

TRIAL

OF

CHARLES LEWIS

FOR THE

MURDER OF JAMES ROWAND

OF PRINCETON, N. J.

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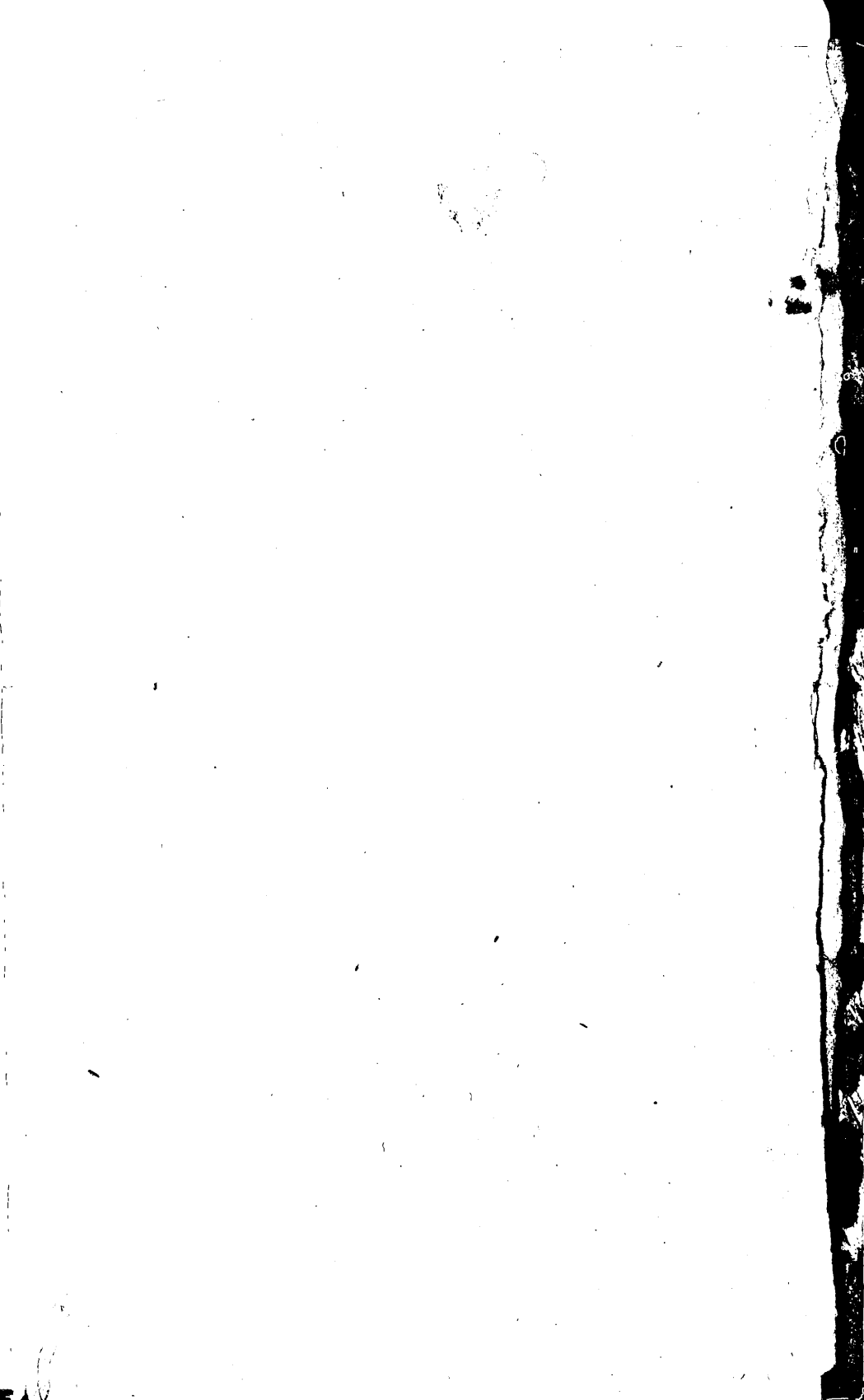
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TRIAL of CHARLES LEWIS,

FOR THE MURDER OF JAMES ROWAND,

Of Princeton, N J.

We have been urged by many persons in Princeton to publish in pamphlet form, the judicial proceedings against Charles Lewis, who has been indicted, tried, convicted and sentenced for the murder of James Rowand: and in view of the great interest which the people of Princeton have taken in this extraordinary case, we have undertaken to publish the proceedings in a cheap form. Such a murder is extraordinary in any part of our country. For unprovoked cruelty, for boldness in purpose, and daring in execution; for the rapidity with which justice overtook the murderer; for the wonderful interpositions of Providence in opening the way for the arrest, and in discovering traces of the guilt of the criminal; and for the general and harmonious working together of all things, from the fatal hour of the murder on the evening of the 13th of November, 1862, to the day of the sentence, the 21st of February, 1863, to secure a just vindication of the law, this case stands forth with prominence, and its history is worth writing and preserving.

The murder was committed about half-past nine o'clock, or a little earlier, in the evening, on the 13th of November, 1862, in Witherspoon st., in Princeton, along the brick wall of the grave-yard, between two dim street lamps. The victim, who was a jeweller and watch-maker, had closed his store in Nassau street at 9 o'clock, as was his habit, and was on his way to his residence—a beautiful cottage in Witherspoon street, a few yards beyond the grave yard. He was struck with a club—a piece of dry hickory cord wood—which broke in his skull on the right side above the ear, and he fell on the pavement, where his wig was found the next morning, and his body was thrown over the wall into the grave-yard and dragged some forty feet from the street, where it was found on the next morning, between two graves, horribly mangled, with his overcoat and gloves on, with the club covered with hair and blood lying near the body—his hat and valise also lying near. His pocket book and keys were missing.

The people of Princeton were much and justly excited. An Inquest before Justice Fenning was held over the body, continuing their session for four days, during which, Charles Lewis, a stranger, who had been recently in the place, and to whom suspicion was directed, was brought in from Millstone under arrest: He was implicated by the verdict of the jury in the murder, and was committed to Mercer jail by Justice Mount, on Saturday evening the 15th of November. He gave his name as Charles Lewis.

The Grand Jury of Mercer, at the January Term, presented a bill of Indictment against him, charging him with the murder of James Rowand. to which he

pleaded "Not Guilty," and his trial was set down for Monday the 9th of February, at Trenton.

After the prisoner was charged on the Indictment, his counsel, Edwin James, Esq., of New York, a distinguished English criminal lawyer, who had formerly acted as Queen's Counsel in Great Britain, applied to the Court to abate the rigors of Lewis's confinement, alleging that he had been kept chained to the floor of the cell, and was deprived of reasonable privileges by the sheriff. Mr. James made an eloquent appeal in behalf of his client. Mr. Hageman, the Prosecutor of the Pleas, and Attorney General Frelinghuysen replied, regretting the necessity of keeping the prisoner chained, but denied that the Court had jurisdiction of the question, or could interfere with the duties of the sheriff. He was amenable to the law for cruelty, and yet was liable for an escape.

The Court decided that they had no control of the matter, but hoped that the sheriff would be as humane as the safety of the prisoner would allow, and regretted that the jail was not more secure. The Sheriff had attached a chain to the foot of the prisoner, long enough to allow him to walk from one end of his cell to the other; and had done so upon advice, as the jail was not secure.

Mr. Roward was an industrious, amiable and much respected citizen. He had lived in Princeton for more than twenty years; was a member of the First Presbyterian Church; a most quiet and inoffensive person; small in stature and of delicate health, weighing but little above a hundred pounds, and being a little under fifty years of age. His surviving family consists of his wife and her sister Miss Berrien, and his only child, John Roward, who has just arrived at age.

The prisoner is a large, fine looking man, nearly six feet high, with uncommonly fine physical development, with large hands and feet and possesses great muscular strength. He wears large whiskers, has small lips, good teeth, hair a little gray when he was arrested, more so now; eyes rather gray; eye brows prominent. When arrested he said he was about 40 years old, but he now appears to be over 50. He wore fine linen and broadcloth, black silk hat, brown cloth overcoat with velvet collar; carried a handsome gold watch and chain, with magic case, valued at two hundred dollars. He had some \$1600 in money and U. S. Treasury Bonds in his pocket. His identity is involved in mystery. Whether he is Charles Lewis who married Frances Simonds, of Templeton, Mass., or whether he is George W. Simonds, the uncle of Frances, who formerly lived in Washington, or whether he is neither of those, is not fully ascertained. He has adopted both of those names and his description is not unlike that of either of those. He conceals his history. He came to Princeton from Trenton where he had been for a few days, on the 30th of October, 1862, left there on the 3d of Nov.; went to Kingston on the 3d, and left on the 6th; was at New Brunswick from the 6th to the 12th; came to Millstone on the 12th and left there under arrest on the 14th. He was in Philadelphia last fall, stopping at different hotels, under different names, and was under the surveillance of the police.

MERCER OYER & TERMINER.

Before His Honor, George H. Brown, Judge of the Supreme Court, and Judges McIlvaine and Atchley of the Common Pleas.

MONDAY, February 9, 1863.

FIRST DAY.

The court met at 10 o'clock, A. M.

Counsel—J. F. Hageman and Attorney-General Frelinghuysen for State: Edwin James and Thomas Dunphy, of New York, and J. D. Banghart of Jersey City, for the defendant.

The general panel of jurors was called, and all except three, answered to their names. At half-past ten Mr. Hageman, Prosecutor of the Pleas, moved the trial of Charles Lewis, indicted for the murder of James Rowand, and the Court ordered the prisoner to be placed at the bar. A panel was then ordered to be returned.

Mr. James, of counsel with the prisoner, moved before the jury was returned, to quash the indictment for a defect, which he alleged was apparent on its face. The ground of objection urged was that the several counts purport to be found upon the "oaths and affirmations" of the Grand Jurors, without its appearing that the persons affirming were conscientiously scrupulous of taking an oath, or were legally exempt from the legal obligation of taking an oath. [Amar. Criminal law, 2 Hal. State vs. Harris, 361: Nixon's Digest 541, title, Oaths, and several other authorities.]—The gentleman's argument was, that the law required an indictment to be presented on the oaths of the Grand Jurors, or the affirmations of members of the Society of Friends or persons conscientiously scrupulous of taking an oath.

Mr. Hageman rose to reply, when the court intimated that they refused the motion without argument; but inquired wheth-

er the fact of the "conscientious scruples" of the Jurors affirming, had been set down in the caption, and whether the caption had been filed.

Mr. Hageman said it was so distinctly stated in the case of each Juror who had been affirmed, and that the caption had been filed.

The Court stated that it was not within its recollection that the question had ever been raised before the Court as to the bill of indictment itself, containing the matter urged as a fatal omission. The indictment is drawn in the usual form. He (the Judge) himself had prosecuted the pleas for 10 years with the same form. It had, however, been clearly settled in this State that it must appear by the caption that the Jurors who had affirmed did so upon conscientious scruples. The motion to quash was denied.

The Clerk directed Charles Lewis to stand up. The prisoner did so promptly.

The Clerk, addressing the prisoner, reminded him that these good men who were about to pass before him were to try him on the charge of murder, and that he had a right to object to any one whose name might be called, and that his objections should be heard.

Thirty-six names were called—16 were challenged peremptorily by the defendant; 2 for cause; 2 by the State; 3 excused upon their own statements; 2 did not answer, and 12 to try the cause, as follows:

Wm. L. Ashmore,	Jos. Suediker,
Wm. H. Phillips,	Wm. C. Anderson,
Joel Jemison,	Clark Hooper,
Wm. I. Hart,	Chas. Megill,
Henry S. Booze,	Edward Jewell,
John L. Gibon,	Chas. T. Blackwell,

Constables Forman and Robbins were sworn to attend and take charge of the jury. The court then adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

At the opening of the Court, Mr. Hageman opened the case on the part of the prosecution occupying about an hour.— He said the defendant Charles Lewis was charged with the crime of Murder. It was seldom that Mercer County had been called upon to try so solemn an issue.— In 1828, in Hopewell township, then belonging to Hunterdon County, a colored boy murdered his mistress (a white woman) by beating out her brains with a horse yoke. He was tried, convicted, and executed. But since the formation of this county, no case of this kind had ever been presented.

Mr. Hageman, after speaking of Mr. Rowand as a very orderly, innocent, Christian man, whom nobody desired to injure, detailed the facts in the case very minutely. He then traced the movements of the prisoner from his first appearance at Princeton down to the afternoon of the murder, when he came from Millstone to Princeton. His return to Millstone at 2 o'clock on the morning after the murder; his conduct at Princeton; his appearance in the vicinity of Rowand's store; his conduct after the murder and when arrested; his confusion and contradictory statements; the finding of the safe key and papers of Rowand at Millstone, where Lewis stayed all night after the murder; the attempt to wash out blood spots; his singular behavior; traveling under fictitious names; his being found with \$1,500 and a gold watch worth \$200, and yet he carried his own blacking and blacked his own boots.

He closed by alluding to the excitement of the citizens of Princeton upon the discovery of this horrible murder. They were all satisfied that no Princeton man had committed such an act upon so inoffensive a man as Mr. Rowand. Suspicion at once pointed to Lewis, the prisoner at the bar. They had offered to assist him in bringing his friends to a knowledge of his case, but to this offer and to everything else he had remained entirely indifferent. He expected to prove all these facts, and looked to the jury for a conviction.

Before the examination of witnesses was commenced, Mr. James suggested that the witnesses for the State should be excluded from the room during the delivery of the testimony. The Court stated that they would advise upon the motion, and give their decision.

By agreement of counsel witnesses who were examined upon the same points were separated.

Marcus H. Krauskopf—sworn. Lived in Princeton on 13th of November last.— On Friday morning there was much excitement about the disappearance of Mr. Rowand. A meeting was in session at Mercer Hall on the subject. It occurred to me that if any violence had been done to him, it must have been done between his store and his house. I went down to the graveyard—first saw Mr. White, and asked him if he had seen anything of Mr. Rowand. I saw something lying at a distance in the yard, which looked like a bundle of old clothes—we went and found it was the dead body of Mr. Rowand; went and gave notice to the people of the town that the body was found.

Cross Exam.—The body was lying about 40 feet from the wall. It was lying on the ground. There are a good many footpaths in the cemetery. (Explained on the map how he entered the gate.) The name of the Street running by the wall of the cemetery is Witherspoon Street. There is a foot path running up from the gate.— Have not noticed how far the body was lying from the foot path. Do not know how large the graveyard is.

