his life for the benefit of a creditor—

*Q.* Then, upon the death, the creditor collects only his insurable interest, which is only his debt? *A.* That is, the amount of the debt.

*Q.* And the rest of the policy goes to the benefit of the debtor's family? *A.* It would go to his estate, I presume; yes, sir. Your last question, however, was different from the first.

*Q.* I put the thing wrong; you was right and I was wrong, as all of us are often wrong; and people who are often right do not mind acknowledging themselves wrong occasionally. In an endowment policy, such as this was, the premiums are larger, are they not, than a pure life policy? *A.* They are always larger, but the longer the time of the endowment the less the difference.

*Q.* My simple question is in regard to an endowment policy? *A.* I answer that, yes, sir; the premium is larger on the life.

*Q.* The premiums are larger than they would be on a life policy? *A.* Yes, sir.

*Q.* I observe that in this case the word "life" is written under the word "endowment?" *A.* I think it is very likely I suggested the endowment at seventy, as being a form of insurance more available in case of the termination of the policy.

*Q.* You spoke of volunteer cases. Life insurances to cover a death either by a creditor insuring a debtor's life for the purpose of securing his money, or by a debtor to secure

his creditor, are usually volunteer cases, are they not? *A.* They are more apt to be; but, as I stated, there are very few cases when people insure of their own motion.

*Q.* Then they would be more naturally volunteer cases?

*A.* They would be; but, at the same time the subject of insuring the life of a debtor has to be suggested in a great many cases, as they will very rarely insure their own lives.

*Q.* You mean to say that insurance agents are so active that they do not give people a chance to volunteer? *A.* We encourage them to activity.

*Q.* There was another question which your statement suggested to me; I want to see if I have got it clearly. I understood you to say that Mr. Hunter said he had been a special partner, but that from being there so much of the time, or doing things about the place, there was a possibility that he might be held to a general partnership, and, that, therefore, he desired larger insurance than he would have for his special debt? *A.* That was my understanding. There was one subject to which I did not allude, and I do not wish to be misrepresented. Mr. Thompson referred to the call of Judge Hodges at our office. If it is necessary I can explain that. I did not explain it for the reason that I did not think it came within the limits of his question.

By Mr. Thompson.

*Q.* I only simply asked you whether he was there at that interview? *A.* There was an interview.

*Q.* That is all I asked you. *A.* He was not at that?

By Mr. Jenkins.

*Q.* When this letter was submitted to you gentlemen in reference to this subject of five thousand dollars, I understood you to say that I said I could take no part in that thing? *A.* Yes, sir.

*Q.* Do you recollect my saying, "You gentlemen can do what you please in regard to it?" *A.* The impression I have is that is what you said you would do.

*Q.* And you gentlemen took it into consideration? *A.* Yes, sir.

*Q.* And you emphatically refused to have anything to do with it? *A.* Yes, sir.

Q. Have you ever promised me or any one else one penny in relation to this case? A. No one living.

Q. Directly or indirectly? In no way whatever.

Q. Has any one any claim upon your company for any services that they have done or that they may do? A. No, sir.

Q. You do not remember the exact date when Mr. Hunter called upon you? A. No, sir.

Q. Is there any way to fix it? A. No, sir.

Q. When was the application dated? A. It was dated the third day of December; it may have been one or two days prior to that.

By Mr. Thompson.

Q. Did the President of your company, in the presence of Mr. Hodges and in your presence, say "We propose to hang Hunter?" A. So far from that, the President was not present at the conversation.

Q. Was it not said, in your presence and in the presence of Mr. Hodges? A. Mr. Hodges and I were alone together.

Q. Was it not said between you and Hodges? A. No, sir.

Q. Did you not decline to make a contribution toward the payment of a certain sum in settlement of the policy which Mr. Hodges suggested, and then did you not say, "No, we will not pay a cent, because we intend to hang Hunter?" A. I said nothing of the kind.

Q. Nothing of the kind was said? A. Nothing of the kind was said.

Q. Did you not hear it said? A. Only Hodges and I were present, and it could not have been said.

Q. Did you not hear it said? A. I certainly did not hear it said.

Q. Nothing like it? A. Nothing like it, whatever. I should be glad to explain that.

By Mr. Jenkins.

Q. What was this conversation between you and Hodges upon which the counsel have been examining you? A. A man calling himself Judge Hodges, a sort of itinerant

settler of claims, came to our office, and said he was employed by the Mutual Life, I think, and that he was engaged in some adjustment of this claim and he proposed that we should make an abatement upon this claim. I think he proposed to pay him \$9,000, and have it released, but I said the thing was altogether improper; that if we owed the money we would pay it, and that we were not going to put ourselves into the position of making any such compromise. As to any declarations such as I have been asked about, I never made it, and nobody but Mr. Hudges and myself were present at that interview. Mr. Hodges said he was going to see Mr. Scovel and spoke with very great confidence of some supposed arrangement he was going to make with Mr. Scovel, in which he was disappointed. He spoke with great confidence of what he would be able to do with Mr. Scovel.

*Q.* Did he tell you that Mr. Scovel had sent him there?

*A.* Yes, sir.

By Mr. Scovel.

*Q.* Did you know whether he had any conversation with the President of the company? *A.* I told him that if the President were out of the city I would decide that case positively, but as the President was in the city, and would be at the office the following morning, as a matter of courtesy I proposed to refer it to him; but he did not call.

JOHN C. MORGAN, M. D., affirmed and examined.

By Mr. Wilson H. Jenkins.—*Q.* Where do you reside?

*A.* Seventeenth and Chestnut, Philadelphia.

*Q.* Are you a physician? *A.* Yes, sir.

*Q.* Of what school? *A.* Homœopathic.

*Q.* How long have you been practising? *A.* Since 1852—twenty-six years and upward.

*Q.* Do you know Dr. Thomas? *A.* I do.

*Q.* Did he call upon you some time ago, and have a consultation with you? *A.* Yes, sir.

*Q.* Do you remember when it was? *A.* It was the night between the 23d and 24th of January. He sent me a card.

Q. Did you see him? A. I did.

Q. Where? A. At the house of Mr. Armstrong.

Q. Be kind enough to state whereabouts that was? A. That is Seventeenth street, above Brown, on the west side.

Q. What time did you go there? A. I went there to meet Dr. Thomas at seven o'clock in the morning.

Q. Did you find him there? A. I did.

Q. Did you see Mr. Armstrong? A. I did.

Q. Where was he? A. He was lying on the bed with his head to the foot of the bed is my recollection, at the east side near the window.

Q. Was he alive? A. He was.

Q. You had a consultation there, had you? A. Yes, sir.

Q. What did you conclude to do? A. Concluded to operate upon him and see what the condition of things was, removing such bones as might be in the way of a possible recovery of him in the best condition; in other words, for recovery.

Q. Had you ever seen Mr. Armstrong before. A. Not to my knowledge.

Q. Was there anybody there to identify his person? A. A Dr. Howard, of Camden.

Q. Who else? A. I think there were one or two other persons coming and going apparently in the room. I did not pay much attention to anybody else. I saw there were other parties there without much reference as to who they were.

Q. You performed the operation? A. Yes, sir.

Q. Will you state what the wounds were? A. I stood by and saw Dr. Thomas' performance, and gave him such advice as I thought proper at the moment.

Q. State what was done? A. The two wounds in the temporal region were united by an incision, finding the bones were loose under both. Finding that the bones were crushed under both wounds, and that the loose bones extended under the uncut part, the portions were united by an incision, and then, free motion being had to the bones, all the pieces were taken out that possibly could be. It was

not possible to remove all the loose bones, because the whole of the injured region of the skull could be moved more or less with the fingers, but those pieces which would not be capable of recovery and reunion were removed. A similar operation was done on the posterior, or, rather, the upper wound, the vortex. These incisions were made so as to get at the loose fragments beneath, and some loose fragments were removed, but it was not possible here either, for a similar reason, to remove the loose bones, because the movement could be communicated apparently to the whole side of the head; besides on the top the large vein that runs to back, the longitudinal *sinus*, in medical language, was likely to be involved with the bone which was depressed, and we feared it would produce a hemorrhage, a fatal hemorrhage instantly almost, if it were interfered with. Consequently, as we were not willing to interfere, in any way, with the welfare of the patient in any respect, it was let alone. All loose bones having been removed, silver sutures were introduced for the purpose of facilitating the healing of the wounds, leaving a portion open where the drainage seemed most likely to occur, to allow the escape of the blood. Silver sutures are used more extensively now than formerly, where there is fear of erysipelas, as in the scalp, instead of silk, as previously.

By Mr. Robeson.

Q. You mean by silver sutures silver wire thread?

A. Yes, sir; silver wire thread.

By Mr. R. S. Jenkins.

Q. How many wounds were there? A. There were three that I took notice of. I do not remember that my attention was called to the slight wound at the back of the head; I do not remember whether it was or not. If so, I regarded it as trifling; but there were three other serious wounds, two in the temple and one in the vertex of the head near this vein I have spoken of.

Q. What was the condition of Mr. Armstrong when you first saw him? A. He appeared to be unconscious, with trembling and twitching movements in the limbs, and

seemed indeed to be in a very precarious condition, as might be expected.

*Q.* What was his condition after the operation was performed? *A.* There was a little improvement, if anything. I do not think he was quite so restless. He did not seem to give evidence of so much unconsciousness, or uneasiness, as it were, or symptoms of unconsciousness or automatic movements of uneasiness as he did before.

*Q.* What time did you leave there? *A.* I think it was between nine and ten o'clock.

*Q.* Did you see him again? *A.* I came in the afternoon at half-past five, and found Dr. Thomas there, and learned that he had been obliged to come a little sooner than the time set—half-past five o'clock.

*Q.* What did you do then? *A.* Simply examined his condition as to pulse, respiration and temperature. I think I brought a thermometer in the morning, and I examined it then. I am quite sure I did; and, in the afternoon, again, is my recollection, and inquired into all the conditions of the patient. I believe I inquired particularly as to the state of the urinary bladder, as it is always an important matter to see that the patient passes his urine when unconscious and unable to do it himself voluntarily, and was satisfied that everything was as well to do as could be, and gave him medicine in the meantime.

*Q.* What did you give him internally? *A.* I gave him arnica internally.

*Q.* Any spirits? *A.* I think Dr. Thomas had prescribed spirits in the night; at least I think I saw it given during the time that I was there.

*Q.* Did you see him again? *A.* I did; coming next morning, not knowing of his death; I think I saw him after his death at that time.

*Q.* The next time you saw him he was dead? *A.* Yes, sir.

Cross-examined.

By Mr. Robeson.

*Q.* The operation was at seven o'clock on Thursday

morning? *A.* On the morning of the 24th, which was Thursday, I believe.

ALBERT F. WALTER, sworn and examined.

By Mr. Wilson H. Jenkins.

*Q.* Where do you live? *A.* 2224 Fairhill Street, Philadelphia.

*Q.* What is your business? *A.* I am an insurance clerk in the office of the Manhattan Life Insurance Company, 414 Walnut Street, Philadelphia.

*Q.* How long have you been there? *A.* I have been there next September will be thirteen years. I have been there twelve and three-quarter years.

*Q.* Were you there last December? *A.* Yes, sir.

*Q.* Do you know Mr. Benjamin Hunter? *A.* Yes, sir.

*Q.* Did you see him some time during the month of last December? *A.* Yes, sir; in the early part of December; the first week in December.

*Q.* Where? *A.* At the office, 414 Walnut Street, Philadelphia.

*Q.* What did he come there for? *A.* He came there to negotiate for a policy of life insurance. He gave me the age of a party—forty-two years of age—that he was inquiring the rates for. He came on the 3d of December last—that was the day—to negotiate for a policy of life insurance on the life of another party. I did not know that immediately, but I did in the course of the conversation, which was in the morning, shortly after I had opened the office; it must have been between nine and ten o'clock in the morning. He picked up a book or table of rates, one of our tables of rates, and looked in it carelessly, casually, and began inquiring the rates of insurance on the life of a party aged forty-two years, and the figures were based upon a policy for \$6,000. That was the amount that he named, and I was to give him the rates for; the conversation was very brief. He seemed to be satisfied with the character and standing of the company, and yet I went through the form of presenting the merits of the company before him because I saw the prospect of a risk, and I must say that he at that time impressed me favorably, and I began going over the

references that we have on the back of our pamphlets to impress him favorably, and amongst others the name of Isaac A. Sheppard was mentioned, and then he produced a circular of Isaac A. Sheppard & Co., stove founders in Philadelphia, and I saw his name on the circular, and I guess he was connected with them in some way in putting the patent back log boiler in their ranges. I mentioned the fact that Mr. Sheppard was insured with us for a large amount, and he made arrangements to have a party examined that day; and, as I have often known a case of a slip between the cup and the lip, I suggested we had better send our doctor there at once and close it up. He said no; he would send the party down.

Q. Did he give you the name of the party? A. He did; he gave the name and address of John M. Armstrong, 710 Sansom Street. At the time appointed Mr. Armstrong presented himself, and I noticed he was very punctual; he was there at the time appointed, which was at one o'clock on the same day, but Mr. Hunter was not with him; Mr. Armstrong was not with Mr. Hunter in the morning. He came in, and, by some remark, I recognized him as the person who was to be examined that day, and I passed him into the back office and introduced him to Mr. Carr, who was there, and the doctor was also present, for the purpose of making a medical examination. I returned to my desk in the front office, and had no further connection with the matter. Mr. Hunter, in the morning, when he gave me the name of John M. Armstrong, gave it to me on a card of Mr. Hunter's, and I think that card stated that his own office was at the office of Hughes, heater and range man, at the corner of Sixteenth and Cherry. I have the card in the office.

Q. Was there a policy taken out? A. The policy was taken out; yes, sir.

Q. Do you know that the policy was taken out? A. Yes, sir; I know the policy was issued.

Q. For how much? A. For \$6,000.

Q. In whose name? Q. In the name of John M. Arm-

strong; no other name is mentioned in the policy than that of John M. Armstrong.

*Q.* Was it assigned? *A.* It was assigned afterward.

*Q.* To whom? *A.* To Mr. Benjamin Hunter.

*Q.* Do you know this of your own knowledge? *A.* I have not the papers here. I suppose the assignment is in the possession of Mr. Benjamin Hunter. Where our policies are assigned the party who assigns notifies the company at the home office, and receives an acknowledgment from the company. The party to whom the policy is transferred retains the original transfer.

*Q.* Did Mr. Hunter receive such an acknowledgement?

*A.* He received such an acknowledgement from the company, and that is how I know it was transferred.

*Q.* Did Mr. Hunter come after Mr. Armstrong was examined? *A.* Yes, sir; he came in about three o'clock on the same day.

*Q.* What conversation passed between you? *A.* I could hardly call it any conversation. It did not occupy more than a moment or two, and I think he came for the purpose of ascertaining whether the examination was satisfactory and whether the application had passed: and I assured him that, in my judgment, it would be satisfactory. I can tell generally whether an application will be accepted or not, and I said the examination was satisfactory and the policy would be issued. Then I introduced him to Mr. Carr, in the back office.

*Q.* Did he come again? *A.* Yes, sir; he came again.

*Q.* Do you remember when? *A.* I think the next time he came was to pay the premium on this policy which was issued and sent over from the home office to us.

*Q.* Do you know what was the premium? *A.* It was \$131.34 semi-annually. I have not the book here, but that is my impression.

*Q.* To whom did you deliver the policy. *A.* To Mr. Hunter.

*Q.* Did you deliver it? *A.* I delivered it.

*Q.* Where did you get it? *A.* It was in the office in a

book that we keep for that purpose—to keep policies in before they are delivered.

*Q.* Where is the main office of this company located?

*A.* No. 156 Broadway, New York.

*Q.* Do your policies have to come there to be signed?

*A.* The application must be sent on to the home office and all policies are issued from that office and sent on to us.

*Q.* And that was done? *A.* That was done; yes, sir.

*Q.* Why did you give the policy to Mr. Hunter? *A.* Because he paid the premium.

*Q.* Had it been assigned? *A.* It had been assigned.

*Q.* You saw that on the face, did you, or how do you know it? *A.* The assignment is a loose blank, and is not attached to the policy at all.

Cross-examined.

By Mr. Thompson.

*Q.* Your policy was what—a regular life policy? *A.* A regular life policy,

*Q.* How does it differ from an endowment policy? *A.* In this; that it is only payable at the death of the person insured, and not at a certain time or a certain age.

*Q.* That is one made payable in the life time of the party to whom it is given? *A.* Yes, sir.

*Q.* Is there any difference in the rate of insurance in a case of that kind? *A.* Yes, sir; the life rates are considerably lower than the endowment rates.

*Q.* In the way that you issue a policy? *A.* In the way that all companies do so.

*Q.* There was no difficulty about your adjustment of the policy or the issuing of it? *A.* No, sir; there was no hesitation to grant the policy. The examination was satisfactory, and the policy issued.

*Q.* Do you also require the payment of premium in advance? *A.* We do not usually deliver a policy until the premium is paid, and the delivery of the policy is equivalent to a receipt.

*Q.* Then your terms are invariably cash in advance?  
*A.* Yes, sir.

*Q.* Have you brought with you the application which Mr. Armstrong made? *A.* No, sir; I was not present when it was made, and therefore did not suppose I could give any testimony as to it.

*Q.* Was there any qualification of this policy in terms? *A.* No, sir; not at all; it was the usual open way.

*Q.* There was no limitation on the policy? *A.* No, sir; except the usual printed conditions on the policy.

*Q.* After the assignment of a policy who pays the premiums, the assignee or the assignor? *A.* It is just as may be determined upon; sometimes the creditor pays the premiums, and sometimes the debtor.

*Q.* But you received it? *A.* Yes, sir.

*Q.* In whose name did you give a receipt for that premium? *A.* Our receipts are always given in the name of the party insured, without regard to who pays the premiums.

*Q.* So that, after an assignment, when you take premiums, you still give a receipt in the name of the person insured? *A.* Yes, sir.

*Q.* Where was the medical examination of Mr. Armstrong made? *A.* In the office, 414 Walnut Street.

*Q.* Did you, or your company, attend the meeting at Mr. Franklin's office, that Mr. Ashbrook spoke of? *A.* No, sir; we had nothing to do with that.

*Q.* And nothing to do with any supposed contributions? *A.* Nothing at all.

*Q.* And had nothing to do with any detective? *A.* No, sir; and have not since.

*Q.* Not even Detective Franklin? *A.* Not even Detective Franklin.

*Q.* Or with reference to this prosecution? *A.* No, sir.

*Q.* Or, in any way, connected with this particular case? *A.* Nothing; we have had nothing to do with the prosecution in this case since the death of Mr. Armstrong.

By Mr. Robeson.

*Q.* This policy was made out in the name of John M. Armstrong, was it? *A.* Yes, sir.

*Q.* If assigned there was some record of it, was there

not? *A.* There was no record except that which Mr. Hunter holds, and the notice from the man insured; and the notice from the man insured is in the possession of the company.

*Q.* When a policy is assigned, is there not a record of it somewhere? *A.* We are not allowed to make any record of assignment; but in this case I made a note, because the assignee was to pay the premiums, so as to know to whom to send the notice.

*Q.* Is there not a record kept? *A.* Yes, sir; in New York.

*Q.* Has there not been a record in New York of this assignment? *A.* I do not know. There is a record of the assignment in New York, because we have an acknowledgement of the receipt of notification.

*Q.* But you do not know it? *A.* I take it for granted. They always require a notice to be given.

*Q.* There cannot be a legal assignment without the consent of the company, can there? *A.* I am not lawyer enough to say whether it would be legal or not; but the company requires it.

*Q.* There must be some notice to them of it? *A.* Yes, sir.

*Q.* You have not that record here? *A.* That is only kept in New York.

*Q.* But you do not have it here? *A.* I have not; nor is it in my possession. That postal card that Mr. Hunter has will show you the acknowledgement of the company.

*Q.* A postal card of what? *A.* In acknowledgement of the receipt of the notification of the assignment of the policy.

Mr. R. S. Jenkins—

I call upon the defence to produce the postal card in the possession of Mr. Hunter and the assignment of the policy.

The Witness—

This postal is a receipt the same as if we had said, on the policy itself, that we had assigned the policy. It came from our home office in New York, and Mr. Hunter was to

call for it at our office as soon as he got the notice from the company of the assignment of the policy, and he did.

JOSEPH ASHBROOK, recalled and examined.

By Mr. R. S. Jenkins—

Q. When Mr. Armstrong came to your office was he asked the question as to his being ruptured? A. The question was asked him, and his answer was "No."

Mr. Robeson—I object to that.

Q. The application shows that, does it? A. Yes, sir.

Mr. Robeson.

I object to any evidence being introduced in regard to what took place at the time this policy of insurance was obtained. The question whether this insurance was fairly obtained or not cannot be an issue in this case. The fact of the insurance having been obtained may be proved, but the circumstances under which it was obtained, or matters pertaining to its fairness, certainly cannot be material in this case. It seems to me that it is hardly susceptible of argument that the State can enter into the question as to what occurred between these companies and these parties at the time the insurance was obtained or as to whether the insurance was fairly obtained.

Judge Woodhull.

I do not understand that there is any such idea in the offer of this testimony at all, or that it has any relation to the fairness of the means by which this insurance was effected between the insured and the companies.

Mr. Robeson.

If it has not, then what possible bearing can it have in this case.

Judge Woodhull.

It is offered, as I understand, for the purpose of showing some connection between John M. Armstrong and Benjamin Hunter.

Mr. Robeson.

It has already been shown that Mr. Armstrong and Mr. Hunter procured this insurance, and that fact having been proved, I cannot see that evidence upon the question as to

whether he wore a truss, or as to whether he did not, or as to the conversation which occurred, can have anything to do with this issue, and I cannot conceive how the State can show the relation which existed between them when this insurance was procured.

Judge Woodhull.

The State undertook to show that Mr. Armstrong in reply to the question whether he was ruptured answered in the negative. That of itself the State would not insist has any relevancy to the issue as I understand it, but they also propose to prove that Hunter obliged him to say that he was not ruptured, or, in other words, that he told him to tell an untruth.

Mr. Robeson.

Suppose Hunter did advise him to say that; it would not prove anything in connection with the murder of John M. Armstrong.

Mrs. LYDIA GRAHAM sworn and examined.

Mr. Scovel—What do you propose to prove?

Mr. R. S. Jenkins—You had better wait until you hear the questions.

(To the witness)—Where do you live?

Mr. Thompson—If this is the wife of the prisoner, Thomas Graham, we object to her as incompetent.

Mr. R. S. Jenkins—Had you not better wait until you see what we want to prove?

Mr. Robeson—It would be better to proceed regularly. State your offer.

Mr. R. S. Jenkins—Why should there be any objection to the wife of Graham testifying in the separate trial of Benjamin Hunter?

Mr. Thompson—I suppose the first thing we are entitled to know is what the State proposes to prove by the witness. It is admitted that she is the wife of Graham?

Mr. R. S. Jenkins—Yes, sir.

Mr. Thompson—We contend that she is incompetent as a witness for the State. I think it is well settled that the wife of an alleged accomplice is incompetent to prove any

conversation. We do not know what they propose proving. An answer to our question on that point has not been given.

Judge Woodhull (to Mr. Thompson)—Is it your objection that she cannot be a witness for any purpose in this case?

Mr. Thompson—Yes, sir. She is not competent to prove any conversation had with the prisoner.

Judge Woodhull—No, you need not go into particulars. State the ground of your objection. Is it that she is not competent as a witness for any purpose in this case?

Mr. Thompson—She is not competent because her testimony may be hereafter used in the trial of the case against her husband. Thomas Graham is indicted for the murder of John M. Armstrong, and he will be tried, we suppose, for that murder separately. The object is to introduce the testimony of his wife to show conversations with the prisoner.

Judge Woodhull—It does not appear what it was introduced for. That will appear afterward when questions will be asked.

Mr. Thompson—It is upon the broad ground of incompetency that I say she is not competent because her declaration may be used hereafter in the trial of the case against her husband; and the law will not permit a wife to testify against her husband, and will not permit her testimony to be taken for the purpose of conviction in the trial of his case. Suppose she swears that certain things occurred which implicate her husband. For the purpose of convicting this man, Hunter, she is offered as a witness in connection with that; suppose that her testimony bears upon his alleged guilt and yet implicates her husband. That must be the tendency of it. The implication of her husband in guilt may be used hereafter against him, if she were to come upon the stand as a witness in favor of her husband.

Judge Woodhull—That she could not do.

Mr. Thompson—I do not know what offers will be made, but I am supposing that any declarations of hers will be given in evidence for the purpose of implicating her husband and for the purpose of convicting Mr. Hunter.

Judge Woodhull—You are assuming a little more than ought to be assumed; that is, that she is called here to testify to matters that would implicate her husband. There is no trouble about implicating her husband, because he has implicated himself to such an extent that it is impossible that anything could be added to that; and I do not see that it could vary his case any, or put him in any worse position, if that is your fear.

Mr. Thompson—The policy of the law is to prevent a wife from testifying against her husband.

Judge Woodhull—That is a special objection. The question here is whether she is competent in this case for any purpose.

Mr. Thompson—First, I say the policy of the law excludes it, because she cannot transgress that confidential relation between husband and wife. The law does not suffer it except where the wife, who is offered as a witness, has suffered violence at the hands of her husband. ¶

Judge Woodhull—

That would apply if Graham were on trial, but that is not the case.

Mr. Thompson—

Therefore, I say, it follows that she cannot be used here to testify and indirectly implicate her husband, and thereby directly charge guilt by reason of that implication upon this prisoner. I think the law is settled beyond a doubt with reference to that, and I refer your Honor to Wharton's Criminal Law, page 728.

Judge Woodhull—

That would be an objection which may probably be made whenever the State attempts to reach that point, but that does not go to the competency of the witness for any purpose.

M. Thompson—

Of course I cannot fish out the object of this offer. If the State had said they propose to prove by this witness a certain thing, or a certain state of facts, or to prove such a story, we might meet them; but, as we are asked to meet

the unexplained offer of the witness, we put our objection on the settled policy of the law. Her testimony, if it bears at all in this case favorably to the State and against the prisoner, must necessarily implicate her husband. No statement ever could be received in contradiction of those that are given at the present time under the solemnity of an oath, and it would be against all the principles, as I contend, as the law, that she should be received as a witness.

Mr. R. S. Jenkins—

Is your proposition that what she says here can be used against her husband on another trial?

Mr. Thompson—

It may or may not be. It depends upon circumstances. This woman's testimony may be used in the trial of the State against Graham.

Mr. R. S. Jenkins—How could it be used if her mouth is closed?

Mr. Thompson—If the case ever arises, my friend, with his ingenuity and ability, will show how it can be used. It is not necessary for him, now, to show how it can be used; it is only necessary for him to show how it cannot be used, and that suffices his purpose. If Your Honor thinks that the proper time is to wait until the special question is put to the witness, so that the objection may come up then, we will make our objections, *seriatim*; but I understand, now, that as the offer is of this general nature our objection is to be made of a similar character.

Judge Woodhull—The objection simply raises the general question: Is this witness competent for any purpose in this trial?

Mr. Thompson—If she is competent for a collateral purpose, she might be called to prove the condition of the weather on a given occasion, or something of that kind.

Judge Woodhull—If she is competent for any purpose that is an end of this argument.

Mr. Thompson—I do not admit that she is competent, in any event, in the trial of this case, if her testimony has any connection with her husband's complicity or this

Defendant's guilt; and, if called as a witness in support of her husband, then I say she is not competent. The collateral point may be an entirely different thing, but as to direct testimony, she certainly is not competent.

Judge Woodhull.

Suppose—I do not know what the object is in calling this witness—but suppose she is called for the purpose of testifying that, upon different occasions, Mr. Hunter came to the house inquiring for her husband.

Mr. R. S. Jenkins.

That is just it.

Mr. Thompson.

Suppose that to be the purpose—and I have no doubt it is—that would be for the purpose of establishing a guilty complicity between her husband and Hunter, because, first, we have the confession of the man himself that he is a murderer. Now we have the wife brought forward for the purpose of supporting the confession of a murderer that the man upon his trial, Mr. Hunter, is in the guilty complicity. Would she be a witness if Hunter and Graham were jointly indicted? Does it make any difference because there is a single indictment against Hunter, and a single indictment against Graham? If she could not be a witness in one case, she could not be a witness in the other, because, I think, all the English authorities, as well as the American, are that a wife cannot be a witness where there is a joint indictment against one another, for one or both, for the Crown or the State; and, if that be the case, the State cannot make Mrs. Graham a witness here, because they have separated the indictment, and made one against one man, the alleged principal, and another against another man, the confederate. In fact, I do not see a case where a wife can be used against her husband, where her testimony might have a tendency to implicate him in guilt. However it might tend to implicate or convict another, yet, if it tends to implicate her husband, she is not a competent witness.

The argument in support of the objection was continued

by Mr. Scovel, who referred the Court to Roscoe's Criminal Evidence, 124, and also to 3 Harrison, 88.

Mr. Wilson H. Jenkins.—We expected this question would arise and prepared ourselves to meet it, and, after careful deliberation, have come to this conclusion: That Mrs. Graham can be asked any question except that which will criminate her husband and subject him to an indictment. It is not our desire that anything should be admitted in this case that is not legal. We do not want this case to go to the Court above on exceptions and be sent back here for retrial, and therefore we have tried to meet all these questions as they present themselves. In the first place Graham was not indicted jointly with Hunter. It is known to the Court that he is indicted for this offence, but from the evidence it is not known that he was ever indicted at all, because that question was never put to him. We desire not to ask Mrs. Graham questions which will criminate her husband. We desire to produce her here as a witness against Hunter. I submit, from numerous decisions, that Mrs. Graham could not, under any circumstances, be a witness against her husband if he were here on trial, nor could her testimony be used in any way against him. Upon the general rules laid down as regards husband and wife being a witness for and against each other, I refer to the United States Digest, new series, volume 4, page 724, where the conclusion of the law on that subject is fully stated; and also to Phillips on Evidence, volume 1, page 68, Redfield's edition.

This is not even collateral in its nature, but is more remote. Here, as far as we see, Graham is not indicted jointly, and Mrs. Graham is not testifying, and it is not pretended here that we intend to ask her to testify, to that which will criminate her husband, but she is simply here to testify against this defendant.

The latest decision in our State—and we take the law from the decisions in our State—is the case of *The State vs. John Ware*, which will be found in 6th Vroom, New Jersey Law Reports, page 553.

We desire to try this case according to law, and do not

wish anything admitted upon which the defence can argue for a reversal in the Court above.

Mr. Robeson closed the argument on behalf of the defendant in favor of the objection.

Judge Woodhull.

In the Ware case that has been referred to, a married woman, if I do not misrecollect the facts, was an important witness for the State; and she was living from her husband. The husband was offered as a witness, not to testify to facts bearing upon her guilt or innocence, but simply to testify that her general character for truth was good. Without hearing much argument upon that subject, and without having my attention called to cases which seem perhaps to hold a different doctrine from the one which was there held, we held that that, on two grounds, was not competent evidence. In the first place, it was not of practical value under such circumstances. He, of all others, probably knew less of her general character for truth than others; and, in the second place, it was against public policy to allow the offer of testimony. We were overruled in that, and the Court above thought that we were wrong, but my own private opinion remains just as it was. This question, of course, is different, but the law is that that question and that testimony was proper then, although I do not see that it helps us any in this case.

This is a very important question, and a difficult one undoubtedly, and if there is any way to occupy the time this morning by removing this witness and calling another, I would prefer to look into this subject a little further than I have done.

Mr. Thompson.

I will furnish your honor additional authorities in the meantime.

Judge Woodhull.

I will receive any additional citations that will be furnished me on the other side, but I would not like to decide hastily a question of so much importance.

Mr. Thompson.

In the case of Graham we understand that there is no plea of not guilty.

Judge Woodhull.

We may understand that for the purpose of this case.

Mr. R. S. Jenkins.

The whole question is whether this witness is competent as a witness at all in this case, but, for the purpose of allowing your Honor time for consideration, I will withdraw this witness and proceed with other testimony.

HARVEY R. EDGAR sworn and examined.

By Mr. R. S. Jenkins.

Q. How old are you? A. Nineteen.

Q. Where do you reside? A. 3810 Sycamore Street, Philadelphia.

Q. What is your business? A. Music compositor.

Q. How long have you been in that business? A. Nearly three years.

Q. With whom? A. With John M. Armstrong.

Q. Where was his place of business while you were with him? A. At Fifth and Chestnut and Seventh and Sansom.

Q. When did you move to Seventh and Sansom, if you recollect? A. I cannot recollect that.

Q. Were you in Mr. Armstrong's employ in the month of January last? A. Yes, sir.

Q. Do you recollect the fact of his being hurt in that month? A. Yes, sir.

Q. Do you recollect when it was he was hurt? A. I recollect that night.

Q. What night was it? A. The twenty-fourth of January.

Q. What day of the week was it? A. On Wednesday night.

Q. When did you hear of his being hurt? A. On Thursday, in the afternoon.

Q. The following Thursday to that Wednesday? A. The following Thursday.

*Q.* What time in the afternoon did you hear of it? *A.* I cannot recollect what time it was.

*Q.* Was that Wednesday evening the last time that you ever saw Mr. Armstrong alive? *A.* Yes, sir.

*Q.* Do you know Mr. Benjamin Hunter? *A.* Yes, sir.

*Q.* Did you see him at the office? *A.* Yes, sir.

*Q.* Did you see him on that Wednesday night? *A.* Yes, sir.

*Q.* At what time of the day, if you recollect? *A.* Between eleven and twelve o'clock, by the office clock.

*Q.* How do you recollect that? *A.* By passing from the lower part of the room to the upper part of the room to the rack.

*Q.* Looking at the clock in the room? *A.* Yes, sir.

*Q.* Where was he when you saw him? *A.* He was standing over Mr. Armstrong.

*Q.* Where was Mr. Armstrong? *A.* Mr. Armstrong was at his desk.

*Q.* Where was his desk; in what part of the place was the desk; in the private office or the back office? *A.* In the private office.

*Q.* Was the door open or shut? *A.* The door was shut.

*Q.* How long did Mr. Hunter stay there in the office?  
*A.* I cannot recollect.

*Q.* You went back to your place again, did you? *A.* Yes, sir.

*Q.* Where was your place? *A.* At the lower part of the room.

*Q.* That is the south end? *A.* The south corner.

*Q.* Did you see Mr. Hunter in the afternoon there? *A.* No, sir; not that I can recollect.

*Q.* What time did you leave business that night: what time did you stop your work that Wednesday evening? *A.* I commenced to wash up about five minutes of six.

*Q.* You mean wash yourself? *A.* Yes, sir.

*Q.* Who was there when you commenced to wash? *A.* I do not know whether any of them went out or not, but I think the whole office was there.

Q. Was Mr. Armstrong there? A. Yes, sir.

Q. How do you know that? A. I saw Mr. Armstrong there while I was washing up.

Q. Did he leave the office after you or before you? A. After me.

Q. What time did you leave? A. Eight minutes after six, by the office clock.

Q. Who went before you that you recollect? A. Mr. Phiffer.

Q. What time did he go, about? A. I am not sure what time.

Q. How do you know that he went before you? A. We were the only two in the office.

Q. You were the only two in the office except Mr. Armstrong? A. Yes, sir.

Q. All the rest had gone? A. Yes, sir; all the rest had gone.

Q. Do you recollect seeing Mr. Phiffer when you went down? A. No, sir.

Q. Will you be kind enough to show us, on that plan, where your place was? A. (The witness does so.)

Q. Look at that plan carefully; were you the party that designated to the draftsman how the room was furnished and how the furniture was located on this day? A. Yes, sir.