Coln White—sworn. Have charge of cemetery at Princeton; Mr. Krauskopf asked "what bundle is that lying yonder?" I said "I did not know." We walked off in the direction of the bundle; I was ahead; It was the body of Mr. Rowand; Krauskopf went to call the neighbors; the head was towards the wall; about ten or twelve yards from it; could see where the skull was bursted; he had gloves on his hands; a large club with blood and hair on it was lying near the body. [A stick of cord wood was here produced which witness identified as the one which lay near the body when found] It was about four feet off; his hat and carpet bag were lying a piece from the body; had found another larger club

lying under the fence at the end of the brick wall; I took it away the day before the murder. (This club also identified.) Thursday night, the night of the murder, about half-past seven, I heard a noise as if some one was getting wood from a pile that lay against the grave yard fence, and heard a noise as if somebody was stealing; it was old dry hickory wood—none in the pile like the last club exhibited; some of the sticks stuck through the fence, and could be taken from the grave yard. About two weeks before, the prisoner was in the yard; he had walked through the yard; he was talking about some woman who had come there to look after a grave; he then walked away; the large gate was locked; saw the blood on the fence and along the ground in the cemetery; looked as if a man had been dragged; clothes looked so.

Cross Exam.—There is a small foot path from the gate at the cemetery. There are different walks. There is no way to get out except at the back end, where I live. There are four gates on the yard.—Two in the rear. The only one open is the one at the end by my house. The body was about four yards from the foot-path in the graveyard, and twelve yds. from the fence on Witherspoon St. The club was lying about its length between the body and Witherspoon street. The wood-pile is in the rear of the yard where I live. It was there I heard the noise the night before. I was on the foot path in the cemetery going home, about 23 yards from the wood-pile—thought some one was stealing wood—heard a stick or two rattling down. I took no notice of it, but went on, (described where he found the club.—There is no pile of wood in the neighborhood like it. I took it home to burn; do not know where it came from, nor how long it was there; a good many people walk in the cemetery ground. It was about five o'clock in the evening when the prisoner came there; he stood by me and talked ten or fifteen minutes. I thought that he was one of the Professors. There was blood on the board on the wall—about opposite the body and a pool of blood on the ground where the body lay—didn't put my hand on the body. The night of the murder was not very dark—don't think it rained that night or evening—do not think there was any moon. Saw Mr. Kraus-

kopf in the yard that morning.

Direct Examination resumed. The body was near a grave—on the upper side. The little gate in the rear is a private one, made for my own use. There was considerable blood on the ground by the fence. Lewis said he had not been there before in twenty years.

Albert Lake, (colored) sworn. Found a wig in Witherspoon St., near the front gate of the grave-yard, on Friday morning, the 14th of November. Had not heard of the murder then. I took it with me down to Capt. Lavender's, where I work, and laid it away; about one o'clock I heard that Mr. Rowand was murdered, and I took it that night and gave it to Mr. Duryee, and asked whether Rowand had worn a wig. It lay near the fence, about six or eight yards from the gate.

Cross exam. Knew it was the 14th, by my almanac, which I keep hanging up: my son was counting up my rent, and found out the day of the month; Thursday was the 14th; rent is generally due the first of the month; the rent had not been paid is the reason why I was counting up on the 14th. [Witness was somewhat confused, and was asked whether it was true, that his son was looking at the almanac. He did not answer the question.] Matthias Vanhorn was with me when I found it; knew it to be a wig. I laid it away in the carriage house; persons passed by on either side; saw no blood on it, it was a brown wig.

By Atty Gen. Was not at Rowand's funeral.

Dr. J. Stillwell Scharck—sworn. I first saw the body of Mr. R. about 10 o'clock in the graveyard—it was surrounded with a crowd of citizens—it was lying nearly on its back, with most of the face upward; the head was nearest the wall; the feet lying east; one leg was drawn up more than the other, hands nearly together, with heavy gloves on. The blood had trickled down over the left side of the face; the body had been moved a little I was told; blood was on the hair and on the ground near the cheek from where the head had been turned. I made a superficial examination, felt of the head and found the right side of the head had been crushed in—the skull was crushed along the right side and above the ear, a groove over the ear the

whole breadth of the head; first conviction was that it was struck but once, but since that I have come to the conclusion that it must have been struck on the pavement and afterwards in the yard; was of opinion that the wound in front over the eye was produced by the protrusion of the fractured skull bones, the fracture of the bones and the rupture of the skin corresponded. Think one blow produced the death; the depression was about two inches wide, and looked as though a cart-wheel had passed over it. (Examined the club.) Witness identified it as the one found near the body, and with which he had not a shadow of doubt the wound on the side of the head was made. It was smeared with blood and some hairs adhered to it when found. It is just such an instrument as would inflict that wound. Think the hair on it sandy, has not the slightest question that it was the hair of James Rowand; satisfied the wound produced the death—after looking at the body went to work to find where Rowand was when the murder was committed; traced, by the blood that he must have been on the walk. (Explained, minutely, the blood spots on the walk, the wall, the top of the wall, and then through the grass to the body.) The body was drawn to the place where it was found, by the feet.—The wall is about my height, 5 feet 10 inches from the pavement up; at the top the wall is thirteen inches thick. (Describes the map of the town, its approaches, and the scene of the murder.) From Dr. Maclean's front gate you can see directly into Rowand's window; the nearest crossing is a short distance below R's shop, another at the Mansion House, some distance above. There was no crossing directly opposite to Duryee's corner; it is located (the map) in the township of Princeton, in the County of Mercer. The body was 14 paces from the brick wall, and lay in a depression between two graves; it was not nearer than 10' or 12 feet from any walk. Saw Lewis in Mercer Hall late in the evening. Dr. S. was present when the valise said to be the prisoner's was opened and examined before the Coroner's jury.

Here Mr. James objected that any evidence should be given about the bag and its contents unless first traced to the prisoner and the manner in which it had been found and kept explained.

The Court said it was not usual in this country to dictate to the Prosecutor the order in which he should produce his evidence.

SECOND DAY.

At the opening of the Court Mr. Banghart the junior counsel of the prisoner desired to call the attention of the Court to the crowded state of the bar. The Court directed the officers to-morrow to let none within the bar except the legal profession.

The Court room was crowded from the commencement of the trial. Females constituted one-third of the audience, yet it was deemed wisest not to reserve special seats for them.

Dr. Schanck, (continued)—First saw the valise at Mercer Hall, on Friday evening, in the hands of John Leard who identified it as the same one prisoner had when at his house in Kingston. Next saw it on Saturday at the inquest—saw it opened there and taken from it a hair brush, blacking box, one soiled and torn shirt, two vials, one partly filled; also a wisp broom, the bag was a black oil cloth one. This vial (in his hand) had contained acetic acid, the other vial contained a compound for diarrhœa; I looked upon the acetic acid as an article provided possibly to be used for criminal purposes. It will remove blood spots; sometimes used for corns; after I heard that Lewis said he had used it for corns, I was satisfied it might have been got for that purpose, although it was applicable to the removal of blood spots—the vial was nearly empty. A brown overcoat was on the person of the prisoner, velvet collar, reddish buttons. I was requested to, and did, examine the spots on the skirt—it was taken off and handed to me; the soiled and torn shirt was handed to me.—These articles were handed with a view of more perfect examination of certain spots: I removed a part of the coat and a part of the sleeve containing the suspicious spots; these have since been in my possession until within a few days. On the wristband of the shirt which is a very broad one, there is a smear of blood which seems to have come by being drawn over something. [Mr. James said he would rather the jury would see these articles.] It was a nicely made and nearly new shirt, I thought it strange so good a shirt should have been

so badly used. There were no other spots; there were other spots indicating disease of the person—gonorrhœa. The spots on the overcoat were blood stains; the spot was on the left skirt—it was not produced while the skirt was lying horizontally, but seemed to have dripped down upon it from above; it ran diagonally, downwards and backwards across the left skirt near where it would cover the knee. It is as if the coat had been drawn upward and forward by elevating the arms, and the blood then has dripped down upon it. Did make occasional examinations of the spots; the Tuesday following did sit down to make a complete and careful examination and analysis; my examination was chiefly microscopic; this by far the most reliable method. Have not the slightest doubt that these spots were blood stains; when I had the microscope ready Dr. Wikoff, Dr. Lytle, Dr. Baker, and my son, examined the matter taken from these spots and by comparison at once identified the blood corpuscles; think the shirt sleeve belonged to the right arm; saw the pool of blood in the graveyard; the distance between the graveyard and Rowand's house is probably 150 yards; by the graveyard is the most frequented walk; no pavement on the opposite side of the street at that place.—Rowand's shop is 40 or 45 yards from Dur-ye's corner. (The shirt exhibited) This is the shirt—the sleeve containing blood spots is right one; the wound made in the man's head was a horizontal one; the club must have been held parallel with the ground, and both men must have been standing.—The slight descent in the walk at that place in connection with the horizontal wound indicate that the man inflicting the blow must have been taller than Rowand.

Cross Examination—Some of my statements are deductions; the houses in the vicinity are inhabited; there are five houses between the graveyard and Rowand's—all houses are near the street; this part of Princeton is not lighted with gas; there is a fluid lamp near the cemetery corner gate; this lamp is about eighteen or twenty steps from where the body fell; it stands at the angle; there is a store at the corner opposite which sheds considerable light; saw the body about ten o'clock in the morning; the body was stiffened—was not warm; heard Colin White say that Dr. Maclean

told him to straighten out the leg; I was there after White; the body had been slightly moved, the face a little turned up; think death was produced by one blow, although some circumstances led to the belief that there was another blow afterward in the yard; think the front injury was produced by the blow on the back of the head; can distinguish human blood from that of most animals; there are some cases, however where it is difficult; could not tell the difference between the blood of a sheep and that of a man, especially after it had been dried on a garment; think it probable that they cannot be distinguished; it is so with a number of animals, the horse and sheep among the number, don't think any man justified in claiming to be able to distinguish these from dried human blood by any means we possess. The same is true, even more so, of the dog; can distinguish the blood of the bird or fish; did not examine the cuffs of the coat; think there were no spots on the under-coat; there was no blood on the other wrist; did not hear Lewis say anything about scratching himself; the splitting in the shirt was down and between the plaits, not across; I am not responsible for all the evidence published in the coroner's inquest; did not say it looked like blood from the brain; It would be impossible to say where the blood came from; blood is the same in all parts of the body. Acetic acid might be given for the relief of corns—have seen the fact mentioned in a book; it might be given to soften corns by an apothecary. The shirt was taken from the valise; first saw the valise in the hands of John Laird, the tavern keeper at Kingston, it had been brought with the prisoner; it was at Mercer Hall, where it was opened about nine o'clock.

By the Attorney General—The body of Rowand at the graveyard was a little turned up when I first saw it, with one leg slightly over the other, the knee a little flexed.

Charles S. Olden—sworn. Was acquainted with Rowand; knew he owned a horse that I sold to a man named Vandyke. (Was shown the memorandum found at Millstone.) This is my handwriting and contains the name of the horse which was Zachary, foaled June 20, 1845; it is the only transcript I ever made; Rowand was

between forty and fifty years of age, and would weigh about 125 or 130 pounds.

Cross exam.—I bred the horse; Rowand bought him about 1851; the memorandum might have been given five years ago; he applied to me for it; I think I gave it to him in his own shop; I never gave any other memorandum, and am certain I gave such a memorandum to Rowand three or five years ago.

John Penning, Sen.—sworn. Acted as Coroner holding the inquest; the carpet bag looks like the one produced at the inquest; did not take the things out of the bag myself; umbrella is the same delivered to me; the clubs here are the same as were before the inquest; they were in my custody; my store was lighted with kerosene; my son had shut up the shutters of the windows on the night of the murder; the door shutters on Witherpoon street were left open until half past nine or ten o'clock. Don't recollect how many shirts there were; kept the stained shirt in my possession until the meeting of the Grand Jury; was well acquainted with Rowand; he passed my house about six times a day; every night he came by my house; he was very regular, always came about the same time, about nine o'clock. (Examined the small pieces of paper found at Millstone in Lewis's valise and said to be memoranda belonging to Rowand,) recollect white paper distinctly the most of them.

Cross Examination.—Lewis was present at the inquest a part of the time; the inquest met on Friday, reassembled again on Saturday; don't know in whose hands I first saw the carpet bag, (describes the situation of his house.) The street is about 60 feet wide; the window in the shutters throws out considerable light; Rowand was generally in the habit of passing by 9 or a little after 9 o'clock; there is a lamp opposite Mr. Robinson's house; there is a lamp on the corner; the distance between Mr. Robinson's and Rowand's house is four sixty feet lots; there are three houses together; Martin's house is only six feet off the street; the distance between Robinson's lamp and Rowand's house is about 250 feet, there is very little light between the two lamps; there is no other store in the neighborhood that throws much light; I was sitting in the

front shop on the night of the murder; my store is the nearest house to where the murder was committed, about fifty yards off; a good many people pass and repass; a great many carriages; the road leads out to Blawenburg; people don't travel generally very late; it is a considerable thoroughfare; a good many colored people pass and repass; don't think I ever saw Rowand's son go home with him; Lewis said nothing about the blood on the shirt at the inquest.

By Attorney General. There is not much travel of wagons except when meetings are held; the light between the two lamps amounts to nothing.

Dr. Lytle—sworn. Was present at the examination of the body. His testimony in regard to the wound was similar to that of Dr. Schanck.

Cross Examination. Can only distinguish blood by comparison. Cannot tell the difference between human and other blood. Thinks Rowand had more than one blow although one did the principal business.

Sheriff Hutchinson—sworn. Identified the articles of prisoner's clothing, and two clubs brought with the prisoner, and given to him after the rising of the Grand Jury. Two keys were given to the Sheriff by Rev. Mr. Manning, and handed to the Prosecutor. Took a gold watch and chain and gold pencil from the prisoner. All the money has been given up to his order except three Treasury notes of one hundred dollars each, which he had kept. [The Treasury notes were here exhibited.]

Sheriff Hutchinson, continued.—There was \$1550 in these notes, and about \$48 of other money. I found them in the hands of Lewis and took it from him, giving him a receipt for the same. It has been demanded by Lewis's counsel.

Alden Hutchinson—sworn. Have had the custody of the trunk and the carpet-bag; have frequently given Lewis a change of linen and other clothing.

Peter P. Wortman—sworn. Am proprietor of the Franklin Hotel at Millstone. Saw Lewis at the hotel on the 12th of November, between 4 and 5 o'clock, P. M.—Mr. Curtis has charge of the hotel. The witness had a conversation with the Lewis on Thursday or Friday morning. Hired a horse and wagon to Lewis to go to Kings-

ton, he said he did not want to start until about 3 o'clock, and would return that night; he started about 3.40; said he wanted to see a man at Kingston, and told me his name was Charles Lewis, and that he was a government contractor. Saw Lewis next morning at breakfast; saw nothing very strange in his movements. He was arrested between 5 and 6 o'clock on Friday 14th, by Constables Holcombe and Payran. The witness described the particulars of the arrest. Saw Lewis next morning at Princeton; heard the charge of the murder, and made some search for evidence. Witness related particulars of search. Found in the privy pieces of paper containing memoranda by Rowand, a watch card with his name; they had been carried out of Lewis's bed-room.— [Papers identified by witness.] Took a bunch of keys, a brace and bit, and two chisels before the Grand Jury; they were given to me by a boy named Burns, on the 15th of November. [The keys and a handkerchief containing them were identified.] There is a window looking on the yard in the room in which Lewis slept.— A man ought to drive from Millstone to Kingston in two hours.

Cross Examined—There were no other guests at the hotel when Lewis arrived; four or five came in on Wednesday night. The privy was accessible to the public, at least to all about the house and yard; had no suspicions of Lewis, until he came to get the horse and wagon, and then only because of the late hour at which he started; he was temperate and quiet; after he was gone, examined his valise to see what kind of a man had got my horse. Saw Lewis about 8½ o'clock next morning; he said he got back from Kingston about 2 o'clock; when the officers were about to arrest Lewis, he said—"If you treat me like a gentleman, I will go along with you." Princeton is about 15 or 16 miles from Millstone.

Direct exam. resumed. It is 8 miles by railroad from Millstone to New Brunswick. Saw Lewis going in the direction of the railroad about 9 o'clock in the morning. The only school house in Millstone is about 200 yds. from the depot. Can go to Princeton by way of Kingston.

J. V. D. Hoagland—sworn. Am a Justice of the Peace. Mr. Brown gave

me the keys and tools; I gave them to the workman.

Jack Richards (col.) sworn. Hostler at tavern at Millstone where Lewis stopped. Witness related the circumstances of getting the horse ready for Lewis; he returned at 2 o'clock in the morning; Lewis came to Millstone by way of the canal. At the dinner hour the next day after going to Kingston, Lewis walked down to the canal and stood looking at himself in the water and cleaning his coat; he was not at dinner; the horse was cool and in good condition when Lewis came back; witness assisted Wortman in fishing up the pieces of paper from the privy.

Cross exam. Lewis got his dinner afterwards; the privy is a public place, there is nothing to prevent any one from going to it; first commenced searching for the papers with Mr. Curtis.

By Mr. Hageman. Don't recollect whether Lewis had an overcoat or not.

Joseph Burns. A little boy 14 years old testified to the finding of the keys under the stoop of the school house on Sunday. The boys were playing when the hat of one of the number was knocked under the stoop. It was in getting the hat that the keys were found. Saw a stranger walking about near by on Thursday; afterwards saw him when arrested at the tavern. It was towards noon when I saw him near the school house. The school house is quite a piece from the hotel. Saw the man in front of our house about noon.— The stoop where the keys were found was on the back part of the school house.

THIRD DAY.

The prisoner and his counsel had a long conversation in the court room, before the opening of the Court.

The Cross Examination of Joseph Burns, the boy who found the keys, was commenced at the opening of the Court. He thought the prisoner was the man he saw looking into his mother's garden; he could not recollect the ind of hat he had on; could not describe his hair; could not tell whether his coat was dark brown or light brown, but thinks it was the same man that was arrested the day after; did not see him on the same side with the school house, and did not see him go towards it; he turned up Peters Alley; on

the back part of the school house is a large open space. (Identified the keys particularly Nos. 171, 6, and 11, and four other keys.) Saw Lewis put into the wagon and taken away; he had a brown overcoat; knew him by his overcoat; he had seen it before, and only knew him by his overcoat. In answer to the Attorney General he said he also knew the man by his size. In the cross examination he again said he had no other reason for thinking it was the same man except by his overcoat.

Robert Woodruff, sworn. Is the teacher at the school at Millstone, drew the map and explained the different localities; saw Lewis on the morning of the day of the arrest walking by the school house and appeared to be looking in the windows; he returned in about 20 minutes on the same side; thinks the prisoner is the man; has a good recollection of persons; a boy might creep into the hole under the stoop, a man could not; articles thrown under could not be seen outside; there are a number of travelers back and forward; people can drive very near. Recollects the safe key (No. 171) as one of the number found by the boys.

Nothing new was elicited on the cross examination.

Mary Burns (mother of Joseph) sworn. —Confirmed statement of the boy about the keys; she tied them together; identified several of the number; keys were found after the arrest; are the same keys delivered to Hoagland; there are fifteen of them.

Cross Examination—The lot is more than twice as long as the Court House room; the fences about four feet high; there is a great deal of travel about there.

Mrs. Maria Wortman—Lives at the Hotel in Millstone, saw Lewis there on the 13th of November—the same man now in Court, he was at the breakfast table, saw him again in the afternoon in the sitting room, and on Friday morning. He occupied room No. 7 on the second floor, I slept in No. 6 adjoining, could hear scunds in No. 7 very distinctly, heard some one raise and put down the window in room No. 7 between two and three o'clock in the morning, heard nothing more, met Lewis next morning coming in to breakfast as I was going out. When she saw him in the sitting room he was

reading a paper, a young man (Holcombe) passed the window, at which Lewis gave a heavy sigh, struck his hand on his side and commenced fanning himself with the newspaper—the room was cool. Lewis was in a position to see the man. Saw the man acting as an officer in the arrest.

Cross Examination—The parlor was a public one, in which we were sitting when Lewis gave the sigh; heard him walk from the window after raising and shutting it down at night.

Mrs. Gertrude Curtis, sworn. Wife of Mr. Curtis, who has charge of the hotel. heard the sigh in the parlor, but saw or heard nothing else. Charles Lewis came the 12th of November, he came in a flat canal boat. Prepared the room for him for Wednesday night, then again on Thursday; and Friday morning when clearing up the room observed the towel was unusually wet, as though it had been wrung out: had put about two quarts and a pint of water in the pitcher: there was about a half pint left in the wash bowl. Noticed some bits of paper in the chamber and about a quart of water: among the pieces of paper was a piece of card with the picture of a clock on it: this was the reason why she noticed it. Carried the contents of the chamber to the privy and emptied papers and all into it: there was writing on the papers. Examined the window curtains, on which she found spots, some time afterwards. Lewis did not take his breakfast with the family on Friday morning, and did not take his dinner until after the others. (Identified the small piece of card with the picture of a watch on it.)

Court took an intermission of 20 minutes.

Mrs. Curtis continued. Recognize the prisoner as the man who was at our house. Was in the room when young Holcombe appeared. Heard only a sigh, and wanted to leave. Heard that afternoon that a jeweller at Princeton had been murdered, and then recollecting the card with a watch on it, I told my husband about it. This was the same afternoon that Lewis was arrested: there was no other room for him to occupy except No. 7, on the night of the murder: threw all the contents from the chambers from the other rooms into a slop-pail, and then carried it to the privy: there were no scraps of paper in any of the

others. There are seven sleeping rooms in the house, can't tell whether all were occupied that night.

Cross exam. Could not tell how many persons staid here that night: could not tell how the spots on the curtains came there. but no one had slept there, since Lewis did up to the time this was seen. (Nothing new was elicited in regard to the papers found in the chamber.) Lewis took his dinner about one o'clock: when Lewis sighed I was sitting with my back towards him: nothing is thrown usually into the privy except the contents of the chambers. There were no scraps of paper in the wash towels.

Mrs. Wortman had been in Lewis' room before Mrs. Curtis, on Friday morning: she was recalled to explain why she was there. She said she went in, seeing the door open, and having met Lewis going into the dining room, to get water to wash up the oil-cloth.

Thomas Malone, sworn. Worked at the lime kiln at Millstone, and details a conversation with Lewis, who came up to the kiln on the day before he was arrested, between 8 and 9 o'clock. He inquired the distance between Kingston and Princeton; and whether there was a turnpike from Brunswick to Kingston, and how many miles it was to Lambertville. I guess the man there (the prisoner) is the man. Don't look like he did: he was stouter, and his whiskers were not so gray: he is paler than he was then.

Cross exam. The boss was there, Lewis did not talk with him, but soon went away in the direction of the tavern. Never travelled from Millstone to Kingston, and then to Princeton: know little about the road.

John T. Titsworth—sworn. This witness lives in New Brunswick, and identified three of the keys found at Millstone, as belonging to a drug store in New Brunswick. He testified to seeing Lewis there on the Sunday he lost his keys, and that he was in the sitting-room when the witness hung his coat containing the keys over a chair in the reading-room. He boarded at Hall's hotel, where Lewis was staying. I saw Lewis the Thursday or Friday before the day he lost the keys.—(He tried his keys to his locks in Court and they opened them.)

Cross Examination. I identified the keys. About 20 or 25 persons dined there that day.

Silas Hall, keeper of the City Hotel testified that Lewis slept at his horse on the 6th of November, registered his name as "C. Lewis, Washington;" went away without paying his bill on the 12th of November, taking the key of his room with him; witness was proceeding to give some further details about presenting the bill, which he paid in jail, &c., when the counsel for the prisoner objected to the whole of this testimony, except so far as relates to the key he took away, as having no connection with the murder, and calculated only for prejudice. Objection was overruled in part, and exception taken to the ruling of the court. Hall had charged Lewis with the key, and when he paid the bill he struck it out and gave up the key.

Joseph A. Curtis—sworn: Has the charge of the hotel at Millstone. He reiterated the testimony about the arrival of Lewis, his occupation of room No. 7, hiring a horse to go to Kingston, and the time of starting. Has few boarders; had two or three guests on Thursday night, can't say positively that any of them staid all night, gave a detailed account of his search for the papers in the privy: did so from what his wife said about the card; the card was the first piece found; this induced him to search much further. He found 18 pieces altogether and identified each one by a mark he made on them, was not present when Wortman searched.

Cross Examination. Could not distinguish which of the papers he found at night; some two or three were found in the morning. There were some five persons staid at the house on Friday night. cannot say positively how many on Thursday night.

Horace Mahan—sworn. Met Lewis in a buggy on the road going towards Kingston on the day before the murder was discovered. Thinks Lewis was the man; had a dark complexion and dark whiskers; rather a large man with a dark or brown horse. Very much resembles the prisoner.

Cross exam. Could not say whether the top of the buggy was up or not, think there was a top. can't tell what kind of a hat he had on: the night was rather mild and Lewis was muffled up in a buffalo robe

or blanket : can't tell the color of his coat, except that it was dark : it is about three miles from Kingston to Princeton ; the direct road to Princeton is by way of Kingston : there is but little difference in the distance.

Isaac Lot sworn. Saw Lewis on the 12th of November at Wortman's in Millstone : saw him pass out of the bar room to go away in the wagon : discovered a rip in his overcoat on the left shoulder : I saw him again on Friday : asked him if he had been to Princeton, he said no : he talked about the condition of the road : he said they were not so bad except in that stony place.

Cross exam. You go by Rocky Hill to go to Princeton or Kingston : the road branches off at Rocky Hill : he could go the other road without going to Kingston : (the coat was exhibited,) this is the same rent only it is larger.

Richard Vancleve, sworn. Gave some corroborating testimony about searching for the papers.

FOURTH DAY.

Mrs. Curtis, re-called. Found no papers in the washbowls or chamber vessels on Saturday or Monday morning.—Carried out the slops in the pail myself.

Cross Examination. The guests of the house had to pass Lewis's door. Lewis's room door was always open.

Isaac Baker—sworn. Long a resident of Princeton ; knew James Rowand. The safe was opened by a mechanic from Trenton, with chisel and hammer, there being no key. Found a key inside ; Rowand's Jewelry and valuables were all found in the safe. The witness here examined some of the papers found at Millstone. He recognized three pieces as belonging to a note of \$500—the handwriting is his, (Baker's.) The note was given to Elijah Stout by Rowand and Runyan. Mr. Baker was one of the sureties—there were two endorsers, Jacob Maple, and myself.

It was a joint note in favor of Stout, it was substituted by another note, and was taken up by Rowand. Part of Stout's name is legible on one of the pieces of paper ; the words written on by Baker, "Rowand and Runyan's note for \$500." Runyan's name was Richard, it appears on the paper and a part of "James" and a part of

"Rowand ;" found no other key in the store. The safe was kept under the counter, and the front door was secured by two locks. I am the administrator to the estate of Rowand ; there is a small account against McGregor, and one presented by Mrs. McGregor to me. Those papers found are part of the original note.

Cross Examination. The value of the stock in the store was inventoried at \$1100 or \$1200 ; there was no money, less than five dollars ; his was not a business that put him in possession of much money, the note was given on the 17th of some month 1858 : Rowand was a very active and elastic man ; had no banking account ; the store had a showy appearance, a good many wealthy citizens patronized him : had no expensive jewelry.

Martin Voorhees—sworn. Was present at Mercer Hall when the carpet bag was examined : saw a dirty shirt considerably torn in the bosom with blood stains on it : held the shirts immediately in front of the prisoner who said it was an old shirt and belonged to him : after some hesitation he said the blood stain must have come from a scratch at night : shirt was too new and strong to be torn easily : a trunk check was found on the prisoner and given to me : it called for a trunk left at the railroad depot : I sent and got the trunk : told Lewis I had the trunk and he gave me the key, it was opened and examined ; contained 14 or 15 shirts, a daguerrotype likeness of a lady, some letters from a lady, and a book containing a credit of deposit in a New York Savings Bank in favor of George W. Simons : sent the trunk to the sheriff (it was examined by the witness who said it contained the same articles and was the same trunk.) Lewis had on a clean shirt, looked as if it had been put on that morning—the day of his arrest.

Cross Examination. The stained shirt is not one of the set in the Trunk : some appear similar to it, but none exactly like it.

James T. L. Anderson—sworn. Is Mayor of Princeton : I saw the prisoner at Mercer Hall : two of the marshals appointed by me for the occasion examined the valise : I noticed the two vials and the torn shirt : I asked Lewis how the blood came on the shirt, he replied "I scratched myself I believe in the night about six weeks

ago?" said he had lived in Boston but not since 1840: had lived in New York: had few acquaintances in either place: did not refer to any.

Nothing additional was brought out on the cross examination.

Hezekiah Mount, sworn.—Is a Justice of the Peace at Princeton. Prisoner was brought before me on Friday evening, the 14th of November. Prisoner gave his name as Charles Lewis, and said his place of residence was in Massachusetts. Said he was not at Princeton on the night of the murder. We went to Mercer Hall in consequence of the crowd of persons at the office: carried the umbrella and carpet bag myself (Identified those before the Court as the same). I issued a warrant for Lewis's arrest: he waived an examination, and I issued a warrant of commitment.—Lewis said he would prefer to be committed. Richard S. Field was his counsel and was present and also preferred his commitment.

Cross Examination.—Lewis was tied and handcuffed. The Mayor, Martin Voorhees and myself questioned him at Mercer Hall. It was not a regular court trial, but merely an assemblage to take measures to secure the prisoner.