Q. Are you sure that that is the way that the desks and forms were located? A. Yes, sir.

Q. Exactly in that way? A. Yes, sir.

Q. Show us, as near as you can recollect, where the different parties were who were in the employ of Mr. Armstrong, and give their names if you please—where were you? A. I was *there* (marked by the witness No. 1).

Q. Who was at No. 2? A. Mr. Hood.

Q. What was next to Mr. Hood on the left? A. That was a rack.

Q. For what purpose? A. To hold forms.

Q. What was the next block? A. The next block was a rack.

Q. What was the next? A. A press.

- Q. What was the next? A. The water-closet.
- Q. What above that? A. A rack.
- Q. What next? A. washstand.
- Q. What next? A. The banisters.
- Q. The staircase? A. Yes, sir.
- Q. What next? A. A stand.
- Q. Whose stand? Was it anybody's? A. No, sir; it was nobody's stand.
- Q. What next? A. Next a rack.
- Q. What next in the back room? A. The next is a rack.
- Q. What next? A. A stand.
- Q. Whose stand was that? A. Nobody's stand.
- Q. What next? A. A stand.
- Q. Whose stand was that? A. Nobody's stand.
- Q. What next? A. A stand.
- Q. Whose stand? A. Nobody's stand.
- Q. What next? A. A table.
- Q. Whose table? A. A table that Mr. Carey and Mr. Frank Armstrong use to lay forms on.
- Q. What next? A. A stand.
- Q. Whose stand was that? A. Mr. Carey's (marked by the witness No. 3).
- Q. What next? A. A stand.
- Q. Whose stand? A. Frank Armstrong's (marked by the witness No. 4).
- Q. What next? A. A table.
- Q. Whose table? A. Nobody's.
- Q. What next? A. A desk.
- Q. Whose desk? A. Mr. Jones', the proof-reader.
- Q. What next? A. The next is a cutter.
- Q. What next? A. A stand.
- Q. Whose stand? A. Nobody's stand.
- Q. What next? A. The next is a stand,
- Q. Whose stand? A. Nobody's stand.
- Q. The next? A. A stand.
- Q. Whose? A. Mr. Kensil's (marked by the witness, No. 5).
- Q. What next? A. A stand.

Q. Whose was that? A. Mr. Waterman's (marked by the witness, No. 6).

Q. What next? A. A stand.

Q. Whose next? A. Nobody's stand.

Q. What stand? A. A stand.

Q. Whose stand? A. Mr. O'Neil's (marked by the witness, No. 7).

Q. The next? A. A stand.

Q. Whose? A. Nobody's.

Q. What next? A. A stand.

Q. Whose? A. Mr. Phiffer's (marked by the witness, No. 8).

Q. What next? A. A stand.

Q. Whose? A. Nobody's.

Q. The next? A. A stand.

Q. Whose? A. Mr. Limerick's (marked by the witness, No. 9).

Q. What are the blue squares in the centre of the room? A. The stones to lay the forms on.

Q. All the blue squares on the diagram are stones to lay the forms on? A. Yes, sir.

Q. What are the two small squares? A. Stoves.

Q. What are they for? A. To heat up the room.

Q. Go to the private office, now; tell us what is there first? A. A desk (marked by the witness, No. 10).

Q. Whose desk was that? A. Mr. Armstrong's.

Q. What is the next large square there? A. A piano (marked by the witness No. 11).

Q. What is the next? A. A desk (marked by the witness No. 12).

Q. What is next? A. A safe (marked by the witness No. 13).

Q. Do you know as to the glass in that partition whether any of them were broken? A. Yes, sir; there was one glass broken.

Q. Do you know as to the door whether there was any glass broken in the door? A. Yes, sir; there was one glass broken in the partition and one in the door.

Q. When you left where was Mr. Armstrong; where

did you leave him; on what part of the diagram was Mr. Armstrong when you left the room on Wednesday evening?

A. Right at the corner of the staircase.

Q. Was there any one else in the room but himself?

A. No, sir.

Q. What time do you say this was? A. That was eight minutes of six.

Q. How do you know? A. By the office clock.

Q. Did you look at it? A. Yes, sir.

Q. How did you go home, generally, from the place?  
A. Generally I went to Eighth and Walnut; that night I went to Sixth and Walnut.

Q. Did you have to take a car to go home? A. Yes, sir.

Q. Where do you take a car? A. At Seventh and Walnut, or Eighth and Walnut.

Q. This evening you went to Sixth and Walnut? A. Yes, sir.

Q. Why? A. Because the car I wanted to take, exactly, was not at Seventh and Walnut, and I walked to Sixth and Walnut.

Q. Tell how you left the building—did you stop on the way, at all, after you came down the stairs? A. Yes, sir; I stopped in the entry, and we talked there awhile.

Q. Who did? A. Mr. Armstrong and I.

Q. What did you talk about? A. He had a package in his hand, and he said: "Here is a work you ought to have done more of in a week."

Q. He scolded you about not having done enough work that week, did he? A. Yes, sir.

(The conversation between the witness and Mr. Armstrong objected to by counsel for Defendant; objection sustained.)

Q. You had a conversation with him? A. Yes, sir.

Q. In the entry? A. Yes, sir.

Q. You said you saw him with a package in his hand?  
A. Yes, sir.

Q. Do you know, of your own knowledge, what that package was? A. No, sir; I do not.

Q. How was the package A. In a large envelope.

Q. After you had that conversation where did you go?

A. I walked down three doors below our own building.

Q. Did you look behind you at all after you walked down? A. I stopped there and waited for Mr. Armstrong.

Q. What passed there A. I asked him how was it—

Q. You need not give us the conversation; was there a conversation there? A. Yes, sir.

Q. Lasting how long? A. Not over three or five minutes.

Q. Between you and Mr. Armstrong? A. Yes, sir.

Q. Where did you go? A. We went to Seventh and Sanson, and from there to Seventh and Walnut, and walked from there to Sixth and Walnut, and took the car.

Q. Do you know when Mr. Phiffer went back; how long before you—I understand you to say that you and Mr. Phiffer were the two last there except Mr. Armstrong? A. Yes, sir.

Q. How long before you had Mr. Phiffer come away? A. About three minutes.

Q. Did you see him again that night? A. No, sir.

Q. If the counsel for the Defendant desire it you can give them exactly the conversation you had in the entry and had on the side walk—can you? A. Yes, sir.

Q. You never saw Mr. Armstrong alive after that? A. No, sir.

Cross-examined.

By Mr. Thompson.

Q. "Three" and "four" are how far from the door of the office? A. I do not know.

Q. Could you give us an idea—as far as from here across to the end of this building (about fifty feet)? A. No, sir.

Q. You cannot tell exactly? A. No.

Q. Where is—show us on the diagram—the private inclosure you call Mr. Armstrong's office? A. (The witness does so.)

Q. What is on the right? A. The piano.

Q. Where is the door to the office? A. The open space on the diagram.

Q. How high is that inclosure—how near to the wall?  
A. I do not know.

Q. It went considerably up to the ceiling, did it?  
A. Yes, sir.

Q. Nearly up to the ceiling? A. Yes, sir.

Q. Inside this private office that you have located, there were what—a piano and a stool? A. A piano, stool, two desks and a safe.

Q. Where did Mr. Armstrong usually sit? A. In front of *this* (No. "10.")

Q. What story are you in now? A. The third story.

Q. And Mr. Armstrong sat near the front of the house, did he not? A. Yes, sir.

Q. In the third story in that little inclosure? A. Yes, sir.

Q. Where he was situated could he be seen from "3" and "4"? A. Yes, sir.

Q. How? A. By the windows in the partition; you could see right through the windows of the partition.

Q. Of what kind of glass were they? A. Common glass.

Q. Like the glass here which we look through—ordinary glass? A. Yes, sir.

Q. Where is the washstand? A. (The witness indicated on the plan.)

Q. On the opposite side, away from the office? A. Yes, sir.

Q. What is that for? A. That is to wash up after we are done work.

Q. How do you get to that—go up the front stairs?  
A. Yes, sir.

Q. And then across over where? A. And then past, around here (indicating on plan).

Q. What is over to the left of it? A. A staircase.

Q. Where does that lead to? A. It leads into the street.

Q. Looking up from the pavement, up the staircase, can you see the washstand at all? A. No, sir.

Q. What obscures it? A. Sir?

Q. What prevents you from seeing it? A. The second story.

Q. Is there any board up, in addition, to hide it from view? A. No, sir.

Q. Think a moment if there is not, or was not? A. No, sir.

Q. A board up in front of the washstand? A. Yes, sir; from the washstand.

Q. About how high is that; as high as yourself? A. No, sir.

Q. Up to your shoulder? A. I cannot recollect.

Q. What was that board put there for? A. I do not know what it was put in there for.

Q. How wide is it? A. I do not know.

Q. Give us an idea—as wide as the place you are in? (About four feet.) A. I do not know.

Q. And as high as where you are standing? (Five feet.) A. I cannot tell.

Q. You cannot tell perhaps mathematically, but you certainly can give an idea? A. I do not know.

Q. Was it as high as the stick you have in your hand? (A yardstick.) A. Yes, sir; and that much higher. (About eighteen inches.)

Q. About six feet? (No answer.)

Q. Was it as wide as the stick? A. Yes, sir.

Q. And that prevented you from seeing as you came up-stairs? A. Yes, sir.

Q. Was Mr. Armstrong there then? A. Yes, sir.

Q. Was the glass door of the inclosure kept open or not? A. It was shut that day.

Q. How do you remember about that day—that was back in January? A. Because I was passing down to the rack to get some type and seen it.

Q. Did you never pass down to get type before? A. Yes, sir.

Q. How did you happen to see it was open that day specially? A. It was shut that day.

Q. Was it shut all the time? A. No, sir; it wasn't shut all the time.

Q. Was it shut when Mr. Hunter was there? A. It was shut whilst he was in the office.

Q. Who broke the glass of the door? A. I broke it.

Q. When? A. A little before that time.

Q. What do you mean by "a little before"—a minute or two, or what? A. No, sir; some weeks before that day.

Q. What month? A. I can't tell you.

Q. What did you break of it? A. I broke one of the glasses.

Q. Does it remain broken? A. Yes, sir.

Q. Are you sure of that? A. Yes, sir.

Q. And how about the other; the same? A. Yes, sir.

Q. Did you leave the building at eight minutes past six?

A. Yes, sir.

Q. And that was last January, you say? A. Yes, sir.

Q. Do you carry a watch? A. No, sir.

Q. How do you fix the time on that particular day?

A. By looking up at the clock.

Q. Did you ever look before or since? A. Yes, sir.

Q. And that is the reason you give for looking? A.

Yes, sir.

Q. What time did you leave the night before? A. I don't know.

Q. What time the night after? A. I don't know.

Q. Is there another night when you have left and when you have looked at the clock and found it was eight minutes past six? A. No, sir; I have looked when it was five minutes after six.

Q. What night? A. I can't tell you what night it was.

Q. Then there is nothing particularly that has impressed itself upon your memory as to the time? A. Yes, sir.

Q. Excepting the looking at the clock? A. I always look at the clock when I go down stairs.

Q. It is your habit to look at the clock? A. Yes, sir.

Q. You make no note of the time? A. I always look to see what time it is to catch a car.

Q. Did you make any memorandum or entry of time when you left there? A. No, sir. :

Q. Have you been talking with persons since this affair or occurrence about times or dates? A. No, sir.

Q. With no one? A. No, sir.

Q. Did you ever mention the time until you came here? A. The time I came in here?

Q. Did you ever mention the time of your leaving the office until you came here to-day? A. Not that I can remember.

Q. You talked to none? A. Not that I can remember.

Q. Cannot you tell us anything, on the twenty-third of January, by which you noted time or fixed time as accurately as you say you do on that occasion when it was eight minutes after six? A. No, sir.

Q. And you can tell of no other particular event when you noticed time precisely? A. No, sir.

Q. And you have no other reason for giving that it was eight minutes past six, except that you looked at the clock? A. No, sir.

Q. And you have often, before and since, looked at the clock? A. Yes, sir.

*Re-examined.*

By Mr. R. S. Jenkins.

Q. You said that you were in the habit of going home by the Eighth and Walnut Street cars? A. Yes, sir.

Q. What was the time that you took that car generally; when did you leave the office to take that car generally? A. It was always after six.

Q. How much after six, about? A. I can't remember, exactly.

Q. Why did not you take that car that night? A. Because I had waited to see Mr. Armstrong.

Q. Were you too late for it? A. No, sir.

Q. Was that the usual car you took—the Eighth and Walnut Street car? A. Yes, sir.

Q. But you took another car that night? A. Yes, sir.

Q. Why did you take the other car? A. Because I was detained by seeing Mr. Armstrong.

Q. Were you much detained? A. I can't tell.

Q. What time would the car have gone if you had gone to Eighth and Walnut Streets—what time would you have caught it if you had not been detained by Mr. Armstrong; what time did you generally make to go home? A. About ten minutes after six.

Q. And you were too late to take that ten minutes after six car, were you? A. Yes, sir.

Q. And you went to the car down Walnut Street? A. Yes, sir.

Q. Sixth and Walnut? A. Yes, sir.

Q. What time did you meet that? A. Fifteen minutes after.

Q. And that was the car you took, was it? A. Yes, sir.

Q. You gave your testimony in this case to me some time ago, did you not? A. Yes, sir.

Q. And I reduced it to writing, did I not? A. Yes, sir.

Q. And swore you to it? A. Yes, sir.

Q. Are you still in Mr. Armstrong's employ? A. Yes, sir.

Q. Are you an apprentice? A. Yes, sir.

By Mr. Thompson.

Q. Why did not you state, when I asked you a few minutes ago, if you did such an important thing as swearing to a statement that you had given a statement, made under oath, and why did you say you had not given it to any one until you got into this Court-room; why did not you say that you had talked to Mr. Jenkins, and had given him a statement of what you have sworn to, and that, here under oath? A. You did not mention Mr. Jenkins' name.

Q. Of course, I did not; I asked you if you had given it to any one; you must have talked to him, did you not? A. I did not mention it to any one but Mr. Jenkins.

Q. Very well; he is a gentleman and a person; why did not you say you had talked to him and sworn to it before him? A. (No answer).

Mr. Thompson—That will do, if you cannot give an answer.

EDWARD PFEIFFER, sworn and examined.

By Mr. R. S. Jenkins.

Q. Where did you reside? A. 827 Catharine Street, Philadelphia.

Q. What is your business? Music compositor.

Q. How old are you? A. Twenty-one years and four months.

A. How long have you been in the business? A. About four years and one month.

Q. With whom all the time? A. Mr. John M. Armstrong.

Q. Were you with Mr. Armstrong on the 23d day of January last? A. Yes, sir.

Q. Were you at work at your business on that day? A. Yes, sir.

Q. Did you see Mr. Armstrong there that day? A. Yes, sir.

Q. What time did you see him, if you recollect? A. I could not say when I saw him that day; I saw him during the day, at any rate.

Q. Do you know Mr. Benjamin Hunter, the Defendant? A. Yes, sir.

Q. How long have you known him? A. That I could not say.

Q. About how long? A. Well, since I have been in the business, but I could not say from the first time I went in the business.

Q. Was he not in the habit of coming there? A. Yes, sir.

Q. Did you see him there on that Wednesday? A. No, sir; not that I remember.

Q. Do you know Mr. Edgar? A. Yes, sir.

Q. Where was your place in the building; point it out on the draft? A. I stood here (pointing to No. 8.)

Q. What time did you go home that evening? A. About five minutes after six; from five to seven minutes past six.

Q. Who were in the office when you went home that evening? A. I left Mr. Edgar and Mr. Armstrong there.

Q. Were they the only two persons who were there?

A. They were the only two I left there.

Q. You have been for the last three or four years, I understand, in the employment of Mr. Armstrong? A. Yes, sir.

Q. Do you know where the washstand was? A. Yes, sir.

Q. Point out on the plan where it was? A. *Here.* (indicating.)

Q. Have you seen Mr. Armstrong wash himself there? A. Yes, sir; very often.

Q. Where was the towel kept with which he wiped himself? A. Well, he generally wiped himself on his own towel, in the office.

Q. Where was his own towel? A. Between the safe and the window.

Q. Was he in the habit of washing himself at the washstand or in the office? A. Never, that I saw.

Q. Never that you saw what? A. Himself wiping himself at the washstand.

Q. Where did he wipe himself? A. At the office, and I have seen him wipe himself at Frank's stand.

Q. Which do you mean by the office? A. The private office.

Q. When you left, you say Mr. Armstrong and Mr. Edgar were the only two who remained behind? A. Yes, sir.

Q. Was the light lighted? A. Yes, sir; one light.

Q. Where? A. Just in front of Frank's stand.

Q. Where was Mr. Armstrong when you left? A. In the office—the private office.

Q. What was he doing? A. As I saw him he was turning out the light.

Q. Where was Mr. Edgar? A. I believe Edgar was at the head of the stairs. Mr. Edgar and I were in the habit of leaving the office at the same time, and I asked him to come along.

Mr. Thompson—Never mind the conversation.

By Mr. R. S. Jenkins.

Q. You went by yourself, did you, that night, instead of waiting for him? A. Yes, sir.

Q. Just tell us exactly what you did when you left; did you go right straight down? A. I went down stairs until about three or four steps from the bottom, and I stopped there and waited for Mr. Edgar.

Q. How long did you stop? A. I waited about a minute, and when I found that he was not coming I went on.

Q. Which way did you go? A. I came out of the building and went out Sansom to Eighth and down Eighth.

Q. By yourself? A. Alone; yes, sir.

Q. Leaving Mr. Armstrong and Mr. Edgar behind? A. Yes, sir.

Q. Did you notice whether Mr. Armstrong had anything with him? A. I noticed some papers in his hands.

Q. What do you mean by "papers?" A. I could not tell what they were. I could not tell whether they were letters or newspapers.

Q. Were they either letters or newspapers, as far as you saw? A. I could not say.

Q. Were they packages? A. I could not tell that, either.

Cross-examined.

By Mr. Thompson.

Q. Were you all in the habit of washing at this stand? A. Yes, sir.

Q. Before you left for the day? A. Yes, sir.

Q. Where was your wiping apparatus? A. My own?

Q. Yes, sir. A. By my stand; I used my own towel.

Q. Did you take a towel with you when you washed?

A. No, sir.

Q. Could you be seen washing at that stand from the pavement on Sansom Street, opposite? A. No, sir.

*Q.* There was no way of seeing you? *A.* No, sir.

*Q.* Could you be seen washing from the foot of the stairs on Sansom Street? *A.* Well, I do not know that you could see what a person was doing, but you could see his shoulders and head; there was a board just in front.

*Q.* And that would have to be done by going over to the house and looking up the stairs? *A.* Yes, sir.

*Q.* And it could not be done from the opposite side of the way? *A.* Not seeing them washing at the washstand it could not.

*Q.* You left Edgar and Mr. Armstrong in the building? *A.* Yes, sir.

*Q.* And Mr. Edgar had a small light burning in his alley, had he? *A.* No, sir; there was a light burning just in front of Frank's stand.

*Q.* How high was the light? *A.* I should judge it was about five feet from the floor.

*Q.* And how much of it was burning; what was the character of the light? *A.* A very small light—gaslight.

*Q.* Reduced for what purpose; was it to keep it burning all night? *A.* No, sir; it was just a light to give us light while washing.

*Q.* Just enough for a washing light? *A.* Yes, sir.

*Q.* And not a working light? *A.* No, sir.

*Q.* Where was there any other light excepting there at Frank's stand? *A.* None other burning in the building, excepting in the office. I mean the only light that was lit besides the one in front of Frank's stand was in Mr. Armstrong's private office.

*Q.* And what was your habit—to turn it out or let it burn all night? *A.* To turn it out.

*Q.* Was that out when you left? *A.* No, sir, it was burning.

*Q.* How high was it? *A.* I should judge an inch and a half.

*Q.* An inch and a half of what—light? *A.* Yes, sir, of light—flame.

*Q.* You are speaking now of which light? *A.* In front of Frank's stand.

Q. What was the character of the light in the office—the private office? A. The usual light.

Q. Was it as large as Frank's light? A. Yes, sir, larger.

Q. Do you know when it was put out? A. The light in the private office?

Q. Yes, sir. A. I do not know what time it was put out.

Q. Do you know what time Frank's light was put out? A. No, sir.

Q. Which was out first? A. The light in the private office.

Q. How do you know that? A. I saw Mr. Armstrong put it out.

Q. How long before you left? A. Just as I was going down the stairs.

Q. And the other light was still burning? A. Yes, sir.

Q. The one you called Frank's light? A. Yes, sir.

Q. When you left, or attempted to go down stairs, where was Mr. Armstrong, precisely? A. Just coming out of the office door.

Q. Just coming out of the private office door? A. Yes, sir.

Q. And Edgar was where? A. I believe he was at the head of the stairs.

Q. You saw nothing after you went down stairs and turned? A. No, sir.

Q. As to the time: how do you fix the time on that day? A. The time you left?

Q. Yes, sir. A. From five to seven minutes past six.

Q. Have you any way of fixing it? A. No, sir.

By Mr. R. S. Jenkins.

Q. You were asked whether a man on the opposite side of Sansom Street could see anybody washing at that wash-stand, and you answered "No?" A. Yes, sir.

Q. Could a man on the opposite side of Sansom Street

see a person wiping himself in this private office? A. Yes, sir.

Adjourned until Monday morning at ten o'clock.

---

SEVENTH DAY'S PROCEEDINGS.

The Court was opened at 10 A. M.

HARVEY EDGAR recalled and cross-examined.

By Mr. Robeson.

Q. When you left Mr. Armstrong's building at eight minutes past six on the evening of the 23d of January and came down and walked down towards Seventh and Sansom streets, did you see any thing of Mr. Hunter about there at all? A. No, sir.

By Mr. R. S. Jenkins.

Q. You did not notice him you mean? A. No, sir.

Q. Which side of the way did you walk down? A. I walked on the south side.

Q. Is that the side Mr. Armstrong's office was on? A. Yes, sir.

EDWARD PHIEFFER recalled and cross-examined.

By Mr. Robeson.

Q. Some time after you came down the stairs of the office of Mr. Armstrong's building, on the evening of the 23d of January, Mr. Armstrong came down after you and you talked with him on the sidewalk, did you not? A. No, sir.

Q. Did you not talk to him at all? A. No, sir.

Q. Was it the other gentleman? A. Yes, sir.

Q. It was Mr. Edgar who talked with him? A. Yes, sir.

Q. When you came down did you see Mr. Hunter there at all? A. No, sir.

By Mr. R. S. Jenkins.

Q. You did not stop? A. I stopped on the stairs.

Q. But did not stop in the street at all? A. No, sir.

*Q.* You went right on down, did you? *A.* Yes, sir.

*Q.* On which side of the street did you go down? *A.*  
On the south side.

*Q.* On the side of Mr. Armstrong's office? *A.* I went up  
on that side.

WILLIAM L. DONNELL, sworn and examined.

By Mr. R. S. Jenkins.

*Q.* Where do you reside? *A.* 806 Walnut Street,  
Philadelphia.

*Q.* What is your business? *A.* Grocer.

*Q.* How long have you been in business there? *A.* I  
have been in business since 1868; my family have been in  
business there since 1859.

*Q.* You used to be at the corner of Eighth and Walnut  
Streets? *A.* Yes, sir.

*Q.* And you moved across the street? *A.* Yes, sir;  
in 1859.

*Q.* Did you know John M. Armstrong? *A.* Yes, sir;  
very well.

*Q.* How long did you know him? *A.* About six or  
eight years.

*Q.* Do you remember the day he was hurt? *A.* Yes,  
sir.

*Q.* What day was it? *A.* It was on a Wednesday.

*Q.* Do you recollect the day of the month? *A.* The  
twenty-third of January.

*Q.* Did you see him that day? *A.* Yes, sir.

*Q.* What time of day did you see him? *A.* Between  
two and three o'clock in the afternoon.

*Q.* Where? *A.* At my store.

*Q.* Do you know where he was that evening? *A.* Yes,  
sir.

*Q.* Did you know he was to be there? *A.* Yes, sir.

*Q.* Where was he that evening? *A.* Camden.

*Q.* How did you know that he was to be at Camden?

*A.* He told me so.

Mr. Thompson.—That would not be evidence.

Mr. R. S. Jenkins.—That has been decided.

Mr. Robeson.—Do I understand that it is admitted under the same ruling of the Court and subject to the same exception?

Judge Woodhull—Yes, sir.

By Mr. R. S. Jenkins—

Q. For what purpose?

(Objected to, as before, by counsel for Defendant; objection overruled; exception noted for Defendant.)

The Witness—He was going to see Mr. Davis, I understood. He told me he had been over the night before, and that he was going back the same night. I asked him what was the reason, I having been acquainted with his Davis business matters, and he said he was over there “last night,” and had seen Davis and he was in very poor circumstances, but a certain party had told him that he had money in bank and they were going over “to-night,” to see about it; and I asked him whether he thought it likely, Davis being so poor—he said Davis had told him of his wife taking scholars and that he was willing to work for \$1 a day—I asked him whether it was likely if a man had money in bank he would suffer that way, and I told him I didn’t believe it, and he said he would see that night.

Q. This was on Tuesday? A. On Wednesday.

Q. Between two and three o’clock? A. About half-past two.

Q. Did you ever see him alive again? A. No, sir. I saw him the next morning, when he was in his house; he was still alive, he had not died. I was sent for, and I seen him.

Q. Where did you see him? A. At his house; Seventeenth street, above Brown.

No cross-examination.

Mr. R. S. Jenkins.

I would like to call Mrs. Graham, if the Court is ready to permit it.

Judge Woodhull.

After further consideration upon the question argued on Saturday, we have come to the conclusion, as it was our

impression at the time, that, under the circumstances, she is at this time a competent witness.

(Excepted to by Mr. Scovel, counsel for the Defendant.)

During the *interim* between the adjournment of the Court on Saturday, and this decision of Judge Woodhull, the following additional authorities were submitted by Mr. Thompson, counsel for the Defendant, in support of the objection.

The general principle that husband and wife cannot be examined for or against each other has been long and well established. It is founded upon public policy and the community of interest between them.

In Second Term Reports 263, it was held that a wife was incompetent to testify where her testimony would criminate, or tend to criminate her husband.

The principle of this case has been somewhat relaxed but not to let in testimony *per se* that affect criminally the husband or wife.

In Taylor on Evidence, 2 vol., 1,227, etc., the above rule is recognized and it is stated that it is only where the defendant has pleaded guilty or is entirely removed from the record that the testimony would be received.

In People vs. Colburn, 1 Wheeling Cr. C., 479, it was held that if a trial and acquittal had occurred the husband might be a witness.

In State vs. Wilson, 2 Vroom, 81, a husband charged his wife with a crime in its nature indictable. The witness was held inadmissible.

So in the trial of a man for adultery the husband of the alleged paramour is not a competent witness for the prosecution.

Commonwealth vs. Gordon, 3 Brewster, Philadelphia Reports 569, and in 6 Cush., 308, a wife after a divorce from her husband was held a competent witness for him to prove the fact of adultery in a suit he brought against the adulteress.

The following authorities were submitted by Mr. Wilson H. Jenkins on behalf of the State:

Best on the Law of Evidence. Vol. 1, page 311.

Greenleaf on Evidence. Vol. 1, page 394, Redfield's Edition.

Wharton on Criminal Law. Vol. 1, page 771, section 771.

Fifth Parker Criminal Reports. Page 119. Wixson vs. The People.

Wharton on the Law of Evidence. Vol. 1, page 428, section 428.

State vs. Wilson. Second Vroom. Page 77.

Stewart vs. Johnson. 3 Harr, 87.

If two are jointly indicted, one may be a witness for the other, on a separate trial. 3 Vroom.

Mrs. THOMAS GRAHAM recalled and examined.

By Mr. R. S. Jenkins.

Q. Where do you reside? A. 533 Queen Street.

Q. How long have you been married? A. Eight years.

Q. What is the name of your husband? A. Thomas

Graham.

Q. Have you a family? A. One child.

Q. How old? A. Ten months old.

Q. Whom do you live with? A. My mother-in-law.

Q. Mrs. Graham? A. Yes, sir.

Q. Whom did you live with in January last? A. Mrs.

Ulrich.

Q. Where did she live? A. 1323 South Seventh Street.

Q. Do you know Mr. Benjamin Hunter—when you see him? A. Yes, sir.

Q. How long have you known him? A. Ever since I have been married.

Q. Do you recollect seeing him some time in the month of December last? A. Yes, sir.

Q. What part of the month was it? A. Well, I could not exactly tell you the month; about two or three weeks before Christmas.

Q. Where did you see him? A. At Mrs. Ulrich's parlor.

Q. Do you recollect what day of the week it was? A. Yes, sir; it was on a Sunday.

*Q.* How did you happen to see him there? *A.* He called in, and Mrs. Ulrich called me down stairs.

*Q.* Did you have any conversation with him? *A.* Yes, sir.

*Q.* What was it? *A.* He asked me was Thomas in, and I said, "No, sir." He asked me where he could see him, and I told him at Ninth and Reed.

*Q.* At whose place did you tell him? *A.* I told him I thought he was at my sister's, at Ninth and Reed.

*Q.* Any further conversation? *A.* No, sir; he went away.

*Q.* Did you ask him what he wanted to see Thomas for? *A.* No, sir.

*Q.* At this time, in whose employ was Thomas, if he was in any one's employ? *A.* Mr. Stiles.

*Q.* Did you ever see Benjamin Hunter again? *A.* I seen him two or three different times after that; I could not exactly tell what times.

*Q.* Where? *A.* At Mrs. Ulrich's house.

*Q.* Did you see Mr. Hunter that evening? *A.* No, sir.

*Q.* Are you sure about that? *A.* Yes, sir.

*Q.* When did you next see him after these two or three times that you have spoken about? *A.* On the following Monday before the murder.

*Q.* You mean the Monday before the murder? *A.* Yes, sir.

*Q.* Did you see your husband on New Year's eve? *A.* Yes, sir.

*Q.* Did you see him have anything in his hand? *A.* He handed me a bundle; he said—

*Q.* Don't say what he said; what time in the evening was this? *A.* It was about half past seven or eight o'clock.

*Q.* What was the bundle—do you know, of your own knowledge? *A.* No, sir, I could not say what it was.

*Q.* On the Monday evening before the murder you say you saw Mr. Benjamin Hunter where? *A.* At Mrs. Ulrich's door.

*Q.* What time of the day? *A.* Ten o'clock in the morning.

*Q.* How did you happen to see him? *A.* He rang the bell and I went to the door.

*Q.* You went yourself to the door, did you? *A.* Yes, sir.

*Q.* Did any conversation pass between you? *A.* He asked me was Thomas in, and I told him, "No, sir." I told him he was taken sick up to his mother's, and he said—that is all he said, and he bid me good morning and went away.

*Q.* This was about ten o'clock in the morning, I understood you to say? *A.* Yes, sir.

*Q.* Did you see him again? *A.* Yes, sir.

*Q.* What time? *A.* About three o'clock in the afternoon.

*Q.* Where? *A.* At Mrs. Ulrich's door.

*Q.* How did you happen to see him? *A.* Mrs. Ulrich went to the door and he asked if Mr. Graham was in.

*Q.* Did you hear him? *A.* Yes, sir.

*Q.* Did you see him? *A.* Yes, sir; Mrs. Ulrich called me to the door.

*Q.* What passed between you and Mrs. Ulrich when you went to the door? *A.* She just told me Mr. Hunter was there at the door wishing to see Mr. Graham.

*Q.* What passed between you and Mr. Hunter? *A.* Mr. Hunter asked me if Thomas was in, and I said, "No, sir."

*Q.* What else did he say? *A.* I did not say anything; he went away.

*Q.* This was about three o'clock on Monday afternoon?  
*A.* Yes, sir.

*Q.* Did you see him again? *A.* Yes, sir.

*Q.* When? *A.* About five o'clock the same day.

*Q.* Where did you see him? *A.* At Mrs. Ulrich's door.

*Q.* Did you have any conversation with him? *A.* Yes, sir.

*Q.* What was it? *A.* He asked me if Thomas was in, and I said, "No, sir," he hadn't got home yet; but I thought he was still at his mother's.

Q. Anything else? A. He had a basket on his arm, and he said he was going up that way and he would stop.

Q. Did you see him again on that day? A. Yes, sir.

Q. About what time? A. Half-past five.

Q. Where? A. At Mrs. Ulrich's door.

Q. What passed between you then, if anything? A. He just asked me if Thomas had got home yet, and I said "No, sir," and he went away.

Q. Did you see him again? A. Yes, sir.

Q. That same day? A. Yes, sir.

Q. Where? A. At Mrs. Ulrich's door.

Q. At what time? A. About six o'clock.

Q. Did anything pass between you then? A. He asked me if Thomas had got home yet, and I said, "No, sir," and he went away.

Q. Did you ask him what he wanted with Thomas on either of those times? A. No, sir.

Q. Did you see him again that day? A. Yes, sir.

Q. What time? A. About half-past six.

Q. Where? A. At the corner of Wharton and Seventh.

Q. Where were you going? A. I went up there to see if I could see Tom coming, and Mr. Hunter was walking with his hands behind him and his head hanging toward the pavement.

Q. Where was he? A. At Seventh and Wharton, on the corner, walking up and down. He recognized me, but I didn't him; he asked me if Thomas had got home, and I said "No, sir."

Q. When he spoke did you recognize him? A. After he spoke I did. I said "No, sir," and he handed me a business card out of his pocket, and he told me to give that to Thomas. He then walked as far as from Seventh and Wharton down to the door, and walking down he said he was going to get Tom work—that he was tired of seeing him running around.

Q. What was this business card he gave you; have you got it? A. No, sir; I believe Tom tore it up.

Q. Why did he give you the business card? A. It was

on the business card : "Tom, meet me at nine o'clock at Sixteenth and Cherry. Benjamin Hunter."

*Q.* You gave him that card? *A.* Yes, sir.

*Q.* Did you live there with your husband; you are on good terms with him? *A.* Where?

*Q.* Have you been separated from him? *A.* Never.

*Q.* You have always lived together until this thing occurred? *A.* Yes, sir.

Cross-examined.

By Mr. Robeson.

*Q.* Do you know Mr. Armstrong? *A.* I never spoke to Mr. Armstrong.

*Q.* I only ask you if you knew him? *A.* No, sir.

*Q.* You did not know him even by sight? *A.* I only knew him by sight: that is all.

*Q.* Did you live next door to him at any time, or near him? *A.* I lived next door but one to him.

*Q.* For how long? *A.* I could not exactly tell you; not long; not more than four or five months anyhow.

*Q.* Can you tell when it was, as near as you remember?  
*A.* I think it was about 1863 I lived there—1863 in November; that is so far as I can remember.

*Q.* How long have you been married? *A.* Eight years.

*Q.* Do you not mean 1873? *A.* 1873 I mean.

*Q.* At any of these times when Mr. Hunter called upon you, did he tell you he was trying to get work for Tom?  
*A.* Yes, sir.

*Q.* Did he ask you whether he had taken to drink again? *A.* Not that I know of.

*Q.* There was no conversation on that subject? *A.* No, sir.

*Q.* See if you cannot recollect; that is, if you cannot recall it to your mind. Did you say to him that he had been drinking a good deal lately and was out pretty near all day. *A.* No, sir.

*Q.* Did you ask him whether he would try to get Tom a job? *A.* Not that I know of.

*Q.* Not that you recollect? *A.* No, sir.

*Q.* Did he not tell you that he would; did he not tell you to send Tom up to Mr. Hughes to see him every day?  
*A.* Not every day.