Edward Holcombe, sworn.—This witness gives the same account substantially about the examination of the valise and the bloody shirt, and the same answer as to the blood by Lewis. Saw what looked like blood on the left skirt of the overcoat: Lewis was brushing the mud off of the right skirt: staid with prisoner that night. I asked Lewis if he was going to have counsel. He replied he thought not, as he was not at Princeton that night, that they could not prove it: told him several persons had seen him, and one said he saw him follow Rowand. He then said he thought he had better have counsel, and told me to get Mr. Field; I mentioned Mr. Field to him.

Cross Examination.—It was my son that went to Millstone to arrest Lewis; Lewis was taken to Esquire Mount's office, the Mayor was not at home; blood was on the left side of his coat; Lewis was brushing off the mud on the right side.

Mayor Anderson recalled.—Don't recollect Lewis saying Boston was his native place, he may have said so, I don't recollect; said he had not lived there since 1840.

John S. Leard sworn.—Keeps a Hotel at Kingston; Lewis came there on Monday the 3d of November; I saw him coming from the canal with valise and umbrella, walking along leisurely; inquired if there was a hotel, and upon being told there was one about six miles off he said he wanted to stop all night; he remained that night and all the day of the election, going to bed about the usual hour.—Wednesday afternoon he applied for a horse and wagon, told him I thought I could accommodate him; in the evening he wanted the horse and wagon to go about a mile and a half beyond Princeton; declined to let my horse go because it was near night, and he had been worked all day; told him he might get one at the tavern below; he started but did not go on; he went down towards the canal; I followed because I was suspicious he was going away; he was standing by the lamp at the lock; I asked him if he had got a horse, he said no, and that as it was a fine evening he had concluded to walk. He started off; said he wanted to see a man named Lewis, who lived the other side of Commodore Stockton's farm, (no such man lives in that vicinity); he said he did not expect to come back that night; just as the clock struck twelve that night he came back and I let him into the house; he went to bed as usual. Next morning, in paying for a cigar, he unrolled a large amount of money, one bill, I think, of \$500; he asked if it was not unsafe for a man to travel in that country with much money; told him I thought the people were pretty honest but it was well enough to be careful. He sat down to smoke his cigar, when three men, George West and Archy Clow, of Princeton, and Stryker Titus came in on a gunning expedition. Lewis got up and went out and taking the axe from the boy in the yard, split up some wood; I went out, and he said he liked to take a little exercise in that way. He left my house about 11 o'clock, and the next time I saw him was at Mercer Hall, in Princeton, under arrest. Don't think he was at my house or in Kingston, on Thursday; don't think any carriage was left; I should have known it had there been.

Cross Examination. There is another tavern in Kingston where a buggy might have been put up. It was on Thursday I saw the money, the day he went away. It was on Wednesday he walked out and came back at twelve o'clock at night.

Hezekiah Mount recalled by defence. Don't think I said "your native place" in asking the residence of Lewis. Asked him if he would give me his "native state," he replied Massachusetts; then I said "Boston?" he replied yes.

Ruliff Van Dyke—sworn. Met Lewis at Rittenhouse's Hotel in Princeton, on the 3d of November; saw him again at Millstone on the 12th of November; had a conversation with

him, in which he admitted I might have seen him at Princeton on the 3d. Saw him near the grain store and when he got the horse and wagon at Millstone; he asked me how far it was to the old stage road leading to New Brunswick; he inquired the road and the distance to Kingston; he started off with a trotting wagon, with a top, in the direction of Rocky Hill. Next time I saw him was when he was arrested. I was one of the men who went with him to Princeton; sat with him on the back seat. When we got to Rocky Hill, he asked me if that was not "a one horse town." He next asked me how long I thought they would keep him at Princeton. On Wednesday, when I was talking with him, he said he had been living at Washington and New York.

Cross Examination. Wednesday night at Millstone prisoner told me he had never been there before. I tied him when they arrested him; he said if I would use him as a gentleman, he would act as a gentleman.

Dr. J. H. Wikoff, sworn. Is a physician, at Princeton. Saw prisoner in Marsh's drug store in Princeton, on the night of the murder. Came in and inquired for some "Extract." Marsh produced the article, when Lewis said it was not the right kind, and walked out. (Witness gave a particular description of the man—he had taken particular notice of him; he was dressed as the other witnesses described him;) there was some dirt on the right side of the coat; looked as if it had been smeared over in getting out of a wagon. I thought he was a country physician. Saw him the night he was arrested; and recognized him as the same man; thinks the coat exhibited is the one prisoner had on at the drug store; have no doubt it is the same man; have no doubt the spots on the left side of the coat are blood; was present at the examination at Dr. Schanck's.

Nothing new was elicited on the cross examination.

Crowell Marsh, sworn. Is a druggist at Princeton; Lewis came to his store on the 13th of November; he inquired for Tarrant's Extract; when I got the article he said it was not the kind, I told him that it was put up by that firm; (Corroborates Dr. Wykoff as to description of man who called;) noticed his countenance sufficiently to recognize him on the Saturday following at Mercer Hall; he went away without taking the medicine.

Cross Examination. Lewis was not in the store more than three minutes; saw no mud on his coat.

Wm. L. Hankins, sworn. Is a druggist in Princeton; his store is about sixty yards from Rowand's store; prisoner came in on the night of the murder and enquired for "Tarrant's Extract;" didn't have the article. Took particular notice of him; his overcoat had mud on the right side; (described him like the other witness)

took notice when he went out that he went toward Witherspoon street; I recognized the same man at Mercer Hall, and I recognize him to-day, although his whiskers are not so black.

Cross examination. "Tarrant's Extract" is a specific for gonorrhoea; my store is three doors from Duryee's corner; he went down Nassau street towards Duryee's corner.

Sylvester Martin (colored), sworn. This witness saw Lewis twice in Princeton on the night of the murder; the first time between 6 and 7 o'clock going into Rowand's store, witness was standing in front of the store by the post to tie horses to; he came out in a very few minutes; was dressed in brownish dark clothes and had a high top hat, coat collar turned up; saw him again at the corner of Witherspoon street about 8 o'clock; he came up from the direction of Fenning's store and passed over Nassau street towards the College; the first time he came from the direction of the Mansion house and passed on down town towards the market. Thinks he saw the same man pass Dr. Woodhull's three or four weeks ago, although is not certain it was the same man.

In the cross examination this witness became exceedingly confused. He had said nothing about seeing Lewis go into Rowand's shop before the Coroner's Inquest. The confusion arose on this point. The defence asked him over and over again whether he had said one word about his going into Mr. Rowand's store before the Coroner? No answer was given until the question was put by the Judge, when the witness answered that he did not say anything about it before the Coroner. The next question was, why did you not state so to the Coroner? After a very long pause, and after the question had been put some half dozen times, he answered, "it was not in my mind to tell him. To-day is the first time I told anybody I saw him go into Rowand's store." It was difficult to get a perfectly straight and intelligible story out of this witness, although much time was occupied in trying to do so. In answer to the Attorney General he said what he said at Princeton was written down and read to him.

FIFTH DAY.

Wm. Schenck, sworn.—Live at Penn's Neck near Clarksville; was in Princeton on the 13th of November; it was Thursday night; was at Rowand's store that evening about 8 o'clock, not in it; have seen prisoner before; saw him at a Democratic meeting at Mercer Hall; saw him at the door; saw him next in Rowand's store on the same night, about 8 o'clock; had a right-side view of him; stood at the front window outside; Rowand was at work mending an umbrella handle; prisoner stood back of Rowand six or seven feet; Rowand's seat was

at the window; prisoner was lying over the counter sideways, could not hear or see any conversation; thought it was rather a curious position for a stranger; he had dark clothes, a high hat; dark whiskers, quite long; looked at him about three minutes; I walked away, leaving him in the same position: I went up to Princeton for groceries; my wife was with me at the window; am pretty well acquainted with Princeton; next saw prisoner in the cell below, a few days after the inquest; recognized him as the same man; his eyes were up and down behind the counter of the store.

Cross Examination.—Was in the shop of Rowand three or four weeks before; he generally had watches hung up in his window; don't recollect whether there were any that night; the counter is on the right hand side going in; the door is on the upper side of the window from Duryee's corner; there is only one counter; shop is some twelve feet wide and twenty-five or thirty feet in length, took articles of trade there and made a memorandum; have not looked at it; go to Princeton about once a week with produce; might have been in Princeton ten days before; don't recollect exactly; was examined before the inquest on Tuesday; went there on Saturday to hear about the murder; Lewis was at the door at the Democratic meeting; John P. Stockton was speaking; was going to Duryee's store when I stooped at the store; my wife was a little ahead of me, and stood in front of the window before I did; the counter comes up flush to the window; could hear nothing said; think there was no conversation; Rowand was sitting down near the window at work, with his back to Lewis; passed the store 25 minutes afterwards; would not like to say positive as to time; saw Rowand in there; don't recollect the day of the month; the meeting was held.

By the Court.—Came by the Princeton Basin road.

By Attorney General.—Got home about 9 o'clock; live about 3½ miles off; I remembered after the murder on Saturday, about seeing the man in Rowand's store.

Charles Tindall, (colored) sworn.—Live in Princeton; remember the murder was on Thursday; same night I was in Rowand's store to get my watch set back; Rowand did it; Lewis was in there at that time; had a dark overcoat and black hat; noticed his overcoat being torn on the left shoulder; appeared as if it was a rip in the seam; appeared as if he was talking to Mr. Rowand, but stopped when I went in; next time I saw him he was under arrest, going into Scudder's Hotel; think it was Saturday afternoon; on the same night I saw him in Rowand's I again saw him; he was coming out of Baker's Alley; this alley comes out between Hutch's store and Rowand's store; he was going across through deep mud to Dr. Mac-

lean's gate; he then walked on to the college. I was walking back and forwards and after a bit Rowand came out and shut up his store; Rowand went down towards Duryee's; Lewis went down on the college side, and crossed over through the mud towards Duryee's at Witherspoon street; Rowand had got ahead about the length of this counter (Court's bench) before Lewis moved; did not see Rowand turn down Witherspoon street, saw him as far as the corner; was looking at the stranger; (Lewis) he turned down Witherspoon street; think it was about half-past 9 o'clock; I went into Stout's Saloon and after that went to my home in John's Alley; Rowand put my watch back to a quarter of seven; my watch was right with the college bell after that at nine o'clock.

Cross Examination.—Cigar shop is in Baker's alley; don't know the name of the man who keeps it; there are houses in the alley; cigar shop is on the corner of Baker's Alley; there are private houses in the alley; it was about 8 o'clock when I got the cigar; I sat down on the cellar door about half an hour smoking the cigar; this was before I saw Lewis the second time; I think it was about 8 o'clock; when Rowand came out it was about half past nine; I was smoking an hour and a half; it was a three center; it takes me a good while to smoke a cigar; didn't go to take anything to drink; was not sitting there for any object; it was not a very cold night; knew Sylvester Martin; saw him up to the post-office that night; didn't speak to him; know Samuel Little; didn't see him near Rowand's store; never saw Lewis before that night; Lewis was in the store when I went in; heard no conversation except when I was coming out; heard Lewis ask Rowand how much he averaged a day; did not wait to hear what Rowand said; saw no umbrella there; Lewis's coat collar was turned up; Rowand was reading a newspaper; there are two lights in the store; there is no crossing at Duryee's corner; the nearest crossing is near Scudder's Hotel; Lewis crossed between the two roads opposite Baker's alley; the roads were muddy; when I went home it was near 10 o'clock.

By the Attorney General.—When I came out of Rowand's I went to Stout's butcher shop; I was talking to the boys; it was after that when I bought the cigar; did not look at my watch at Stout's; Rowand set my watch back very near an hour; don't remember how much too fast it was.

By Mr. James.—It was near an hour too fast.

Samuel Little (colored) sworn.—Remember the night of the murder, on Thursday; saw Lewis that night in Rowand's shop near 8 o'clock; I was standing outside in front of Rowand's window; Rowand was reading a paper, and would occasionally look up at Lewis; stood

there about ten minutes; nobody was with me; Rowand got up and went towards Lewis; Lewis then bid him good-night or good-bye, and said I don't know when I shall see you again; never saw Lewis before; don't know which way he went; I turned about and went home; remember his overcoat was turned up; remember he had whiskers.

Cross Examination.—It was about 8 o'clock when I saw Lewis; I had been at Stout's; don't remember how long I staid there; I stood a short distance from the window; didn't see Sylvester Martin there; he might have stood there but I did not see him; he could not have stood at Rowand's post without my seeing him; can't tell how long I remained; I don't think I said I stayed twenty minutes before the coroner's jury; I might have said so; I now say I was looking in the window about twenty minutes; know William Schenck; did not see him look in the window; am quite sure he didn't while I was there; didn't see Tindall come in and get his watch set; didn't see him sitting on the cellar door; he couldn't have been sitting there without my seeing him; saw Lewis come out of the store; didn't see where he went to; didn't see Tindall there when Lewis left that shop; and sure Lewis did not stop in the shop at half-past nine; he left about 20 minutes after 8 o'clock; there was no man sitting on Hudnut's cellar door during the 20 minutes I was there; did not see Rowand working at an umbrella; I should have seen him if he had been; no person came and looked into the window while I was there; didn't see Sylvester Martin, Cudjoe, or Tindall look into the window while I was there; Lewis had his hat on; the night was not very cold.

By the Attorney General.—Had no watch; went directly to Stout's from my work; then I went across to him and then came down town; then I went to Rowand's about eight o'clock; Tindall, and I left Stout's together and met at Stout's corner; separated on Witherspoon St., didn't see where Tindall went; I walked about a little and then went to Rowand's.

George Fenning, sworn. Employed in Marsh's drug store in Princeton; board at my father's, in Witherspoon street; saw Lewis on one of the evenings he was staying in Princeton; saw him talking to Anthony Simmons; saw him on Sunday afternoon near the graveyard, walking towards it; on the night of the murder between 7 and 8 o'clock I met Lewis as I was coming from tea, opposite my father's office in Witherspoon street; he was going towards the graveyard; next saw him about 9 o'clock at Duryee's corner, same night; I then recollected seeing him when I went to tea; he had his collar up, and his hat down on his head; didn't see him again that night; he was standing on the outside of the cross walk at Duryee's; saw him coming up Witherspoon

street; towards Nassau street; standing across the mouth of Witherspoon street.

Cross Examination.—Go to tea about half-past 6 o'clock; can walk it in three or four minutes; left home in about three quarters of an hour afterwards; saw Lewis in front of the office coming down; didn't take any particular notice of him then; he was walking slowly at Duryee's corner; a lamp is on O'Brien's corner; Duryee's corner is a good deal frequented.

Robert Warren, sworn. Saw Lewis on the evening of the 3d day of November, in front of Mercer Hall in Princeton; he came up within two feet of me; I had a good look at him; saw him again on the evening of the 13th November, Thursday evening, very near the corner of Witherspoon street, fifteen minutes before nine o'clock; John Leggett was with me; he went to the corner and turned down Witherspoon st. about 100 yards. We passed him, and he walked off facing the fence; we went down as far as Hufish's Alley; turned and came back; he also went back to the corner; we left him standing there facing the college; I saw him when he was arrested and recognized him as the same person; had on an overcoat and collar turned up; a silk hat; had whiskers; it was near seven o'clock when I saw him on the 3d.

Cross Examination.—Lewis was on Nassau St., going towards Witherspoon St., when I first saw him.

Mary Veighte, sworn. Saw Rowand in Witherspoon St., by Duryee's stoop, about quarter or twenty minutes after nine; had on a light sack overcoat, with a carpet bag, going towards his own home; Miss Jemison and my sister were with me; met a strange man whom I supposed to be the man with dark whiskers; he was going right down behind Rowand, down Witherspoon St., he corresponded in size to the stranger I had seen before; wore a vest of a large pattern; large whiskers. Did you know there was a stranger in town? (Objected to, and withdrawn.) Saw a stranger in town; saw him at the hall on Saturday; I recognized him that night as the stranger I had seen in town; did not see his face; it was rather dark; Rowand's store was shut; he had a high hat; however he was dressed his throat was muffled up; the person I met in Witherspoon St., compared in size to the stranger; the reason why I looked at Rowand's was to see if Johnny was there.

Cross Examination.—Did not stop at the hotel; my sister lives at Rittenhouse's, not at the hotel; Miss Jemison expected a letter is the reason we went out; did not go out particularly to see Johnny; passed Hudnut's cellar; did not see any person; did not see Little, or Tindall, or Martin that night.

John J. Stryker sworn. Saw the prisoner at Mercer Hall on the night of the Democratic Meeting—think it was a week before the

election; prisoner stood outside leaning against a tree; then saw him leaning on a box at Krauskopf's store; had heavy whiskers mixed with gray; saw him on the night of the 13th of November; about half past nine, coming up Witherspoon street; he was on the right hand of the street, coming up on Duryee's side; had on an overcoat, collar turned up, walking very fast towards Nassau street; didn't speak to him; saw him next when he was arrested; recognized him as the same man; saw him between Hulfish's and Schenck's in Witherspoon street.

Cross Examination. Met Lewis coming up Witherspoon street at half past nine o'clock; did not meet Mr. Warren and Mr. Leggett; he was walking very fast; did not see his face; his coat was buttoned up; there is good gas light directly opposite where I met him; was a pretty cloudy night; the lamps were lighted.

Jane Harris, (colored) sworn. This witness saw a person, a tall heavy man, resembling the prisoner, standing in front of the graveyard in Witherspoon street; Thursday before the murder, when she came along, about 7 o'clock in the evening; he walked out into the middle of the road; she saw the same man on the night of the Democratic meeting at Princeton; had a good look at him there as he was standing in front of Mercer Hall; saw him when arrested, and recognized him as the same man; there is not a man so full and square built as the man I saw, in Princeton.

Cross Examination. Lives in Witherspoon street below the colored Methodist church; he was walking up and down at Mercer Hall.

Howard P. Dechert, sworn. Was connected with the Theological Seminary; saw Lewis two weeks preceding the murder, standing in front of a house where I room opposite the bank, in the evening about twenty minutes after 7 o'clock. A girl of a neighbor came, and knocking at my door, told me the stranger had been in their house and had frightened her. Went out and saw him, and stood some time looking at him. On the night of the murder he saw a similar looking man standing in the recess of the Presbyterian Church about twenty minutes before nine o'clock. It was nearly opposite Rowand's; after performing his errand, he came back the same way and he was still standing there; he was a large man, had on an overcoat, had whiskers, and walked heavy; when he was arrested his walk and general appearance impressed him that he was the man. I took the same position the stranger occupied at the church, and found I could see about one-fourth of the way into Rowand's store; thinks him the same man he saw two weeks before, but declines saying positively he was the man standing in the recess at the church; his walk and general appearance resembled him very much; thinks he saw the same man standing before

Dr. Maclean's gate twelve days before the murder.

Cross Examination. Recess is about ten feet deep; not positive Lewis is the same man.

Isaac F. Sutphen, sworn. A student of Senior Class; saw a man very much resembling the prisoner standing near Dr. Maclean's gate on the night of the 13th of November; large man with an overcoat, hat down in front, and throat muffled up; watched him and he finally crossed the street through the mud and went down Witherspoon street on the left-hand side; on the following evening saw Lewis at Mercer Hall, and in size, hat, overcoat and general appearance he represents the same man.

Cross Examination. Can't swear to the man's identity.

John Benham, sworn.—Saw Lewis on the night of the Democratic meeting, and on Thursday, the 13th of November; on the 13th he was directly opposite Dr. Maclean's gate; the light from Mr. Rowand's shop struck him and I recognized him as the same man I saw at the Democratic meeting; it was a quarter to 8 o'clock; he suddenly disappeared, had not time to cross the street; saw him again when he was arrested; staid with him all night, he tried to rub the mud and then the blood spots off his overcoat; Stephen Margerum stopped him; this was after his handcuffs had been removed to enable him to eat his breakfast.

Cross Examination. He disappeared on Thursday night after I turned the corner saw him only about five minutes; he had a dark coat, black hat and whiskers. It was on Saturday morning when he commenced rubbing his coat. Did not see the negroes Tindall, Little, Martin or Cudjoe that night.

Stephen Margerum, sworn. Saw Lewis standing by Hudout's store about half-past 7 o'clock on the night of the murder; (described him) was with Ryland Hamilton, who said when he passed, "that fellow is up to some deviltry." Saw him on Saturday morning and recognized him as the same man.

Cross Examination. There was a good light from Rowand's and Hudout's stores; I saw none of the colored men; Lewis passed us at Rowand's store, and passed on to Witherspoon street; he had mixed whiskers, a brown overcoat and a beaver hat; there was a concert at Mercer Hall that night.

Mathias Vanhorn (colored) sworn. Girls at the singing school in Witherspoon street on Wednesday night after the election said there was a strange man along the grave yard; went out to see, found he was a large-tall man with overcoat and high hat; he walked up as far as Martin's to Wiggins street.

Cross Examination. Saw the man near nine o'clock.

Peter Lane (colored) sworn. Saw Lewis at Rittenhouse's Hotel some time before; next

time was before the election, he inquired of Anthony Simmons of the big people about Princeton; saw him again on Wednesday night after the election walking in front of the grave yard; Hezekiah was with me; he said "What a big man that is," he came up towards me and I recollected it was the same who was talking to Anthony Simmons; when he was arrested I recognized him as the same man.

Cross examination. He walked up and down about three quarters of an hour; I thought he was after the girls; had a velvet jacket when he was talking with Anthony Simmons.

Vandyke Gulick, sworn. This witness detailed a conversation with Lewis; Lewis asked him who lived in certain houses; who lived next door to the bank, whether one of the Stockton's did not live there; and which of the Stockton's kept the Canal Office.

(This testimony was objected to as having no bearing on the case. Opinion reserved.)

SIXTH DAY.

Lucius Cornelli, sworn. I saw prisoner in Princeton, on Thursday, October 30th, about 10 o'clock at night, at Nassau Hotel; had a conversation with him on Friday, after breakfast, he said to me, "I saw you in Trenton last Monday;" I asked where, and he said "at the station;" I did not see Lewis, but I was at the station; had further conversation on Saturday; he asked me, (describing Com. Stockton's, Paul Tulane's, Richard S. Field's, and Gov. Olden's residences) who lived there; I told him; he then asked me if they were not wealthy, and whether Com. Stockton's money was not invested in railroads? Pointing to Prof. Alexander's house, he asked "who lived there?" he said the Professor's salary was \$2500 a year; Lewis remained at the hotel Thursday, Friday, Saturday, Sunday, and Monday; he told me he was a Massachusetts man; had on a black coat, velvet vest, silk hat, and a watch and gold chain, pretty large; on Monday he asked me if I would trade my watch for his; he looked at mine and showed me his; don't know how he occupied his time; took meals together; he was not communicative, but inquired a good deal.

Cross examination. I know it was the 30th from a meeting held at Mercer Hall; (repeated the conversation had on Friday;) I did not say at the Inquest that Lewis told me the watch was worth \$200, or \$300; I did say Lewis appeared to have no business but to watch every man; I kept a watching eye on him; I was afraid he would rob me; don't remember saying that his hair was curly; am satisfied the prisoner was the man.

By Hageman. I recognized him at the Hall as the same man; shook hands with him and said I was sorry he was in such bad circumstances; he said to me, I suppose you have heard about this matter; I said yes.

Elisha E. Rittenhouse, sworn. Keep the hotel at Princeton; I recognized Lewis as the same man that came to my house on the evening of 30th of October; had a valise and umbrella; think the valise and umbrella here are the same; there was no arrival of hacks at that hour; he did not register his name; he asked me if I could keep him all night; I asked him if he would have supper, he said he would; there was a Democratic meeting at the Hall that night; didn't tell his business; he would take a walk occasionally; in the evening he was generally out for an hour or two; had some conversation with him; don't remember that he said he was in Washington; he left on the evening of the 3d of November, Monday; last time I saw him was between six and seven o'clock standing in the alley way by the stables; didn't tell me he was going away; neither myself nor family knew that he was gone.

Cross examination. Train arrives about 8 o'clock; think the stages had arrived before Lewis; didn't find out his name; he staid four nights; don't think he went to bed before I did; I went to the meeting about 8 o'clock and returned about nine; did not see prisoner there; he came in soon after I returned from the meeting.

George Harris (colored) sworn. Worked for Margerum at Princeton; was going down home in Witherspoon street, about half past nine o'clock; Anthony Hendrickson was with me; passed the grave yard; saw nobody; heard the pound, as if somebody was pounding on the ground; Hendrickson said, "who in the hell are you pounding this time of night in the grave yard?" I said, "I guess it must be some one raising up the dead;" I stooped down and looked through the gate and saw something a little higher than a tomb stone; looked black; the gate is a large double one; the black object was to the right; it was on the place where the body was picked up the next day; we then went on; couldn't tell what the object was: it was a black spot: went to James Hendrickson's: got-home a quarter to 10 o'clock: am husband to Jane Harris: saw prisoner at the Hall on night of Democratic meeting: he was standing alongside the door: my wife was with me.

Cross examination. Was examined at Corner's Inquest: saw Lewis at the Democratic meeting about half past 8 o'clock: he stood there with his coat up around him: he stood about there up to ten o'clock: he came down the alley way when I went: he stood there: he did a good many queer things: he winked his eye at me: I didn't know what to make of that: my wife was with me: said to me I had better go home: we started and Lewis followed my wife: didn't see him on the night we heard the pounding: didn't say anything about the pounding until Rowand was found; never heard such

a noise there before: was at O'Brien's store: went there about 6½ o'clock and stayed there until half past nine; walked around with Hendrickson and Miller: drank two 3 cent glasses of ale: was there pretty much all the time: said nothing more about it: it struck me as very singular: I mentioned it to Mr. Hageman: I was in the bed when I heard that Rowand was killed: I said, "I'll bet there's where I heard that pounding:" I said this to the little girl: I told about the proceedings before the grave yard: heard no hollowing.

Anthony Hendrickson (colored) sworn. Remember night Rowand was murdered: George Harris and I were going home about half past nine o'clock. (Told the same story as Harris about the proceedings.) It seemed to be like dead poundings on the ground: I didn't look in.

Cross examination. Knew the time by the time I left the store: was at work at Bailey's that day: I passed Rowand's store and it was shut up: I met George at O'Brien's and we walked down on the right hand side: first thing that I heard was the pounding on the ground: it was a kind of a dead sound: made the remark because I thought it very strange: I am not a Christian, but I know the nature of an oath: George told his wife about the pounding: she repeated all that was said between them at the grave yard. I never spoke to any one about it until I was called for: I passed up and down opposite the grave yard: didn't see Martin, Tindall or Cudjo that night: won't be certain the lamp near the corner of the grave yard was lighted; I take the time from the ringing of the bell and the closing of Rowand's store: never saw Lewis until he was taken: if it aint as I say, I can't help it.

By the Attorney General. Think we both told Mrs. Harris.

Richard Runyan sworn. I am a watchmaker and jeweller; learned my trade with Rowand, and was afterwards in partnership with him: while we were in partnership we issued a card: this (exhibited) is one of them: we were in partnership four or five years; don't recollect the year we dissolved: Mr. Rowand took the store: the cards were left with him in the store: Rowand used these cards to make memoranda on them. (Piece of card found in the privy at Millstone, exhibited.) There is one peculiarity about these cards—when printed, "Main street" was put in instead of "Nas-au street," in mistake: distinguish certain words on the piece found that are on the cards issued: distinguish the engraver's name: on another piece I distinguish the words "Main," "Jewelry, &c.:" have no doubt this is part of the original card: the fragments make a part of two cards: I now have the store that Rowand had before his death. (Key of safe exhibited.) This key is similar to the one belonging to the safe: the number of the safe is 171: when I went out of

the firm I gave the keys to Mr. Rowand: there were two safe keys: (described how the safe was opened:) the keys are numbered 171 and 96 on each of the wards: tried the keys and found they unlocked the safe; we usually put the most valuable jewelry in the safe: watches were hung up on the left side: window not obstructed by them: we had two sets of keys—I carried one and Rowand the other: (two small pieces found in the privy exhibited:) one is a piece of note: the only one given: recognize handwriting of Isaac Baker: find the letters "ut" on this piece: the note was given to Elijah Stout; the new note was held by Mr. Stout, consequently this was the only note out: I was on the new note: there were two door keys given to me by the administrator.

Cross examination. Gave the keys to Rowand when I went out of the firm: they were given to me by the administrator: were in partnership about five years: distributed these cards over the country: think it singular to find them in circulation so long after the firm had dissolved: should not think it strange to find one in a hotel: it is usual for watchmakers to have the picture of a watch on their cards: think it all of three years since we dissolved.

By Attorney General. The pick usually stuck in the end of the key: think it was usually made to stick: the pick is just used to open the guard that reveals the keyhole: never seen but one pick.

Charles Wykoff, (colored) sworn. Worked at Scudder's hotel in Princeton: was in the street early on the morning after the murder: found key opposite Anderson's stoop, in Witherspoon street, next to the vacant lot: it was along the vacant lot on the sidewalk I found the pick or key; gave it to Mr. Scudder; my foot kicked against it.

Cross Examination. It was about six o'clock in the morning when I found it; had not heard of the murder.

By Attorney General. Heard of the murder after breakfast.