*Q.* What did he tell you? *A.* He just told me when I saw him to send him up there.

*Q.* When, that particular time? *A.* Yes, sir.

*Q.* Did he not tell you to send him up to Mr. Hughes every day, and that perhaps he could succeed in getting him a job, or that at any rate, it would keep him away from the tavern? *A.* No, sir; I never had any conversation like that with Mr. Hunter.

*Q.* Did you not tell him that you would send Thomas up, and ask him if he did not come to let you know? *A.* No, sir.

Re-examined.

By Mr. R. S. Jenkins.

*Q.* When was it you had the conversation with Mr. Hunter in regard to his getting work for Tom? *A.* The only time that Mr. Hunter ever said anything to me about work for Tom was on the Monday before the murder.

*Q.* When you met him accidentally on the street? *A.* Yes, sir.

*Q.* And that is the only time he ever said anything to you about it? *A.* Yes, sir.

*Q.* And that is the time he gave you the card of which you have spoken? *A.* Yes, sir.

*Q.* And that is the explanation he gave for wanting to see Tom there, was it? *A.* Yes, sir.

*Q.* Did he ever get Tom work after the murder? *A.* No, sir.

*Q.* Or before it? *A.* No, sir.

*Q.* Did he ever come again to the house after that time?  
*A.* After that Monday?

*Q.* Yes, mam. *A.* I never saw him again.

STEPHEN H. CAREY, sworn and examined.

By Mr. R. S. Jenkins.—*Q.* Where do you reside? *A.* 1917 Fell Street, Philadelphia.

*Q.* What's your business? *A.* Music typographer.

Q. With whom are you now employed? A. William F. Jones & Co., 921 Arch Street, Philadelphia.

Q. Who is that firm? A. The firm is William F. Jones, William H. Keyser and George H. Carey.

Q. By whom were you employed in January last? A. John M. Armstrong.

Q. Where was his place of business? A. 710 Sansom Street, Philadelphia.

Q. What was your business there; what was the particular kind of business you were engaged in? A. Musical typographer.

Q. What branch of it? A. Setting the types.

Q. Had you a place? A. A stand do you mean?

Q. Yes, sir; of your own? A. Yes, sir.

Q. Was there any habit in the establishment about the towels that were kept to wipe people; where were they located? A. The hands had towels at their own stands, as a general thing. Mr. Armstrong had his towels in the office, above the stove, right by the window.

Q. How were you in the habit of washing; taking your towels to the washstand, or coming back and wiping? A. No, sir; I do not know about the other end of the room, but at our end of the room we did not.

Q. Did not what? A. We did not take towels to our stand.

Q. How was he in the habit of washing? A. In the habit of washing and going into the office and wiping his hands.

Q. Do you recollect the Wednesday upon which Mr. Armstrong was hurt? A. I do.

Q. Where were you on that day? A. I was at the office between nine and ten o'clock.

Q. Were you there before Mr. Armstrong, or after Mr. Armstrong? A. Before Mr. Armstrong.

Q. Did you see Mr. Hunter that morning? A. Yes, sir, I did.

Q. Do you know Mr. Benjamin Hunter? A. Yes, sir.

Q. How long have you known him? A. I judge about

six years, since he has been in the habit of coming to Mr. Armstrong's office.

*Q.* Was he in the habit of coming to Armstrong's office? *A.* Yes, sir.

*Q.* How often a week did he go there? *A.* Well, I cannot say. Perhaps once or twice a week, perhaps. I cannot say.

*Q.* You say you saw him in the morning of that Wednesday; what time in the morning? *A.* Between ten and twelve.

*Q.* When did you first see him; where was he when you first saw him? *A.* Going from the office. I was at my stand.

*Q.* Going from the private office? *A.* Yes, sir.

*Q.* Where is your stand—show us on that diagram? *A.* "No. 3."

*Q.* What were you doing at your stand? *A.* I suppose I was working.

*Q.* Where was Mr. Hunter when you first saw him; what part of the room? *A.* I heard him coming up stairs, and I turned around to see who it was, and he was on his way to the office; he had passed me.

*Q.* What happened next, when you saw him go into the office? *A.* I saw him go into the office, and I think he shut the door; I cannot say positively.

*Q.* What happened, if anything, that you heard or saw when he was in the office; what did he do; did you see him in the office? *A.* Yes, sir; I saw him in the office talking to Mr. Armstrong.

*Q.* Where was he when he was talking to Mr. Armstrong? *A.* Leaning over him.

*Q.* Did you hear what he said? *A.* Yes, sir.

*Q.* What did he say? *A.* I heard him say, "This man has a bank account; I heard it from private" or "outside parties"—I do not know which—and he says, "you go there to-night at seven o'clock, and I will go with you."

*Q.* What happened after that? *A.* He came out of the office, and I think he said something to young Armstrong, who was standing at the stone nearest the office.

*Q.* Did you hear what he said? *A.* No, sir; he did not stand there but a moment or two.

*Q.* Where did he go? *A.* Right down stairs.

*Q.* Did Mr. Armstrong go with him? *A.* No, sir; he did not.

*Q.* What became of Mr. Armstrong; did you see him leave the office at all that morning? *A.* I cannot say; I do not recollect; I am not always at that end of the room; I vary from one end of the room to the other.

*Q.* Do you know whether Mr. Armstrong was deaf or not? *A.* He was deaf.

*Q.* Did you have to speak loud to talk to him? *A.* Very loud; yes, sir.

*Q.* Did you see Mr. Armstrong in the afternoon? *A.* Yes, sir; I saw Mr. Armstrong in the afternoon.

*Q.* For what period of the afternoon did you see him? *A.* I suppose it was somewhere after five o'clock. He came to the stand and talked with me. I judge it was five o'clock. That is the nearest of my recollection.

*Q.* He talked to you? *A.* Yes, sir.

*Q.* Did he give you a letter? *A.* Yes, sir.

*Q.* At what time in the afternoon? *A.* About half-past five, I think.

*Q.* Where were you when he gave you the letter? *A.* Standing at my stand.

*Q.* What did you do with the letter? *A.* Put it in my pocket and took it to his house.

*Q.* How long did you keep it in your pocket after he left—what time did you leave, that afternoon? *A.* I judge about ten minutes to six or a little before six o'clock.

*Q.* Did you leave Mr. Armstrong behind you there? *A.* I left him standing at the top of the staircase when I went down.

*Q.* Did he tell you where he was going that night? *A.* No, sir; his son told me where he was going.

*Q.* What did you do with the letter? *A.* I left it at his house in Seventeenth Street; I forget the number; 804, I think.

*Q.* Who did you leave it with? *A.* I left it with the servant girl, I believe.

*Q.* Do you recollect what color the envelope was that the letter was in? *A.* I think it was a yellow envelope; it was an envelope that he was not in the habit of using; he was out of envelopes and I do not think that had 710 Sansom Street on: not originally.

*Q.* It was an envelope that did not have the number of the office, 710, Sansom Street, was it? *A.* Not unless it was printed on it afterward.

*Q.* And you think it was a yellow envelope? *A.* Yes, sir.

*Q.* (Envelope shown witness.) Look at that envelope and read what is on it? *A.*—

“J. M. Armstrong,  
“Music Typographer,  
“Music, Sacred or Secular,  
“Electrotyped or Stereotyped,  
“No. 138 S. Eighth Street,  
“Philadelphia,

“Removed to N. E. Cor. Chestnut and Fifth Streets.”

*Q.* Whom was it addressed to? *A.* Mrs. John M. Armstrong.

*Q.* Do you think that was the letter you took? *A.* I know the writing, and think that was the envelope I took.

*Q.* Whom did you deliver it to? *A.* To the servant girl, I think.

*Q.* At Mr. Armstrong's house? *A.* At Mr. Armstrong's house.

*Q.* About what time in the evening? *A.* I judge very near half-past six; it would take me almost that time to get there.

*Q.* How did you happen to take the letter up? *A.* I had been in the habit of going home in the evening with him, and his son—

*Q.* Never mind what was said by his son? *A.* I must, to tell you how. His son asked him if I was going home, and he said he was not going home, he was going to give a music lesson in the evening, and he could not take the

letter home, and asked me if I would do it. I said I would, and he went into the office and got the letter and gave it to me, and I took it up.

Q. Who got the letter? A. Mr. Armstrong.

Q. You said that Mr. Armstrong was deaf? A. Yes, sir.

Q. Had you seen enough of him to notice whether he was deafer in one ear than in the other? A. I cannot tell, but I know that Mr. Hunter was speaking to him in the right ear.

Q. How do you know that? A. Because he was facing east, and Mr. Hunter was between Mr. Armstrong and myself.

Q. Did Mr. Hunter talk in a loud voice? A. Yes, sir; it was necessary.

Q. Did you hear him distinctly? A. I heard him distinctly; yes, sir.

*Cross-examined.*

By Mr. Thompson.

Q. What is the distance of the alley where you stood from Mr. Armstrong's office? A. I cannot tell; I do not know; I think it is about thirty feet.

Q. As far as from here across the room (forty feet); A. I judge it is.

Q. Which way? A. As far as from here to the wall back of you; perhaps not so far (forty feet, about).

Q. When Mr. Hunter went into the private office, within this glass inclosure, you think he closed the door after him? A. I think he did.

Q. How were you facing at that time? A. Facing east.

Q. Where was Armstrong's desk in the office? A. The east side of the room, the northeast corner, not quite in the corner; the northeast corner of the room.

Q. How could you see into the private office from where you stood? A. Through the glass partition.

Q. You had to see through the glass, did you? A. Yes, sir.

Q. What kind of work was going on? A. The kind of work?

*Q.* Yes, sir; what was the kind of work you were at?  
*A.* I cannot remember; I cannot tell.

*Q.* Was there any noise made in the office from this work? *A.* That I cannot say; I should judge not, though.

*Q.* How long did Hunter remain in the private office?  
*A.* Only to say what I have said.

*Q.* Did you know of Philip Armstrong's bankruptcy sale coming off that week? *A.* Yes, sir.

*Q.* When did it take place? *A.* That took place on Thursday, I think.

*Q.* Did not Hunter say to Armstrong, "I will meet you over there?" *A.* No, sir.

*Q.* Was not the bankruptcy sale spoken of? *A.* No, sir.

*Q.* You are quite sure of that? *A.* Quite sure of it.

*A.* You knew at the time that it was coming off on the following Thursday? *A.* I knew it, because Mr. Armstrong had told me so.

*Q.* Did you know of an appointment to go to that sale?  
*A.* No, sir; not with Mr. Hunter; not at that time.

*Q.* If you heard this conversation between Hunter and Armstrong when the door was closed, it must have been from the top of the inclosure? *A.* The top of the inclosure, and there was a glass broken out in the door.

*Q.* And there was a space at the top of the inclosure about how high? *A.* Something over an inch.

*Q.* Otherwise it was tight? *A.* Entirely inclosed to the best of my knowledge.

*Q.* And you say there was a glass broken out of the door? *A.* Yes, sir.

*Q.* That door was not over Mr. Armstrong's desk?  
*A.* No, sir.

*Q.* That was away from his desk? *A.* Yes, sir.

*Q.* How far from his desk? *A.* Six; five or six feet, I should think; perhaps more than that, I cannot tell.

*Q.* Did you have to raise your voice to make yourself heard in talking to your fellow-workmen? *A.* In the office?

Q. Yes, sir. A. No, sir; there was only two of us at one end of the room.

Q. When you say the note, which you spoke of, was given to you by the son to take up, Hunter was not there?

A. I said it was not given to me by the son.

Q. By whom? A. It was given to me by Mr. Armstrong.

Q. Hunter was not there? A. No, sir; he was in the afternoon.

Q. Hunter was not there when any note was written, was he? A. Not that I know of.

Q. You left the office about what time? A. Somewhere before six; say between ten minutes of six and six.

Q. Who did you leave behind you? A. I left most everybody behind me; I was about the first out, I think.

Q. And it was how much past six? A. Something about ten minutes to six; but they were all ready to go, or all preparing, because I had gone to the back end of the office and told them that Mr. Armstrong wanted to go out, and to hurry off out.

Q. What was your usual time of leaving? A. My usual time of leaving?—I don't know. Six o'clock was the hour, but I left when I pleased.

Q. When did you last see Mr. Hunter at the office that day; I want the time as near as you can give it? A. Between ten and eleven, I judge.

Q. Can you come no nearer than that? A. No, sir. He was not in the habit of coming there before nine and ten, and was in the habit of going away about noon to dinner.

Q. How long did Mr. Hunter remain there? A. I cannot tell only the time, I said; I know it was very short.

Q. And he went out alone? A. Yes, sir; he went out alone.

Q. Do you know where Mr. Armstrong was during the afternoon? A. I do not.

Q. Was he out and in? A. I can't say.

Q. Have you any knowledge on that subject? A. No,

sir; he was very often out. He was out the best part of the time.

*Q.* Can you remember, on that afternoon, whether he was out or in? *A.* No, sir, I can't remember. He was in sometimes in the afternoon, because I could tell you a conversation that occurred some part of the afternoon, if it was necessary—not in this affair, though.

*Q.* About what time was it that you say you had a conversation with him? *A.* I can't say; sometime late in the afternoon. He was in the habit of getting back from dinner at two o'clock; sometimes as late as three.

*Q.* After he came back from dinner, I ask you whether or not he went out? *A.* I can't say; I judge not.

*Q.* But you do not remember, you say? *A.* I do not remember.

*Q.* Mr. Hunter and Mr. Armstrong seemed to be on good terms, did they not? *A.* Yes, sir.

*Q.* There had been no quarrel between them? *A.* Not that I know of.

*Q.* They treated each other pleasantly in your presence? *A.* In my presence. Yes, sir.

*Q.* Were you there when Hunter was a special partner of Armstrong's? *A.* Yes, sir.

*Q.* About how long a time did that continue? *A.* I do not know. I don't know when anything happened to the contrary.

*Q.* It was for some months, was it not? *A.* Yes, sir, the only way I can judge is, his name was scratched from the sign some months before; I can't tell how long.

*Q.* What was the firm? *A.* John M. Armstrong.

*Q.* And Hunter's name, you say, was erased from the sign when? *A.* I believe on Fifth Street, and on Sansom Street I am sure.

*Q.* About what time? *A.* Up to a couple of months, I believe, before this happened.

*Q.* Was he in the habit of coming there after this alleged dissolution? *A.* I cannot tell; for some time before. He had not been there for some time until this day that I mentioned.

*Re-examined.*

By Mr. R. S. Jenkins.

*Q.* You say in your cross-examination, that you went back and told the men to hurry up, that Mr. Armstrong wanted to shut up; why did you do that? *A.* Because I knew that he wanted to go, and his son had told me, and I knew he was standing there, and looked as if he wanted to get out; I knew they didn't go out and I went and told them.

*Q.* Do you know Mr. Hood? *A.* Yes, sir.

*Q.* Was he there that day, do you recollect? *A.* I can't say, but I judge he was.

Re-cross-examined.

By Mr. Robeson.

*Q.* Have you any means of fixing the day specially?  
*A.* Fixing that Wednesday?

*Q.* Yes, sir; rather than the day before or the day before that? *A.* I have given sufficient, I think; my hearing it, and I remember taking the note up. I know it was that day.

*Q.* How do you know you did not hear it the day before?  
*A.* I know by taking the note up that day?

*Q.* I mean, have you any means of fixing it? *A.* Not particularly; no more than knowing it, of course.

*Q.* You have no means of fixing the day other than the day before, excepting this opinion and knowledge as you say? *A.* It was only a very few hours afterward that young Armstrong came and told me what had happened, and, of course, I knew it was the day.

*Q.* When did he come to you—that night? *A.* No; in the morning, I judge, before six o'clock; before I was up.

*Q.* You are sure it was the night before? *A.* Yes, sir.

By Mr. R. S. Jenkins.

*Q.* The night that you delivered this note? *A.* Yes, sir. It was a very cold, bad night.

*Q.* And the next day you heard of the injury. *A.* Yes, sir.

*Q.* Did you see Mr. Armstrong the next day? *A.* No, sir; I did not see him.

Q. Did you go to his house to inquire? A. I went to his house to inquire in the evening.

Mr. R. S. Jenkins—I propose now to call Mrs. John M. Armstrong for the purpose, among other things, of identifying the letter which we allege was written by Mr. Armstrong to her on the afternoon preceding the night of the murder. She is in very miserable health, and therefore I ask, as a favor from the other side, that if there is to be any objection made or any question of law argued in regard to this letter, it be argued now and settled before she is called as a witness.

Mr. Thompson—We object to the evidence. I do not understand that the ruling of the Court covers this present offer. Whatever Your Honor has deemed admissible within the doctrine of *res gestæ* I do not understand is to be applied to this present offer. I do not understand whether Your Honor has seen the contents of the letter.

Judge Woodhull—I have not seen the letter.

Mr. R. S. Jenkins—The offer is to prove that such a letter was sent to Mrs. Armstrong, and then to offer the letter in evidence.

Mr. Thompson.

We shall object to the admission of the letter on the ground of the character of the communication which it contains, and especially because it refers apparently to an innocent party in no way connected with the writer of that letter, at that time, who was not present, was not made a party to it, did not acquiesce in it, made no appointment under it, and did not direct or suggest it, nor ratify it after it was written. If this letter should be admitted in evidence before this jury the State would, perhaps, follow it up by bringing testimony here from anywhere they could gather it in the city of Philadelphia, to show that Mr. Armstrong had written other notes on that occasion in reference to the Defendant as well as indulged in conversation relating to him. It is not in the nature of a dying declaration. If it were a dying declaration, of course it would be evidence against Mr. Hunter; but it is admitted to have been written by Mr. Armstrong when he was in full life, and certainly a

long time before the alleged assault occurred. The precise time does not appear, although it is supposed to have been written prior to six o'clock, at which time Mr. Armstrong, as I have said, was in full health, had engaged in business during the day, carried out business transactions, and doubtless made declarations to various other persons, and then, it would appear, had suddenly sat down and scribbled that note, addressing it to his wife. The position in which the Defendant is placed becomes obvious. Any man could sit down and write a letter to his wife in Philadelphia saying that he would be at a certain place with a gentleman whom he names, and if his death occurred then, although without the knowledge of the third party, implication of knowledge might attach to him and he be arrested for the crime of murder because of the non-appearance of the writer at a subsequent time. This is the precise position of Mr. Hunter in this case. The writer of this note indicates that he designed to be at a certain place in company with a certain person, and that person in this case is the Defendant, Mr. Hunter; and, without his knowledge and without his presence, this letter is indited. We cannot see how that letter is binding upon the Defendant, and, therefore, as he is entitled to meet his accusers face to face—which he cannot certainly do if this letter, written without his knowledge and without his consent, is admitted in evidence—we object to the admission of the letter.

Mr. R. S. Jenkins.

All that we desire to show by this proposed witness is that the letter referred to by Mr. Carey was received by her on the evening of the assault upon her husband, and that she identifies it as her husband's handwriting.

Mr. Robeson.

It is not a part of the *res gestæ*, is not a dying declaration, and does not come within the range of *ex necessitati rei*.

Judge Woodhull (to Mr. Robeson)—

I would suggest whether, looking at this letter and the contents of it, in connection with what is shown to have passed between Mr. Armstrong and Mr. Hunter, if the lan-

guage Carey testified to as uttered by Mr. Hunter to Mr. Armstrong had been responded to by Armstrong, and he had heard that, there would be any trouble about showing in that way that it was due to an arrangement.

Mr. Robeson.

Certainly not, because Hunter was then present.

Judge Woodhull.

It appearing, then, that an offer had been made by Hunter to Armstrong to come over here with him, cannot this testimony be used to show Armstrong's acceptance of the offer, and, therefore, to show the arrangement between them for that purpose? It seems to me that the preceding evidence has materially changed the status of this piece of testimony.

Mr. Robeson.

Only to make it more incompetent, to my mind. It is offered here as of the nature of a declaration, and it is to be admitted not because it is one of the *res gestæ*, but as a deduction upon which to form some other declaration made by Mr. Hunter or in his presence. If, when Mr. Carey heard Mr. Hunter say to Mr. Armstrong "You go to Camden and I will go with you," Mr. Armstrong had said "Yes; I will go over with you," that would be admissible, because that was a declaration made in Mr. Hunter's presence; but, if we avoid that, and show it was not made in Mr. Hunter's presence, or was made for instance an hour afterward would that be competent?

Judge Woodhull—As a declaration, of course, it is not competent, and dying declarations are not on the same footing. But I think that that piece of evidence is competent, for some purposes certainly. It is not necessary now to say to what extent, but, if the Court should be satisfied that the evidence should be limited in its application, they will, of course, so instruct the jury. That has to be done often. It often happens that a piece of evidence is proper and competent for a certain purpose, but not beyond that, and the Court in such a case has to limit the effect of such testimony, and the jury are expected to, and do, ordinarily, give

to the testimony that weight which the Court in such cases as a matter of law assigns to it.

(The ruling of the Court excepted to by counsel for Defendant and exception noted.)

Mrs. JOHN M. ARMSTRONG, sworn and examined

By Mr. R. S. Jenkins.

Q. Open that (envelope shown witness) and look at it and say when you received that letter? A. On the evening of the twenty-third of January last.

Q. Do you recognize the handwriting? A. Yes, sir; that is my husband's.

Q. Whom did you receive it from? A. From a girl that is living with me, Annie Lyons.

Q. Do you recollect the time in the evening you received it? A. Precisely at seven o'clock.

Q. How long have you known Mr. Hunter? A. About eighteen years.

Q. Did you see him in the morning after your husband was brought home wounded? A. Yes, sir; I sent for him.

Q. About what time in the morning did you see him? A. Between seven and nine o'clock in the morning, as near as I can recollect.

Q. Had you been to his house on the evening previous? A. Yes, sir.

Q. How did you come to go there? A. A night officer was sent to my house to inform me that my husband had been hurt in Camden. I was not at home; I was down at my mother's, Fourth and Reed, and the officer came down, and from there I went out to Mr. Hunter's house.

Q. That evening? A. That evening.

Q. You had received this note previously to that? A. Yes, sir. I received that note at seven o'clock.

Q. When did you get to the house? A. I should judge from ten to half-past ten.

Q. Could you get in the house? A. No, sir; I rang many times.

Q. You gave it up, did you? A. Yes, sir.

Q. And came back? A. Yes, sir.

Q. On the next morning you saw Mr. Hunter? A. Yes, sir.

Q. You sent for him, did you say? A. Yes, sir.

Q. What time did you see him? A. I do not know the time exactly, but I should judge it was about nine o'clock.

Q. Whom did you send for him? A. My oldest son.

Q. He had not been to the house before that? A. No, sir.

Q. Did you have any conversation with him? A. Yes, sir.

Q. What did you say to him? A. I said, "Mr. Hunter, is this not dreadful; why were you not with Mr. Armstrong last night and this never would have happened?" and he said, "Mrs. Armstrong, I had no idea of going to Camden; I told Mr. Armstrong to keep away from those men."

Q. Did you say anything to him about receiving a note from him? A. Yes, sir; I told him I had received a note on Wednesday evening, stating that he was to have gone with him again, and he said he had no idea of going; that he had not been in Camden for months; that he had told my husband to stay away from those men; that they were bad men, and would get him into trouble.

Q. Did he say anything about himself? A. I asked him why he was not with him on Tuesday night as well; Mr. Armstrong told me when he came home that he was to have met him on Davis' pavement.

Q. You told him that, did you? A. Yes, sir.

Q. What did he say? A. He said he had no idea of going over there on Tuesday night; that either his nieces or his wife's nieces were there to tea that evening, and he had no idea of going.

Q. You told Mr. Hunter that your husband had told you he was to go to Camden with him on Tuesday night as well as Wednesday? A. Yes, sir.

Q. You asked why he did not go with him? A. Yes, sir.

Q. Mr. Hunter said he had no idea of going: that he

had his nieces there to tea that evening? *A.* Either his nieces or his wife's nieces.

*Q.* Did you tell him where he was to have met Mr. Armstrong on Tuesday evening? *A.* Mr. Hunter?

*Q.* Yes? *A.* On Davis' pavement.

*Q.* You told Mr. Hunter that? *A.* No, sir, I did not tell him that at that time.

*Q.* He told you he had no idea of going? *A.* Yes, sir.

*Q.* Did he ask you anything about Mr. Armstrong's condition? *Q.* Yes, sir; he asked me if Mr. Armstrong ever knew me, or was ever conscious.

*Q.* What did you tell him? *A.* I told him no; that I had called to him, but he could not hear me.

*Q.* Was anything said about Demaris or Davis? *A.* He asked me whether I had ever seen Demaris or Davis; I told him that I had seen Demaris, but not Davis.

*Q.* Did he say anything about Davis? *A.* He said he was a hard-looking man, and a man capable of doing anything of that kind; that murder was depicted in his countenance; that he had always told Mr. Armstrong to stay away from these men; that they would get him into trouble.

*Q.* This was in the morning at nine o'clock, when you had sent for him? *A.* Yes, sir.

*Q.* Did he inquire as to how Mr. Armstrong was further than as to the question whether he was conscious? Did he make any other inquiries about his wounds? *A.* Not that I remember.

*Q.* The only thing you remember was he asked whether he was conscious and said anything to anybody? *A.* Yes, sir.

Cross-examined.

By Mr. Robeson.

*Q.* Had Mr. Armstrong told you that Mr. Hunter was going over with him on Tuesday also? *A.* He told me on Tuesday morning early.

*Q.* What did he tell you? *A.* He said he would not be home that day on Tuesday evening, he was to have taken his papers concerning the Davis matter with him, and Hun-

ter would go with him, and he would be home about nine o'clock.

*Q.* That was Tuesday? *A.* Tuesday morning.

*Q.* And then it was that Mr. Hunter told you that he had no idea of going over; that his nieces or his wife's nieces were at tea that night with him? *A.* No, sir: Wednesday morning.

*Q.* Was there anybody present at this interview, or anybody there besides yourself and Mr. Hunter? *A.* On Thursday morning?

*Q.* On Thursday morning. *A.* Part of the time.

*Q.* Who was there? *A.* Part of the time my sister, Mrs. Crosby, was there; a part of the time Mrs. Smith, that I can remember of.

*Q.* Had you, yourself, been afraid to have Mr. Armstrong come over to Camden? *A.* No, sir.

*Q.* You had never told anybody that you were afraid to have him to go over to Camden? *A.* No, sir.

Mr. R. S. Jenkins—We offer the letter in evidence.

Mr. Robeson.

We now make our formal exception.

Judge Woodhull.

The letter is received, at present, as competent to show that up to the time when it was delivered by Mr. Carey, Mr. Armstrong had the understanding and purpose to go over Camden for the purpose it states.

(Exception allowed for Defendant).

Mr. Wilson H. Jenkins read the letter, as follows:

“J. M. Armstrong  
Music Typographer  
Electrotyper of

“Sheet music, music books of all sizes and styles, music for monthly and weekly periodicals, leaflets, thematic catalogues, music titles, etc.

“No. 710 Sansom Street  
“Philadelphia ——— 187

"I will not be home much before 9 o'clock. Am going over to Camden again with Mr. Hunter on business connected with Davis matter.

"John M. A.

"Frank will not be home to supper, he is going down to Goudey's to tea.

"J. M. A."

The envelope is addressed to

"Mrs. J. M. Armstrong,  
804 N. 17th St."

ANNIE E. LYONS, sworn and examined.

By Mr. R. S. Jenkins.

Q. Where do you live? A. 1508 North Twelfth Street.

Q. With whom? A. Mrs. Armstrong.

Q. How long have you lived with her? A. Since last August.

Q. Did you always live with her at 1508 North Twelfth Street? A. No, sir.

Q. Where did she live when you first went to live with her? A. At 804 North Seventeenth Street.

Q. Do you recollect the evening Mr. Armstrong was brought home? A. Yes, sir.

Q. Were you at home that evening? A. Yes, sir.

Q. Who else was with you at the house on that evening? A. No person but her young son. Mrs. Armstrong has a young son eleven years old.

Q. Was there any other member of the household there? A. No, sir; no other member of the family.

Q. Was Mrs. Armstrong there? A. No, sir.

Q. What time did Mrs. Armstrong come in? A. I cannot tell the time.

Q. While she was out did any one come to the door with a letter? A. Not while she was out.

Q. During the evening did any one call with a letter? A. Yes, sir.

Q. About what time in the evening? A. About seven o'clock.

Q. Who was there at that time? A. Mrs. Armstrong and her young son, and her mother.

Q. Where was Frank; was he home? A. No, sir.

Q. Was Mr. Armstrong at home? A. No, sir.

Q. Do you know who it was that brought the letter?  
A. No, sir; I would not recognize the person.

Q. Was it a man or woman? A. It was a woman.

Q. What did you do with the letter? A. I gave it to Mrs. Armstrong.

Q. As soon as you received it? A. Yes, sir.

Q. Do you recollect what color envelope it was in?  
A. No, sir.

Q. How did you know you were to give it to Mrs. Armstrong; did you read it? A. No, sir; the bearer told me to hand it to Mrs. Armstrong.

Q. Did you hand it to her? A. Yes, sir.

Q. Where was Mrs. Armstrong when you handed it to her? A. In the sitting room.

Q. Down stairs or up stairs? A. Up stairs.

Q. When was Mr. Armstrong brought home? A. On Wednesday evening. I do not recollect the day, but I recollect the evening, and it was Wednesday evening.

Q. Was it early in the evening or late in the evening. A. It was late.

Q. Who brought him home? A. I do not know; I did not see the persons.

Q. Where did you first see him that night? A. In his own bed, second-story front room.

Q. What was the matter with him apparently? A. I did not know then.

Q. Did you see him again the next day? A. Yes, sir.

Q. What time of the day did you first see him? A. I cannot say.

Q. Did you see him in the afternoon? A. Yes, sir.

Q. Where was he in the afternoon when you saw him?  
A. In his own bed; second story front room.

Q. Who else was in the room besides you? A. Mr. Hunter.

Q. How long had you known Mr. Hunter? A. I first saw him last fall; I cannot say what time.

Q. Was anybody else in the room but Mr. Hunter and Mr. Armstrong when you saw him that afternoon? A. No, sir; not at that time.

Q. Where was Mr. Armstrong, did you say? A. In his own bed; he was facing the foot.

Q. Where was Mr. Hunter? A. Sitting in a rocking chair at the foot of the bed close by; not far from the foot of the bed.

Q. What did you do when you went up there? A. I went in the room with towels.

Q. How many towels did you take? A. I cannot say.

Q. About how many? A. Three or four.

Q. What did you do with the towels? A. I either handed the towel to Mr. Hunter or he took the towel out of my hand, I cannot say.

Q. What did he do with it? A. I cannot say; I do not remember now.

Q. Did you put any towels on the head of Mr. Armstrong? A. No, sir; not at any time.

Q. Why did you hand the towel to Mr. Hunter; did he take one out of your hand? A. I cannot say.

Q. You put no towel upon Mr. Armstrong's head? A. No, sir; I never touched his head at any time.

Q. You did not interfere with it in any respect? A. No, sir.

Q. And when you went there he was not at the head of Mr. Armstrong, you say; he was at the foot of the bed? A. He was sitting in the rocking chair when I went into the room, and when I went in the room he stood up and went over to the bed.

Q. What part of the bed? A. Where Mr. Armstrong's head was.

Q. Was it then that you either gave him the towel or he took it away from you? A. Yes, sir; I stood alongside of him, and I said, "Ain't it dreadful?" I do not remember whether he made a reply or not. I do not remember anything else that passed.

Q. What did you do with the other towels? A. I laid them on the chair and walked out of the room. I did not bring any towel or napkin or cloth out of the room.

Q. Or move any? A. No, sir.

*Cross-examined.*

By Mr. Thompson.

Q. What became of the towels; what were they used for? A. For the head; whenever they were needed. I generally brought them up stairs.

Q. For what purpose? A. For Mr. Armstrong's head. I always brought them when they were needed.

Q. Then I understand you to say that you took the towels up for the purpose of their being used for Mr. Armstrong's head? A. Yes, sir; I took them up for the doctor to use.

Q. Then the doctor had used towels for his head? A. I presume so; I do not know.

Q. How many did you take with you? A. Three or four, I cannot say exactly.

Q. How was Mr. Armstrong's head then, when you went into the room? A. I cannot say; but it was bandaged the same as I seen it every time I went into the room.

Q. Then you saw no difference at all in the bandages? A. No, sir.

Q. You saw, you say, a towel on his head afterward? A. I cannot say that I can remember what was on his head.

Q. You saw Mr. Hunter do nothing with the towel? A. I cannot remember.

Q. But you did nothing with the towel? A. No, sir; only he may have taken the towel out of my hand, or I may have handed him the towel. I cannot say whether he put the towel on his head or not.

Q. And that is all you know about it? A. That is all.

By Mr. Robeson.

Q. He took the towel while you were there, did you say? A. I cannot say; I cannot remember.

Q. But he either took it out of your hand or you gave it to him? A. I cannot remember; he may have taken it out of my hand, but I cannot remember.

Q. He had a towel in his hand while you were there? A. I cannot remember seeing the towel in his hand.

Q. I thought you said that you either handed the towel to him or he took the towel from you? A. I cannot remember whether he took it out of my hand or whether I handed it to him. I remember taking a towel there in my hands.

Q. Do you not remember his having a towel in his hand? A. No, sir; I cannot remember now.

Q. Then you do not know whether you handed it to him, or whether he took it out of your hand, or whether he had it at all? A. I cannot remember seeing the towel in his hand.

Q. You do not remember? A. No, sir; I cannot remember; I did not put the towel on his head; *that* I remember.

Q. I ask you whether you can remember whether you gave Mr. Hunter the towel, or whether he took it out of your hand, or whether he had it at all. A. I cannot remember.

JOSEPH C. NICHOLLS, sworn and examined.

By Mr. Wilson H. Jenkins.

Q. Where do you reside? A. Camden, New Jersey.

Q. What is your business? A. Deputy Sheriff.

Q. Do you remember the day that Mr. Hunter came over here? A. I do.

Q. Were you requested by the Prosecutor to take notes of what he said? A. I was.

Q. Did you reduce it to writing? A. Yes, sir.

By Mr. R. S. Jenkins.

Q. He was not sworn at all? A. No, sir; he was not sworn.

Mr. Robeson.

Then we object to the testimony.

(Objection overruled. Defendant's counsel except to the ruling of the Court and exception allowed.)

By Mr. Wilson A. Jenkins.

*Q.* Was the statement made without any threat or inducement on the part of the Prosecutor or yourself? *A.* Yes, sir.

*Q.* Or any one else? *Yes, sir.*

*Q.* Was it a voluntary statement? *A.* Yes, sir, it was.

*Q.* What did he say in relation to Mr. Davis? *A.* He said he did not know Mr. Davis, and would not know him.

*Q.* Did he say anything about the business between Mr. Davis and Mr. Armstrong. *A.* He said he knew nothing in regard to the business between Mr. Davis and Mr. Armstrong at all.

*Q.* Did he say when he had seen Mr. Armstrong previous to this murder? *A.* He said he saw him on Tuesday, and I think on Wednesday.

*Q.* When he saw him on Wednesday did he say whether Mr. Armstrong or he had said anything about the Davis business? *A.* He said that Mr. Armstrong had never talked to him about the Davis business.

*Q.* Or he to Mr. Armstrong, do I understand you? *A.* Yes, sir; he said he had never talked to him about it.

*Q.* What did he say he had said to Armstrong about Davis having a bank account in Camden? *A.* He said that he said nothing to Armstrong in regard to Davis having a bank account in Camden, and made no such remark.