William Anderson, sworn. Searched for the body of Rowand, found two keys in Baker's alley; on finding them he said I guess Johnny (Rowand) was drunk last night and lost his keys; Moses Vanzandt came along and said they must be Rowand's keys he took them, and fitted them in the door; recollect afterwards that Johnny Rowand was searching for his father at Parker's saloon, and to ease their minds I went back and told them about the keys.

Cross Examination. Johnny came into the oyster saloon about 8 o'clock and inquired for his father and went out. Parker remarked that Johnny must be tight, he looked wild" said nothing about his father being missing; next morning after finding the keys started off to take charge of the horse, and on going down

recollected that Johnny had been inquiring for his father, and went back to give him the keys; when Johnny saw them he said, "they are ours"; said his father had lost them; said nothing more about his father; Johnny was at his father's store; several others were there; there was a good deal of excitement about the keys.

Dr. E. C. Baker, sworn. Keeps an apothecary store, at Princeton, next to Rowand's; Rowand generally shuts up about nine o'clock; on the night of the murder, Rowand's son John came to my store to borrow a light to go into the store; he said his mother and aunt were very much concerned about the absence of his father; said his father had left the store door open; went with him into the store; the door was open; examined and found things all right; an extra door key was there, with which John locked the front door; then came into my house and went out back in search for his father. thought he might have been taken sick in the yard; we found nothing and in about five minutes John went away and I went to bed.

Cross Examination. John said he had been to Kingston; he had been drinking too much; was not excited; I heard no noise in Rowand's that night; don't think Johnny ever closed the store; Johnny has the reputation of being a little wild; Rowand was not wealthy; never knew him to have much money about him; think he would be the last man in Princeton that would be murdered for money.

John L. Corlies, sworn. Keeps the lower tavern at Kingston; Lewis was not at my house on the night of the murder. John Rowand, Edward Holcombe and Henry Stout, were at my house on the night of the murder, from seven until ten o'clock; Johnny said nothing about his father; it was after ten when they left, am certain of that.

Cross Examination. I never said that I could tell that John Rowand knew where his father was that night, if I was paid it.

Edward Holcombe, jr. sworn. Saw Lewis at Princeton in November before the election; saw him in a hotel two or three times; saw him at Millstone on the 14th; had gone there with Mr. Payran to look for the murderer; went to Rocky Hill and then to Millstone; had a handbill with us; was about going away from Millstone when we stopt at Wortman's store and gave him a handbill; Wortman said he had seen the man described; then I went back to the hotel and there we found him in the sitting room; when within 100 yards of Rowand's residence going to Princeton, Lewis asked how many sons Rowand had; was with Johnny, Rowand and Henry Stout at Kingston on the night of the murder; got there a little before 7 o'clock, and got home at 10 minutes before 11 o'clock by two clocks.

Cross Examination. Johnny and Corlies

had no private conversation when we were at Kingston; Johnny was not tipsy; met a stranger on foot on the road as we were coming home; hallooed at him but he made no answer; I didn't say it was the prisoner. At Millstone Lewis asked what he was arrested for; Payran answered, for the murder of a man at Princeton; he replied that it was strange they should come after him; he behaved like a gentleman coming down.

William E. Payran, sworn. Edward Holcombe went with me to hunt for the murderer; was satisfied that Lewis knew him at Millstone; he had seen witness on several occasions; I looked in at the window of the hotel to see if I could recognize the prisoner, who was then sitting in the sitting room; caught his features sufficiently to recognize him, when I laid my hands upon him and told him he was my prisoner; he said "what for?" I said "upon the supposition that he had murdered James Rowand, of Princeton;" he then looked down on the paper before him; he wanted to know my authority; I told him the Mayor; (witness described the manner of the arrest, how he was secured, and the conversation as they rode down; witness pointed out the residence of Rowand, and where he was murdered, but no remark followed.

Cross Examination. Took the rifle along in case the man should have a pistol or something; waited for the Mayor's handbills before we started; expect to get the reward. Holcombe said as we were going down, that he was with Johnny Rowand the night before, and then Lewis asked how many sons he had; I had been arrested for some argument in Princeton, some time ago.

By Hageman. He told the people around him at Millstone that I had been arrested by the Mayor.

By the Attorney General. I was arrested in Princeton some time ago.

John R. Slayback, sworn. Is a merchant in Princeton; when he was coming from his tea about six o'clock, on the night of the murder he saw a horse and wagon under the shed connected with the Methodist Church; the horse was brown or bay; the wagon had a top; thought at first some one had come to the Thursday night lecture, tried to think who it could be.

Cross Examination. Often see wagons there; at first I thought it was some of the congregation from the country; thought it might be Mrs. Dye; took no notice of a wagon when I went home at half past nine o'clock; the service was out, and therefore I took no notice.

William Leggett, sworn. Is the sexton of the Methodist Church; there were no country people at the church that Thursday night of the murder; saw a stranger about 7 o'clock

standing in front of the church; a large man, black hat and whiskers; he began to button up his coat as soon as I looked at him; saw Lewis when he was arrested; he resembles the stranger I saw in front of the church; took no notice of a wagon under the shed.

Cross Examination. Did not see the shed that night; thought it strange the man should be there; spoke to my son about it that night; he was about six feet high, had on dark overcoat, black hat, and wore dark whiskers; didn't see him again.

John Leggett, sworn. (Described prisoner and what he saw of him when in company with Robert Warren in Witherspoon street on the night of the murder, as related by Warren;) lives at Queenston was at his uncle's that evening and heard a wagon drive out from under the sheds at the Methodist Church, at about half past ten o'clock, heard it pass over the wooden bridge; it made a rumbling noise.

Cross Examination. Was walking with some ladies before this; one of them said "there goes that strange looking man who was about here election time;" I had understood he was after the ladies; I thought he wasn't much of a man to do that; so after that Robert Warren and I thought we would look and see who he was. (Described his walk with Robert Warren;) both saw the prisoner in Witherspoon street; he had walked down from the corner about 100 yards, and when witness and Warren followed, Lewis came back to the corner; did not see the colored men Martin, Tindall, Little, or Cudjoe.

Some medical testimony being called, Mr. Dunphy asked an adjournment to Monday, in order that Mr. James might be present.—The prosecutor asked that the Court would fix Monday at two o'clock as the hour of meeting after the adjournment.

Adjourned to Monday afternoon at 2 o'clock.

SEVENTH DAY.

Cornelius V. C. Post, sworn. Live at Millstone, am in business with with J. V. D. Hoagland, remember a bunch of keys; in our possession, and in no way in the hands of others.

Cross Examination. These keys were in the joint care of the firm; and were handed to us by Mr. Hoagland.

Archibald Clow, sworn. Live in Princeton at City Hotel, am bar-keeper and book-keeper; remember night of the murder; have seen Lewis, the prisoner; did not see Lewis on the night of the murder; he did not stop at our house that night.

Cross Examination. Have not seen Lewis in connection with any horse and wagon.

George Langden, sworn. Reside in Kingstons; am a farmer; my profession is clerical; knew James Rowand; last saw him alive a few days before his death at his store; our inter-

view related to some business in his line, and to the purchase of a horse, (paper handed to witness), can't see anything resembling this paper; saw a paper in his possession relating to a horse; it was a small piece of white paper; about as large again; gave more attention to what was written itself; I think he took it from his pocket book; thought it singular he should carry such a paper in his pocket book; Mr. Rowand read the paper. Did he read that paper? (Mr. James objected that the witness should not attempt to identify a paper by what a third party read; and what he did not see himself. The Attorney General replied showing the connection of the paper with the deceased. Mr. James replied. The Court.—The evidence is not competent. The objection sustained.)

Alexander Stout, sworn. Live near Princeton; was in Rowand's store the same afternoon he was murdered; had an interview with him relative to the purchase of his horse; told me he had a certificate in his pocket from Governor Olden of the age of the horse; I told him I didn't wish to see it, I believed what he said; (objected to by counsel for the defence, and answer to the question stricken out by the Court); I believe he took the paper out of his pocket, but will not swear positively to the fact; got home that night between dusk and dark.—When did you hear of the murder? (objected to by defence and withdrawn); went to Princeton next morning; was not at Rowand's house; did not go up as far as Rowand's store.

Robert Priest sworn. Live at Trenton, at State Street House; am clerk there; have seen the prisoner before; stopped at our house; came Monday evening, 27th Oct., didn't know when he left: How did he register himself? (objected to by defence on the ground that it had no connection—Court saw no relevancy, objection allowed)—had occasion to change his room: his room was 34; gave McClellan a suite of rooms which put Lewis in No. 17 on second floor.

Rachel Anderson, sworn. Lived at Charles Norcross' on the 27th, of October; recollect Lewis being there; removed Lewis' baggage from 34 to 17: I brought a black leather valise; an overcoat I am certain, I think there were two; my sister-in-law in handling the coat carelessly let drop from one of the pockets a bunch of keys and a dirty handkerchief: some were iron and some brass, large and small; rolled them up and put them back in his pocket; it was a dirty white handkerchief: my sister-in-law assisted me.

Cross examination. There was nothing unusual: it occupied between three and five minutes: his coat hung up in the room: there was no concealment about the coat or keys.

Elizabeth Anderson, sworn. Live at Charles Norcross': recollect when McClellan was there:

cleaned out three rooms for them: took some stranger's things from the upper room to the second story; I was carrying the coat down careless when something fell out; I examined them and found them keys, and put them back.

Cross examination. Didn't take much notice of them: looked like door keys: put them back right away.

Mrs. McGregor, sworn. Live in Princeton: my husband is in the Ninth regiment, went away in October: he was a tailor. (Papers exhibited.) They are in the hand-writing of my husband; had a bill against Mr. Rowand for tailoring; went to him to settle it; it was seven dollars and some cents; I went to settle about six weeks after he went in October; it was not settled; Mr. Rowand left settling for another time; know my husband made out the bill, but don't know when he presented it; the paper was taken from a small blank book.— Did you present the bill containing these items to Mr. Rowand? (Objected to by the defence. Court overruled.) My husband has mended clothing for Mr. Rowand. Do you recollect the items in the bill? (Objected to, and withdrawn.) Recollect repairing a coat for a man named Booth in the summer of 1861; Rowand has brought things for this blind man to have repaired; and sometimes he would do jobs quite frequent, and then it would be quite a time.

Cross Examination. My husband went to the war in October 1861.

By Mr. Hageman. In this bill (objected to,) was the item against Mr. Booth charged in this paper, said to be in the handwriting of your husband? (Objected to. Court—objection well taken.)

By the Attorney General. The work was done in different years.

Adeliza McGregor, sworn. These papers are all in my father's handwriting; my father did work for him in 1860 and 1861, repairing coats and pants.

Henry Stout, sworn. Recollect night Rowand was murdered; was at Kingston with John Rowand and Edward Holcombe; left Princeton about seven o'clock; saw John on the night of the murder, inquiring for his father about eleven o'clock.

Cross Examination. Went to Kingston to spend the evening; made up the party to go while we were at my brother's saloon; came home between ten and eleven o'clock at night; about eleven o'clock he came looking for his father; don't think John Rowand was intoxicated; the wagon belonged to Holcombe; John took nothing to drink at the saloon when he came there.

John Rowand, sworn. Will be twenty-one years of age next March; saw my father the evening he was murdered, about 6 o'clock; went to Kingston between 6 and 7 o'clock;

stopt at Corlies' hotel; set his clock for him, and started away about 10½ o'clock; got home about 11 o'clock; mother told me to go and look for him; went up to the store; found the door not fastened; then went to Dr. Baker's; got a light and found all things right; got an extra key and locked the door. (Detailed the searches he made for his father.) Mother and aunt were up when I went home; never knew my father to stop anywhere on the route home; was very regular in his habits; carried in his pocket usually a pocket-book, knife and safe key; there were two safe keys; one was usually kept in the safe. (Identified the key and the pick.) Also had a picker; since the partnership, my father had but one picker; the other was lost when my father and Runyan were in partnership. (Picker exhibited.) This is the same one he carried with him. (Carpet bag and hat exhibited.) These belonged to my father; the felt hat also belonged to my father; he had been to the city, and after bringing his jewelry home, the carpet bag was intended to have been taken home, but forgotten; he had told me to carry it home; father used to make memoranda on the old cards of Rowand and Runyan; my father's horse was named Zachary; he got him from Vandyke; he was raised by Gov. Olden. (Cards exhibited.) This is a piece of the card of Runyan & Rowand. (Explained the words on the card found.) Thinks it a part of the card of Runyan & Rowand; my father got work done at McGregor's such as repairing pants, &c.

Cross Examination. These cards were circulated about the country before the dissolution; they were given to customers; I attended the store for my father; fixed clocks for him; that was my occupation; hardly ever there after seven o'clock in the evening; didn't tell him I was going to Kingston; before I went I asked him if he had anything for me to do; my father had gone out on some occasions to look for me at saloons and hotels; the last time was several weeks before; the last time he did so I was home before him; didn't expect to find my father at Stout's any more than any other place; didn't examine that night whether any matches had been used; the picker was found in Witherspoon street, near Anderson's; don't recollect when I saw my father's pocket-book last; he used these cards for memoranda almost every day; the hat was found in the cemetery on the morning the body was found; my father sent a draft that day to New York, of some forty or fifty dollars.

Henry B. Duryee, sworn. Was well acquainted with Rowand; was at his funeral; he wore a wig; it was delivered to me by a black man who lived at Capt. Lavender's; Rowand's sister told me to put it into the coffin and have it buried with the body; I did so; Rowand

carried a pocket book, a dark looking one; he paid me some money out of it; it appeared to be pretty well filled; he used to order things at my store and take them with him when he went home; (examined handkerchief) very good article of handkerchiefs; fine quality; one is marked "B. O. Parvin" others have been marked with floss silk; two of them are nearly alike; there are eleven in number altogether; (examines the handkerchief in which the keys were found) this is the quality of most of them; none are exactly alike as to border, except two.

John Fenning, recalled. Got the small valise from the Cemetery on the morning the body was found; I took charge of the body; found a silver lepine watch belonging to R. Embley; a pencil, knife, and two small keys in Rowand's pockets; no pocket book was found; his hat (identified) was found near the wall in the graveyard; often knew Rowand to pull out his pocket wallet to pay for things; have seen Lewis' in our neighborhood, at the time he boarded in Princeton; I followed him up Wiggins street on purpose to notice him; it was on a week day, in the afternoon. (Described what articles were found in the carpet bag of Rowand; there was some memorandum of treasury notes in the carpet bag.

Cross Examination. Saw the blood or brain matter on the hat; knew that Rowand wore a wig; but did not see it after the murder.

A. J. Curtis, recalled. When Lewis inquired for a wagon at Millstone, he said he wanted a covered wagon; told him he might get a buggy wagon; saw a market wagon in the yard, he said one like that would do with a cover; I told him it would be too heavy for one horse.

Dr. Schanck, recalled. I made a series of preparations* for the microscope; blood from my son's arm, the red matter (blood) from the leaves under Rowand's head; the red matter from the club, from the skirt of the coat, from the shirt sleeve, dried blood from a piece of beef, and from the neck of a chicken; I could not distinguish the blood on the grass, or the club, or coat, or shirt, they were precisely the same, but could distinguish that which came from my son's arm; the difference is because the three or four were dried and that from my son's arm was fresh; can't distinguish between the blood of the beef and that of any of the others, except the chicken, with sufficient certainty to be of value as evidence.

Charles Wyckoff, recalled. Was at the Mansion House on the night of the murder; prisoner not at the house on that night; one stranger came there that night selling maps; waited on him, and saw him to bed.

Cross Examination. Don't remember how many persons stopt there; can't tell how many were at dinner; can't tell how many came there in the evening; don't know how many took tea; don't count them; the landlord tends to that.

The bunch of keys and handkerchief found at Millstone; the window curtain, carpet-bag and hat of Rowand, and the several pieces of paper found at Millstone; bank-book found in the trunk of prisoner; trunk and contents, three treasury notes of \$100 each; the towel accompanying papers, &c., found at Millstone; the umbrella, carpet bag, and overcoat of prisoner; vial of acetic acid; little picker and safe key, &c., were offered in evidence.

THE STATE THEN RESTED.

The counsel for the defence stated, if the Court please, they would announce to-morrow what course would be taken in regard to the defence.

EIGHTH DAY.

At the opening of the Court, Mr. Dunphy, on the part of the defence, arose and said that after serious reflection and consideration, the counsel for the prisoner had come to the conclusion to let this case go to the jury as it now stands, trusting to what may be adverted to by his learned leader (Mr. James) in the course of the trial.

Mr. Hageman on the part of the State, then rose and addressed the jury.

Mr. Hageman's Speech.

MAY IT PLEASE THE COURT:

Gentlemen of the Jury.—I am sure that you rejoice with me that this tedious yet interesting cause in which seventy-seven witnesses have been examined on the part of the State, is drawing to a close. Your duty, though a self-denying one, is an honorable one, and a very important one to the community. The indisposition which I have suffered through the progress of this cause compels me to speak directly to the question; but before I approach the discussion of the testimony, I wish to submit a few preliminary observations.

1. As to the legal form and sufficiency of the Indictment.

An exception was taken to it by the learned counsel of the defendant, because it did not show that certain grand jurors who were affirmed, were conscientiously scrupulous of taking an oath. The counsel had overlooked the caption which is a part of the record, and in which that matter is distinctly stated.—The form is according to precedent in this State and in New York; and one of the counts is taken from a New York case found in 1 Parker C. Rep. 496. But this question belongs to the Court and not to the Jury, and the Court has held the Indictment to be good. I know that the minds of jurors are sometimes influenced by such legal objections to

the pleadings in a cause, although overruled by the Court, but I hope that you gentlemen will receive the instructions of the Court, when given within its province.

(Here Mr. James intimated that he had abandoned the objection, and the further consideration of it was waived.)

2. As to the nature of the crime charged.

The first count in the indictment sets forth the crime in terms which correspond to the crime proved. There is no controversy as to the nature of the offence. It is murder—not manslaughter,—murder of the first degree—not of the second.

(Mr. H. read the statute concerning crimes. *Nixon's Digest*, Sec. 4. He also read at some length from the opinion of Ch.-Jus. Hornblower found in *1 Whar. C. Law*, Sec. 1103, to show that the statute did not alter the law of murder at common law in the least respect; what was murder before its passage is murder now; and what is murder now was murder then.) The statute only prescribes that in certain specified modes of committing murder the punishment shall be death, while in other modes it shall not be death, and makes it the duty of the jury to determine the degree.

Murder is defined to be the killing of a person under the peace of the State with malice aforethought either express or implied in law. So our Supreme Court held in the case of *Donnelly, 2 Dutch*. 464, "that to constitute murder there must be an intention to take life—no particular time need intervene between the formation of purpose to kill and its execution. It is enough if the design to kill be fully conceived and purposely executed."

3. As to the consequence of the Verdict.

The jury are not responsible for the death-penalty that may result from their verdict.

Your oaths bind you to find a true verdict, and you will not disregard the testimony, and defeat such a verdict by any scruples of conscience against the moral right to take the life of a murderer. You have to meet the question of fact whether the defendant is guilty as he stands charged. This is the question for you, gentlemen of the jury. You are not to anticipate the action of the Court upon your verdict. You have nothing to do with the sentence or judgment of the Court. The penalty comes from another tribunal. The law of the State directs the Court what judgment to render, when you shall have returned your verdict upon the facts of the case.

Men sometimes permit themselves to be drawn into the jury box, in murder trials, and after they have been apprised that life is involved in the issue—after they have taken the oath to find a true verdict, they awake to the consciousness that they have doubts whether capital punishment is warranted by the law of God, and they shrink from the fulfilment

of their oath and the honest discharge of their duty. I trust that no one on this jury will be found in such a situation.

Capital punishment is sanctioned in this state, and authorized in the statute which I have read, in cases where the murder is committed by poison, lying in wait, or with a premeditated design to take life.

And this law is in harmony with the moral law. The death penalty has its warrant in the Sacred Scriptures, and this ought to overcome the scruples of any man. After God had destroyed the world with a flood, he raised a new barrier to the defilement of the land.—He issued a new mandate, universal in its application to man in all ages, and under all civil governments, a law that is binding now and will be to the end of the world. It is found in Gen. ix. 6. "*Whosoever sheddeth man's blood by man shall his blood be shed; for in the image of God made he man.*" Yes, gentlemen, strong is the reason for this law, "for in the image of God made he man." When James Rowand was struck down, the image of God was struck down, and God demands that such a crime shall be atoned for by the life of the murderer.

Again, when God ordained the Hebrew Commonwealth, he reiterated the death penalty for murder. The only escape for him who killed any one unawares, was by fleeing to one of the Cities of Refuge. There was no opportunity for trial and acquittal in such case, as we have at common law. Reference to that Divine Code will satisfy us that the murderer should be put to death. "*Ye shall take no satisfaction for the life of a murderer who is guilty of death; but he shall surely be put to death. * * For blood, it defileth the land, and the land cannot be cleansed of the blood that is shed therein, but by the blood of him that shed it. Defile not therefore the land which ye inhabit wherein I dwell: for I the Lord dwell among the Children of Israel.*"—NUM. xxxv., 31, 33, 34.

These are words which every community will do well to heed. Blood defiles the land. No satisfaction can be taken for the life of the murderer. If the murderer is permitted to live the land is defiled, and God refuses to dwell in the land that is defiled with blood. The reason why God was so inexorable in demanding the life of the murderer, is fully declared to be because the land could not be cleansed of the blood that is shed therein but by the blood of him that shed it. For the Lord dwelt among the Children of Israel.

Now it is not difficult for a religious people such as we profess to be, to understand, that if we permit our land to be defiled with blood, if we allow the death penalty to be set aside, and the murderer to live, God will not dwell with us. He will forsake us. If he would not dwell with Israel under such circumstances, he will not with us. Have we not reason to believe that our social happiness, the security of our lives and property, in New

Jersey, are due to our obedience, of God's law of murder? For, in this State we have honored that law, and not suffered the murderer to live. God has dwelt with us.

4. As to the nature, of the testimony.

It is very rare indeed that the crime of murder, especially murder in the first degree, is committed in the presence of an eye-witness. One man in the gust of passion may shoot or stab another in the presence of bystanders, but this would amount only to manslaughter or murder in the second degree. But the person who premeditates a murder, who administers the poison, or who lies in wait to kill his victim, plans to do it unseen. He selects the lonely spot, or awaits the hour of darkness, in which he may destroy his victim, when no witness is present to tell the tale. Gross and horrible murders are usually committed under cover of secrecy: and if none of the murderers are to be condemned; in the absence of direct testimony, or the positive evidence of one or more persons who saw the crime committed, our land would indeed be defiled with blood, and the death penalty of murder would become a useless enactment.

No, gentlemen: It is not essential that human eyes should witness the blow. Circumstantial or indicative evidence may be quite sufficient to warrant a conviction. A body of facts well proved may more clearly establish the prisoner's guilt than if more than one person should swear positively to having seen the deed committed. Our Courts and juries are in the habit of acting upon such evidence in the most serious and important cases, of both civil and criminal nature. Society would be overturned, if we should refuse to act upon what is termed circumstantial evidence. In the case now before us, the evidence is, as I suggested in my opening it would be, wholly circumstantial. No witness saw Rowand killed, yet he was killed, in the darkness of the night. I know that some persons have erroneous views respecting this kind of testimony: they hold that no man's life should be taken away, upon merely circumstantial evidence. Hence I call attention to this branch of the case; and I will read to the jury the law on the subject, for it is addressed both to the Court and the jury, and you will perceive that in this Country and in England, such evidence is received, and often times is regarded as superior to positive proof; and that there are fewer erroneous convictions upon such testimony than upon the positive evidence of witnesses who may be mistaken, perjured, or bribed.

(Here Mr. Hageman read at length, the law as enunciated by Judge Story of Mass. Chief-Justice Whiteman of Maine, Chief Justice Gibson of Penn. Chief-Justice Shaw of Mass. as cited in 1 *Whar. C. L. Sec.* 734. He also read English authorities on the subject, as found in *Wills or Circumstantial Evidence*, page 159, 161, 246.)

The evidence must be such as will convince the jury that the crime has been committed by the prisoner. Nor is it a new thing in New Jersey, to convict for murder, upon circumstantial evidence. I could refer to the several executions of Robinson for the murder of Suydam; Parke and Carter for the murder of Castner; Fox for the murder of Heary; Donnelly for the murder of Moses, and Harding for the murder of his wife. In none of these cases was there a witness present who saw the crime committed.

In the case of Parke and Carter, the evidence was feeble compared with what has been submitted to you in this case. The chief evidence implicating the defendants in that case, was found in the track of the horse that had been traced to the scene of murder—the horse shoe having three nails on one side and five on the other, which was proved by the smith to have been the mode in which he shod the horse of one of the defendants for a special reason; and the additional circumstance that one of the defendants had written a letter to Philadelphia stating as a reason why he could not visit the city that day; that there was great excitement in the neighborhood over the murder, when in fact the murder was not known at the hour the letter was proved to have been written.

But where such evidence is relied upon, every other hypothesis but that of the guilt of the party must be excluded, and the theory must be inconsistent with the guilt of any other person. I do not hold as some do, that it must be impossible that any other person than the prisoner could be guilty—that is too strong; but that no other person can rationally be held to have committed the crime.

And now gentlemen let us examine the testimony in this case:

I. *As to the Corpus Delicti.* Was the body found? This is usually the first question in the progress of such a trial. There is no difficulty here. Yes, the poor little mangled body of Rowand was found. It was found unburied among the tombs. There it lay, dressed as he was seen going from his shop towards his home the night of the murder.—The overcoat—the large gloves he wore were still on his body. The valise he was carrying home was found near it; and near it was found that deadly club covered with blood and hair. There was his crushed-in skull—there the little pool of blood—there the blood stains on the ground and fence and pavement marking out the place over which his body had been dragged. The spot where the murder was committed, and the body was found was as described in the indictment, and within the jurisdiction of this Court. It was a sacred spot. It was on the street over which the distinguished patriot and divine, Dr. John Witherspoon, one of the Presidents of the College of New Jersey, was in his life time accustomed to pass in going from town to Tuscu-

lum, his residence towards the mountain, and which street now bears his name.

What an outrage upon sacred soil! Near the spot where the body was found in the graveyard, was an ancient monument covering the grave of one of the distinguished kindred of Mr. Rowand's wife, the Hon. John Berria, of Somerset County, one of the Colonial Justices of the Supreme Court of this state, the position which I may say your Honor now presiding, occupies. And a little farther yonder, what sacred dust! See the monuments of the Saints—the Presidents' Row—the graves of Burr, Edwards, Davies, Witherspoon, Smith, Green and Carnahan, and a great multitude of other like precious Dead. No Princeton man could have committed such a sacrilegious murder. We have been taught to tread softly on such ground. We are accustomed to witness multitudes yearly making pilgrimages from distant places in our land, to this sacred Burial place—often called the Westminster Abbey of America. I am not superstitious, but I feel that had the murderer of Rowand a knowledge of the character of the place he had chosen for his diabolical deed he might have been restrained—he might have had some fear, though a superstitious fear. But he knew not the place; he was a stranger. He was some villain from abroad.

It did seem hard indeed, that after all the taste and care Mr. Rowand had expended to provide a suitable place of burial for himself and family; a beautiful lot surrounded by a beautiful privet hedge within which he had buried several children, and whose little graves were so nicely hidden under the green, from the public gaze:—hard I say, that after he had been for years, with his own hands, preparing for himself the most beautiful ground in the Cemetery, his own lifeless body should lie uncovered among the tombs—a heartbreaking spectacle, visited by hundreds of citizens!

The body when found exhibited its mortal wounds. They were not self-inflicted, but were produced by a club in the hands of another. Both Mr. Rowand and his murderer, according to the testimony of Dr. Schanck, were erect, at the time the blow was struck—the wound—its length and breadth and the means of producing it, are literally proved, as the first count in the indictment charges.—The wig had been found early in the morning, but the person who found it, not having heard that Mr. Rowand was missing or had been murdered, took it with him to the place where he was employed, but the body was found at about ten o'clock on Friday morning, and soon the whole town was there.

As to the finding of the body—its condition when found—the evidence of violence strewn around it—the instrument of death—the cause of the death, and the mode of inflicting the mortal wounds, I need only refer you to the testimony of Krauskoph, Colin White, John Fenning, Dr. Schanck, Dr. Lytle and Albert Lake.

II. Was there a motive to Murder?

It has been intimated, at least by the cross examination, that Rowand was a poor man and that he was the last man in Princeton to murder for money. Now, it is true that he was not rich—he was in very moderate circumstances. Yet he was murdered. It was no self-murder. The facts disprove that he came to his death by his own hand. He was murdered—he was murdered by a blow from behind. Was there no motive? Ah! is not gold a motive for murder? Did not the gold and silver glitter in the windows and in the show-case of that shop? And were not the attention, and the avarice of the murderer attracted by it? There were valuable gold watches of wealthy customers left to be repaired. There were silver spoons and forks; and other gold and silver wares; valuables that were usually kept locked up in the safe at night. (Mr. H. here read from Wharton to show that this class of persons are more frequently murdered than others. Pedlers and Jewellers—men who travel over the country with watches and jewelry for sale, are frequently waylaid and murdered.) It was not for the money that he had with him, or that he might be supposed to have with him; it was not perhaps the money that might have been supposed to be in his safe, that made him a desirable victim for the murderer; but on his person were the keys of his storé, and the key of his safe. If he could possess these, he could possess all that Rowand was worth, of worldly estate.