*Q.* What did he say he had said to Armstrong about going to Camden and settling up the matter with Davis? *A.* He said he never said anything to him about going to Camden to settle up the matter with Davis.

*Q.* What did he say to Armstrong about going over to Camden at seven o'clock? *A.* He said nothing in regard to going to Camden with him whatever.

Mr. Thompson—What was said should be said by the witness, and not what was not said.

Judge Woodhull—There is no other way of avoiding this kind of testimony except by putting in the whole statement. If you desire that to be done it can be done.

Mr. Thompson—No, sir; we do not desire that.

By Mr. Wilson H. Jenkins.

Q. What did he say about going to Camden? A. He said he said nothing in regard to going to Camden.

Q. Where did he say he was on Wednesday evening? A. He said he was at Mr. Epps'.

Q. What time—do you remember? A. I think he said he got there about six o'clock, and he said he stayed until a quarter before seven, if my recollection is correct.

Q. Did he say what time he got home that evening? A. Ten minutes before eight, I think.

By Mr. R. S. Jenkins.

Q. You think; be sure of that. Look at your notes? A. (Referring to the notes) "I got home about ten minutes to eight.

By Mr. Wilson H. Jenkins.

Q. What evening was that? A. This was the Wednesday evening.

Q. Did he say anything about getting a life insurance on Armstrong's life? A. He said that Mr. Armstrong had his life insured, and had transferred the policies to him.

Q. For what amounts and in what companies? A. \$26,000 was the amount.

Q. Do you remember what companies? A. \$5,000 in the Mutual—

Mr. R. S. Jenkins—Look at your notes.

The Witness (referring to notes)—There was \$6,000 in the Manhattan, \$10,000 in the Mutual and \$10,000 in the Provident.

By Mr. Wilson H. Jenkins—

Q. Did he say how much Armstrong owed him? A. Eleven thousand, at one time, and, then, that was reduced to seven.

Q. And then it was reduced to how much? A. Seven thousand.

Q. What did he say about the negotiation of these policies as regards himself? A. He said that Mr. Armstrong negotiated these policies and had them transferred to him.

*Q.* Did he say whether he had anything to do with it or not? *A.* He said he had nothing whatever to do with it; that is, with the negotiation of these policies.

*Q.* Did he say who paid the premiums? *A.* He said he paid the premiums—Mr. Hunter.

*Q.* Was he asked anything about Armstrong's receiving a note from him with relation to these insurance policies? *A.* He said he did not know anything in regard to that note at all.

*Q.* Was he asked anything about Armstrong being ruptured? *A.* He said he knew that Mr. Armstrong was a ruptured man.

*Q.* Was he asked whether he told him to conceal that from the insurance authorities? *A.* He said he did not ask him to conceal it.

*Q.* Was he shown this letter (letter shown witness)? *A.* Yes, sir.

*Q.* Did he identify it? *A.* He did; he said it was his signature.

*Q.* What did he say? *A.* He said he had made a mistake in regard to that.

Mr. R. S. Jenkins—We offer the letter in evidence.

Mr. Robeson—We object to it as utterly incompetent in connection with this case.

Judge Woodhull—It comes in as showing what part Mr. Hunter had taken in this transaction. It is a letter admitted by him in the course of his examination. First, he made a statement, which, afterward, upon seeing this letter, he admitted was incorrect, and this letter ought to go in.

(The ruling of the Court excepted to by counsel for Defendant and exception allowed.)

Mr. Wilson H. Jenkins then read the letter in evidence as follows :

J. M. Armstrong,  
Music Typographer,  
Electrotyper of

Sheet music, music books of all sizes and styles, music for monthly and weekly periodicals, leaflets, thematic catalogues, music titles, etc.

No. 710 Sansom Street, Phila. Dec. 3, 1878.

Please call at the Manhattan Life insur. office, 414 Wal. St. between 12 & 1 o'clock to be examined.

And also call at the Provident between 1 & 3, 108 S.4th for same purpose.

I will put it in two companies.

You will oblige me by attending to both of them to-day and I will call on them to-morrow.

Respy.

Yours,

BENJ. HUNTER.

To John M. Armstrong, Esq.,  
710 Sansom St.

N. B.—Leave off your truss for fear they would decline to insure you.

B. H.

By Mr. Wilson H. Jenkins.

Q. So you said that Mr. Hunter said that Mr. Armstrong had all these insurances negotiated upon his own responsibility? A. Yes, sir, that is what he said.

Q. And that he had nothing to do with it in any way? A. That he had nothing to do with the negotiations of these policies at all.

Q. And then, after he saw the letter, he admitted he was wrong? A. He said he had made a mistake.

Q. What did he say about arranging the insurances and selecting them? A. I think he said that he put it in two companies.

Q. Refer to your notes, at next to the last page, where he was asked, "How could you forget that?" A. (Referring to the notes) He said—

Mr. Robeson.

Your Honor will see how improper the development of this testimony is. Here is a man brought over here ostensibly accused of crime; taken into the Sheriff's office without counsel, and examined and cross-examined.

Judge Woodhull.

Does that affect the competency of the testimony con-

tained in his statement? Is it incompetent, in any view, to show what he said, himself, voluntarily, in reference to this matter?

The Witness.

"He said he selected these insurances himself," that is, Mr. Armstrong.

By Mr. Robeson.

Q. Are you reading from notes made by yourself? A. Yes, sir.

By Mr. R. S. Jenkins.

Q. What did he say before that about the arrangement, "I did not arrange"—does he not say? A. He says, "I did not arrange these insurances; he selected those insurances himself." Then he said, "I caved in on that"—that is when Mr. Jenkins showed him the letter.

By Mr. Wilson H. Jenkins.

Q. Then what does he say about not being here on Wednesday? A. "I was not in Camden on the Wednesday. I could not go, now, where the man was killed on Vine Street. I have no idea who done this thing. I think it rests with Mr. Davis. They found his tools with his initials on them."

Q. After he had made this statement, was his son there at that time? A. He was; yes, sir.

Q. What did he say to his son when his son started home? A. He told his son to tell his mother for none of the family to go near Mr. Armstrong's place.

Q. What else? A. He said he wished Mr. Armstrong had been in hell six years ago.

*Cross-examined.*

By Mr. Scovel.

Q. Do you know how Mr. Hunter got over here? A. No, sir; I do not.

Q. Do not you know that Sheriff Daubman and Mr. Yoder brought him over here under a promise that Mr. Yoder was to see him returned safely that night? A. No, sir; I never heard how he came to Camden whatever.

Q. And you had no conversation about it that night?  
A. No, sir.

Q. What took place, at first, when Mr. Hunter came in; who was he accompanied by? A. I found him in the office with Detective Yoder.

Q. Who else? A. And I think Mr. Hunter's son.

Q. What was his name? A. I don't know.

Q. His only son? A. I don't know.

Q. The one who frequently visits him, here? A. I don't know; the son that was there. I don't know whether I have seen him since or not. I may have possibly seen him.

Q. How old was he; a lad of sixteen or seventeen? A. I presume he was about that age.

Q. Who else was there? A. Detective Yoder, Mr. Hunter, the son and myself.

Q. Was the District Attorney, Mr. Jenkins, there? A. No, sir; not when I first came in.

Q. Did he come in after awhile? A. Yes, sir.

Q. Did not you tell Mr. Hunter you were a commissioner and were going to take his testimony? A. No, sir.

Q. Did not he protest against being examined in the absence of his counsel? A. No, sir.

Q. Did not he say anything of that kind? A. No, sir; he did not.

Q. How did the proceeding, or the inquisition, or whatever you please to call it, begin? A. Mr. Jenkins told Mr. Hunter that he would like him, if he saw fit, to make a statement, and Mr. Hunter then made his statement.

Q. Was it in answer to questions made by you? A. No, sir.

Q. You took the testimony down? A. Yes, sir.

Q. Who asked you to do it? A. Mr. Jenkins asked me to do it.

Q. Who asked the questions? A. Mr. Jenkins.

Q. What part did Yoder take in it? A. I don't know as he took any part.

Q. When you got through did Mr. Hunter get up to go away? A. I am not sure whether he got up to go away or

not, but Mr. Jenkins told him he would have to detain him.

*Q.* What did Mr. Jenkins say? *A.* I think that was about the substance of it.

*Q.* Do not you remember the words? *A.* Nothing further than that.

*Q.* Do not you know that the Sheriff induced him to come over here; that he first induced him to come over with the Sheriff, and then, Yoder promised him a safe conduct over, and a safe conduct back? *A.* No, sir; I do not.

*Q.* Did not you hear Yoder say so? *A.* No, sir; I did not.

*Q.* What did you hear Yoder say? *A.* I don't remember that I heard Mr. Yoder say anything about it.

*Q.* He was there, was he not? *A.* Yes, sir.

*Q.* At whose instance did he come here? *A.* I don't know.

*Q.* What business had he to come over here? *A.* I don't know.

*Q.* He is here now, is he not? *A.* Yes, sir.

*Q.* He is the detective employed by the insurance companies, is he not? *A.* I don't know about that.

*Q.* He did not tell you how he came here? *A.* No, sir; he did not

*Q.* You are a Deputy Sheriff? *A.* Yes, sir.

*Q.* You know very little to day? (No answer.)

*Q.* Who employs him? *A.* I don't know who employs him.

*Q.* Do you know, positively, whether he is employed at all? *A.* I don't know.

*Q.* He has been here every day since the trial of Hunter?  
*A.* Yes, sir.

Judge Woodhull.

What relevancy has this?

Mr. Scovel.

I want to know Yoder's connection with this case.

Judge Woodhull.

That has nothing to do with this particular inquiry.

Mr. Scovel.

We only want to know the circumstances under which this statement was obtained from Hunter.

Judge Woodhull.

You cannot prove it in that way.

By Mr. Scovel.

Q. You have given us all the conversations, then, that occurred? A. Yes, sir.

Q. Did he tell you that the insurance was \$26,000? A. Mr. Hunter? Yes, sir.

Q. Then did he tell you the companies it was in? A. Yes, sir.

Q. What companies did he name? A. The Provident, the Mutual, and the Manhattan.

Q. In what room did this occur? A. In the back office of the Sheriff's office.

Q. What do you call the Sheriff's office—where you and Ely are most all the time? A. Yes, sir.

Q. And the back office is at the end? A. Yes, sir.

Q. Is the door locked? A. No, sir.

Q. Is it closed? A. No, sir.

Q. Did you warn him, or did Mr. Jenkins warn him, or Yoder, or anybody else, that the testimony you were going to take down would be used against him? A. I am not sure whether he warned him or said anything to him.

Q. You are not sure that he did? A. No, sir.

Q. You are not sure that he did not? A. No, sir.

Q. You do not remember Mr. Jenkins saying anything about warning? A. Not positively.

Q. You did not say so, did you? A. I had never heard anything about warning.

Q. How long did the inquisition take? A. I presume two hours or so.

Q. From what time to what time? A. It was near twelve o'clock, I think, when we got through.

Q. He came over about ten? A. Yes, sir.

Q. Did he sign the statement? A. No, sir.

Q. Did you ask him to sign it? A. No, sir.

Q. You are not a commissioner and authorized to take testimony, are you? A. No, sir.

Q. You were sworn in the preliminary examination? A. Yes, sir.

*Q.* Did not you say that he told you he was at Epp's that night? *A.* Yes, sir; he said he was at Epp's.

*Q.* Did he tell you what time? *A.* He got there about a quarter before six, and left at a quarter before seven.

*Q.* Did you say that in the preliminary examination before the Mayor? *A.* Yes, sir.

*Q.* Did not you say you had forgotten what he said about that? *A.* I don't think I could have forgotten.

*Q.* You think you did say it before the Mayor? *A.* I think so; yes, sir.

Judge Woodhull.

That is not proper cross-examination.

Mr. Scovel (to the witness).

Then, that is all.

BENJAMIN HUNTER, sworn and examined.

By Mr. Robeson.

*Q.* You are the accused in this case? *A.* Yes, sir.

*Q.* How old are you? *A.* I will be fifty-four the twelfth day of this coming August.

*Q.* How long have you lived in Philadelphia? *A.* All my life.

*Q.* What was your business? *A.* Manufacturer of heaters and cooking ranges.

*Q.* How long were you in that business? *A.* About twenty-four years.

*Q.* Where did you learn your trade? *A.* With the firm of Morris, Tasker & Morris; now by the name of Morris, Tasker & Co., limited.

*Q.* After you left Morris, Tasker & Morris, what did you do? *A.* I started business at 231 now 233 South Tenth Street, Philadelphia.

*Q.* That is Tenth below Locust? *A.* Yes, sir.

*Q.* The same place where you continued in business?  
*A.* Yes, sir.

*Q.* For how long? *A.* For about twenty-four years, I think.

*Q.* In the same place? *A.* The same place.

Q. You are the inventor of a patent boiler, are you not? A. I am.

Q. And the owner of the patent? A. The owner; and I was offered \$5,000 for it during the Centennial, by a Cincinnati firm, and I refused to take it.

Q. Do you receive a royalty on these boilers? A. I do.

Q. How much? A. One dollar on each boiler manufactured by the firm of Isaac A. Sheppard & Co.

Q. Where do you live? A. I did live 1304 South Tenth Street.

Q. That is Tenth, below Wharton? A. Tenth, below Wharton.

Q. Did you know John M. Armstrong? A. I did; knew him very well.

Q. When did you first make his acquaintance? A. Some, I suppose, fifteen years ago; at least, I think.

Q. What was his business? A. Lithographer and music typographer and electroplater.

Q. Did you ever have any business connections with him? A. Yes, sir; I was his silent partner for four years.

Q. From when to when, as near as you can tell? A. It ceased on the 1st of June last, and it was four years previous to that.

Q. The 1st of June, 1877? A. Yes, sir.

Q. Did you have any capital in that firm? A. \$5,000 I put in. I borrowed \$3,000 on my house to go in with Mr. Armstrong.

Q. When was that connection dissolved? A. On the 1st of June last.

Q. At that time your capital was invested there? A. Yes, sir.

Q. What did you do about it? A. I immediately took his notes for the amount of money that he owed me; I felt perfectly safe in doing that.

Q. How many notes? A. I think there was eight notes altogether; I disremember.

Q. How many notes for this capital? A. Five notes of \$1,000 each.

Q. How many to yourself and how many to your wife?

*A.* I think there was two to my wife that was included in the five, and the others, I think, were given to me ; I have had my memory considerably shattered since I have been here, and, of course, I do not know.

*Q.* (Note shown witness.) Is that one of the notes ?  
*A.* That is one.

*Q.* (Note shown witness.) Is that another ? *A.* That is another.

*Q.* (Note shown witness.) And that is another ? *A.* That is another ; yes, sir.

*Q.* These are three notes, each note dated June 1, 1877, at two, three and four years, payable to the order of Benjamin Hunter, for \$1,000, with interest payable semi-annually, and signed by John M. Armstrong. (Note shown witness.) Is that one of the notes to your wife ? *A.* Yes, sir.

*Q.* (Note shown witness.) Is that another note ? *A.* Yes, sir.

*Q.* These are two notes each dated June 1, 1877, payable in five and six years respectively, to the order of Mrs. E. W. Hunter, for \$1,000, with interest payable semi-annually, signed John M. Armstrong. (Note shown witness.) What is that ? *A.* That is another one.

*Q.* Read that ? *A.* Philadelphia, June 1, 1877, on—

*Q.* Read it over and tell me what it is—no, I will read it ? *A.* I may read that ; I have almost forgotten.

*Q.* "Phila. June 1st 1877 \$523 ; in settlement of dividend Lee and Walker. Pay to the order of Benjamin Hunter \$523 value received, and charge the same to account of Perot assignee of Lee and Walker, bankrupt. John M. Armstrong." When did you take that ? *A.* I took that about the same time, and that I was to get out of the settlement of Lee and Walker's estate.

*Q.* (Note shown witness.) Is that another note ? *A.* Yes, sir.

*Q.* One dated June 3, 1877, for \$525 at sixty days to the order of Benjamin Hunter by John M. Armstrong. (Note shown witness.) Is that another ? *A.* That is another of \$523. That is correct ; yes, sir.

Note of \$523, date July 5, 1877, ninety days, payable to

the order of Benjamin Hunter, signed John M. Armstrong; what is that (note shown witness)? A. Yes, sir; that is correct.

Q. Note for \$100, August 6, 1877, thirty days, payable to the order of Benjamin Hunter, for \$100, signed John M. Armstrong; these notes for \$1,000, three of which were given to you and two to your wife, making \$5,000 in all, were given for the capital that you had put into the concern?

A. Yes, sir.

Q. \$2,000 having been part of your wife's estate? A. Yes, sir.

Q. The other notes of \$523 and \$525, three of them, and \$100 was for what? A. That is for money loaned to him.

Q. Money advanced? A. Money advanced so as to help him along with his business; he had a good business, and I was anxious to see him get along.

Q. After having dissolved with Mr. Armstrong, did you have any business relations with him except that with regard to these notes? A. No, sir; I had kept up my regular visits there more or less, about once a week sometimes, perhaps once in two weeks, and he came to my house in the intervening time.

Q. Did you know Mr. Armstrong; had he lived in your neighborhood? A. Yes, sir; he had lived in my neighborhood a long while.

Q. Nearly opposite to you on Tenth Street? A. Yes, sir; nearly opposite to me on Tenth Street.

Q. You procured and hold some life insurance upon the life of John M. Armstrong? A. Yes, sir.

Q. Consisting of three policies? A. Yes, sir.

Q. One in the Provident Life and Trust Co. of Philadelphia, bearing date the fourth day of December, 1877, for \$10,000, payable to you? A. Yes, sir; made directly to me.

Q. What is known as an endowment policy, payable when Mr. Armstrong came of seventy years of age, unless he should sooner die? A. Yes, sir; that is in the Manhattan, I think.

*Q.* No, sir ; that is in the Provident Life and Trust. *A.* (No answer).

*Q.* Here is another one, in the Manhattan Life Insurance Company, dated December 5, 1877, for \$6,000? *A.* That is correct; that is a life policy, I think.

*Q.* Yes, sir; that is a life policy, payable to John M. Armstrong? *A.* Yes, sir; and transferred to me.

*Q.* And another one in the Mutual Life, of New York, for \$10,000, an endowment policy for twenty years for \$10,000, dated the eighth of December, 1877, payable to the legal representatives of John M. Armstrong and transferred to you? *A.* Yes, sir.

*Q.* Did you procure those life insurances? *A.* I did this far, which I will try to explain, if I can, although I am a poor hand at explanations. At an interview I had with Mr. Armstrong one morning at his place I said to him: "Mr. Armstrong, you are now somewhat in my debt, and I have no security, and if you should die it might cause me to meet with a total loss, and I do not think that it is any more than right and fair that you should have your life insured to the same amount for my security in case of death." He immediately replied that he was perfectly willing for it; that he did not think it was any more than he should do, and, in the course of a few days, I called at the Manhattan office, on Walnut Street, between Fourth and Fifth, on the south side, and I inquired there the rates of a life policy on a person about forty years of age. I did not know that Mr. Armstrong was any older. They gave me all the particulars in a very kind manner. I again saw Mr. Armstrong and I reported to him that I had been at the Manhattan office and that I had made some arrangement there; that I had left his card, and I would like him to call and get an insurance of \$6,000. He owed me about \$7,000 or \$8,000, I think. He immediately replied: "Mr. Hunter, you had better make it \$26,000, for all my creditors will come in, in case I die."

*Q.* How come in? *A.* Come in for any debts that he owed other parties is the way I understood it. I replied: "Mr. Armstrong, what would that benefit me, for I could

not cover more than he owed me personally?" He replied that—and, then, again, I said: "Perhaps, Mr. Armstrong, it is more than I can carry." He replied: "Mr. Hunter," something in these words: "Mr. Hunter, for the sake of my family and your kindness to me I will not let you stick." That was his very words. "I will not let you stick." So then I thought the matter over, not long though, and consented to his proposition. I called at the Mutual that morning and inquired there, what I had a perfect right to do, all the particulars of life insurance, and I told him there it was for a debtor and I told the same thing at the Manhattan. I told them that I wanted an insurance of \$10,000, and I had some conversation—all the conversation was with Mr. Ashbrook. I then returned to Mr. Armstrong's office to report and he was not in. I took one of his billheads and I wrote on it, "Mr. Armstrong"—that is the note we have here which there is such a trouble about—"Mr. Armstrong, please call at the Manhattan and at the Mutual. I will have those policies put in two companies." I had, then, particular reference to the \$26,000. He had not been to the Manhattan yet. "Please call at the Manhattan and the Mutual." Then I put at the bottom "P. S. Please leave off your truss for fear they will fail to insure you." I knew that he was slightly ruptured; very slightly ruptured, not even to affect him in the least, not even in swimming and playing hide and whoop, or anything else. After I saw him there, I called, in a day or two, at the Mutual, and there I left a message, or had a talk with a gentleman who is in that business—it was not the agent, it was his clerk—saying I wanted to get \$10,000 insurance on the life of a man about forty. They were very polite to me, very kind, and solicited my custom. I was hardly at home before they were after me; I can't blame them for that though. Then in a day or two I went to Mr. Armstrong's office—

Q. That resulted in your getting a policy of \$10,000 in the Mutual Life Insurance Company of New York, a policy of \$10,000 in the Provident Life and Trust Company and a policy for \$6,000 in the Manhattan Life Insurance Company?

A. Yes, sir; Mr. Armstrong was as familiar with that as

I was, and it was perfectly understood by him in every respect and particular.

*Q.* He went and had the examinations made himself?

*A.* All I did was merely to call on the companies, name the amount and send Mr. Armstrong to them to be examined, and after the examination I went and paid the money.

*Q.* And this one in the Manhattan was made to you directly for \$10,000? *A.* Yes, sir.

*Q.* No, the one in the Provident was made to you directly? *A.* Yes, sir.

*Q.* You paid the premiums? *A.* I paid the premiums.

*Q.* And then? *A.* When all was done I took the policies all to his office, and we both examined them there to our satisfaction; and, in fact, I think I left them with Mr. Armstrong for a day or two in his fire-proof—I think I did—before I took them home.

*Q.* Afterward you took them home? *A.* Yes, sir; I took them home.

*Q.* After you procured this life insurance in this matter, when did you see Armstrong next—as near as you can recollect: you need not be too particular? *A.* I saw him maybe in a day or two afterward; I know I was there, if I can use the phrase, “every whipstitch.”

*Q.* Were you in any business particularly? *A.* No, sir; merely in the sale of my boiler at Mr. Hughes'; him and I were partners. Sometimes I would not see him for a week or ten days; I had no regular time of going there; sometimes I didn't see him for a week or ten days, just as it might happen.

*Q.* Did you see him before you went to Virginia, or shortly before? *A.* I don't know that I saw him that week; I don't think I did.

*Q.* When did you go to Virginia? *A.* I went to Virginia—I can't give you the date; but it was the Friday night—it was about a week or three or four days before Mr. Armstrong was injured.

*Q.* How long were you in Virginia? *A.* I was in Vir-

ginia a week ; I went on Friday night and came up on the following Saturday week.

*Q.* When did you see Mr. Armstrong next? *A.* I saw him on Monday, and on the Tuesday, and on Wednesday, I think ; Tuesday and Wednesday previous to the assassination. On Monday I went there to go down to the Farmers' Market with him, and see Mr.——, the former partner of Mr. Davis ; I forget his name.

*Q.* Mr. Demaris? *A.* Mr. Demaris ; and that was the morning that I went out and told him to stay behind, instead of the morning of the Wednesday he was murdered. They were all mistaken about that. That was the morning I went out and told him to stay behind ; that was the only morning.

*Q.* And that was on the morning you went out and stopped at Frank's stand, and told him you would go out first? *A.* Yes, sir ; because Mr. Armstrong had had a little difficulty and it set all hands in commotion, and I says : " Mr. Armstrong, now, when I go out, you stay behind, and then the men will go on and it will make no commotion in your establishment, and will not confuse the men."

*Q.* That was the morning that happened? *A.* Yes, sir ; no other morning did I go out with him after that.

*Q.* And you went out with him to Mr. Demaris' stand in the market? *A.* Yes, sir ; and I didn't care about going there, because I didn't think he would make anything by the operation ; he wanted me to go out with him after that.

*Q.* And you went out with him to Mr. Demaris' stand in the market? *A.* Yes, sir ; and I didn't care about going there, because I didn't think he would make any money by the operation. He wanted me to go there before I went to Virginia, and I declined, and I said : " Mr. Armstrong, when I come back from Virginia, I will go with you." I called there on that Monday morning for the purpose of making my word good.

*Q.* What time was it when you went there, as near as you can remember? *A.* I think about, maybe, about ten o'clock or more.

*Q.* Where did you go after you had been there and had

that interview with Demaris; was that substantially as has been detailed? *A.* I didn't hear a word that was said there. Demaris kept shifting his barrels and boxes about, and I didn't hear anything that was said, and I didn't care about hearing about it because I didn't think it amounted to much.

*Q.* After you got there on that interview, what did you do then? *A.* I think I went home.

*Q.* You do not remember exactly? *A.* No.

*Q.* When did you see Armstrong again—that was Monday? *A.* I saw him on Sunday morning; that was all.

*Q.* Did not you see him on Tuesday? *A.* Perhaps I did, but I cannot remember; I cannot remember whether I was there on Tuesday or not; I was there on Monday.

*Q.* You were there on Monday after your return from Virginia? *A.* Yes, sir.

*Q.* And you think you were there on Tuesday, but you do not recollect? *A.* I hardly think I was there on Tuesday.

*Q.* You said, a little while ago, that you thought you were there on Monday, Tuesday and Wednesday? *A.* Perhaps so.

*Q.* If you can recollect say so, do not say a thing that you cannot recollect? *A.* No, sir; I will not say positively that I was there.

*Q.* On Wednesday, were you there? *A.* I was there on Wednesday.

*Q.* What time? *A.* About, I suppose, ten o'clock.

*Q.* What happened there? *A.* We were in a conversation about meeting the next day at a bankrupt sale of his brother Philip. Mr. Sherman and he and I were to be there.

*Q.* Who? *A.* Mr. Sherman, who was on the stand here; we were all to be there; we were all interested, and we were all to be there the next morning.

*Q.* Where was the sale to be? *A.* At Thomas' auction store, on Fourth Street, above Walnut.

*Q.* And that was to be on what day? *A.* That was to be on Thursday.

*Q.* The 24th? *A.* Yes, sir.

*Q.* Did he or did he not talk to you in the office about his affairs with Mr. Davis in Camden? *A.* No, sir; he didn't say a word to me about it; not a word.

*Q.* What was the conversation there, in the office, exactly, as near as you can detail it? *A.* Well, I cannot say; I cannot give you that in words at all. It was all in reference to his brother Philip.

*Q.* Was it in reference to anybody having anything in bank? *A.* Not at all.

*Q.* Was there not something said by him about somebody telling him they had money in bank? *A.* Not that I remember.

*Q.* I am speaking of the conversation on Sunday morning? *A.* Yes, sir; exactly.

*Q.* What did you say about being at Philip Armstrong's sale? *A.* I merely said to him to go, as we had agreed upon, and I would be there; that is all I remember definitely.

*Q.* Do you remember who was present at that conversation, if anybody? *A.* There was no one in the office.

*Q.* Did you make any engagement at that time to go to Camden with him? *A.* I did not, nor would I go.

*Q.* Did you make any engagement to go the night before with him? *A.* I did not; he never mentioned the matter to me.

*Q.* He was quite deaf, was he not? *A.* Yes, sir; he was rather deaf, but him and I understood each other. I could always make him hear me well enough.

*Q.* If he had mentioned this Camden matter at all to you, and in that conversation you said "you go and I will be there," was he so deaf that he might have misunderstood you that you were going over there? *A.* He often misunderstood me. He would say yes when he ought to have said no and he would say no when he ought to have said yes. He done that frequently. I would often have to ask him a second time, to give the matter a second time, so as to have the matter perfectly correct.

*Q.* About what time did you leave the office that Wednesday morning? *A.* Perhaps about eleven o'clock. I cannot tell the definite time at all, because I don't remember about my hours. I generally try to go home to my meals between twelve and one, and the intervening time was a matter of no consequence to me.

*Q.* Do you know Thomas Graham? *A.* Yes, sir; I do; he was an apprentice of mine.

*Q.* Did you see him that day? *A.* I did not.

*Mr. R. S. Jenkins—*What day?

*Mr. Robeson—*Wednesday.

*Q.* You went away about eleven o'clock, you say?  
*A.* I think so.

*Q.* Do you remember where you went to? *A.* I went home I think.

*Q.* What time did you get your dinner usually? *A.* Between twelve and one; somewheres along there.

*Q.* What did you do in the afternoon? *A.* I went up to Hughes' establishment.

*Q.* Did you go over to Camden that day? *A.* I did not.

*Q.* Or that evening? *A.* I did not.

*Q.* When were you in Camden last before that.  
*A.* That is hard to tell; I guess not for, maybe, a year. I had no business over here; when I was in business I did business here.

*Q.* From Mr. Hughes' where did you go? *A.* I stayed at Mr. Hughes' until about, I guess, quarter past five or thereabouts, and from there I went up to Mr. Epp's, 1721 Oxford Street, and got there—

*Q.* What time did you start? *A.* About quarter past five. Somewhere about there, I suppose.

*Q.* Did you walk or ride? *A.* I walked.

*Q.* Which way did you go? *A.* I went up Sixteenth Street to Oxford and out Oxford to 1721.

*Q.* What time did you get there? *A.* I got there about six o'clock, I think.

*Q.* Had you an engagement to go there? *A.* I had. I had received a note from him.

*Q.* Is that the note? *A.* That is the note.

Q. Is that his handwriting? A. I presume it is.

Q. What time did you receive it? A. I received it—

Q. As near as you can recollect? A. I received it on Wednesday morning before I went to Mr. Armstrong's office. I called there, and then I went to Mr. Armstrong's office and it was in the box.

Q. Can you remember whether you received it before you went to Mr. Armstrong's office? A. It was in the box when I got back.

Q. It was in the box when you got back to Mr. Hughes'? A. Yes, sir; there is where I received it, on Wednesday morning. He has a letter box, and I got it out of that box, at Hughes' store.

Q. You must have got it about noon? A. No, sir, I think I had that before I went to Mr. Armstrong's office.

Q. But you did not go up to Mr. Hughes'? A. I went up to Mr. Hughes' before I went up to Mr. Armstrong's, and from Mr. Armstrong's I went home to dinner.

Mr. Robeson—*I offer this letter in evidence.*

Mr. R. S. Jenkins—I object to it on the ground that the defence must bring Mr. Epp here himself. As it is, it is in the nature of hearsay evidence. Mr. Epp must be brought here to testify in regard to it, as the witness has stated the fact that he received a note from Mr. Epp.

Judge Woodhull—This will answer very well as a memorandum to the witness by which to refresh his memory, but there has been nothing shown as yet to make it evidence.

Mr. Robeson—The witness identifies the handwriting.

Judge Woodhull—But that does not prove the state of facts shown in the letter.

Mr. Robeson.

We do not offer it for that purpose. We offer it to show that the witness had an appointment and kept it.

(To the witness.)

Q. What was your appointment about? A. In regard to my patent boiler. He wanted to know about the workings of my boiler that was made with a flat face and not a water-back face. He had never tried the flat face. The flat

face goes against the water brick, and the water-back face comes immediately in contact with the fire.

*Q.* Look at that letter (letter shown witness), and tell me what day it was? *A.* That was Wednesday; previous to the assassination.

*Q.* What was the day of the month? *A.* January 23, 1878.

*Q.* You went up there; what then? *A.* I found him at home, down in his workshop.

*Q.* Where is his workshop? *A.* Under his store.

*Q.* Where is his store? *A.* 1721 Oxford Street, on the corner of an inner street.

*Q.* You do not remember the name of the street? *A.* No, sir; I very seldom got up that way.

*Q.* 1721 Oxford Street, where he lived, is in Philadelphia, and State of Pennsylvania, and beyond the jurisdiction of this Court? *A.* (No answer.)

*Q.* How long were you there? *A.* I suppose I was there three-quarters of an hour, anyway. About three-quarters of an hour, I suppose.

*Q.* Where did you go after that? *A.* I walked down Oxford Street to Broad and from Broad to Tenth.—By-the-by, though, I was stopped at Broad Street a little while by a gentleman in his buggy, who had lost a pin out the eye of the shaft, and I held his horse while he went to purchase a bit of clothes line or something like that to help him lash it up.

*Q.* You do not know where he got the clothes line?  
*A.* I think he said—

*Q.* Never mind what he said. He came back with the rope? *A.* Yes, sir; some two or three yards. I held the horse and helped him while he lashed; he had a lady in the buggy with him.

*Q.* Did you know the gentleman? *A.* No, sir.

*Q.* Nor the lady? *A.* No, sir; neither of them; I went down to Tenth Street.

*Q.* Did you see anybody there? *A.* While I was waiting for a car there was a lady came and said she knew me, but I did not know her, and she asked me something about

the cars, I think, from Ninth and Green, or something like that.

Q. You do not remember particularly? A. I don't remember particularly; I think I asked her whether I should accompany her there, or something of the kind, but she said no; I don't know who she was; I would not know her, I suppose, again; and then the car that I came down on was in sight.

Q. What did you do then? A. Got in the car.

Q. Where? A. At Tenth and Oxford—not at Jefferson, as Mr. Young said—I got on at Tenth and Oxford.

Q. Where is Jefferson Street? A. Jefferson Street, I think, is below Oxford; I am not certain.

Q. The street this side? A. I think it is; I am not certain.

Q. You got on at Tenth and Oxford? A. I got on at Oxford.

Q. Where did you get off? A. I got off at my home, Tenth and Wharton.

Q. What time, about; or do not you know? A. Somewhere about eight o'clock, I think. I think I heard my folks say "ten minutes of eight;" about there. Whether our clock was right or not, that I cannot say.

Q. The clock in the dining room is a little out of order, is it not? A. Yes, sir; very often, and the one in the kitchen, too.

Q. What time did you get on the cars at Tenth and Oxford? A. Somewhere, I think, in the neighborhood of half-past seven o'clock, I should think, from the time that I was along there. It might not have been so late as that. I won't be positive.

Q. Did you have any conversation with the conductor of the car? A. Yes, sir; some little conversation; I don't know the gentleman particularly, at all; I knew him merely by his being a conductor, and I said, "Good evening," as I got on the car, and, I think, I asked him how he did, or something of that kind; he said he was very well, only he was disappointed about going to his lodge, I think.

Q. You heard his story as he told it on the stand? A.

Yes, sir; I heard his story, but I didn't bother my head much about it.

*Q.* It brings it back more freshly to your mind? *A.* Yes, sir; but I don't know now. I didn't bother my head about it.

*Q.* You had ridden on this car often before? *A.* Yes, sir; many a time.

*Q.* When you first got on the car on what part of the car were you? *A.* I stood on the platform alongside of him.

*Q.* Are you an Odd Fellow yourself? *A.* Yes, sir; my Lodge is No. 113, Oriental Lodge, and I have been ever since I was twenty-one years of age.

*Q.* And that gave you some interest in his conversation? *A.* Well, I don't know that it did. I generally like to make myself agreeable when I meet company.

*Q.* You came home then; what did you do when you got home? *A.* I took off my coat and hat and eat my supper, and after that I found there was no *Ledger*; it had been, as I thought, blown away or stolen, and I went to Mr. Ernest to borrow his *Ledger*.

*Q.* What did you do then after you got through with reading the *Ledger*? *A.* I think I retired to my bed. I don't remember the particulars. I am not in the habit of sitting up late—never later than ten o'clock.)

*Q.* When did you first hear of this attack upon Mr. Armstrong? *A.* I was told of it on Thursday morning, at my house, by Frank Armstrong.

*Q.* Tell us about that interview; tell us exactly what happened? *A.* Well, I cannot tell the story quite as good as some of my friends ahead of me.

*Q.* Tell your story in your own way, then. *A.* He told me that his father had been assaulted in Camden, and he asked me if I was there. I told him I was not. He intimated to me—in fact, he said to me, though, that his father said I was going with him to Camden, and through the conversation he said I would have to locate myself.

*Q.* Who was present at that time; was your wife present? *A.* My wife was present and, I think, that my son;

I am not certain; I will not be positive about that at all; I felt a little puckered at the time at a youth like him telling me I would have to locate myself.

*Q.* Did you speak about it afterward? *A.* Yes, sir; I did afterward.

*Q.* At the breakfast table? *A.* Yes, sir; I did so; I had never spoken a cross word to Frank or his father, and I thought it was a rather serious accusation.

*Q.* How long was he there? Did you have any more conversation except what you have stated? Did you tell him that you were not over in Camden? *A.* I certainly did.

*Q.* Did you tell him that you did not mean to go there? *A.* I did. The conversation was on that subject, but to what extent I am unable to explain at present.

*Q.* You do not recollect the details of it? *A.* No, sir; not at all.

*Q.* What was the next you heard about it? *A.* When Mr. Lorrilliere came in.

*Q.* How long afterward? *A.* That I cannot say.

*Q.* Was it before breakfast or afterward? *A.* It was before breakfast, I think.

*Q.* Where were you when he came in? *A.* Well, really I cannot say. I think I was in the dining-room, but I cannot say, for I will not be positive about it.

*Q.* Who was present at that time? *A.* My wife, I think, and my son; I am positive that they were at that interview, and, in fact, I think all my family were present then, because it was later in the morning.

*Q.* Give us that conversation as far as you can recollect? *A.* Well, I said something to this effect, I think: That I was very sorry to hear about the trouble of Mr. Armstrong, that he had said that I was over there with him that night, or something to that effect. He said it was not an unusual thing for Mr. Armstrong to tell a story—he was sorry to say that he practiced that; something like that I remember distinctly.

*Q.* Did he say anything about your locating yourself? *A.* I do not know that Mr. Lorrilliere said anything of that kind, to my recollection.

*Q.* You do not remember his saying that? *A.* I do not remember. I do not remember that.

*Q.* If that fact is proven by the other witnesses you would recollect it? *A.* I do not recollect that; no, sir.

*Q.* You heard Mr. Lorrilliere's testimony here in Court? *A.* Yes, sir.

*Q.* Did your wife burst into tears and say, "Oh! papa, papa?" *A.* No, sir.

*Q.* Did you throw up your arms? *A.* I never do throw up my arms as Mr. Lorrilliere described it. I never do things of that kind, nor did I then.

*Q.* That scene, then, did not happen as he described it? *A.* Not at all.

*Q.* What did you do that morning? *A.* I ate my breakfast. I then went up to Mr. Hughes' shop to see whether there was anything there which needed my attention, and from there I rode up to Mr. Epp's and told him—

Mr. R. S. Jenkins—It is no matter what you told him.

Mr. Robeson—Why not?

Mr. R. S. Jenkins—Because it is not evidence.

By Mr. Robeson.

*Q.* What did you do—no matter what you said? *A.* I went up to say to him that a friend of mine—

Mr. R. S. Jenkins—Do not say what you said to him.

The Witness—Well, I can say what I went to say, I can tell what I went for; I went to get Mr. Epp.

By Mr. Robeson.

*Q.* What did you go there for? *A.* I went to get Mr. Epp, so that I could locate myself.

*Q.* As you were required to do? *A.* Yes, sir; I took him down to Armstrong's house, and I entered the parlor and Mrs. Lorrilliere was present and I think a lady friend.

*Q.* You need not say what was said then; you did take him down? *A.* I took him there.

*Q.* Was Mr. Lorrilliere there? *A.* No, sir; Mrs. Lorrilliere was there.

Q. Was any of the Armstrong family there? A. Mrs. Lorrilliere was the only one of the Armstrong family who was present in the parlor at that time.

Q. Who else? A. None others that I recollect of the family; they may have been there.

By Mr. R. S. Jenkins.—There is no Mrs. Lorrilliere.

By Mr. Robeson.

Q. Do you know whether there is a Mrs. Lorrilliere?  
A. I ask your pardon. I thank you, Mr. Jenkins. It was Mrs. Crosby; I thank you for the correction.

Q. You must be careful, for if you make such mistakes as that they will say that you are making up a story. Who is Mrs. Crosby? A. She is a married lady, Mrs. Armstrong's sister.

Q. She is a sister of Mr. Lorrilliere, then? A. She is a daughter of Mrs. Lorrilliere.

Q. Of old Mrs. Lorrilliere? A. Well; I think that is the way.

Q. Did Mr. Epp leave you then and there? A. He did. Mrs. Crosby replied that it was not necessary though; that she was satisfied.

Mr. R. S. Jenkins—We do not want the conversation that occurred there.

Mr. Robeson—We desire to offer it.

Judge Woodhull—It is competent for you to prove the fact that Mr. Epp went there, and also what was done there upon that occasion; but, of course, what he there stated is not competent, as it would be only hearsay evidence.

Mr. Robeson—We offer to prove that there, at the house of the man who was murdered, Mr. Epp, in the presence of the family, located Mr. Hunter on the evening of the occurrence and for that purpose.

Mr. R. S. Jenkins—That is as far as you can go.

Mr. Robeson—We propose to prove that he did there locate the Defendant, and also what he said in the presence of the members of his family.

Judge Woodhull—That would be hearsay evidence.

Mr. Robeson—It is not a point which I care to argue at length to your Honor, because it is a point which rests upon such narrow grounds that I do not care to press it, though I would like to save it for the sake of any benefit which the Defendant might derive from it.

Judge Woodhull—I do not see how there can be any difficulty in regard to the offer. It has not been suggested that Mr. Epp cannot be procured as a witness, or that he is even dead.

Mr. Robeson—No, sir; we have not suggested that. He is not dead that we know of, but we know that we cannot reach him.

Judge Woodhull—As the matter now stands what Mr. Epp said on that occasion is, I think, pure hearsay evidence, and is within the rule which excludes such testimony.

Mr. Robeson—We can prove that we subpoenaed Mr. Epp, and that he refused to come, and that he is out of the jurisdiction of the Court.

Mr. R. S. Jenkins—Your Honor will see how wide the door will be opened, if this offer of the Defendant is admitted. We are able to prove that Mr. Epp has made affidavits containing statements entirely different from those which the counsel now allege, and which we are able to produce here in Court.

Mr. Robeson—That clearly would not be evidence. I am not denying that Mr. Epp has not stated otherwise, but I am now merely endeavoring to make this particular declaration competent evidence.

Mr. R. S. Jenkins—I know what you are trying to do; that is very plain. We object to it on the ground that it is hearsay testimony.

Judge Woodhull—The rule is that the best evidence must be given if it can be procured, but if it is impossible to obtain the best then other evidence may be deemed competent.

Mr. R. S. Jenkins.

The rule is that hearsay evidence should not be admitted except it is of a certain character, and in this case it is not

of that character, but is merely hearsay evidence, which should not be admitted. The rule in regard to the admission of this evidence is simply this: if one statement of Mr. Epp is admitted in evidence, then other statements which he has made in regard to this matter will have to be admitted, and that will be opening the door very wide, indeed.

Judge Woodhull.

Of course, if one statement is admitted other statements which Epp may have made will have to be admitted. If, therefore, he has made a statement contrary to the one now referred to, it will also have to be admitted.

Mr. R. S. Jenkins.

Then if the Court so rules we have no objection to this testimony. We, therefore, remove our objection to this testimony.

Mr. Robeson.

We do not intend to admit that any statement Mr. Epp may have made to the Prosecutor, or a statement to the effect that he is not certain as to the day is competent testimony.

Judge Woodhull.

If the statement which is now referred to is admitted, and Mr. Epp has made any statements inconsistent therewith, they will have to be admitted in evidence on the part of the prosecution.

Mr. R. S. Jenkins.

Then we withdraw our objection.

Judge Woodhull.

A different rule would make a mere statement conclusive evidence of the fact stated.

Mr. Robeson.

We do not offer it for that purpose. We offer to prove that Mr. Epp went to the residence of Mr. Armstrong in company with the Defendant, and that he there located the Defendant, in the presence of the family of Mr. Armstrong. We also offer it as part of the *res gesta*, and as a fact occur-

ring within a few hours of the murder, in response to a demand on the part of the murdered man's son, Frank Armstrong.

Judge Woodhull.

What do you mean by locating the Defendant? That Mr. Epp went to Mr. Armstrong's residence and there said that at a certain time the Defendant was at his place. That is nothing but hearsay evidence, and I do not see how you can make anything else out of it.

Mr. Robeson.

That is the reason I have not argued it.

Judge Woodhull.

You may show by the Defendant that Mr. Epp was there at Mr. Armstrong's residence for the purpose of locating him, and you may show that members of the family expressed themselves as being satisfied, but what Mr. Epp said upon that occasion is clearly inadmissible.

Mr. Robeson.

Well, we will let that go.)

(To the witness.)

Q. Did you go to see Mr. Armstrong at any other time that day? A. I stopped at the house that morning. I stopped there for some time.

Q. I speak of the time when you were up in the room with him and Mrs. Smith, who testified here. A. I do not think I went up to see Mr. Armstrong that morning.

Q. Did you go up in the afternoon? A. I think I went up in the afternoon.

Q. He died the following morning? A. I believe he did.

Q. You were in the room that afternoon with Mr. Armstrong? A. Yes, sir; the doctor was there part of the time.

Q. You did not do anything to him there, did you? A. No, sir; I did all that I could for him; that is all I did to him.

Q. Did you do anything up there? A. Nothing at all, no, sir; I sat opposite to him, that was all.

Q. Do you remember whether you put a fresh towel on his head, or anything of that kind? A. I think I laid a clean towel on his forehead. The girl brought some towels up on a plate, and, I think, I took one off the plate and put it on his forehead.

Q. Was it a wet towel? No, sir; the one I laid on was dry; the girl was there at the time; she gave me the towel; I remarked to her that I thought he ought to have a clean towel on his head; and I did that, and that was all.

Q. You know Thomas Graham? A. Yes, sir.

Q. How long have you known him? A. Well, I suppose about—nearly from his youth up.

Q. Was he an apprentice of yours? A. Yes, sir.

Q. Did he work for you until you went out of business? A. Yes, sir.

Q. Did he ever live down in your neighborhood? A. Yes, sir; he lived with his mother, nearly opposite to me at one time.

Q. For how many years? A. I do not know.

Q. Within a door of Mr. Armstrong? A. A couple of doors.

Q. He knew Mr. Armstrong well? A. Yes, sir; he knew him as well as he did me, I presume.

Mr. R. S. Jenkins.

He says he presumes.

By Mr. Robeson.

Q. He knew Mr. Armstrong well? A. O, yes, sir.

Q. Did you ever meet him in the street in the early part of December, or at any other time did you meet him up a little alley, and speaking of Armstrong, say: "That man has got to die," or anything to that effect. A. No, sir.

Q. Or, "He has got to be killed?" A. No, sir; positively, no.

Q. And, "You have got to do it, and if you do not do it you are no friend of mine?" A. No, sir.

Q. You did not meet him one winter morning in the public streets and make that arrangement with him? A. I did not.

*Q.* You did not take him up an alley between a window and a gate? *A.* No, sir; I do not know of such an alley as he has described here.

*Q.* Did you meet him on New Year's eve and give him a hammer, telling him, "That is what it has got to be done with?" *A.* No, sir.

*Q.* A hammer tied in a paper? *A.* No, sir; I did not.

*Q.* Did you ever meet him on the corner of Eighth and Sansom Streets and give him a hatchet? *A.* No, sir; I did not; I did not meet him at no time on any corner or give him a hatchet.

*Q.* Do you know this hammer? (Hammer in evidence shown witness.) *A.* I only know it by seeing it here.

*Q.* You did not give Thomas Graham that hammer? *A.* No, sir; I never saw the hammer until I saw it here and at my preliminary hearing.

*Q.* Did you ever tell him that that was the hammer that was going to kill Armstrong? *A.* No, sir.

*Q.* Do you know that hatchet? (Hatchet in evidence shown witness.) *A.* I never saw it before, only at my preliminary hearing, and here.

*Q.* Tell us a little about your relation with Graham. He had been a boy brought up by you? *A.* Yes, sir.

*Q.* He had never lived in your family? *A.* No, sir; he never lived in my family.

*Q.* Had he ever taken any meals there? *A.* I do not remember of his taking any meals in my house. Tom was always a good boy.

*Q.* He was always a good boy when he was with you? *A.* Yes, sir; he was always a good boy, and I did not know that he was carrying on as has been represented here at all.

*Q.* When did you see him last winter first? *A.* He called at my house one evening, at the back gate, and one of my little girls answered his call, and he sent in for me. I went out and said, "Well, Tom, is that you?" He said, "Yes, Mr. Hunter, this is me, and I am in distress, Mr. Hunter." Says he, "I have never had no luck since you went out of business, and I am driven to desperation," or something like that. He said he was to be ejected from his

boarding house; and that the lady has confirmed since, for she told me that while she was here. He asked me if I would not give him some assistance, and I gave him \$5.

*Q.* When was this, do you remember? *A.* I do not remember what night it was at all; I do not even know that it was in December.

*Q.* When, as near as you can recollect, did you see him again? *A.* Well, he came to Mr. Hughes' shop, I think, on two different occasions; I called---if I may be allowed to make a little explanation?

*Q.* Yes, tell your story. *A.* I called to see his wife, and in the course of two or three days he was at my house.

*Q.* Pardon me. Let me interrupt you right here. Did you go to Mrs. Ewell's, his sister, and tell her that you had a job for him to do, and that it could be done at night? *A.* No, sir; I never was at Mrs. Ewell's house in my life.

*Q.* Did you go there to inquire where Tom lived? *A.* It was not necessary, for I knew where he lived.

*Q.* His house was nearer yours than hers. *A.* It was nearer on a parallel line; I lived on Tenth Street and he lived on Seventh; it was nearly on a parallel.

*Q.* Then go on; you say you went to his place where he boarded? *A.* I went down to see his wife, and she manifested distress also; and I asked her if Tom had taken to drink, and she said that he had: that he was doing very badly and hardly ever was home at night, and never would come home anyhow before twelve o'clock; and she plead with me to try to get him something to do. I told her to send him up to Mr. Hughes' shop; that, perhaps, I might get him something to do. Mr. Hughes sometimes had ten or twelve men at work, and sometimes only two or three, and I told her that perhaps he might take him on. I said "send him up anyhow, every day, if you like, but tell him always to come sober." I think he was up there two or three times, I forget which; but, however, she said that if Tom did not go up, for me to come down there, and she would say that I was there, and that that would be an inducement for him to go up again: and I did on two or three occasions, and came down and asked how Tom was getting on, and I told her to

tell him to come up to the shop. I remember that he did call, but it was only at one time that I thought he was fit to come into the office and talk to, and the other times I go him away as soon as I could.

*Q.* Were you at his house on the Sunday after you returned from Virginia—the Sunday previous to the murder?  
*A.* I never was at his house on Sunday, to my recollection.

*Q.* Where were you on that Sunday? *A.* I went in the afternoon to my brother-in-law's, the Rev. S. A. K. Francis', and took tea there.

*Q.* Where were you in the morning? *A.* I was at church down on the Neck; it was in the Neck.

*Q.* What time did you leave your house in the morning to go to church? *A.* I generally leave at about a quarter after ten—my wife and I.

*Q.* Had you been away from home that morning? *A.* Not at all.

*Q.* You went to church? *A.* Yes, sir.

*Q.* Were you there during the whole service? *A.* Yes, sir.

*Q.* What time was church out? *A.* It generally closes about twelve o'clock.

*Q.* What did you do then? *A.* I came up home with my wife; but I am not certain who else was with me, but my wife always was.

*Q.* You do not know which of the children were with you? *A.* I do not know that any of them were with me.

*Q.* When you went home what did you do? *A.* I had dinner as usual, and after dinner I generally took a little snooze.

*Q.* Were you out of the house that afternoon before you went to Mrs. Francis'? *A.* Not at all.

*Q.* Did you on the Monday, the next day, or at any other time, go half a dozen times to see Thomas Graham?  
*A.* No, sir; I did not.

*Q.* How many times did you go? *A.* I think not more than two or three times altogether.

*Q.* I am speaking of that day? *A.* O! no, sir.

*Q.* How many times did you go that day? *A.* I am not certain whether I went at all that day or not.

*Q.* You do not recollect? *A.* No, sir.

*Q.* Do you remember going there with a basket once?  
*A.* No, sir.

*Q.* Or with a vase or something in it? *A.* No, sir.

*Q.* You do not recollect about that Monday? *A.* No, sir; I do not remember.

*Q.* You did not see him that day anyhow? *A.* I did not take any account of my visits there. I did not see him at all; I did not see Tom at no time. I went there and I never went there only as I saw his wife in person. I always made my visits known every time I was there. I inquired after Tom.

*Q.* Do you recollect the occasion when you saw Tom at Mr. Stiles' ? *A.* Yes, sir, I remember that distinctly.

*Q.* What day was that? *A.* I cannot tell you what day, nor even the month, but it was in the fall of the year, I think. I remember coming down Second Street, and I remember where he was at the time. I was up there to see the firm of Thomas, Roberts, Stevenson & Co., in regard to my boiler, and in coming down Second Street Tom and his fellow-workman were out on the side at a little alley making an alteration to the stoves, which I remember distinctly. I remember the alteration they were making, and they were altering the check valve upon the body of the stove, and I had some little conversation with him, and I also saw Mr. Stiles and he explained what he was doing, etc.

*Q.* Did you at that time, or any other time, ask Tom for a piece of paper, and did he then give you a billhead, and did you then draw a plan upon it of Davis' house and Vine Street and the alleys around there? *A.* No, sir; I did not at no time; I did not do anything of the kind.

*Q.* Could you have done so if you had wanted to? *A.* I can draw a plan, but I did not draw any plan for Tom.

*Q.* I only meant: Did you have the requisite knowledge of the locality? *A.* No, sir. You have reference to the Camden locality?

*Q.* Yes, sir? *A.* No, sir; I did not; I did not know

then, and I would not know now, where to strike the location.

*Q.* Did you see Tom Graham on Thursday, the day after the murder? *A.* No, sir, I did not see Tom until I saw him here after the murder of Mr. Armstrong; I did not see Tom at all after I came from Virginia until I saw him here.

*Q.* You were up on Girard Avenue and Broad Street on Thursday? *A.* Yes, sir, I was there and talked to Mr. George W. Simons, of the firm of Simons, Opdyke & Co., and I remember Mr. Jones coming along.

*Q.* Do you remember seeing Tom Graham that time? *A.* No, sir, I did not see him.

*Q.* He says that you went with him to buy a hat at a hat store on Passyunk Avenue? *A.* Yes, sir: that is correct; he was with me when I purchased the hat. That day he was up to Mr. Hughes', and I said, "Tom, I am going down to Virginia, and I want to buy an old hat of some kind to go ducking with," and I think he told me where I could purchase one. We divided the distance. I said, "I live on Tenth Street and you live on Seventh Street, and I will go down that way and buy the hat." I said, "I will divide the distance with you."

*Q.* What kind of a hat was it? *A.* It was the commonest kind of a felt hat. I grappled it in my hand and stuck it in my coat pocket and took it home.

*Q.* What kind of a felt hat was it? *A.* It was the commonest kind of a black felt hat. I gave \$1 for it.

*Q.* What day was this? *A.* It was on the Friday previous to my going down to Virginia. I went down to Virginia on a Friday night.

*Q.* What time of day or night was it? *A.* It was getting dark; in fact nearly quite dark.

*Q.* Did you leave your hat there? No, sir; not at all. I put it on my head and wore it home.

*Q.* I mean your silk hat? *A.* My silk hat, I mean; I wore it home.

*Q.* Did you have any conversation with the lady about going shooting, or something of that kind? *A.* I told her

I was going ducking. I told her I was going ducking down by the Rope ferry, I told her for fun, or something like that. I did not think I was doing any harm in not giving her the definite locality I was going to. In fact, she asked me where I went ducking, and I told her I went ducking down by the Rope ferry bridge, or something like that.

*Q.* Did you go ducking? *A.* Yes, sir; Jesse Murray and John Hunter went with me.

*Q.* Did you use your hat? *No,* sir; I took it on the cars and left it on the cars when I got off at Washington. I put it on and left it on the cars at Washington.

*Q.* You went down in the night time? *A.* Yes, sir.

*Q.* Did you take a sleeping car? *A.* No, not at all; I went in an ordinary car.

*Q.* You slept in the seat? *A.* Yes, sir; I slept the best I could. I went ducking on the Potomac, alongside of Fort Washington, but I did not get any ducks either.

*Q.* You had to borrow a hat to go ducking in? *A.* Yes, sir; I had to borrow a hat to go ducking with.

*Q.* When you went home the night of the 23d, when you came home from Mr. Epp's did you have a slouch hat on? *A.* That is a thing I never wore; I have never wore one, I do not suppose, for ten years.

*Q.* You went home, then, with a high hat on on the night of the 23d? *A.* Yes, sir.

*Q.* Did you go away the next morning with that hat on? *A.* Yes, sir.

*Q.* Have you an old hat you worked in? *A.* I have an old black hat kicking around, and I think an old straw hat, also.

*Q.* That you used when you worked in dirty weather and around in the stable? *A.* Yes, sir; and in doing jobs around the house.

*Q.* When you bought this hat, did you say anything about it when you went home? *A.* Not at all; I did not think it was necessary.

*Q.* What did you do with it? *A.* I left it in my coat pocket, and hung it up until I changed my coat, or until I went down to Virginia,

*Q.* The same evening? *A.* Yes, sir; the cars did not leave until half past eleven, and I did not get ready to go until very near the time.

*Q.* You were brought over here to Camden when? *A.* I really forget; I cannot tell you.

*Q.* Was it not the Monday following the murder? *A.* I do not know the time.

Mr. R. S. Jenkins—It was January 28th, 1878.

The Witness—Whatever Mr. Jenkins says, I presume, is quite correct—January 28th; yes, I know I have been here since.

By Mr. Robeson.

*Q.* Did you come over here as a witness, or how; describe the circumstances under which you came? *A.* I was brought over by the Sheriff and Mr. Yoder, it has been proved to me since; I did not know them at the time.

*Q.* They came to see you early in the evening? *A.* Yes, sir.

*Q.* What did they say? *A.* They said they would like me to come over; that the Prosecutor wanted to see me over in Camden to testify to something in relation to the assassination of Mr. Armstrong.

*Q.* What time of day was that? *A.* That was in the evening.

*Q.* What did you say? *A.* I told them I did not care about going over in the evening, or something to that effect. I said I would go the next morning at nine o'clock.

*Q.* What happened then? *A.* Then they went away and returned again with Mr. Yoder. By the by, I am a little ahead of my story. Mr. Watson came with the Sheriff and then they went away and returned.

*Q.* With Mr. Watson? *A.* No, sir; he did not come the second time; he came with the Sheriff the first time, and the next time the Sheriff and Mr. Yoder came.

*Q.* Did Mr. Watson say anything at the time he came? *A.* No, sir; not that I remember.

*Q.* Proceed with what you had to say? *A.* The Sheriff said: "Mr. Hunter, I now have brought a gentleman along from the city who will see you protected and see you back

home safely." I was about retiring to bed then; I had my shoes off and coat off, but I consented to go without any force whatever.

*Q.* You came over here? *A.* Yes, sir.

*Q.* When you came over here you were examined? *A.* Yes, sir; I got a good overhauling—indeed I did; Mr. Jenkins piled it into me.

*Q.* They have detailed here some of the circumstances about your apparent contradiction with regard to that note about the insurance; what have you to say about that? *A.* I would not be surprised if I did say something contradictory, for I tell you I was in hot water. Mr. Jenkins flourished his fist over my head with that note, and said something about "leaving off your truss."

*Q.* You were rather excited? *A.* Yes, sir; I was a little excited. I was not in the habit of being overhauled in that kind of style. I knew I was innocent of the charge, and I thought it was a little rough the way I was dealt with, and if I made any mistakes it was merely accidental, and not that I did it with any design of deceiving any one.

*Q.* You said you were not over here, and, of course, you were not on the boat at the time Graham has detailed; but did you at any time ever ask Thomas Graham to kill Philip Armstrong? *A.* No, sir.

*Q.* Did you ever tell Thomas Graham you had a notion to come up and kill John M. Armstrong, or strike him, or whatever it was? *A.* No, sir; I did not know anything about that until I heard it here; it was news to me.

*Q.* Did you ever tell him you had a notion to strike him right down on the pavement in Philadelphia? *A.* No, sir.

*Q.* You said you were not over here that evening at all? *A.* Not at all; not that evening or any other evening, nor would I come over on such an errand.

*Q.* You had nothing to do with the attack or assault upon or murder of John M. Armstrong? *A.* Not a particle, in no way, shape or manner.

*Q.* You never offered Graham \$500 to kill John M. Armstrong? *A.* No, sir; I did not.

*Q.* Did you ever tell him you had "finished him," or

anything of that kind? *A.* No, sir; that was all news to me.

*Q.* And after the murder was over did you give Graham twenty-five cents and tell him that was all the change you had? *A.* No, sir; I generally had a little more than that when I wanted to give any.

(The Court here took a recess for thirty minutes.)

#### AFTERNOON SESSION.

Examination of BENJAMIN HUNTER resumed.

By Mr. Robeson.

*Q.* Just look at that coat (overcoat shown witness); is that your overcoat? *A.* It looks very much like it; if I try it on I can tell better (trying it on). Yes, sir; I think I can safely say that is my coat.

*Q.* Did it have, originally, a cape? *A.* It had.

*Q.* Who made it? *A.* It was made by Mrs. Abel—

*Q.* No, no: who made the coat? *A.* O! Mr. Weeks.

*Q.* How long is it since you have worn it with that cape? *A.* I can't remember; I guess perhaps eight or ten years, anyhow; I cannot tell. I wore the cape very little after it was made. I never admired the cape much.

*Q.* On the evening of the 23d day of January when you went up town with Mr. Epp, did you wear a cape? *A.* Not at all; I had none. I did not wear that coat. I had another coat that I wore during the week.

*Q.* You have still another coat that you wore? *A.* Yes, sir.

*Q.* You have not worn a cape then, for years? *A.* No, sir.

*Q.* About what was your income, in general terms? *A.* Well, if everything had 'awent on right it would have been thirty-five or thirty-six hundred dollars this year.

*Q.* How? *A.* I suppose I have a right to count from every source?

*Q.* Give it to us from whichever sources you do count it? *A.* I think my rents would safely be \$2,200; my wife's income was \$520, about; my daughter gets \$513 a year; my

son, \$175—he gets three and a half a week. Mr. Armstrong paid me the interest money in December last, and I presume if everything would have went along right he would have paid me still, which would have been \$360 interest. That is not counting any little I would have made myself on my boiler. I will merely say here that I think Mr. Muirhead left one house out in the estimation. He counted seven houses; I have eight, but I suppose he has the aggregate of rents correct. What I made myself I don't count; I used that as spending money.

Q. Your wife's money was not invested in real estate?

A. Her money was invested in bonds.

Q. Of course your affairs are in confusion since you have been locked up here? A. Yes, sir; considerably so.

Q. I speak of the state of your property until the time of this murder of John M. Armstrong, not since; can you think of anything else you would like to state—I have gone over the ground as far as it occurs to me? A. I don't know of anything that I wish to state particularly.

Cross-examined.

By Mr. R. S. Jenkins.

Q. When did you first hear of the Davis-Armstrong complication? A. Well, now, I cannot tell you; I did not meddle myself much with Mr. Armstrong's conduct.

Q. About how long before Mr. Armstrong's murder? A. That I cannot tell you.

Q. What was the Davis-Armstrong complication? A. That I cannot tell you. I never got the ins and outs of it. I don't even know the amount of money that was between them. I think the Sheriff will testify to that fact.

Q. You know nothing about it? A. I didn't know nothing about the transaction in the main. I knew there was something but I never knew the whole story of it.

Q. Did you know any portion of the story; what part of this complication did you know of? A. Sometime last fall there was a difficulty over the matter. There was a difficulty occurred over this Davis matter, and I think Mr. Armstrong was sued, for, I think, \$500, and I went his security for that amount.

*Q.* And that is all you know about it? *A.* That is all I knew about it until I was arrested, and, coming over in Camden with the Sheriff, he told me it was nearly a thousand dollars or something like that.

*Q.* You had nothing to do with any arrangements with anybody about it? *A.* Nothing at all; I never saw Mr. Davis at all.

*Q.* No arrangements with any other person? *A.* No, sir; not at all.

*Q.* You never had an interview with Miss Latimer about the matter? *A.* Never.

*Q.* Or anybody at all? *A.* I saw Miss Latimer a number of times and saw her running to Mr. Armstrong's office, and, if I may be allowed to go on and state—

*Q.* No! You never saw Miss Latimer in relation to this business? *A.* No, sir.

*Q.* Or any other person in relation to this business? *A.* No, sir; I saw her coming to Mr. Armstrong's office.

*Q.* So that you knew nothing at all in relation to the Davis business? *A.* I knew nothing at all about it.

That is what you testified to the night you were over here? *A.* Yes, sir; something similar to this; I think I told you I never would have anything to do with the matter.

*Q.* Is that your handwriting (postal card shown witness); put on your glasses and look at it? *A.* That is my handwriting, and I can explain that to you.

*Q.* We want some explanation about that. *A.* I will try to explain it so that all hands will understand it.

*Q.* You wrote the card, then, to Mr. John M. Armstrong and posted it December 26th, 1877, Phila. 5 P. M.? *A.* Won't you please read it?

*Q.* O! I am going to read it? *A.* Yes, sir.

*Q.* Do you wish me to read it now? *A.* Yes, sir; if you please.

*Q.* "December 26, 5 P. M., Phila., John M. Arm-

strong, Esq., 710 Sansom st. city" "December 26, 77,"  
again. "Dear sir"—

Mr. Robeson.

Pardon me one moment.

Mr. R. S. Jenkins.

He wishes to hear it.

Mr. Robeson.

I take an exception to the reading of it. The witness wishes Mr. Jenkins to read it because he cannot read it himself without his spectacles. I asked him nothing about the Davis business in any respect.

Mr. R. S. Jenkins.

I am cross-examining the witness.

Mr. Robeson.

One minute. I am perfectly willing that you shall go on with your cross-examination in your own way. But I asked the witness nothing about the Davis business, and it is not cross-examination, and we desire the gentleman to take the statements of the witness and cross-examine him upon them.

By Mr. R. S. Jenkins.

Q. "Dear Sir

"I saw the Reverend Mr. Durborow this morning and gave him an inkling about Miss L., so if he calls you give him a history of him.

"I think if she finds things getting too warm that she will fix the Davis matter up. Respty. B H"?

A. Yes, sir; that is it precisely.

Q. What was the Davis matter that she was coming to fix up that you know anything about? A. I can explain it.

Mr. Robeson.

I submit that is not fair.

By Mr. R. S. Jenkins.

Q. What was the Davis matter that you knew about?  
A. I will try to explain it in a satisfactory way to you. I found this Miss Latimer running there for a long while,

and finally I found out what she was running there about. It was this Davis thing that she was mixed up with, and I came to the conclusion that she was a wolf in sheep's clothing, for I knew that she had dealings with this Reverend Mr. Durborow, and was determined, if possible, to expose her, for I believed that she was taking some advantage of Mr. Armstrong; and I also wrote another note to Mr. Durborow; because I was determined to expose that woman.

*Q.* This was a note that you wrote to Mr. Armstrong?

*A.* Yes, sir.

*Q.* You went to see Mr. Durborow and you saw him; you say you did not write a note to him? *A.* I saw him personally.

*Q.* What did you talk to him about? *A.* I talked to him about this thing, about Miss Latimer; I had my suspicions. I thought she was deceiving Mr. Armstrong in some way, and I am satisfied of it yet.

*Q.* What did you mean when you said: "If she finds things getting too warm that she will fix the Davis matter up?" *A.* That she would raise the money that I think she stole away with this Davis from Armstrong.

*Q.* Then you knew about it, did you? *A.* Yes, sir; I did, then, know about it.

*Q.* I thought you just now said you did not know about it? *A.* Not until that time.

*Q.* Then, on the 26th day of December, 1877, you did know about the Davis-Armstrong matter? *A.* Then I got to know some little about it; I knew about it, yes, sir.

*Q.* Then why did you say, on the 28th day of January, in your examination, to me, that you knew nothing about it? *A.* I did not.

*Q.* Did you say just now that you knew nothing about it? *A.* If you will pardon me—I did not know the ins and outs of it when I wrote that card. I knew there was something of it, but now you are coming to the ins and outs I didn't know anything of. I didn't know the whole of it—the whole transaction. I think I told you from the start I didn't know the ins and outs of the transaction. I knew

there was something wrong; but fully I didn't know. I would like to give you all the satisfaction possible.

*Q.* Then you did know something about the Davis-Armstrong complication? *A.* Yes, sir.

*Q.* You knew enough about it to go and talk to Mr. Durborow about it? *A.* Yes, sir.

*Q.* You knew that Miss Latimer was involved in it? *A.* I found it out then, for I mistrusted her, but to what extent—I will stick to that—I did not know.

*Q.* Stick to the truth; that is the main thing. *A.* I will stick to that; that is all.

*Q.* Then when you told me, on the night of your examination, that you knew nothing about it you overlooked it? *A.* I am hardly accountable for what I said that night; I was suddenly grabbed up that night; you know I was suddenly kidnapped on that night.

*Mr. Robeson.*

I object to this style of cross-examination; the Prosecutor must wait until the witness answers.

*Mr. R. S. Jenkins.*

All that I desire of the witness is that he answer my questions.

*Mr. Robeson.*

But you interrupt him before he has time to answer, and do not allow him to finish.

*Mr. R. S. Jenkins.*

I will give him all the time he desires to answer the questions I ask him, and that is all I want him to do.

(To the witness.) Then you did know something about the Davis affairs? *A.* I never denied it.

*Q.* Did not you deny it on the night that I examined you; did not you deny that you knew anything at all about the Davis matter? *A.* I don't know that fully.

*Q.* Did not you say you knew nothing at all about the Davis affair? *A.* Perhaps I did, sir; perhaps I did.

*Q.* Now you say you did know something about it? *A.* Yes, sir; now, I say I did know something about it; what I said that night I would hardly be accountable for.

Q. On the Monday previous to the murder you went down, I understand you to say, to see Mr. Demaris, with Mr. Armstrong? A. I did.

Q. Was it about the Davis-Demaris matter? A. No, sir; not that I know of; he had a deed.

Q. What was it about? A. That I don't know definitely what it was about.

Q. What did you go there for? A. He went there for—

Q. What did you go there for? A. I went there with Mr. Armstrong as a witness. He said he wished to ask Mr. Demaris some questions in relation to a deed; he had a deed in his hands.

Q. What questions did he ask him? A. That I don't know, what he asked him; I didn't pay any attention to him.

Q. I thought you went there as a witness? A. So I did.

Q. Why did you not pay attention? A. I said that Mr. Demaris kept shifting his barrels and boxes about, and I didn't pay much attention to what Mr. Armstrong said, and didn't hear what was said. One word he said, but it was in relation to some party or some deed.

Q. Did not Mr. Armstrong tell you, before he went, what he wanted you to do? A. I don't think he did; I don't remember that he did.

Q. I thought you said he wanted you to go before you went to Virginia, and you would not go. A. So he did.

Q. When he wanted you to go before you went to Virginia; what did he want you to go for? A. Simply to hear about what Mr. Demaris said; something of that kind, as a witness.

Q. And you would not go then? A. No, sir; not as a witness; I didn't care about going.

Q. But when you came home you did go? A. Yes, sir, I did.

Q. And did not hear a word? A. No, sir.

Q. And you did not listen? A. No, sir; I can almost

say that I didn't hardly pay any attention to it because I thought it was a spurious party, and I didn't want to pay any attention to it.

*Q.* Why did you think it was a spurious party? *A.* I thought it was a make-up affair between Miss Latimer and Davis and Demaris in some way or other.

*Q.* That affair that Armstrong was in with Davis was in the Davis matter? *A.* I thought so.

*Q.* You knew that Demaris was in it, too? *A.* I supposed he was; I didn't know much about it.

*Q.* What made you suppose he was? *A.* I have a right to know my own opinions about matters.

*Q.* Why did you ask Demaris the number of Davis' house? *A.* I didn't ask Mr. Demaris any such question.

*Q.* Why did you ask Mr. Demaris where Mr. Davis lived? *A.* I never spoke to Mr. Demaris in my life only to bid him good morning.

*Q.* You heard his testimony? *A.* I don't know as I did.

*Q.* Did not you hear him swear that you asked him on that day where Davis lived? *A.* I can't help what he swore to.

*Q.* You did not ask him that question? *A.* I did not; no, sir.

*Q.* When did you retire from business? *A.* It will be seven years this January.

*Q.* What was your business? *A.* Manufacturer of heaters and cooking ranges.

*Q.* You used to put up ranges, too, did you not? *A.* Yes, sir; that is, I had a bricklayer to put them up for me.

*Q.* You had a kit of tools? *A.* Never; only just a few about my house. The tools that I had at my place of business all went over into the hands of Caldwell & Mather; I sold them out my tools.

*Q.* Did not we find a kit of tools in your stable? *A.* I don't know what you found there.

*Q.* Do not you know you had some tools there? *A.* I know I had some tools there; I know I had a saw there.

*Q.* What became of your riveting hammer? *A.* That I don't know.

*Q.* How could you do without a riveting hammer in your business? *A.* I never used a riveting hammer at home.

*Q.* How could you do without a riveting hammer in your business? *A.* I could not do without a riveting hammer; I believe I had a half a dozen hammers.

*Q.* What became of the one you had in your kit of tools? *A.* I never had a riveting hammer in my kit of tools.

*Q.* What became of your hatchet? *A.* My hatchet was lost, and I got another which was lost.

*Q.* Did you hear anything of the conversation between Demaris and Armstrong? *A.* No, sir.

*Q.* Did you hear anything about Armstrong asking him if he had children? *A.* I can't say that I heard distinctly one word; in fact I stood off.

*Q.* They had to talk loud to speak to Armstrong, had they not? *A.* I presume he had, but I didn't bother with it.

*Q.* You went down as a witness to hear what was said, and, in fact, you stood off where you could not hear—is that what you say? *A.* I went down merely to accommodate Mr. Armstrong.

*Q.* And you stood off so that you could not hear what was said? *A.* No, sir; not exactly. I stood where it was convenient, not far from them, but I didn't bother my head about it.

*Q.* Did you ever see Davis? *A.* Never saw him in my life until I saw him here.

*Q.* When was that? *A.* That was at the hearing.

*Q.* What did you mean by telling Mrs. Armstrong that you saw murder in Mr. Davis' face; that you saw murder depicted in Mr. Davis' face? *A.* I never told Mrs. Armstrong any such thing to my knowledge.

*Q.* Did not you tell her that you saw murder depicted in his countenance? *A.* I never saw the gentleman, and I shouldn't say that against him, for I wouldn't say that against anybody unless I thought so: indeed I wouldn't. I know that Mrs. Armstrong—

*Q.* Wait a minute until I address the questions to you;

Mrs. Armstrong was asked this question, "Did he say anything about Davis?" and she replied: "He said he was a hard-looking man; a man capable of doing anything of that kind: that murder was depicted in his countenance, and that he had always told Mr. Armstrong to stay away from these men."—What do you say to that? *A.* If Mrs. Armstrong said that I said that, Mrs. Armstrong lies.

*Q.* You say that your income was about thirty-five or thirty-six hundred dollars? *A.* I never counted it up.

*Q.* And you make it in this way you say: Your houses rent for twenty-two hundred dollars, and your wife had five hundred and twenty dollars, and you count that in your income? *A.* Well, I was asked that question—

*Q.* You were asked that question, and you said that your daughter had five hundred and thirteen dollars income; where did she get that? *A.* From teaching school.

*Q.* I thought she took that position in order to be independent of you? *A.* You might have thought so, but I didn't.

*Q.* Your son has \$175 a year, and then you expected to get \$360 a year from Armstrong—what does that make—I have not counted it up? *A.* I have not counted it up either.

*Q.* That makes \$3,785. How much did your taxes amount to? *A.* I can't say; Mr. Muirhead, I think, gave that.

*Q.* About how much? *A.* I guess about \$500.

*Q.* Water rents and taxes? *A.* I think that is what Mr. Muirhead said. I won't be positive. I would rather you would figure them up; I think \$500 or \$525, or something around there.

*Q.* How much does your interest that you have to pay amount to? *A.* My interest is \$252 a year. I think I would rather you would count it up, so that it would be correct. You know what interest money is. I have to pay interest on \$4,200 at six per cent.

*Q.* And you say your taxes and water rents and everything are what? *A.* \$525. I think so. I won't be positive? I don't think it is over it.

*Q.* Then how much did you have to pay for your insurances during the year on this life of Mr. Armstrong? *A.* I have forgotten that. I have lost the run of that because they have been out of my sight for some time. I presume the General (General Robeson) can tell you.

Mr. Robeson—The policies are here. It was \$138 quarterly in the Mutual Life—it is over \$1,000, I know.

By Mr. R. S. Jenkins.

*Q.* Then your income proper, outside of your wife's income of \$520, and your daughter's, who was gaining this income in order to be independent—? *A.* That is your version of it.

*Q.* And your son's \$175, your income proper is \$2,560? *A.* I presume so; I have not counted it. You are no doubt correct.

*Q.* And that is counting in that you would get the interest of \$360 from Armstrong? *A.* Yes, sir.

*Q.* If you had not got that \$360 from Armstrong your income, outside of your wife's and your daughter's and your son's, would be only \$2,200? *A.* I do not know whether you have a right to put any "ifs" in.

*Q.* I am putting them in for the sake of getting your testimony. If you did not get your wife's income and your daughter's income and your son's income, and if you did not get the interest from Mr. Armstrong of \$360, your whole income would be \$2,200 a year, would it not? *A.* Supposing I did not—

*Q.* One minute; answer the question—would it not? *A.* Yes, sir; I suppose that it would.

*Q.* So that counting \$1,700 a year that you had to pay it would leave you \$500 of income to keep your family—your wife, your daughters and your son on, would it not? *A.* I suppose it would.

*Q.* Then when you told me, on the night you were arrested, that you were a rich man and rich enough to drive your carriage, what did you mean? *A.* I suppose I meant exactly what I said. I was rich enough to drive my own carriage, and am rich enough now; and I never contract any debt but what I can pay.

*Q.* One moment! Answer the question? *A.* I think that is an answer to the question.

*Q.* No; it is not! I must be the judge of that? *A.* I will not be impolite.

*Q.* If you will only be quiet and answer the questions you will find it will be better for you and better for me—some time in December last, do I understand you to say that you did not go to see Mrs. Graham at Mrs. Ewell's? *A.* I did not.

*Q.* And that you did not see Mrs. Graham—the old lady, I mean? *A.* I did not—oh, I did see her! I ask your pardon. I was passing along, and I will explain my errand.

*Q.* One minute! That is enough, if you did see her? *A.* Yes, sir; I was passing along, and she was standing on the steps.

*Q.* At Mrs. Ewell's house? *A.* No, sir; she was not; she was at her own house.

*Q.* When was that—in December? *A.* That I can't tell you.

*Q.* Was that before you negotiated the insurance for Mr. Armstrong? *A.* That I can't tell you, for I do not know.

*Q.* Was it before you went to Virginia? *A.* I remember—

*Q.* Was it before you went to Virginia? *A.* I can't be positive about that, whether it was or not.

*Q.* Had you never gone to Mrs. Ewell's house and seen Mrs. Graham and spoken to her? *A.* Never in my life.

*Q.* You did not go from there over to Tom's house? *A.* No, sir.

*Q.* And you did not tell Mrs. Ewell that you wanted to get Tom a job of work that he could do at night? *A.* I did not.

*Q.* Or nothing of that sort? *A.* I did not, sir! I did not, sir!

*Q.* When did Tom first come to see you, at Mr. Hughes' place? *A.* Well, I can't tell you that, but it was after I went to his house to see him; when it was I can't say.

*Q.* Was it after you got the insurances or before? *A.* I think it was after I got the insurance.

*Q.* Was it after Christmas or before Christmas? *A.* It was somewhere about Christmas.

*Q.* Was it before he was discharged from Mr. Stiles' or after he was discharged from Mr. Stiles'? *A.* That I can't tell you. I do not know when he was discharged by Mr. Stiles.

*Q.* You have heard what he said, and you have heard what the other witnesses said—that he was discharged the Saturday before Christmas? *A.* I do not remember what the other witnesses said. I can't be—

*Q.* Was it before you went to Mr. Stiles' after Tom that you saw him at Mr. Hughes'? *A.* I can't tell you that; I don't remember.

*Q.* Why did he come up there? *A.* My conversation with his wife sent him up there.

*Q.* What did you state to his wife that caused her to send him up there? *A.* I told her that that would perhaps take him away from the taverns.

*Q.* And you took him around the corner and gave him a drink as soon as he got there? *A.* No, sir; I didn't do any such thing; there is no tavern around the corner. There is no tavern within a square of Mr. Hughes'.

*A.* Well, then, within a square of Mr. Hughes' you took him around the corner and gave him a drink? *A.* No, sir, I did not give him a drink at Mr. Hughes'.

*Q.* Well, probably not in the exact neighborhood; but you took him and gave him a drink when he called to see you that morning? *A.* No, sir; I did not.

*Q.* Did you get him a job that day? *A.* I did not.

*Q.* When did he come again to Mr. Hughes? *A.* I think he was there three times; two or three times.

*Q.* How soon after the first time did he come again? *A.* That I can't tell you, indeed.

By a Juror.

*Q.* Please speak a little louder? *A.* I can't tell you; I cannot tell you.

By Mr. R. S. Jenkins.

Q. How soon after the second time did he come the third time? A. I positively can't answer the question.

Q. Were these times, any or all of them, before you went to Virginia? A. They were not at all before I went to Virginia; I think he was there two or three times.

Q. Were they all before you went to Virginia? A. I can't tell you.

Q. Did you ever get him a job of work at any of these calls? A. No; I did not get him a job of work. I wish I could have got him a job. He was a good workman.

Q. When you passed Tom, the day you say you were at Mr. Robertson's or some one's—what was the name of that firm? A. Thomas, Roberts, Stevenson & Co.

Q. What is their business? A. They are in the stove business.

Q. Where is their place of business? A. It is in Second Street, I think about Callowhill. It is above where Tom worked, and on the east side of Second, but their number I do not know. They are a well-known firm.

Q. What did you go to see them about then? A. I went to see them in reference to my back log boiler.

Q. Who did you see? A. There was none of the firm in; there was only the gentleman who waits upon customers, and he knows me and I have no doubt you can find him.

Q. On your road home you saw Tom, did you not? A. I did; he was on the street, or I would not have seen him.

Q. You had heard from his wife of his dissipated habits, before that, had you not? A. No, sir; I had not seen his wife for a long time.

Q. Had he not been at Mr. Hughes' before this? A. No, sir; not that I remember; he was at work then.

Q. Had he been at Mr. Hughes' before you went to Stiles' and saw him there fixing a stove? A. Not that I know of.

Q. Had not you seen his wife? A. I did not see his

wife until after he called at Mr. Hughes', and I left him have the five dollars.

*Q.* When was that? *A.* I do not know; I think it was at night.

*Q.* Was that before or after you went to Virginia? *A.* That was before I went to Virginia.

*Q.* How long before you went to Virginia was it? *A.* I can't tell you.

*Q.* Was it after New Year's or before New Year's? *A.* I can't tell you that, indeed.

*Q.* Was it after or before you went to Stiles' inquiring for him? *A.* I guess it was after I was at Stiles'.

*Q.* Why did you go to Stiles'? *A.* I did not go there to the store. I was merely passing there.

*Q.* But the second time that Mr. Stiles testified about? *A.* The same errand that I went on first.

*Q.* What was that? *A.* That was in reference to my back log boiler.

*Q.* Did not you ask for Tom? *A.* I did, out of politeness. I asked for Tom. They said he was out at work.

*Q.* You asked that out of politeness, did you? *A.* I did.

*Q.* Out of politeness to him, or to Mr. Stiles, or to whom? *A.* Well, it was my way of doing. If I pass where any of my young men are working I inquire for them always.

*Q.* And they told you that he had been discharged, did they? *A.* That was the first I heard of it. I heard Mr. Stiles narrate that here; but, of course, I knew of it previous to Mr. Stiles telling it.

*Q.* Did not Mr. Stiles tell you he was discharged; did he not say so? *A.* I do not remember Mr. Stiles telling me that. He might, but I don't remember.

*Q.* Then you did not know, the first time you called at Mr. Stiles' store, that Tom was a dissipated fellow at all? *A.* I did not know.

*Q.* And that was the reason you took him and treated him to a drink? *A.* No, that is my way. If Tom had been there and a half a dozen others I would have done the same

thing. I said to Tom it was about lunch time, and asked him if he would have a glass of ale. That was my usual way of doing. The reason why I did not take the other man was because I did not want the place of business neglected. I said to Tom, "You must not drink whisky." That is what I said to him. "You must not drink whisky."

Q. Then you had nothing special at all in view in calling for Tom? A. Nothing special at all. As I said before, if he had not been in the street working I would not have stopped in or I would not have knowed at all where he was a working.

Q. This Sunday that Mrs. Ulrich and Mrs. Graham saw you come to the house, the Sunday before the murder—  
A. No, sir.

Q. Do you say that you did not go there at all? A. I was not there, at all, no Sunday.

Q. You are certain about that? A. I am just as certain as I am of being here.

Q. You did not see a lady over across the street at the same time? A. I did not.

Q. Or a lady in the parlor at the same time with Mrs. Ulrich? A. I did not; I was not there.

Q. How long have you had Mrs. Vance in your house?  
A. She has been there, more or less, all winter. Her husband has been out of work.

Q. You allowed her to make that place her home, did you not? A. My wife did.

Q. She paid no board or anything of the sort? A. Nothing at all.

Q. Were you there the Sunday before the Sunday of the murder? A. Now, I can't go back as far as that. I really can't tell you. I presume I was home as usual.

Q. What time did you come from Virginia before the murder? A. I came back on Saturday night, I think, previous to the murder.

Q. The Saturday night previous to the murder? A. Yes, sir.

Q. When did you go to Virginia? A. I went on Friday night a week, previous to that.

*Q.* Then you could not have been home that Sunday, could you? *A.* I do not suppose I could. If I was away I couldn't be home of course.

*Q.* When Mrs. Vance says you were home then, she was mistaken, was she not? *A.* I do not know whether she was or no. Mrs. Vance is in the habit of telling the truth. She is a truthful woman, and a very honest, hard-working woman, and so is her husband, but, unfortunately, he has no work, and I gave her a home.

*Q.* You went to Virginia on the Friday week previous to the murder, did you? *A.* I think that is the day, Friday night, I think it was. I don't know the date, but I know the night.

*Q.* And that is the eleventh day of January? *A.* I presume you are correct.

*Q.* What did you go to Virginia for? *A.* To see my brothers, and to enjoy myself a little.

*Q.* Had you been in the habit of going to Virginia at that time of the year? *A.* Generally once every year.

*Q.* I did not ask you that; had you been in the habit of going to Virginia at that time of the year? *A.* Not always at that time of the year.

*Q.* Did you ever go there before in the month of January? *A.* Yes, sir; I was there in one of the coldest winters that ever blew. That was in the first winter that General Grant was inaugurated.

*Q.* You went down to the inauguration, and went from there to Virginia? *A.* Yes, sir.

*Q.* And that is the only time you were there in that time of the year? *A.* I won't be positive about that. I know I have been there in cold weather.

*Q.* What part of Virginia did you go to? *A.* Fairfax county.

*Q.* What part of Fairfax county? *A.* In Eastern Virginia, right opposite to Washington, my brother William lives, and my brother James lives out in the interior of the county.

*Q.* Are you a good shot? *A.* Well, I can knock them on the wing.

Q. And you bought a hat that afternoon from Mrs. Spellissey, you say? A. I did.

Q. What kind of a hat? A. It was a black felt hat, the commonest kind of a felt hat.

Q. A slouch hat? A. The commonest kind of a slouch hat.

Q. Like the one she described? A. Well, I think it was like that. It was the color of that hat on the table (black). It was the commonest kind of a hat.

Q. What time of the day did you buy it? A. It was growing dark.

Q. Who was with you? A. Thomas Graham was with me.

Q. Where did you meet Tom that night? A. He called at Mr. Hughes' establishment. He came there after me.

Q. What was he up there for? A. I suppose he came up—

Q. What was he up there for? A. I suppose he came up there to see if there was any chance of my getting him a job.

Q. Did you get him a job? A. I did not.

Q. Was that one of the three times he was there? A. That was one of them.

Q. Then he was up at Mr. Hughes' after New Year's, and before you went to Virginia, was he not? A. Yes; that must be after I went, certainly.

Q. And that must be before you went to Virginia? A. Yes, sir; I said all along I was not positive what time he was there.

Q. Did you ask Mr. Hughes to get a job of work for Tom? A. I told him, said I: "Mr. Hughes, there is a poor man that worked for me," said I; "if there is any chance I would like to get him a job;" and he told me he did not think there was any chance.

Q. When was that—this Friday? A. No, sir; that was on a previous occasion when Tom was there, but he wasn't sober that day.

Q. Who did you see at Mrs. Spellissey's when you were

there? *A.* I saw Mrs. Spellissey and the young lady that testified on the stand.

*Q.* Alice Coleman? *A.* I don't know her name.

*Q.* Where was Alice? *A.* She was in the store.

*Q.* What part of the store? *A.* I think behind the counter, or alongside of the counter, that is. I know I had a little chat with her. I was in no hurry at all of going. In fact, I think I gave her a note that she had to go out and get changed, which was what kept me there.

*Q.* A five-dollar note? *A.* I think it was; that was what kept me there.

*Q.* Whom did you deal with when you bought the hat—Alice or Mrs. Spellissey? *A.* I think Mrs. Spellissey waited on me.

*Q.* Was not Alice standing at the top of the stairs at the time, as she swore to, when you were dealing with Mrs. Spellissey? *A.* If she swore to that I will take it for granted that it was so.

*Q.* She did swear to that at the time you first went there? *A.* Yes, sir.

*Q.* Why did you leave your black silk hat there? *A.* I did not leave my black silk hat there. I put it on my head and wore it home, and put the black slouch hat in my pocket.

*Q.* Do you know the Farrells down the Neck? *A.* Yes, sir; I do.

*Q.* You knew them, then, before? *A.* I will have to think a little while. When Mr. Jenkins says "down the Neck," I am thinking whether any of them live in the Neck or not. There is none of them living in the Neck at the present time.

*Q.* Well, you know of the Farrells, do you? *A.* Yes, sir; I know them.

*Q.* And you got to know them down the Neck? *A.* Yes, sir.

*Q.* Did you tell Mrs. Spellissey on that evening that you knew them? *A.* That I don't know; possibly I did.

*Q.* Did you tell her where you were going to gun? *A.* I didn't tell her. I told her I was going down the Neck

or to Rope Ferry. I didn't tell her that I was going to Virginia.

*Q.* Rope Ferry is not in Virginia, is it? *A.* That is not in Virginia. I told her as a joke. I didn't tell her that as a story at all, but merely as a joke. I didn't tell her as a story, at all, because I might just as well have told her I was going to Virginia as not.

*Q.* What time in the next morning did you go back to the store to get your silk hat? *A.* I didn't go back to the store to get my silk hat. I had it at home at the time.

*Q.* Did you not hear Miss Alice Coleman's testimony? *A.* Yes, sir.

*Q.* Was not that true? *A.* Certainly, I was in the store.

*Q.* Did you not have a long talk with her the next morning? *A.* I did not have any. I wasn't there the next morning.

*Q.* About the wages she received? *A.* No, sir; I remember that now. That was part of the conversation the evening I was there.

*Q.* You were not there the next day? *A.* Not at all.

*Q.* Then this account that Alice gives is not true about your coming there to get your silk hat and putting your slouch hat on your head the night before? *A.* That is not true, by any means.

*Q.* That is all false, is it? *A.* It is all false; yes, sir. We have had two or three different stories about that. One said I came in the evening; one said I came home the day before, and you will find it all mixed up. I had my hat home.

*Q.* How could you have your hat home when you had it on your head—what hat did you have home? *A.* I had my black silk hat at home.

*Q.* What hat did you have on your head when you were there? *A.* I had my black silk hat on my head when I left the store, and my felt hat I had in my pocket.

*Q.* Then your hat was not home, if you had it in your pocket? *A.* It was home after I got there.

*Q.* Was that the black silk hat you had on when you were arrested and brought over here? *A.* The same hat.

*Q.* You told us that was the only hat you ever owned, the hat which you had on you? *A.* No, sir; I did not. I have another hat.

*Q.* Did not you tell us, at that examination, that that was the only hat you had? *A.* Maybe I did.

*Q.* How do you explain that? *A.* I might have meant that it was the only hat I wore during the week, or something like that; but I had another hat.

*Q.* What became of the felt hat? *A.* That I left on the car when I got out at Washington; I forgot it.

*Q.* Which car? *A.* The sleeping car.

*Q.* On your route down to Virginia, or on your way back? *A.* That I forget.

*Q.* Where did you stay at Washington? *A.* I stayed at the Riggs House, kept by Mr. Spofford, who was formerly Steward of the Continental Hotel. I wanted to see him, and, on my way to Virginia, I went to the Riggs House to see him and I am happy to say on his part that he would not accept any money from me for my staying there. I have done favors for him, and he was very happy to return the favor, and to have me stay there.

*Q.* What pocket did you put the felt hat in? *A.* In my right hand overcoat pocket.

*Q.* How did you happen to lose it out? *A.* I had it on my head, lying in the car; I took off my black hat and I put it on my head to take a nap, and it fell off, and when I came to leave the car it fell off. Not thinking about it and having two hats, I forgot it; I did not consider it much loss.

*Q.* You did not get any ducks, I understand? *A.* No, sir; I did not get even a shot at them; the ducks were smarter than I was.

*Q.* You did not go gunning at all? *A.* Yes, sir, I did go gunning, but I did not get a chance to shoot any ducks.

*Q.* Did you get a pair of boots? *A.* Yes, sir, I did; I borrowed a pair of boots.

*Q.* Where did you borrow them? *A.* I borrowed them from my nephew.

*Q.* What nephew? *A.* At my brother's, in Virginia; they were wearing nothing but boots there. I can give you their address, if you want it.

*Q.* I will ask what I want from you; how long were you in Virginia? *A.* I was there about a week; I came up on the following Saturday, about a week.

*Q.* Where did you stop on your road up? *A.* I did not stop anywhere on my road up.

*Q.* You did not stop at Washington? *A.* No, sir; I came right through. I got on the steam cars at Alexandria and I got a ticket all the way through to Philadelphia.

*Q.* You did go up to Girard Avenue and Broad Street and meet Mr. Wilson there? *A.* No, sir; I didn't.

*Q.* Or Mr. Simons? *A.* No, sir, I did not.

*Q.* Did you not, in your examination-in-chief, say to Mr. Robeson that on the Thursday morning you went up to Girard Avenue and Broad Street and there met Mr. Simons. *A.* No, sir; I went up to Epp's that morning.

Mr. R. S. Jenkins.

We will see what the stenographer has on his notes.

The stenographer read as follows: "*Q.* You were up at Girard Avenue and Broad Street on Thursday? *A.* Yes, sir; I was there and stopped and talked to Mr. George Simons, of the firm of Simons, Opdyke & Co., and I remember Mr. Jones came along."

By. R. S. Jenkins.

*Q.* What do you say now? *A.* (Hesitating.) Well, I don't know whether I was mistaken or not.

*Q.* Please find out? *A.* I went to Mr. Armstrong's in the morning—

*Q.* I do not care about that, I am talking about your being at Girard Avenue and Broad Street? *A.* Yes, sir; I suppose I went up there, after I left Mr. Armstrong's.

*Q.* Then you were up there? *A.* I presume so; I must have been there.

*Q.* About what time in the day was it; you said so this morning without any presumption about it at all, and do you say that you were there now? *A.* I was there, I think, in the afternoon.

*Q.* About what time in the afternoon? *A.* I guess it must have been about five o'clock.

*Q.* Whom did you see there? *A.* I saw Mr. Simons there; George W. Simons, and I remember Mr. Jones passing along.

*Q.* Did you tell Tom Graham that you would meet him there? *A.* No, sir.

*Q.* How do you know that you did not? *A.* I did not tell him I was going there.

*Q.* What did you go there for? *A.* I merely went up to take a walk, as I often do. I often take longer walks than that.

*Q.* Do you walk as far as that away from home? *A.* I go further than that sometimes.

*Q.* And you did not tell Graham that you were going there? *A.* No, sir.

*Q.* Are you in the habit of going up there? *A.* Yes, sir; and I go further than that.

*Q.* Did you not say this morning that you were in the habit of going up there in that neighborhood? *A.* I do not remember saying that, and neither am I in the habit of going up there in that neighborhood very often, although I have walked up as far as Mr. Daubman's place to look at that.

*Q.* What was your tarrying place on your way there, or what was the place from which you started to go up to Girard Avenue and Broad Street? *A.* I do not know. I suppose I must have went up from Mr. Armstrong's there, or Mr. Hughes' shop. I cannot say. I will not be positive about it.

*Q.* Did you not say when you were at Mr. Armstrong's that afternoon that you had an engagement at three o'clock to meet some one up there, and did you not leave your house at that time to go there? *A.* I did not.

*Q.* Did you not say when you were at Mr. Armstrong's house that day that you had an engagement to meet some one there at three o'clock without stating the work you had to do? *A.* No, sir; not that I remember.

Q. Did you have any engagement with any one there at three o'clock? A. Not that I remember.

Q. Did you have any engagement with Tom Graham to meet him there, and did you not give him two five-dollar bills at that time? A. I never had no engagement with Tom Graham to give him any money.

Q. Did you not give it to him? A. I did not; I did not see him.

Q. Is this Mr. Simons a tall man? A. I suppose he is about my height.

Q. Was Mr. Jones there that day? A. I remember seeing Mr. Jones.

Q. That was the day you saw him there? A. That was the day I saw Mr. Jones there. About days and dates—

Mr. R. S. Jenkins.

Never mind about days and dates.

Mr. Robeson.

(To the witness.)

What were you going to say.

Mr. R. S. Jenkins.

I object to his saying anything until I ask him the question.

Judge Woodhull.

It has been the practice of this Court to require witnesses to give a direct answer to questions upon cross-examination, and then to allow any explanation to be made afterward. That is the rule, and the opposing counsel can call for the explanation when they are examining the witness.

By Mr. R. S. Jenkins.

Q. You say you said nothing to anybody about the hat?  
A. Yes, sir.

Q. Why? A. What have you reference to?

Q. To the hat which you bought at Spellissey's? A. I did not even tell my own family about it.

Q. Why not? A. I do not tell my own family of every little thing of that kind.

Q. Did you not say in your examination in chief that you told everything to your wife, and that every husband

ought to do so? *A.* Everything that was of any importance. My wife learns all that is of any importance, and all my important matters.

*Q.* You did not tell her about this thing? *A.* I did not tell her about it. I didn't believe it was hardly necessary and I did not think about it.

*Q.* You say that you did not tell her or anybody else? *A.* No, sir.

*Q.* What did you go to Graham's for on the Monday previous to the murder? *A.* I was not at Graham's on the Monday previous to the murder.

*Q.* Is that true, too? *A.* Not that I remember, I was not.

*Q.* You were not there at all on the Monday previous to the murder? *A.* Not that I remember of, I cannot tell you what days I was there no more than that I was not there at all. I cannot tell you what days I was there.

*Q.* Did you not say in your examination in chief this morning that you were there on the Monday previous to the murder? *A.* No, sir; I think not.

*Q.* On the Tuesday previous to the murder? *A.* No, sir; I do not think I did. I do not think I stated any days I was there, because I could not state any days I was there, for I don't know what days I was there; neither do I know what days Tom was up at the shop.

*Q.* How long before the murder were you there? *A.* That I cannot tell you.

*Q.* You came home from Virginia on the Saturday before the murder? *A.* Yes, sir.

*Q.* Were you there at all between the Saturday that you came from Virginia and the time of the murder? *A.* I was not, but I saw Mrs. Graham after that.

*Q.* You were not there at all? *A.* I was not at the house. No, sir; but I saw Mr. Graham.

*Q.* Then you were not there the three or four or five times which Mrs. Ulrich has testified about. *A.* No, sir; I was not there.

*Q.* Or the three or four or five times that Mrs. Graham

has testified to? *A.* No, sir; I was quite amused with that story.

*Q.* You were? *Yes*; it was very amusing, that is a fact. When did you see Mrs. Graham between the time you came from Virginia and the time the murder was committed? *A.* I think I saw Mrs. Graham on Monday afternoon, as I was returning home.

*Q.* Where? *A.* It was on Wharton Street; she was standing on the corner of Seventh and Wharton Streets with her child in her arms.

*Q.* What passed between you? *A.* I think I asked her about how Tom was getting on, and I told her that I had not seen him; then there was a gentleman came along by the name of Mr. Ball, who did painting for me.

*Q.* Is that the only time you saw him that day? *A.* That is the only time I saw him that I remember.

*Q.* Then you were not there the three or four or five times, as she has testified to? *A.* I was not there three or four times.

*Q.* Did you give her a card of yours? *A.* I did not—not that I remember; if I did it, I merely did it to induce Tom to come to the shop.

*Q.* Why did you want Tom to go to the shop if you had not got him any work to do? *A.* As I said before, it would keep him from the taverns if he came to my shop, and it was for no other purpose. I don't know that I gave her a card.

*Q.* Did you not write on the postal card which you gave her something like this: "Tell Tom to come to Hughes' place of business," where you would have a job of work for him? *A.* Not that I remember, because I would not say that I would have work for him unless I had it; that is certain.

*Q.* Do you mean to say that you did not leave such a card with Mrs. Graham at all? *A.* I do not remember leaving a card for him. If Mrs. Graham says so, she is welcome to that, I do not dispute it. I might have done it. As I was going to say—

Mr. R. S. Jenkins—Well, that will do; you have answered the question.

Mr. Robeson—I would like to know what the witness was going to say. I take the rule to be this, and I suppose there cannot be any doubt about it: If the witness desires to make an explanation and the cross-examiner does not choose to allow it, it must be left until the witness is examined by the opposing counsel, but when a witness makes an answer which he proposes to qualify at the time, then, I think, the rule is that he should be allowed to do so. If the witness says “Yes” to a certain question, under certain circumstances, it may be an answer to that question, while in other cases, the circumstances being disconnected, the answer will not be a complete one to the question. It is not the explanation which I desire in this case, but the witness started to make an answer and he has not been allowed to make the whole of it, or to qualify it, and, therefore, it is left in a state of uncertainty, and probably it may place him in a false position from which he can only be afterward relieved when he is examined by the opposing counsel.

Judge Woodhull—If the answer involves something which requires a qualification the witness has a right to qualify his answer.

Mr. Robeson—An answer may be technically false and yet absolutely true.

Mr. R. S. Jenkins (to the Stenographer)—What was my question?

The Stenographer—It was, “Do you mean to say that you did not leave such a card with Mrs. Graham at all?”

Mr. R. S. Jenkins—Now, what was his answer?

The Stenographer—“I do not remember leaving a card for her. If Mrs. Graham says so, she is welcome to that; I do not dispute it; I might have done it. As I was going to say”—

Judge Woodhull.

To the witness.

What were you going to say?

The Witness.

I was going to say that I saw Mr. Ball there at that time.

By Mr. Robeson.

Q. Give us the whole of your answer? A. Mr. Jenkins does not wish to hear it, and I do not wish to make it.

By Mr. R. S. Jenkins.

Q. I understand you to say that you did not see Tom Graham from the time you came back from Virginia until after the murder was committed? A. I did not see him when I came back from Virginia, not until I saw him here.

Q. Where did you get the postal card that you gave him on Tuesday to post? A. I never gave him any postal card.

Q. I mean that postal card signed "J. M. A," telling Davis that he would be over there that night? A. I never gave him any postal card; if he got it he got it from somebody else and not from me.

Q. What did you go back to Armstrong's office for that day after you left Demaris? A. I do not think I went back that day. I think I went home.

Q. Did you not go and address this card to Mr. Davis that day, and then did you not go back to Mr. Armstrong's office, and was not this postal card written and an address put on it, and did you not keep it and give it to Tom Graham the next day? A. No, sir; I did not. I did not go back to Armstrong's office that day; I went directly home to dinner. About that postal card I know nothing at all.

Q. Did you not go back to your office again or to Mr. Armstrong's office after you returned from Demaris? A. No, sir. I went home, I think, direct. I will not say positively. I know I did not go back to his office, but whether I went to Hughes' shop and then went home, or whether I went direct home, I cannot say.

Q. I understand you to say that Mr. Armstrong said to you, in his conversations with you, in reference to these

insurance policies, that he had other creditors and you had better make it \$26,000? *A.* That is what he said. He said these others creditors would come in in case of his death; that is what he said. He said: "Mr. Hunter, you had better make it \$26,000."

*Q.* How much money did you expect was coming to you in case Mr. Armstrong died? *A.* My understanding was that I was to get the policies made direct to me, \$10,000, and the balance was to pay the creditors.

*Q.* Then you were to carry the other creditors, and the rest of the debt, by paying five hundred or six hundred or seven hundred dollars a year to the other creditors? *A.* I said exactly what Mr. Armstrong told me. He said he would not let me stick.

*Q.* And you, as a business man, thought that was the best way, and that is the reason you got the \$26,000 instead of the \$10,000 insurance, and you thought it would have been enough for your claim? *A.* Yes, sir; and it was by the proposition of Mr. Armstrong that the amount was swelled. I only had \$6,000, which would have covered my indebtedness, and it would have been all the insurance if it had not been for Mr. Armstrong's mentioning this fact to me.

*Q.* And you were willing to pay a premium on \$16,000 for a number of years in order to protect the other creditors? *A.* Yes, sir; I would have saved the receipts and come in as a creditor; that was the idea I had in my mind.

*Q.* Coming back to the subject, about which we have been talking, and the testimony relating to which I could not lay my hands on before, I will ask you whether in your first testimony which you first gave, in regard to your first interview with Mr. Demaris, you did not say that you went back to the office of Mr. Armstrong and from there you went to dinner, and if you did not state that it was about ten o'clock when you left Mr. Armstrong at his shop? *A.* Well, you mistake that. I will not be held responsible for that.

*Q.* Why? *A.* Because it was taken under embarrassing circumstances, and I was all the time protesting against it, and you know I protested against it and said that I did

not think it was hardly fair and neither do I think so now, but I do not wish to reflect at all on you.

Q. Was the first statement then all falsehood? A. I did not say that it was a falsehood.

Q. Did you tell the truth when you said after you left Mr. Demaris you went back to the office of Mr. Armstrong, and that you left Mr. Armstrong there at his office at about ten o'clock? A. I decline to answer that question, unless I am forced to do it by the Judge.

Q. You recollect that you did say so? A. No, sir; I do not remember it.

Q. Did you not say so? A. I do not remember a dozen words of the whole story.

Q. If you did say so, did you tell the truth that night? A. I will have to decline to answer that question; I will not be responsible for anything on that paper (referring to the paper in Mr. Jenkins' hand); if you had been jerked here from your home the way I was that night—I am not reflecting on you at all—

Q. Answer the question. Did you not state in your examination-in-chief that you came here of your own free will? A. I came over here without any force, but not of my own free will.

Q. What do you mean by being jerked? A. I consider I was jerked here, notwithstanding—

Q. When you were asked that night about the insurance policies, you denied, did you not, that you had anything to do with the negotiation of them? A. In the sense I meant at that time.

Q. And it was not until I showed you this letter that you said, "I caved in on that?" A. Exactly; yes, sir; I own to that.

Q. And that was at the end of the examination, was it not? A. I think it was.

Q. Then these other things you said were before the letter was flourished in your face, at all? A. Well, that don't go to say that I was not embarrassed.

Q. But all these other things you had said before? A.

You know you had a police standing up there to swear my life away.

*Q.* I have asked you a question and I would like you to answer it. *A.* I will try to answer you politely.

*Q.* Now, all these other things, which you said you testified to were before that letter was shown to you or flourished in your face, as you say? *A.* I cannot say. I do not know when the letter was shown to me.

*Q.* Was it not at the end of your testimony? *A.* I do not know that it was.

*Q.* Did you not say so a moment ago? *A.* If I did I did not understand you; if I did I did not understand your question.

*Q.* Now, you went to Mr. Armstrong's on Monday before you went to Demaris'? *A.* Yes, sir.

*Q.* What time did you leave there that morning? *A.* I think it was about ten o'clock when we went down to Mr. Demaris'. I do not suppose we were there more than fifteen minutes; I suppose it was about, maybe eleven o'clock, perhaps, when we parted.

*Q.* And that was the day you said to Frank Armstrong that his father had better stay behind and let you go first? *A.* That was the very day.

*Q.* That was not on Wednesday, as Mrs. Armstrong testified? *A.* No, sir; in what all those witnesses testified to they are mistaken.

*Q.* Why did you say that? *A.* Because Mr. Armstrong had trouble over this Davis affair.

*Q.* How was he troubled? *A.* Well, somebody had sued him for that money, and they had, I think, put the sheriff on him, and that made a commotion in the establishment. It put the whole shop in in an uproar and I, knowing what was going on, I did not like to go out with Mr. Armstrong immediately after that, and I said: "Mr. Armstrong, we will not go out together, because your hands will think, perhaps, there is something wrong going on; it only makes a commotion in your shop, it distracts your business, and let us avoid anything of that kind." I said, "I will go

out first, and when I go out you come out." There was no ill-intention about it; it was done from the best of motives.

*Q.* That is your explanation of why you told Mr. Armstrong's son about it? *A.* It was he that told the son. I did not tell the son that.

*Q.* Did you not hear his testimony? *A.* I think the son said that, but it was not me who told the son.

*Q.* Did you not say so in your examination-in-chief? *A.* No, sir; I did not say so.

*Q.* Did you say in your examination that you told anybody? *A.* No, sir; I did not tell anybody, and I do not think you will find it, either.

*Q.* What time were you there on Wednesday? *A.* I think about ten o'clock.

*Q.* What did you go there for? *A.* I went there merely to talk about our meeting at the auction sale the next morning; at the bankrupt sale of his brother's furniture.

*Q.* Did the sale occur on the following Thursday? *A.* I believe it did.

*Q.* Were you there? *A.* No, sir.

*Q.* Why did you not go? *A.* Because I was at Mr. Armstrong's, and that took all my attention that morning, and I went up to my office that morning, too.

*Q.* I understood you to say this morning that Mr. Armstrong understood everything you said very readily? *A.* No, sir; I did not say that.

*Q.* I understand you to say that you could always make Mr. Armstrong understand you? *A.* I did always make him understand everything, even though I had to speak to him a second time.

*Q.* You made him understand everything that you said to him that day? *A.* I tried to.

*Q.* You have no doubt that you did? *A.* No, sir.

*Q.* Where did you go from Mr. Armstrong's on Wednesday morning? *A.* I went to Mr. Hughes' shop.

*Q.* What time did you go there? *A.* From there home?

*Q.* I say what time did you go there to Mr. Hughes' shop? *A.* I can't tell you.

*Q.* Before Mr. Hughes went home to the country? *A.* I cannot tell you that.

*Q.* Did you see him that day? *A.* I do not know that I did. I cannot tell you.

*Q.* How long did you stay at Mr. Hughes' shop? *A.* I don't know whether I stayed there five minutes or not.

*Q.* Where did you go from Mr. Hughes' shop? *A.* I presume I went home to dinner.

*Q.* Do you know how you went home? *A.* No, sir; I know I went to the shop, and then I went home from there.

*Q.* You are not sure that you went to the shop at all? *A.* I am not positive whether I went to the shop, or whether I went directly home.

*Q.* If you did not go to the shop, where did you go? *A.* I would go home, I presume. I had no special errand, but I suppose it being near my dinner hour—I presume I would go home.

*Q.* Did you not have an arrangement with Mr. Armstrong to come over with him to Camden on Tuesday evening? *A.* I told you before that I had not.

*Q.* I do not think you did; I do not think I ever asked you that question? *A.* I ask your pardon then. I made no arrangement to go over with Mr. Armstrong.

*Q.* Did you not tell Tom Graham that you were coming over here with him? *A.* I did not see Tom Graham to tell him that, that I know of.

*Q.* Did you not go down the next morning and inquire for Mr. Armstrong on Wednesday, and ask whether he had not been over to Camden on Tuesday evening? *A.* No, sir, I did not; I did not know anything at all about his going over there— I did not know he was going over there.

*Q.* Did you tell Tom Graham that he had been over there? *A.* I did not see Tom Graham to tell him anything about it.

*Q.* Or that he was looking in all the widows of the houses to see you? *A.* I did not tell him any such story.

*Q.* You did not. You did not tell Tom that? *A.* I did not; it was not me who told him that. I heard that

Mr. Armstrong had told it around the day before that he had been over there flourishing his papers around.

Q. When did you hear that? A. Mr. Lauer, the tobacconist, at Eighth and Walnut, told me that.

Q. What morning was it? A. I do not know what morning it was, but he told me that Armstrong had been over there.

Q. What morning did he tell you that? A. It was not in the morning Mr. Lauer told me that, but when he came to see me at my house one night.

Q. What night did he come to see you? A. He came see me after Mr. Armstrong was assaulted.

Q. On Thursday? A. I do not remember what day of the week it was, but I understood he came to arrest me.

Q. What did he want you for? A. I don't know.

Q. Did he want you to go over to attend the inquest before the Mayor. Was his purpose to ask you to go over to attend the hearing at the Mayor's inquest? A. Not that I remember.

Q. Did you not promise him to go? A. Not that I remember.

Q. And did you not stay away? A. Indeed I don't remember; but I did hear this, if I may be allowed to say this—

Q. No, sir; you have answered all those questions. Do you know the drug store at the corner of Sixteenth and Arch streets? A. Yes, sir.

Q. Were you there on Wednesday morning, or in that neighborhood? A. I was up to Hughes', I think.

Q. Did you meet Tom Graham up there? A. I did not see him at all.

Q. But you were up in that direction? A. I guess I went up to Hughes' shop that morning, but I do not even know that I would be able to swear to that.

Q. Did he not tell you there he had gone over to Camden on Tuesday night, and that Armstrong did not come there? A. I did not see him.

Q. Did you say that was the night that he was to be

there? *A.* I did not see Tom Graham to tell him anything of that kind,—that did not come from me.

*Q.* Did you read these policies of insurance? I did read them all.

*Q.* Carefully? *A.* Carefully; and Armstrong read them, but I do not know—

*Q.* I have not got to that. You read them carefully, did you? *A.* I think I did, at the time.

*Q.* You and Mr. Armstrong? *A.* Yes, sir.

*Q.* Do you recollect the contract which they contain to the effect that in case a man committed suicide, the amount of the policy is not recoverable? *A.* I think so—within two years.

*Q.* You recollect that? *A.* Yes, sir.

*Q.* Did you tell Tom Graham that that was the reason you would not kill Armstrong with a pistol or have him killed with a pistol? *A.* Mr. Jenkins, I did not see him to tell him anything of the kind.

*Q.* You knew about that contract in the policy? *A.* I certainly knew it; I believe all the policies read that way.

*Q.* Do you recollect anyone coming after you to get you to go over to the hearing before the Mayor which took place on the day on which Armstrong died? *A.* I do not remember of anyone coming.

*Q.* Do you recollect having made a promise to go over there and then that you did not go? *A.* I do not.

*Q.* Did any one come after you? *A.* Not that I know of.

*Q.* Did you ever promise to go? *A.* I never promised to go. I don't know who I promised to go.

*Q.* Where did you go to dinner on this Wednesday?  
*A.* Which Wednesday was it that you have reference to?

*Q.* The Wednesday of the murder? *A.* That is on the day of the murder?

*Q.* Yes, sir. *A.* I cannot tell you.

*Q.* You do not know where you were at all that afternoon? *A.* No, sir; not at the present time I cannot remember.

*Q.* Or where you went at all? *A.* I cannot remember.

Q. Did you not swear in your examination-in-chief that you went to Hughes' and stayed there until a quarter past five o'clock? A. I do not even say that is true in my examination before you.

Q. No; but I mean in your examination-in-chief this morning, did you not say that you went to Hughes' in the afternoon and stayed there until a quarter past five o'clock? A. That was the day previous to the murder.

Q. That was Wednesday of the murder? A. Yes, sir, I did.

Q. What do you say now. Where did you go after dinner? A. That is where I went—to Hughes'.

Q. Now, you can recollect? A. Yes, sir; when you call my attention to the day. What I said before I cannot remember now so distinctly.

Q. You cannot remember now what you said then? A. No, sir.

Q. Can you not recollect the truth all the time? A. O, yes, sir, I can.

Q. Why did you stay as late at Mr. Hughes' as a quarter-past five o'clock? A. Because I had an engagement up at Mr. Epp's, and I knew there was no use of my going home and coming back to Mr. Epp's, and I staid longer there because I was much nearer Mr. Epp's; I had told my family before I went away from home that I was going to Mr. Epp's that evening.

Q. Where you not at Mr. Todd's that afternoon? A. No, sir.

Q. Did you not write a letter and have it posted to your family that afternoon? A. No, sir.

Q. A postal card, I mean? A. No, sir; I did not.

Q. Do you know Mr. McIlvaine's place? A. Yes, sir.

Q. Were you not there that same afternoon? A. I was.

Q. How did that note from Epp come to you? A. It came by post.

Q. Where is the envelope? A. The envelope was on it when my papers were taken by the Sheriff. I think that was in the envelope when I had it in my pocket.

*Q.* Did the Sheriff ever have this note? *A.* I presume it was in my papers, but I do not know. I do not know; he has my book and some of my papers.

*Q.* You say it came by post? *A.* Yes, sir.

*Q.* What time did you get it? *A.* I got it about—it was in the morning when I went to the box.

*Q.* On the morning of the twenty-third? *A.* Yes, sir.

*Q.* What time did you go there in the morning? *A.* I think it was about nine o'clock.

*Q.* Before you went to Armstrong's? *A.* I think it was before I went to Armstrong's, but I will not be positive about it, and I was not positive about it then.

*Q.* Are you positive about it now? *A.* I am under the impression that I went to Mr. Hughes' before I went to Mr. Armstrong's.

*Q.* You saw Tom then at that time? *A.* I did not.

*Q.* You were at Mr. Hughes' before you went to Mr. Armstrong's? *A.* I presume I was. I think it is most likely that I was.

*Q.* Do you not know so? *A.* No, sir; I cannot say positively; I think it was.

*Q.* Was the letter posted on that day—the twenty-third? *A.* It was posted the previous evening, I think. I am not certain about that evening, but the letter is dated, though.

*Q.* When was it that that letter was posted? *A.* I cannot say positively.

*Q.* Then, why did you say that it was posted the evening after that? *A.* I presume it was, because it was in the morning; that is the only reason I have for saying it.

*Q.* You are sure that you were there, and you are sure the letter was there? *A.* I am sure the letter was there, and I am sure I was there.

*Q.* You are sure of that now? *A.* I am sure about it; but I do not know exactly whether I went there before or afterward.

*Q.* And if it was posted on the day before, it was posted the night before it was written, according to its date, which is the 23d? *A.* I do not know, I am sure. I suppose so; yes, sir.

Q. How long did you stay at the time you got the letter at the house? A. Well, I was down at Mr. Armstrong's office at ten o'clock.

Q. How did you go; did you walk or ride? A. Walked.

Q. Did you walk down with Tom? A. I did not see Tom at all there.

Q. Did you make an appointment to meet him at Eighth and Pine when you went to the office to inquire? A. I did not.

Q. Which way did you walk down there? A. I do not know.

Q. What time did you leave home to go to Hughes' shop that Wednesday afternoon? A. What Wednesday afternoon have you reference to?

Q. There is only one Wednesday we have been talking about, either of us, and that is the day of the murder. What time did you leave home that day? A. I left, I think, about eight o'clock. I went up to Mr. Hughes—

Q. No; I am talking of the afternoon. What time in the afternoon did you leave your home to go to Mr. Hughes? A. I cannot remember.

Q. How do you remember how long you stayed there? A. Because I know that I had not to meet Mr. Epp until six o'clock.

Q. Why did you know that? A. Because I had his note saying to meet him at six o'clock, at his residence, and I knew—

Q. I asked you how you knew that? A. I have forgotten the fore part of my story, but if you will start me right I think I will come out right.

Q. Was it candle light before you left Mr. Hughes' or was the lamp lit? A. Yes, sir.

Q. How late does Hughes keep open in winter? A. He keeps open until six o'clock.

Q. What time does he go into the country? A. I cannot tell you.

Q. Do you not know that he goes home at twelve o'clock every day? A. No, sir; I do not.

*Q.* Did he not at that time go home at twelve o'clock every day? *A.* Not that I know of. I do not know anything at all about Mr. Hughes' arrangements at all. I know that he was about moving or had moved to the country; something like that.

*Q.* What box was the note in? *A.* In the door; a little tin box that he has to receive all his communications in.

*Q.* Your communication went there too? *A.* My business communications; but all my letters and those for my family came to my house.

*Q.* What time did you go to Mr Epp's workshop? *A.* About six o'clock.

*Q.* How do you know that? *A.* Well, I presume it was about six o'clock.

*Q.* Are you exact as to the time? *A.* I suppose it was about six o'clock. I don't even know that I looked at my watch, but I know I had to be there.

*Q.* Who did you find there? *A.* I found Mr. Epp.

*Q.* Any one else? *A.* I do not remember any one being present.

*Q.* Where were his workmen? *A.* Down in the shop. I don't know whether there was any one there more than I and him.

*Q.* Were the workmen there? *A.* I don't recollect.

*Q.* You went down in the shop, you say? *A.* Yes, sir; they may have been there, but I do not remember.

*Q.* Do you mean to say that the shop was lighted at six o'clock that evening? *A.* He was there in his shop; he had not closed; it was a little before six when I got there.

*Q.* Did you not say that you went down in the workshop this morning? *A.* I did.

*Q.* Were they working there? *A.* I do not think they were.

*Q.* Was there any light there? *A.* There was a light there.

*Q.* Was the lamp lit? *A.* Gas, I think.

*Q.* Was it lighted? *A.* I do not know whether it was gas or a lamp.

Q. You saw Mr. Epp down there? A. I saw Mr. Epp there.

Q. And you had your conversation with him? A. Yes, sir.

Q. What was the conversation about? A. In reference to my patent boiler.

Q. What was it? A. The note gives the substance of it, but I can explain it. I have a patent boiler that has a plain face to it; that is, I mean by a plain face that it goes behind the lining of the fire body or cooking arrangement; and then I have some boilers with a water-back face, and the water face comes immediately in contact with the fire, and Mr. Epp had been putting in those with the water-back, and I think he said to me he had one that heated the water so hot that it cracked, and he took the face off and put on another, and he wanted to know what experience I had with the plain face. He knew of an arrangement with two ovens which would heat water with the plain face, but he was not positive whether with a single oven arrangement it would heat the water with a plain face, and that was the information he wanted, and that was the main topic of our conversation.

Q. And for the purpose of seeing him about this you came down all the way from Wharton Street to Oxford Street, which would take you about three-quarters of an hour? A. He had been to see me about a week before.

Q. Was he not an agent of yours? A. Not at all.

Q. Had he any interest in your boiler? A. Not a particle of interest; only to sell it.

Q. And yet you went all the way up there to see about it? A. Yes, sir; and if it had been as far again I would have gone.

Q. And you missed your supper? A. I didn't miss my supper.

Q. You did not have it until it was late? A. I didn't have it until late.

Q. Do you not know that this was Tuesday evening instead of Wednesday, you were there, and do you not know

that Mr. Epp has said so? *A.* No, sir; I do not. I don't suppose Mr. Epp has said so, because he couldn't say so.

*Q.* Did not Mr. Epp say something to you that evening about paying a bill to Mr. McGinnis that day? *A.* There wasn't a word said to me about a bill that I remember. I had no conversation that I can remember about any bills.

*Q.* Is that all the conversation you had, which you have detailed? *A.* I don't know that it was, positively.

*Q.* How long were you having that conversation with him? *A.* I always liked to stay and talk, the same as you do when you get in company.

*Q.* Well, how long was it? *A.* It may have lasted three-quarters of an hour, or longer, for all I know.

*Q.* Did you not say, in your examination before me, that you left Epp at a quarter before seven or half-past six? *A.* I said a quarter before seven, I think.

*Q.* Did you not say that you left him at half-past six or a quarter before seven? *A.* You have reference to my kidnapping?

*Q.* O, yes? *A.* I asked to be excused on all that.

*Q.* You asked to be excused on that? *A.* In the main, I would like to hear what I did say that night, anyhow. I would like to hear that for my own information, if you will read it.

*Q.* Did you not say this morning that you had left at about half-past six, or a quarter to seven? *A.* No, sir; I said I left about a quarter of seven, I think; that is my impression. I am not positive about that evening.

*Q.* And you were there talking three-quarters of an hour? *A.* No, sir; I cannot say that I was talking all the time about the boiler at all. I don't hardly believe I was.

*Q.* What else were you talking about? *A.* That I can't tell, but about business generally, I suppose; if I was talking about anything at all, it was about business. I like to talk about business.

*Q.* When you left there at a quarter before seven o'clock, where did you go, taking your time? *A.* I went down Oxford Street to Broad.

Q. How many squares is that from Epp's place? A. That is three squares, I think, or about three and a half squares.

Q. All this three-quarters of an hour did you stay in the shop or in the cellar and talk with him? A. Yes, sir.

Q. Had he a light down there all the time? A. Yes, sir.

Q. And when you got to Broad Street what did you find? A. There was a gentleman there who had got his riding apparatus disarranged by losing the bolt out of the shaft, and I assisted him in fixing it up. I held his horse; that is all I did. He got a bit of rope and lashed it up. I suppose it took fifteen or twenty minutes.

Q. Where was this light in the celler you are speaking of? A. I do not know.

Q. Was it gas? A. I do not know whether it was or not.

Q. Did you not say it was? A. I said it was either gas or a lamp, I could not tell which, and neither can I, for I do not know whether it is gas there or not.

Q. Was it on the corner of Broad and Oxford streets that you saw this wagon which had broken down? A. It was slightly above the corner on Broad.

Q. Did you find out who it was? A. No, sir; it was no particular business to me.

Q. And you have never advertised since your arrest to find out who the man was, or who it was who had the horses and wagon there? A. No, sir; I did not.

Q. You did not care anything about it? A. No, sir.

Q. Tell us exactly what happened between you and the man? A. Nothing at all happened between me and the man; I merely held his horses out of politeness.

Q. Did he ask you? A. He asked me. In the first place I saw that his rigging was disarranged, and I asked him whether I could assist him, and he said if I would have the goodness to hold his horse for him, that he had lost a bolt or something or another, out of the shaft.

Q. Did you see what bolt it was he lost? A. Yes, sir; I knew what bolt he lost and I can tell you. It goes through

the heel of the shaft and goes through the cleat of the axle.

*Q.* This was at the corner of Broad and Oxford Streets?

*A.* Yes, sir.

*Q.* He had a lady with him? *A.* Yes, sir.

*Q.* He did not know you at all? *A.* He did not know me that I know of.

*Q.* He left you there with the horse and the wagon and the lady? *A.* Yes, sir; and then he went down Oxford Street.

*Q.* How long did you stay there with the horse and the wagon and the lady? *A.* Not more than ten or fifteen minutes, I do not suppose.

*Q.* How long was the man away? *A.* He had to go, I think, to Thirteenth and Oxford, to a grocery store, and buy a bit of rope.

*Q.* How long was he away? *A.* I don't suppose he was away more than five or seven minutes.

*Q.* And you stayed there that length of time? *A.* Yes, sir; I would have stayed there all night if I could have assisted him, and if it had happened to you I would have done the same thing.

*Q.* Did you assist him when he brought the rope to the wagon? *A.* I held the horse for him while he did the wrapping up.

*Q.* How long was he mending it? *A.* I suppose fifteen or eighteen minutes.

*Q.* What did you do for that length of time? *A.* In the first place I know how he did it. He ran the line through the cleat, and then through the eye of the shaft, and that I told him would perhaps act as the bolt, and after that he wrapped it around the shaft.

*Q.* How long did it take you to go from Epp's to Broad Street? *A.* I don't know.

*Q.* What was your gait? *A.* I was not in any particular hurry.

*Q.* You were not at supper that night? *A.* No, sir. I cannot tell how long it would take me. I walk perhaps, about the same gait that you walk.

Q. Did it take you more than five minutes? A. Yes, sir; I guess it would take me fifteen minutes.

Q. You walked three and a half squares only? A. Well, say ten minutes.

Q. And then you were about fifteen to eighteen minutes fixing the wagon? A. I suppose so; I do not think it was a long time.

Q. Wait a moment Answer the question. You were about fifteen to eighteen minutes fixing the wagon? A. Yes, sir; holding the horse.

Q. State how far it is from Broad Street down to where you took the cars? A. It was four squares, I presume.

Q. How long did it take you to walk that? A. Ten or fifteen minutes.

Q. That would make thirty-eight minutes? A. Well, I have not counted them.

Q. What did you do with the rest of the time before the car came? A, I did not intentionally consume any time at all in no way, shape or form, but there was a lady met me there who occupied the passage of one car, a lady who said she knew me.

Q. And was she by herself? A. She was by herself.

Q. What time of night was this? A. It was about half-past seven o'clock.

Q. And you let the car go on? A. I let one car go on, because she was asking me about something about whether she could make a certain train, I think from Eighth and Green.

Q. Who was the lady? A. I don't know,

Q. Have you ever tried to find her out? A. I never tried to find out; no, sir; nor I do not suppose I would know her if I was to see her.

The Court adjourned until to-morrow (this) morning at ten o'clock.

Cross-examination of BENJAMIN HUNTER resumed.

By Mr. R. S. Jenkins.

Q. When, before this Wednesday evening of which you have been speaking, were you at Mr. Epp's? A. Never before that I know of.

*Q.* That was the only evening that you had an appointment with him to meet him there? *A.* That was the only evening.

*Q.* And you were notified of that appointment early in the morning? *A.* Well, I would not be positive about that. I got the communication sometime in the morning. Either before nine or after I was at Mr. Armstrong's. I think it was after I was at Mr. Armstrong's.

*Q.* You either got the communication before or after you went to Mr. Armstrong's, and you think it was after you came from Mr. Armstrong's that you got it? *A.* After I came from Mr. Armstrong's I went to Mr. Hughes' before I went to my dinner.

*Q.* And you think it was after you had been to Mr. Armstrong's that you got the communication? *A.* Yes, sir; but I cannot say positively.

*Q.* Were you not very sure, yesterday, that it was before you went to Mr. Armstrong's? *A.* No, sir; I was not, I think.

*Q.* Did you make any memorandum of the visit which you had to make to Mr. Epp's that night? *A.* I did.

*Q.* Where? *A.* When I got the note I made a memorandum of it in my book.

*Q.* Your memorandum book? *A.* Yes, sir.

*Q.* When did you make the memorandum? *A.* When I got a note I was generally in the habit of putting it down in the memorandum book.

*Q.* And you made a memorandum of this note in your memorandum book? *A.* I did; that is a habit I always had.

*Q.* Now, you are very sure that this was not Tuesday evening that you went to Epp's? *A.* No, sir; I am positive of that.

*Q.* You are perfectly sure? *A.* I am perfectly sure.

*Q.* Are you as sure of that as of anything you have testified to? I am positive about that.

*Q.* Is this your memorandum book? (Book shown witness). *A.* That is my book; yes, sir.

*Q.* And is this the memorandum you made (handing book to the witness)? *A.* I will look (examining the book.)

Yes, sir. "Peter Epp, 1721 Oxford Street, by six o'clock this evening."

*Q.* Tuesday, was it not—look at the date? *A.* I had no reference to the date in my book at all, and that is August the 17th.

*Q.* Yes, but it is Tuesday; it is put down under Tuesday? *A.* Well, that is August 17, 1875. I paid no attention to the date in my book whatever. You will find that there is no memorandum under there. I was correct about the date, and I would be correct about the year.

*Q.* Why did you make a memorandum, then, if you did not mean that you were going to him on this Tuesday evening? Why did you say, "Peter Epp, 1721 Oxford Street, by six o'clock this evening?" *A.* That was merely to have it before me.

*Q.* Why did you select Tuesday as the day to put it in your book? *A.* I merely, accidentally, put it on that page, that is all; it was not filled up. It is 1875 at the head of that page.

*Q.* I know how old it is, but the day of the week was Tuesday, was it not? *A.* No, sir; it was not.

*Q.* Why did you make a memorandum of it at all, unless you put it under the right date? *A.* Merely to have it impressed upon my memory so that I would not forget to go up there; that is all.

*A.* I see there has been a memorandum made on this Tuesday. *A.* That may be.

*Q.* And that of Wednesday was not filled up. Why was it not put on Wednesday instead of being put on Tuesday? *A.* I paid no account to the dates at the head of that book. I bought a book of that kind always to carry in my pocket, and I never paid any account to headings at all.

Mr. R. S. Jenkins—We offer the book in evidence for what it is worth.

(To the witness)—You were the guardian of one of the Getzes? *A.* I was.

*Q.* What was his name? *A.* Frank—No! I have forgotten his name.

Q. Was anyone associated with you in the guardianship? A. No one at all.

Q. You had charge of his property, then, had you? A. I had charge of his property; that is, as guardian of his share.

Q. What did his share amount to? A. About \$5,000.

Q. When did it become due? A. In January—the 28th of January.

Q. Has it been paid? A. It is being paid, I suppose.

Q. It has not been settled? A. A part of it has, and part of it has not been settled.

Q. Then you were owing \$5,000 to this young man as his guardian? A. Yes, sir.

Q. Money that you had of his in charge? A. Yes, sir.

Q. And that had to be paid on the 28th of January? A. No, sir; it had not.

Q. That is, when the boy became of age? A. Yes, sir.

Q. How much has been paid? A. The matter is being attended to by Mr. Hinckley, I presume.

Q. How much has been paid? A. I think \$3,000 of it has been paid.

Q. And \$2,000 of it is yet due? A. Yes, sir; and that is invested in a house on Irving Street, in West Philadelphia, and it will require some litigation before it can be paid. It is invested in a house in West Philadelphia that they had to foreclose on, and I had to advance considerable to get the property into my hands.

Q. In whose name was that money invested? A. It was invested in the name of Benjamin Hunter as trustee.

Q. You said, yesterday, in your examination-in-chief, that Mr. Armstrong was quite deaf, that he was rather deaf, but "Him and I understood each other. I could always make him hear me well enough." You had forgotten that yesterday. Now, what do say to that? A. I always did make him hear me.

Q. You always did make him here you well enough? A. Yes, sir; I always made him understand, although I often had to speak twice to him.

Q. And loud, had you not? A. Not so very loud; he had got familiar with my voice.

Q. On the Wednesday evening did you not walk down Chestnut street arm-in-arm with Mr. Armstrong? A. I did not; I was not with Mr. Armstrong on Wednesday evening.

Q. Between the hours of half-past six and half-past seven o'clock? A. I was not with Mr. Armstrong on Wednesday evening; I repeat that again.

Q. Between six and seven o'clock? A. I did not see Mr. Armstrong on Wednesday evening at all.

Q. And did not walk down Chestnut street with him? A. I did not see Mr. Armstrong on Wednesday evening at all.

Q. Did not you and Mr. Armstrong nearly run into a man on Chestnut street while you were talking? A. I did not see Mr. Armstrong, Mr. Jenkins; I will repeat it again, if you please, on Wednesday evening.

Q. And you did not walk down on Chestnut street with him on Wednesday evening? A. I did not see Mr. Armstrong on—

Q. No; answer the question; you did not walk down Chestnut street with him on Wednesday evening? A. I did not walk down Chestnut street with him.

Q. And you did not nearly run into a man whom you did not notice? A. I did not nearly run into a man that I did not notice.

Q. I understood you to say that when you were staying with Mr. Armstrong, on the afternoon of Thursday, the girl came in with some towels, and that you put one on Mr. Armstrong's head; is that so? A. That is so; yes, sir.

Q. Why did you do that? A. Because I thought that they wanted changing—the one that was on looked soiled, and it was very much blood-stained, and as the girl came up with the towels I said to her—says I: “I will put a clean towel on Mr. Armstrong's head.”

Q. Were you directed to do it? A. Not at all; no more than any of the others who were changing the towels and attending to him.

Q. Had you seen anybody changing towels on his head? A. No, sir.

Q. Why did you interfere with it then? A. Out of pure kindness; nothing else; I was doing all I could for him.

Q. How did the blood get on the towel which you put on his head? A. I presume it got on from the wound on his head. I do not know from what other source.

Q. Did you notice blood on the towel before Mrs. Smith came? A. I did not. I did not notice any blood on the towel before the girl came.

Q. No, no: but the fresh towel which you put on. Did you notice whether the head was bleeding at the back, when you put that towel on; did you notice whether the blood got on the towel that you put on? A. Mrs. Smith called my attention to it.

Q. Exactly; but when you put on the towel did you notice any blood on it? A. No, sir; because the towel I put on was merely on his forehead. I merely laid it on his forehead.

Q. Did you notice any blood on the forehead? A. I did.

Q. On the towel that you put on? A. No, not that I put on—the towel I put on was a clean one.

Q. How did the spots of blood get on that towel? A. I presume it got there from the wounds on his head; I do not know of any other way.

Q. There was no other cloth between the towel and his head? A. Well, I do not know; there may have been half a dozen; I do not know; I did not notice particularly.

Q. Did you notice blood on the towel you put on before Mrs. Smith came up stairs? A. There was no blood on the towel I put on; there was a spot on the towel I removed; that is all; but I ain't really positive.

Q. When Mrs. Smith came up was there any blood on the towel then which was on the head? A. Not that I remember.

Q. Did she not call your attention to it, and did she not say he was bleeding to death? A. Mrs. Smith removed the

towel, and then she said to me: "He is bleeding again." "My!" I think she said: "My! he is bleeding again: and we will have to send right away for the doctor, for the doctor left word that if he got to bleeding again we would have to send word for him immediately.

Q. Did you not hear Mrs. Smith's testimony to the effect that when she got to the door she saw two spots of blood on the towel, and saw that the napkin had been taken away? Was that the towel which you had found on his head? A. I heard Mrs. Smith's testimony as regards the towel.

Q. Was that the towel you put on his head that she saw the blood on? A. I do not know.

Q. Did you see any blood on that towel before she came into the room? A. The towel that was on his head?

Q. No; the towel that you put on his head? A. I do not know how any blood could get on the towel I put there.

Q. Did you see any blood on the towel that you put on his head before Mrs. Smith came into the room? A. I did not; not to my recollection; I was not so particular about that.

Q. What time did you leave that afternoon? A. About half past three or four o'clock, maybe.

Q. Where did you go? A. I went up Broad Street, I think, and Columbia Avenue, that afternoon, or Girard Avenue.

Q. What for? A. Merely to take a walk; that was all.

Q. When you went into the room that afternoon which we are talking about and saw Mrs. Smith, did you ask her whether Mr. Armstrong had been conscious, and whether he had spoken at all? A. I don't know that I did; I can't remember.

Q. Did you ask Mrs. Armstrong? A. I can't remember.

Q. This Sunday of which you have been speaking, the Sunday previous to the murder when you were at church and at home all day—do you know George Sprole? A. I don't know no such a person.

Q. Living at No. 905 Reed Street, Philadelphia? A. I don't know no such a person.

Q. Did not you go to his house that same Sunday and inquire there for Mr. Thomas Graham? A. I don't know no such a person, nor did I go to his house.

Q. (George Sprole directed to stand up.) There is the gentleman standing up; did not you go to his house and inquire for Thomas Graham? A. I never saw the gentleman in my life.

Q. At No. 905 Reed Street? A. No, sir; and if he says so he lies, and I'll tell him so right to his face. (To Mr. Sprole). You're a liar, sir.

Mr. Scovel (to the witness). Don't make these remarks.

The witness. I won't stand here and allow no man to swear my life away. I'll stand on my own ground, gentlemen. I don't wish to be offensive whatever. (To Mr. Sprole.) Right from the stand. You're a nice specimen of a man; yes, that's what you are! (To Mr. R. S. Jenkins). I ask your pardon, Mr. Jenkins, if I said anything disagreeable.

Mr. R. S. Jenkins—That is all right.

Mr. Scovel—I will again ask the Court if these witnesses in rebuttal ought to be allowed to remain here. There is Mr. Sprole, and I suppose he will be called by the prosecution in rebuttal.

Mr. R. S. Jenkins.

I do not think matters like this ought to be considered.

Judge Woodhull.

That is hardly within the rule. He hears what the witness says, and the same rule should apply to all.

Mr. R. S. Jenkins.

The witnesses for the defense were here.

Mr. Scovel.

I am willing that the same rule should apply to both.

Mr. R. S. Jenkins.

All your witnesses have been here.

Mr. Scovel.

I did not know that.

Judge Woodhull.

It is best that all witnesses should be sent to the witness room and kept there until called. |

By Mr. R. S. Jenkins.

Q. How long have you lived in the neighborhood of Reed Street and Wharton Street? A. I have lived there some twenty years, I think; about twenty years, I think.

Q. And yet you know nothing of that little alley out of Reed Street? A. No, sir; I don't know anything in reference to that little alley.

Q. And never saw it? A. I can't say I never saw it, but I don't know that there is such a street there.

Q. Are you in the habit of passing the location every day nearly? A. No, sir; less that way than almost any other.

Q. What time of night was it on Wednesday when you got to Oxford Street? A. It was about half-past seven.

Q. About half-past seven o'clock? A. Yes, sir; I think so.

Q. Was it light or dark? A. That I disremember whether it was very light or whether it was very clear or cloudy, but I know it was a cool night.

Q. Which side of the way were you on Broad Street when you saw the horse and wagon coming along? A. I was on the west side.

Q. Is that the upper side? A. Yes, sir, the upper side.

Q. You were on the west side of the way, you say? A. Yes, sir.

Q. When did you first notice the horse and carriage? A. Almost just at the time I struck Broad Street my attention was called to his position.

Q. Where was he in Broad Street? A. He was just a little above the corner of Broad and Oxford Streets just above the corner a short piece.

Q. You testified yesterday that you just saw that his rigging was disarranged, and you asked him if you could assist him? A. I did not say that in my testimony yesterday, I think.

Q. Here is your testimony; "Q. Tell us exactly what happened between you and the man? A. Nothing at all happened between me and the man. I merely held his horses out of politeness. Q. Did he ask you? A. He asked me. In the first place I saw that his rigging was disarranged, and I asked him whether I could assist him, and he said if I would have the goodness to hold his horse for him, that he had lost a bolt or something or another, out of the shaft."—Is that true? A. That is true exactly, and if you had asked me—

Q. One minute! It was light enough for you to see all this rigging on the Street? A. Yes, sir; it was light enough for me to see that he was out.

Q. That his rigging was disarranged. A. Yes, sir; that was it.

Q. What was this that was disarranged? A. It was the bolt that came out of the end of the shaft, out of the eye of the end of the shaft that runs through the end of the shaft and through the cleat of the end of the axle.

Q. How many bolts are there? A. One in each shaft.

Q. You mean one on each side? A. One on each side; I don't think it is worth while for me to alter my language at all.

Q. Was there more than one shaft? A. There was only one shaft; the other was on.

Q. Are there two shafts to each wagon? A. I call them two shafts.

Q. The other one was in? A. Yes, sir.

Q. And you could see, from where you stood, that the pin was out of this side of the shaft? A. No, sir; not at all.

Q. Did not you say so? A. No, sir; I said he was in distress.

Q. Did not you say in your testimony yesterday: "In the first place I saw that his rigging was disarranged?" A. Yes, sir.

Q. You saw that it was disarranged; how big was this pin that was out? A. I don't know; I think they averaged about four inches long and three-eighths.

Q. How far from the wagon were you when you saw it?  
A. Not far.

Q. About how far? A. Not further than from here to the other side of the room. . Not that far, perhaps.

Q. How many feet? A. I suppose it is forty or fifty feet, perhaps, forty-five feet from there.

Q. You were about forty or fifty feet off? A. Yes, sir, I think so? It was light enough anyhow, I could see him plain enough; I could see the gentleman out of the carriage and that he wanted assistance, I suppose.

Q. And this you say was about half-past seven o'clock?  
A. No, sir; I don't think I did.

Q. Did not you say it was about half-past seven o'clock?  
A. If I said that, I thought you asked me about Tenth street.

Q. You did say that; what do you say now? A. If I said that I merely understood you to say that I got down to Tenth and Oxford streets; if I said that, I meant to say Tenth and Oxford.

Q. If you said that you made a mistake. What do you say now—what time did you get to Broad and Oxford streets?  
A. Well I left Mr. Epp's about a quarter to seven, I suppose, and got down there about, maybe about seven o'clock, maybe a little earlier than that; I don't think it hardly took me a quarter of an hour to walk there, perhaps not more than ten minutes. As to the exact time, I won't be positive about the moments.

Q. While you were standing there, holding the horse for the benefit of this gentleman, did you converse with the lady that was in the carriage? A. I do not remember.

Q. Did you tell her your name? A. I don't think I did.

Q. Did you ask her her's? A. I don't think I did; I have no recollection of it, whatever.

Q. When you got down to Tenth and Oxford streets, and a lady recognized you, who said she knew you, did you ask her what her name was? A. No, sir; I don't recollect that I did.

Q. And you do not know her name? A. No; I don't know her name.

Q. And you stayed there with her for some time? A. I let one car pass me and then I got into the next car that came. I can't say how long I was there talking to her at all.

Q. You were going to assist her, as I understood you to say? A. I asked her if I should.

Q. Assist her? A. See her to the cars.

Q. Did she seem in distress at all? A. She did not appear in any distress whatever. She appeared to be perfectly sensible.

Q. How was she dressed? A. That I cannot tell you.

Q. Why not? A. Because I didn't take that much notice of the lady.

Q. Where did she say she got to know you? A. She did not tell me as I know of. A great many people know me that I do not know at all.

Q. Why did you let one car go? A. Merely because she occupied my time; that is all, for a few moments there, that was all.

Q. She was asking you about something, was she not? A. She was talking something about the trains, I think, of the Ninth and Green trains, which I did not know anything about, no more than she did. I think that was the conversation.

Q. How many people were on the passenger car that you took, when you took it? A. I cannot remember that.

Q. Anybody? A. I cannot remember; I did not go into the car immediately.

Q. You did not notice whether there was anybody in the car at all? A. I can't say that I did.

Q. What was the number of the car you took? A. I cannot tell you.

Q. Who was the driver? A. I cannot tell you.

Q. Who was the conductor? A. A gentleman by the name of Mr. Young, it appears, although I did not know him by name at that time; although I knew him very well

by sight. I know nearly all the conductors of the Tenth and Eleventh Street Road by sight.

Q. Did you ride all the time on the platform? A. Not all the time. When I got down somewhere about Parrish or Poplar Streets, or somewhere about there, I got in the car, I think, somewhere in that neighborhood.

Q. What part of the car did you get in? A. I sat front, so I would be out of the way, as I generally do.

Q. Do you mean front, towards the horses? A. Yes, sir; because I live at the lower end of the road, and I didn't want to be bombarded by people coming in and out.

Q. When you got in, were there many people in the car? A. That I can't tell you.

Q. How did you happen to go in and sit down? A. I think the car began to fill up, and I thought I had better go in. That was the reason.

Q. You were in all this while? A. Yes, sir.

Q. Nobody told you to go in? A. I think Mr. Young told me to go in. He said something to me of that kind; but I don't remember.

Q. Why did he tell you to in? A. He thought the car would fill up, and he thought I had better take a seat.

Q. You recollect that, and you cannot tell whether there was anybody on the car? A. No, sir; I cannot—that is, how many people were in.

Q. I asked you whether there were any persons on the car besides yourself? A. That I can't recollect. There was somebody in.

Q. Did you see a drunken women get in the car? A. I did see a drunken woman get in the car.

Q. And a countryman? A. That I can't say.

Q. Where did the drunken woman get in? A. Somewhere about Girard Avenue, but I won't be positive about that.

Q. You heard Mr. Young give his testimony the other day? A. Yes, sir.

Q. And read it since? A. No, sir; I have not. I am not allowed to read the papers.

Q. You are positive it was at Girard Avenue that this

drunken woman got in? *A.* I think somewhere in that locality.

*Q.* How far did she ride? *A.* That I can't tell you. I don't remember her getting out.

*Q.* Did you leave her behind you in the car? *A.* That I can't tell you.

*Q.* Where did Mr. Royer get on? *A.* I didn't see Mr. Royer get in at all; I didn't even know he was there.

*Q.* Where did he get off? *A.* I can't tell you, and I didn't know he was in the car.

*Q.* And you saw no one at all that you knew, only Mr. Young by sight? *A.* My attention was called to this by a lady getting in the car. I am not in the habit of noticing people in the passenger cars. It is not my business to notice them.

*Q.* Was there another lady on the car? *A.* Not that I know of; I can't remember.

*Q.* Have not you said that there was a gentleman who was in the employ of the Gas Company, in Philadelphia, on the car that night? *A.* Not that night; no, sir.

*Q.* Did not you say so? *A.* I didn't.

*Q.* Mr. Quintus Brown I mean; did not you say he was in the car with you as you came down from Epp's, and that you conversed with him? *A.* No, sir; I didn't; but I understand that he said that; he found himself mistaken.

*Q.* Who was the gentleman you got the newspaper from? *A.* You mean that evening?

*Q.* Yes, sir? *A.* Mr. Ernest, my neighbor.

*Q.* Did you go in for it yourself? *A.* I went for it personally.

*Q.* In your shirt sleeves? *A.* I don't remember.

*Q.* Mr. Ernest is living and healthy, is he not? *A.* He was the last I heard of him.

*Q.* He lives next door to you? *A.* Yes, sir; and a very good neighbor he is.

*Q.* This was about what time in the evening? *A.* That I can't tell you; It was after I got home and got my tea, I know.

Q. Did not one of your little daughters, in the presence of Mr. Ernest, at the time that you got the paper, turn up and say to you, "Why, papa, how late you are, it is quarter to eight o'clock;" pointing to the clock at the time? A. No, sir; I think I can say safely no, although I don't remember.

Q. Do not say safely no, unless you are sure of it? A. Well, I think I am positive of it.

Q. What did you want the newspaper for? A. I always have been a reader of the *Ledger*.

Q. What did you want the newspaper for? A. To read it.

Q. Are you in the habit of reading the newspaper at night? A. I never failed to read it.

Q. At night? A. At night or day.

Q. When do you generally read it? A. I have no regular time; when it suits my convenience.

Q. You said, I think, that you were fifty-four years of age about? A. Yes, sir; fifty-four this August.

A. A married man? A. Yes, sir.

Q. Have you ever had more than one wife? A. I never was married to more than one.

Q. How many children have you. A. Five that I—four that I own.

Q. Four that you own? A. Yes, sir.

Q. Have you a fifth child that you do not own?

Mr. Thompson—Stop! We might as well meet this question *in limine*. I understand that this witness is now under trial for a transgression of the sixth interdict of the Delealouge, introducing the civil law, and the attempt now is to raise a collateral matter and introduce that testimony for the purpose of diverting the attention of the Court and jury to the subject of a supposed illegitimate child, the paternity of which is to be fastened upon this witness. What the true object is I cannot see, unless it is to show that, under this general inquiry, which was wide and permitted by the Court, and might have been narrowed to a question as to peace and quiet of character and reputation and disposition, the Prosecutor can bring before the Court entirely a debatable mat-

ter, which does not belong to this case. I do not suppose that when John D. Lee was tried for his active participation in the Mountain Meadow massacre the prosecution deemed it right or proper to inquire into the multiplicity of his wives and children for the purpose of fastening upon him the crime; and why this inquiry should be put I cannot see. Suppose the witness says that he has a dozen illegitimate children, what has that to do with this inquiry as to his guilt or innocence touching the crime for which he is indicted? Would it benefit him to answer it promptly? Would it not have rather a tendency to injure him in the estimation of the community and the Court? It seems to me that the Court should protect the witness in a question of this sort, which is not properly a part of the case—a part of the true inquiry. It does not test anything at all in the least. It certainly cannot be a pertinent inquiry here. Suppose the witness answers no, then can the State attempt to rebut him by calling this illegitimate child for the purpose of saying that here is the man whom he claims to be his father? If this witness had a hundred children or none, would that affect the issue? If it does not affect that issue, and if it does not determine whether he is guilty of the murder of John M. Armstrong or not, I think it is not a pertinent question. If it has a bearing upon that, it has the character of pertinency, but, until the State can show that it has that character, I ask the Court to rule it out. If a man is to be executed for the murder of another simply because he has been convicted of stealing a horse, then there is no fairness at all in a judicial trial, and the prosecution might get the impression before this Court and jury, if an answer were made either way to the question as it is now put, that in some sense this prisoner is to be held guilty of the offence for which he is indicted simply because there is a transgression of another commandment which is not the subject of the inquiry before this Court. That may be a subject of inquiry before a higher tribunal where casuistry and not law determine such a question, but that is not the issue here. When this defendant is indicted for fornication and bastardy, or for adultery, he may prepare to meet the

charge against him, but now he ought not to be held to meet any additional charges beyond those complex accusations that are in this indictment. Upon those grounds, I oppose this question, because, if your Honor determines it now, you may save the trouble hereafter of an inquiry which, I understand, the learned Prosecutor has in reserve.

Mr. R. S. Jenkins—It seems to me that this question is entirely admissible. Mr. Hunter occupies the position, or is intended by the defence to occupy the position, of an important witness. He comes here and testifies to important particulars. In fact, he denies that a large portion of the witnesses for the State have told the truth, and therefore I think we have a right to inquire into all the antecedents of this man. We have a right to know all about him and to ask him this question? He has a right to refuse to answer a question that will criminate himself or disgrace himself, but we have a right to make the inquiry. I have a right to ask him whether he is a married man, whether he is living with his wife and what family he has. That is as far as I have gone. He himself, in his answers, has brought out the fact that he is charged with having an illegitimate child. I have not brought that out. I have not gone into that yet, and I submit that under the well-established rules of law, the witness being an important witness and being under cross-examination by me, I have a right to inquire into his antecedents, he having the right at any time to refuse to answer the questions which criminate or disgrace himself.

Mr. Robeson—All examinations of witnesses, in a judicial aspect, are governed by certain general principles which the wisdom of time has established for the purpose of directing and controlling such examinations. A witness who is put on the stand for any purpose may have his character impeached by the introduction of any subject matter which would impeach his character for truth and veracity; but the rule of law is that any such examination shall be directed to the point in issue. Therefore, I hold that the Prosecutor cannot be permitted to go into the inquiry which

is now before the Court because it has no relation to this case, and it does not bear upon the issue now raised, but seems to be a separate and distinct controversy which we are not now trying. I speak of this only as an abstract question of law.

Mr. R. S. Jenkins—I did not ask this question as involving a matter of character at all. I asked it because, this witness, being an important witness, who has testified that the witnesses for the State have lied, we have a right to inquire into all of his antecedents.

Mr. Robeson—I am meeting this question. I am not standing on the technical point of whether the question has arisen or not. The Prosecutor has not come to it, and if he does not come to it, the question is an entirely different one, and, after asking him this question, according to the statement of the learned gentlemen, if the witness should answer, the gentlemen could not contradict him, because it is not a subject matter of cross-examination and the gentleman would have to take the answer as the witness gave it. But that is not the question. The question is whether a man's relations in life can be shown by his own mouth in a way that cannot be shown by other witnesses. No matter what this case is, no matter whether Mr. Hunter contradicts the State's witnesses or not, he has a right to do so if he can. He is not required to sit in this Court room as meek as a lamb and have his life sworn away. While he is a witness in this case he still has the rights of an ordinary man. He has the feelings, the inspirations, the emotions and the impulses of a man, and, sometimes, even if a man is shut up in a cage, his feelings will rise with the irresistible impulse of insulted humanity. But that does not change his position at all. He is still subject to the rules of law. There is nothing in his position which changes it from that of any other witness, and if the State could not enter into this inquiry by putting a witness on the stand, they cannot enter into it now by asking him a question.

Judge Woodhull.

While I am not at all clear that there is any distinction in the rule governing a case of this character from that which

applies to cases of ordinary felony or misdemeanor, and while, in such cases, it is often allowed that a witness shall be asked such questions although he is not bound to answer them, we are inclined to think that this question had better be withdrawn. I can see how such a matter, if inquired into, would lead to inferences not warranted, and, as I think the witness is entitled to all the consideration that the Court and the Prosecutor can give him; therefore, although I am not sure that Mr. Jenkins has not the legal right to press this question, I would suggest that it be withdrawn.

Mr. R. S. Jenkins.

I will accept your Honor's suggestion with pleasure.

By Mr. R. S. Jenkins.

Q. On the Sunday previous to this murder when you say you were at church, or at your house, or at Mrs. Francis', were you not at C. W. Shetzline's house, No. 314 Dickinson street, and were you not there for a period of an hour or two hours? A. That is the Sunday previous to the 20th you have reference to?

Q. That is the Sunday previous to the 23d; were you not at Mr. Shetzline's house, No. 314 Dickinson Street, and were you not there for the period of one or two hours? A. I do not recollect that I was.

Q. Do you say you were not? A. I won't say that I was not, because I don't remember being there. If I was I would say so.

Q. Did you not swear, yesterday, you were not out of the house that afternoon? A. Perhaps I did.

Q. Did you not swear you went to church, came home from church and took your dinner and took a nap, and did not go out at all again until you went down to Mrs. Francis' with your family. A. I think I did.

Q. And you stayed there and then came home? A. I did not exactly say that.

Q. Do you say now that you were at the house of Mr. Shetzline or not? A. I don't on the night of the 20th; nor do I remember being there on the Sunday previous to the 20th.

Q. You were in Virginia on the Sunday previous to the 20th? A. Perhaps I was; I cannot remember. I suppose I was. I suppose that is easily enough proven.

Q. I understood you to say in your examination, I mean the first examination, that you had not done anything toward collecting these policies of insurance at that time; is that so, did you say that? A. I don't remember saying it.

Q. Had you done anything toward collecting it? A. I don't remember saying any such thing.

Q. Had you done anything at all? A. Not personally, I had not; no sir.

Q. Had you done anything at all; had you employed any counsel to commence collecting this insurance? A. I had given one of those policies into the hands of Mr. Daniels for collection. Yes, sir.

Q. That is what this receipt means? (Receipt shown witness.) A. Yes, sir. "Received Philadelphia, January 28th, of Benjamin Hunter, a policy of Insurance No. 187,427 of the Mutual Life Insurance Co., for \$10,000, for collection on the life of John M. Armstrong, Benjamin Daniels."

Q. Mr. Armstrong died on the 25th? A. I don't remember when he died.

Q. On Friday morning? A. I don't remember.

Q. That is the morning he died; and, three days after, on the 28th, you gave one of these policies to Mr. Daniels to have collected? A. I did; I will tell you why I did, if it is necessary.

Mr. R. S. Jenkins.

You may give the other side your reasons.

The Witness.

There is a little due bill among my papers; if you have no objection I would like to have it.

Mr. R. S. Jenkins.

I do not think it is here. The Sheriff has the rest of the papers.

The Witness.

I guess Kennedy took it; he took two dollars out of my pocket.

Re-examined.

By Mr. Robeson.

Q. You ride on the Tenth Street cars a good deal? A. Yes, sir.

Q. Is the front platform shut off; can you get on on the front platform? A. I think you cannot at present get on the front platform of any of the Tenth Street cars. I think they are all shut off by a guard.

Q. You can only get on by the rear? A. I think so.

Q. The Prosecutor asked you whether, on the Sunday previous to the 23d—I suppose you misunderstood the time—you were at Shetzline's house; Sunday, the 20th, would be Sunday immediately previous to the murder; that is the time you were at church on Sunday? A. That is the time I was at church.

Q. And down at your brother-in-law's in the afternoon? A. Yes, sir.

Q. And you were not at Shetzline's that day? A. Not at all.

Q. If you were, it must have been at some previous Sunday? A. Yes, sir; certainly.

Q. You were asked and you said you could tell why you gave that policy to your lawyer; please to tell me why? A. He attended to that particular policy.

Q. Did he send you word that Mr. Armstrong was dead and you had better collect the policy? A. He sent me a card, saying on the card, Mr. Hunter, can I be allowed—I think I can repeat the words: "Mr. Hunter—Dear Sir: I see your friend is dead; please call and see me." Of course, I took it for granted that he wanted the job of collecting that policy. He was a young man that I had done a good deal of business with and I had a great regard for him, and that is the reason I came to go there so soon; I would not have gone there perhaps for a week.

*Q.* Did you tell him not to be in a hurry? *A.* I did. I told him, "Mr. Daniels, don't be in a hurry about it."

*Q.* That is an old memorandum book (book shown witness), is it not? *A.* Yes, sir.

*Q.* Of the year 1875? *A.* Indeed, I cannot tell you.

*Q.* Look at it? *A.* Yes, sir.

*Q.* And filled up solid, is it not, right straight along?  
*A.* Yes, sir.

*Q.* Without regard to dates? *A.* Without regard to dates.

*Q.* Not the dates of a particular day? *A.* No; I believe the dates—

*Q.* Not the dates of a particular day on that day? *A.* No, sir; but just through the whole book.

*Q.* Sundays and all? *A.* Sundays and all; no date taken into consideration. Just to keep things before my mind; that's all.

*Q.* And this memorandum of Peter Epp is on the 17th of August, 1875? *A.* It appears so there. I didn't really know it myself until Mr. Jenkins called my attention to it.

*Q.* Instead of the 23d of January, 1878? *A.* Yes, sir.

*Q.* You said yesterday to me, with regard to the time that you got the letter from Mr. Epp, that you were not certain whether it was in the morning before you went to Mr. Armstrong's or after you went to Mr. Armstrong's? *A.* No, sir; I really cannot say.

*Q.* I understood you to say, this morning, you think it was after? *A.* I think it was after I went to Mr. Armstrong's. I am not certain; I am under that impression.

*Q.* This letter in question was about your patent boiler, was it not? *A.* Yes, sir; altogether about that.

*Q.* That was a matter in which you took a great deal of interest and pride? *A.* I certainly do.

*Q.* And that was when you said you would have gone up if it had been twice as far? *A.* Yes, sir; so I would.

*Q.* To go back now to the time when you bought this hat of which the gentleman has spoken—you were going on to make an explanation when you were stopped—I understand you to say that you gave a bill which Mrs. Spel-

lissey had to go out to get change for? *A.* Yes, sir; I gave her a five dollar bill, and she had to go out and get change. She was out some little time.

*Q.* That was the time you talked with this girl? *A.* Yes, sir; to pass the time away; she seemed like a very pleasant young lady.

*Q.* You were also asked if you had seen Mrs. Graham or old Mrs. Graham—I do not know which—and you said you would explain that, but you were not allowed to; what was that? *A.* It is a simple story; my daughter wanted to have an earthen vase painted, an earthen mantel ornament, painted light blue, and she gave it to me to take out and search for a painter to have it painted for her, and I passed up Passyunk Road as far as Queen Street, and found no painter, and I then went to Mrs. Graham and said to Mrs. Graham, “Can you tell me whether there is any painter in this neighborhood?” She said “She could not tell me.”

*Q.* Did you ask her where Tom was at the time? *A.* I might have. I don't know. Perhaps I did. I didn't go there for that purpose anyhow. I then passed along Queen Street to Fifth, down Fifth to Wharton, and along Wharton, and in going along Wharton there is where I saw Mrs. Graham standing on the corner.

*Q.* Which Mrs. Graham? *A.* That is Tom's wife.

*Q.* That is the young Mrs. Graham? *A.* Yes, sir; that is the time I happened to see her, and I will continue to say that I did not find any painter down town. I had to take the jar up to the neighborhood of the shop to have it painted.

*Q.* You were asked whether you were at the drug store at Sixteenth and Arch—there is a drug store there, is there not? *A.* Yes, sir.

*Q.* Within half a square of Mr. Hughes? *A.* Yes, sir.

*Q.* You pass it every day, do you not? *A.* Every day I go up to Mr. Hughes'.

*Q.* Something was said about your having a riveting hammer; did you have a riveting hammer in your kit? *A.* Not at my stable.

Q. When you call it a kit, what is it, a chest or box of tools? A. Mr. Jenkins calls it a kit of tools. I suppose he meant a box of tools. I never had a riveting hammer; I have no use for a riveting hammer; but I had a claw hammer.

Q. A riveting hammer is a hammer which is used by some one in active business, doing actual work? A. Yes, sir; if you were to rivet a hinge on a cellar door you would have to have a riveting hammer.

Q. That is the sort of hammer that Mr. Graham would use in his business, is it? A. Yes, sir; exactly. He couldn't get along without it.

Q. And he would not have to go to you for one? A. No, sir; I don't suppose he would.

Q. All the tools of your trade were turned over to your successor? A. Every one of them, stock, tools and fixtures.

Q. You were asked what you knew, or whether you knew all about this Davis matter, and you replied that you did not know the ins and outs of it—what did you mean by that? A. Well, I cannot explain that any better than the remark I made. I did not know how much money there was in the matter or how the matter stood.

Q. You did not know the details of it? A. I did not know the details of it, nor I did not know of it.

Q. You knew that there was such a business matter? A. I knew there was.

Q. But you knew there was a controversy? A. Yes, sir; I did, from the fact that I had got a gleaning of it from Miss Latimer's going to Mr. Armstrong's.

Q. When you went to Mr. Demaris' with Mr. Armstrong on Monday, there was something about a deed—what was that? A. They handed him over a deed, under, I suppose, the pretence that it might have something to do with certain property, but I didn't pay much attention to it.

Q. There was a deed there, then? A. Yes, sir; but I never looked at it, or read it, or heard anything about it I presume it is in his fireproof now.

Q. You were asked whether you asked at that time the number of Mr. Davis' house; do you remember doing anything of that kind? A. I could not find his house hardly, I do not think now.

Q. That was not exactly what I asked you? Do you remember whether you asked Mr. Demaris what the number of Mr. Davis' house was that night? A. I never spoke to Mr. Demaris that day, no more than to bid him good morning.

Q. Do you remember whether Mr. Armstrong did or not? A. I cannot say that I heard a word that was said. I cannot remember.

Q. You cannot recall a word? A. I cannot recall a word that was said on that occasion—not one single word.

Q. You did hear some words, but what you mean to say is that you cannot recall them? A. There was some conversation between them, but what it was I cannot tell you.

Q. Just tell us what you did about that towel at Mr. Armstrong's house on Thursday afternoon when you were there, and about which Mr. Jenkins has asked you? A. All I did that I recollect was to take the towel that was badly stained, I think, with blood, and looked rather in a bad condition, and put on a clean towel; that was all. I suppose I would do the same thing again under the same circumstances.

Q. The towels were brought in for that purpose? A. The girl brought them in on a plate; they had just been washed.

Q. And handed them to you? A. They were handed to me; she was there all the time. I do not remember being alone in the room at all.

Q. You were also asked about this \$26,000 of life insurance, and you used some expression to the effect that the other creditors would come in. You were not allowed to explain. What did you mean by that? A. Well, Mr. Hansen—

Q. Let me call your attention a little more particularly to it. Did you mean by that that you had been threatened

to be made liable for the general debts of the firm? *A.* Yes, sir; it had been intimated that I would be made liable for the debts of the firm.

*Q.* As a general partner? *A.* As a general partner—from the fact that I had been doing work around there for Mr. Armstrong. The office that was described on this plan I put up for Mr. Armstrong myself.

*Q.* You put up that office? *A.* Yes, sir; I did.

*Q.* That was when you were a partner there? *A.* No, sir; I was not a partner there; I did it for the sake of—

*Q.* That was afterward? *A.* Yes, sir; it was afterward, and I had done other things previous to that; many other things.

*Q.* What reason had you to suppose that the general creditors of the firm would try to make you liable as a general partner? *A.* It was intimated to me by Mr. Hansen.

*Q.* Who is Mr. Hansen? *A.* He is a creditor of Mr. Armstrong; he has an electrotype foundry at 708 or 706 Sansom Street. I do not know the number.

*Q.* When did he intimate that to you? *A.* It was some time ago; I do not remember when.

*Q.* Was it when Mr. Armstrong was present? *A.* Mr. Armstrong was present, too.

*Q.* And you were threatened to be held liable? *A.* Yes, sir.

*Q.* And these insurances were meant to cover that? *A.* Yes, sir.

*Q.* I think you told the insurance agents that? *A.* Yes, sir.

*Q.* I do not remember, but I think one of the insurance agents said so? *A.* Yes, sir.

*Q.* After this then you tried to avoid as much as possible any active participation in Mr. Armstrong's matters? *A.* Yes, sir; I did not want to get any more complicated than possible.

*Q.* This you told the insurance officers, although I have forgotten? *A.* Yes, sir; that is what I told the Mutual and the Provident, I think it was.

*Q.* Unless Mr. Armstrong helped you to pay the premiums on these life insurance policies when they came due they would not even have been sufficient to have paid your debt and the premiums? *A.* No, sir; they would not.

*Q.* If Mr. Armstrong had lived the length of the endowments on the terms fixed in the policies—one being an endowment policy for thirty years and the other for twenty years—unless he helped you to pay the premiums, the extra amount would not have been more than sufficient to pay your debt? *A.* No, sir; it would not.

*Q.* You understood, of course, that you would be entitled to collect all the moneys which you paid for premiums? *A.* Certainly I would, or I certainly would not have made that an offset.

*Q.* You have spoken of the night when you came from Mr. Epp's, and you have spoken of this man and woman whom you saw in the wagon, and this other lady who spoke to you. Are you sure that it was on that night when you saw the man and the woman in the wagon? *A.* It was in the car you have reference to.

*Q.* No, I mean the man and the woman in the wagon, and the time when you helped to fix the shaft? *A.* I am positive that it was that night.

*Q.* Are you equally sure about meeting the woman afterward; you also said you saw a woman afterward? *A.* Well, the lady I had a conversation with—I am under the impression that it was that night, but I do not care anything about it, and I would not be too positive; but I think that was the night.

*Q.* You are not so sure about that as you are sure about the other? *A.* I am not positive about that.

Re-cross-examined.

By Mr. W. H. Jenkins.

*Q.* I understood you to say on the stand here that your memory was not very good? *A.* It has been somewhat shattered since I have been here; I think I made a remark of that kind.

Q. I understood you to say that you always made a memorandum of your engagements? A. My important engagements, like that.

Q. This is an old book, is it not (memorandum book shown witness)? A. It is a book I have had for some time.

Q. Whenever you had engagements, how would you enter them? A. Well, I cannot say. I would just enter them to suit myself, I had no definite way.

Q. For instance, here is an entry you made: "Peter Epp, 1721 Oxford Street, by six o'clock this evening." Suppose you had entered that under the head of Friday, how would you have then known that you had an engagement with him at six o'clock on Wednesday?

Mr. Robeson.

I do not suppose we are going over this same subject-matter in cross-examination.

Mr. W. H. Jenkins.

He was not particularly examined in regard to that, and he was not asked that question.

The Witness.

That is a sort of a mixed question. I would like to answer your question, but you will have to ask that over again.

By Mr. W. H. Jenkins.

Q. Suppose you had made this entry, "Peter Epp, 1721 Oxford Street, by six o'clock this evening," on Friday instead of on Tuesday, how would you have known that you were to meet him on Wednesday? A. Then if I had entered it on Friday, and I had said "this evening," it would have been that evening—it would have been Friday evening, and it would not have been Wednesday evening.

Q. Do you give the same reason for entering it on Tuesday?

Mr. Robeson.

The witness has said that he pays no attention whatever to the printed dates.

The Witness.

You ought to be a little fair.

By Mr. W. H. Jenkins (to the witness).

I am trying to be fair. Do you give the same reason for entering it on Tuesday? A. If I had received word—

Q. Can you not answer that question "Yes" or "No?"

A. I do not want to answer it until I understand myself.

Q. You stated that if you had entered it on Friday evening you would have had an engagement on Friday evening. I now ask you: Do you give the same reason for entering it under the head of Tuesday? A. I would not pay any regard to the heading of the book whatever.

Q. Then how would you be able to tell that it was on Wednesday evening you had an engagement if it was entered on Tuesday?

Judge Woodhull.

This matter has certainly all been inquired into.

Mr. W. H. Jenkins.

Very well, I will not pursue it further.

(To the witness.) You say now you are not certain whether it was the night you saw the woman at Tenth and Oxford when you went to see Mr. Epp?

Mr. Robeson.

I do not propose that this witness shall be cross-examined again, for it is a subject-matter which the gentleman's associate has gone over this morning.

Mr. W. H. Jenkins.

You brought the matter up during your re-examination.

Mr. Robeson.

I questioned him in order to obtain an explanation of his previous testimony.

Judge Woodhull.

If there is anything in the nature of an explanation which the counsel desire, of course he is entitled to that explanation.

Mr. Robeson.—Well, I will make no objection.

By Mr. W. H. Jenkins.

Q. You stated to Mr. Robeson that you saw the man with the wagon on Broad Street that evening, but you were not so certain that you saw the woman at Tenth and Oxford Streets the same evening? A. I say that.

Q. Were you ever up in that neighborhood before? A. I have been in that neighborhood before.

Q. Did you ever have an engagement with Mr. Epp before? A. No, sir; he has been to Mr. Hughes' to see me.

Q. Were you up in that neighborhood just about this time? A. That I cannot say.

Q. Do you remember when? A. No, sir; I cannot say that.

Q. I understand you to say that the way you came up to see Mrs. Graham was that you had a vase to have painted for your daughter? A. Yes, sir.

Q. Where did you eventually leave that vase to have it painted? A. I took it to Mr. Shades.

Q. Where is Mr. Shades' place? A. On Sixteenth Street, just below Cherry—George Shades; you will find him there.

Q. Do you know when you took it there? A. I cannot tell you that. I took it there and he painted it.

Q. How do you come to recollect about the vase to-day, when you did not say anything about it yesterday? A. I cannot tell you. I do not know what day it was.

Q. You were asked yesterday, by Mr. Robeson, about having a basket in your hand? A. Yes, sir; but I had no basket in my hand. I had no occasion to carry a basket around.

Q. You were asked yesterday by Mr. Robeson: "Do you remember going there with a basket once?"—that is, to Mrs. Graham's—and your answer was, "No, sir." You were also asked, "Or with a vase, or something in it?" and your answer was: "A. No, sir." Now, how do you recollect about it to-day? A. Perhaps I did not tell that same story yesterday. I do not know that I was asked that same question. I do not remember.

By Mr. Robeson.

*Q.* You were asked yesterday if you went with a basket to Mr. Graham's, and you said, "No." I reminded you by saying—"Or a vase or something else in a basket," and you said: "No, sir." Did you have a vase in the basket when you went there? *A.* No, sir; not at all. I had the vase in my hand. I had no basket.

*Q.* I call your attention to this memorandum book again. This memorandum book is filled up solid on all the pages? *A.* Yes, sir.

*Q.* Without any regard to the printed dates at all? *A.* Without any regard—

Mr. R. S. Jenkins.—Why do you not let him say that?

Mr. Robeson.—I am cross-examining him upon a certain point.

Mr. R. S. Jenkins.—You cannot cross-examine your own witness. I do not know of any principle which allows you to cross-examine your own witness.

The witness.—It is all made up without any regard to the dates.

By Mr. Robeson.

*Q.* But if you had written a date and said, "This evening, Friday," that would have been that evening? *A.* Yes, sir; it would have been that evening without doubt.

*Q.* I see you have other memorandums on the same dates written in the book? *A.* I do not know whether I have.

By Mr. R. S. Jenkins.

*Q.* I have one question to ask you about this vase. I have shown you that Mr. Robeson asked you about the basket and the vase yesterday, and you said you did not have one or the other. Now, how do you recollect it to-day?

Mr. Robeson.

He did not say that: I asked him if he had a basket or a vase in it.

Mr. R. S. Jenkins.

That is the sworn testimony.

Mr. Robeson.

I do not care anything about that.

Mr. Jenkins.

That is what I do care about; that is what we have reporters here for.

Mr. Robeson.

I know exactly what I asked him. I do not care how many reporters there are here.

Mr. R. S. Jenkins.

That is what you asked him, and he answered "No, sir." The testimony is: "*Q.* Do you remember going there with a basket once? *A.* No, sir. *Q.* Or with a vase or something in it? *A.* No, sir."

Mr. Robeson.

I did not use the word "or."

Mr. R. S. Jenkins.

Here is the sworn testimony: "Or with a vase or something in it."

(To the witness.)

*Q.* How do you recollect to-day that you had that vase?

*A.* I know I went with a vase.

*Q.* Why did you not recollect that yesterday when you were asked that question? *A.* I answered it perhaps without thinking, like I did some other questions; but I did not answer it with the intention of telling an untruth.

*Q.* Why did you not recollect it yesterday, and how do you recollect it to-day any better than you did yesterday? *A.* I know I had a vase; I know my errand from the fact that, when I saw Mrs. Graham on the step, I went and asked her whether she could tell me where the painter was. I recollect from that fact that I had the vase.

*Q.* You asked Mrs. Graham to tell you where the painter was? *A.* Yes, sir.

*Q.* Did she tell you? *A.* She told me that she did not know, or something like that. If you inquire of that painter you will find out.