This man Lewis coming to Princeton could see the gold and silver which glittered in the window of this man. He looked at the store. He looked at the man, and found he was small and light—a poor sickly little man. He looked at his beautiful and tasteful residence, with its hedges and summer houses—its vines and flowers, and his gem of a stable; and would naturally infer that he was prosperous and thrifty in business. The Stocktons were rich, but they were inaccessible by reason of kennels of dogs. He inquired, as one of the witnesses said, how much his business averaged a day. He saw that Mr. R's, valuables were in a small compass. He fixed his eyes on the safe. He knew that Rowand had the key, and to get at it he must kill him. He resolved to do so, and he did it.

III. Had the Prisoner an opportunity to commit this Murder?

If he were not in Princeton that night, he cannot be guilty. He denied and so far as we know still denies, that he was in Princeton on the night of the murder. He denied it to Mr. Lot, the 23d witness examined. When speaking on Friday morning at Millstone of the rough road he had come, the witness asked him whether he came over the Princeton road to which he replied that he had not been to Princeton. This was said before he was charged with the crime, and therefore was a

voluntary statement. So when Justice Mount asked him at Princeton on the night of his arrest, whether he was in Princeton the night before—which was the night of the murder, he answered emphatically, "I was not."—Again, while speaking with Edward Holcombe the evening of his arrest, he said he did not need counsel as he was not at Princeton the night of the murder, and they could not prove it: when Mr. Holcombe replied that three or four persons would swear that they had seen him there, then he said, "I guess I'll have counsel," and asked for Mr. Field. The State shows clearly that Lewis was there on the night of the murder and that his conduct and movements were consistent with the theory that he was there to commit this murder.

We bring Dr. Wikoff, an astute man, a resident physician of Princeton who was in Marsh's Drug Store that night—the time is fixed beyond all doubt; he says Lewis came in about 7 o'clock perhaps nearer 8 o'clock, and inquired for "Tarrant's Extract." He saw that his coat was smeared with mud as though he had got out of a carriage. He thought he was a country physician; he was well dressed, with large whiskers, high hat, and appeared to be a respectable man. He says he was acquainted with the neighboring physicians, and he took particular notice of this man; the store was well lighted. He swears positively that the prisoner is the man, and he had identified him when arrested, before the inquest.

Crowell Marsh swears that he waited on the prisoner the same night while Dr. Wikoff was in the store, and while he did not notice his dress particularly, he noticed his face, and identifies the prisoner as the man.

Wm. L. Hankins also swears that Lewis came into his store the same evening and inquired for Tarrant's Extract; was informed that he had not the article. His store was well lighted; he noticed particularly the dress and face of the man, and the mud on the overcoat, and was curious to know who he was, and he swears positively that the prisoner, whom he had recognized before the inquest, is that man.

Then he was seen that night in the streets of Princeton by Sylvester Martin, Howard P. Dechert, Robert Warren, Wm. Leggett, Isaac F. Sutphen, John Benham, Stephen Margerum, John Leggett who was with Margerum, and others, making some eleven witnesses who saw him in different places—dodging about the streets, watching Rowand's store—hiding in the alcoves of the church, crossing the street in the mud—standing in front of Dr. Maclean's gate and observing the store and movements of Mr. Rowand. But more than these: George Fenning and Jane Harris saw him early in the evening down near the corner of the graveyard where the murder was committed, exciting the suspicions of the latter witness by walking into the middle of the muddy road

as she approached him at the graveyard, and there standing until she went by. I have no doubt, gentlemen, that he had then been looking after his club—seeing whether the one he had probably secured before and concealed under the fence was still there, and procuring a new one in the place of the one White had taken away that morning.

Then we have Mary Veighte who saw the prisoner, as she describes him about 20 minutes after 9, in the evening going down Witherspoon st., just behind Mr. Rowand. She describes the dress of Mr. R. his overcoat and valise. She was going to the Post Office with other girls, and says Rowand's store was closed as she passed it; and John J. Stryker who recognized the prisoner about half past 9 o'clock, coming up Witherspoon street walking very fast, near his father's house to which the witness was going from his place of business. Both of these witnesses had seen Lewis on a previous occasion, and Stryker identified him positively.

Now add to these, William Schenck, who saw him about 8 o'clock, in the store of Rowand, looking behind the counter—up and down; and Charles Tindall, who also saw him in the store when he went to get his watch set right, and who noticed his coat ripped on the shoulder (which statement he had made before the inquest and when the coat was produced it was found ripped,) and is proved by Mr. Lot to have been ripped before he left Millstone on the evening of the murder; and who also saw Rowand shut his store about 9 o'clock that evening, and Lewis come out of the adjoining dark alley of Baker; cross the street in the mud and pass down about the same time on the opposite side of the street, crossing at Witherspoon st. a little after Mr. Rowand and following him: and Samuel Littl, who also saw the prisoner in Rowand's store that night and heard him inquire how much he averaged a day,—and you have eighteen witnesses! who say that they saw the prisoner in Princeton the night of the murder. Some saw him in the street—some in the store of Rowand—some at the graveyard—some on the way to the place of the murder, and some on the way from it. The last witness named Little, heard Lewis say to Rowand in his store, "Good night, or good bye, I don't know when I shall see you again." The Judas! the next time he saw him, was when a little after that he felled him to the earth, with that deadly bludgeon.

Thus it is proved beyond controversy, that Lewis was in Princeton on the night of the murder; and more than this, he was in the store of Rowand, and hanging about it, and watching the movements of Rowand, on the same evening. The testimony of Schenck, Tindall and Little cannot be disputed, while that of Sylvester Martin though impaired by his cross examination confirms them, if they need confirmation, for he is an

honest man; his confusion arose probably from the fact that his mind had not been clear of doubt whether it was the prisoner he saw go into the store or some person resembling him, and he had never mentioned it before because he was not positive as to his identity. But the case does not depend upon his testimony.

All of these witnesses except Dr. Wykoff, Crowell Marsh and W. L. Hankins place Lewis that night in positions and exhibit him in behaviour as though he were there for the purpose of committing some crime, and implicate him in this murder. His appearance was suspicious; his conduct was suspicious. He had his coat collar up; his hat down over his face; he sought to conceal his face from view. His conduct in the street was inexplicable in a stranger who had come from Millstone that evening, unless he was on an errand of crime.

What honest man, having come all the way from Millstone to Princeton (some fourteen miles) that evening, for an honest purpose, would hide his horse and wagon away instead of stopping at a hotel, and spend the evening in skulking about the streets and alleys of the town, running through the mud and standing at corners muffled up?

IV. *The Journey of the Prisoner from Millstone to Princeton, both as proposed and accomplished, indicated a Criminal purpose*

He concealed his purpose of going to Princeton when negotiating for a horse and wagon. He avowed his object to be to go to Kingston to see a person there. He inquired of the distance to that place, yet we find him inquiring elsewhere, of an obscure stranger at a lime-kiln, how far Princeton was from Kingston, showing that he had Princeton in his mind while planning his journey.

Then there is significance in the kind of a wagon he desired to hire. Mr. Curtis, when re-called yesterday, said that he had first asked for a covered wagon—a long covered wagon—and, pointing to a market wagon standing in the yard, said: "I want such a wagon as that—only one with a cover on." If his object was innocent, why did he not ask for a light wagon? The roads were heavy—the journey long; why, if his object was only to see some person at Kingston on lawful business, did he ask for a long, heavy, covered wagon? Why, I ask, if not that he might bring away the dead body of Rowand and bury it in the Millstone, or that he might carry away the contents of the safe, or possibly that he might the better conceal his own person from observation?

Another suspicious circumstance was his visit to Princeton in the night. Why did he not select the day? He was a man of leisure, lounging and walking about during the day wherever he happened to be. He was strongly advised by Mr. Wortman to take the day, as the road was long and rough. But, no! he preferred the night, though a stranger. Why? Will his counsel explain why? He wanted

the shadows of the night to cover him and hide him from public gaze.

Again—does not the fact that no trace of the prisoner or of his horse and wagon at any of the hotels in Kingston or in Princeton on that night could be found create a suspicion against this man, indicating that he came to Princeton on a criminal errand? Do you suppose that an honest stranger, with his pocket full of money would come to a town, after so long a drive, not stopping on the way and not go to a hotel, where respectable people go, and give himself and his jaded horse something to eat?

But what did his visit to Princeton yield him? What did he get for the bloody deed we charge upon him? Poor soul! he got nothing. True, he got the keys of the store and the key of the safe; but after he entered the store he could not enter the safe, because, by a singular providence, he lost the little picker, on his way from the murder, which first removed the guard before the large key could be inserted. He got the pocket-book, with some papers in it, which only led to his detection. He was a disappointed man; he did not get over twenty-five cents, if so much—a small price for blood.

But he returned to Millstone. What a drive that must have been! He arrived there at about two o'clock in the morning, with his hands imbrued in the blood of James Rowand. He took his breakfast and dinner alone. He was seen strolling out in a bye-place along the canal; and, while watching if any person could see him, he seemed to be rubbing his clothes. Perhaps, as has been suggested, he was viewing himself in the waters of the canal. He might well admire his manly proportions, for where do we find such physical development? Who has such strength—such muscle—such a well-made body as this prisoner? Nature has been lavish in bestowing her gifts upon him. When he was under arrest in Princeton, I thought we had no person there more fully and finely developed than this man.

V. *The extraordinary number of small pieces of Paper and Cards, with writing on them, that were found in his room at Millstone, and had been removed therefrom, which clearly belonged to Mr. Rowand, implicate the Prisoner in this Murder.*

There was a remarkable Providence connected with this matter. When the murder was first discovered all Princeton was in terror. The thought that a monster who could commit such a crime should be at large, perhaps still in the town, filled every heart with fear. The prayers of that whole people went up, as the prayers of one man, for the discovery and arrest of the murderer; and, while prayers were yet being offered, this man was brought in among them under arrest. I tell you that they felt a heavy burden removed from their hearts, and they felt that a remark-

able Providence had interposed, by which, in less than twenty-four hours after the deed was committed, the perpetrator was overtaken. But see how Providence used these papers:

Mrs. Curtis, an excellent witness, who had the oversight of Lewis's room at the hotel in Millstone, noticed on Friday morning, in the ewer of his room, an unusual number of bits of torn papers, (white papers with writing on,) and among them a piece of a card with the picture of a watch or clock on it; that little watch lay face up, and was the only special object which struck her attention. She carried the vessel out herself and emptied the contents, including the e papers, into the garden sink after breakfast that day; and in the afternoon, when she learned that Lewis was arrested for the murder of a jeweller and watchmaker, she remembered the card she had seen in his room, and informed her husband of it and the papers she had carried out. Her husband went out that same night and searched the sink, and, among other bits of papers floating there, was the identical piece of card with the picture of a watch, again upward and uppermost. Farther searches were made on two or three days after by Mr. Wortman, Jack Richards and Mr. VanCleve, and some thirty pieces of papers were found, all apparently from the same source. Among them the following were identified, and appeared to be what Mr. Rowand must have had in his possession at the time of his death:

1. Pieces of one or more cards, which were formerly used by Runyan & Rowand when in partnership in the jewelry business, having a picture of a watch on one corner, and which were identified by Mr. Runyan and John Rowand. It appears further, from their testimony, that Mr. Rowand was in the habit of keeping these cards with him for making memoranda on them.
2. Three pieces of a note given to Elijah Stout by Rowand & Runyan and Isaac Baker and others for \$500, which was in Mr. Baker's handwriting, and which had been taken up by Rowand and a new note substituted, with some other sureties. The new note had not been paid at the time of the murder.
3. Three pieces, being portions of a bill of John McGregor against James Rowand, for tailoring rendered but not settled. We prove that these are in the handwriting of McGregor; that he has been gone to the war for more than a year; and that his wife called to see Mr. Rowand about it, and he told her to leave it unsettled; he had a larger account against McGregor.
4. A torn memorandum of the age of Zachary—a horse of Rowand's—given by Governor Olden, in lead-pencil, to Mr. Rowand some years since, and which there is every reason to believe was in Rowand's pocket book at the time he was killed. You remember the testimony of Governor Olden, Mr. Langdon, Alex. Stout and John Rowand on this subject.

It is very remarkable, gentlemen of the jury, that these papers of Mr. Rowand were found at Millstone at the same house, undoubtedly in the same room—certainly in the same sink—some of them fished up on one day and

other pieces found on the second or third day which were parts of those found on the first. How did these parts of several cards, come to be there? How did portions of the Stout note come to be there? If it had been torn up and thrown away as waste paper by Mr. Rowand, how did all the pieces happen to find their way to Millstone and appear at the same time and place? And so as to the bill of McGregor and the certificate of Governor Olden. How did all these different papers—the cards, the note, the bill, the certificate—get to Millstone? Was it not remarkable that so many pieces of paper, all having relation to Rowand, and which would seem to belong to him—two of them at least being of value to him—should be found together at Mr. Wortman's, in Millstone? If they had been torn up and scattered as waste paper at Princeton, how is it that the winds should have blown them all together there and deposited them in the room of Lewis or in that sink, some fourteen miles from Princeton, and a place where it does not appear that Mr. Rowand had ever been? How came they torn? Will the defence explain? We have a right to look for an explanation of this mystery. We say they are Rowand's papers. How came they at Millstone at the very time the prisoner arrived there from his nightly visit to Princeton? I will not dwell upon the testimony in reference to the quantity of water Lewis used in his room; his throwing it from the window in the night, and the appearance of the towel, which was saturated with water and appeared to have been wrung out.

VI. *Blood on the Overcoat and Shirt wristband of the Prisoner betrays his connection with this Murder.*

! It does seem as if blood—that which the murderer sheds—is the most common and Providential witness against the murderer. There is something in blood that stains and leaves a lasting mark. His attempted explanation of the blood on the shirt is unsatisfactory. It was incredible that he should have kept such a shirt in his valise for six weeks unwashed if he had so long ago scratched himself in bed. The shirt, though torn, is a new one; and the blood on his wristband was no doubt got there while lifting the body over the wall or in rifling the pockets in the graveyard. It was thought before the inquest that the blood was mixed with brain matter; but its resemblance to the starch on the wristband rendered it impossible to say that there was brain matter there, but it had such an appearance.

Then we have the blood on the coat. This was explained by Dr. Schanck. You all heard and saw his explanation, and you must have been impressed with its correctness. As he (the murderer) lifted up the body the blood trickled down and fell diagonally on the coat, downwards and backwards. Being a brown coat, the blood had not been observed by

Lewis before his arrest. Dr. Schanck took the coat and examined it with the microscope—the best mode of testing it—and he pronounced it blood. He says what all sound physiologists and chemists say—that he cannot distinguish with certainty human blood from that of certain other classes of animals, as, for instance, the sheep or the horse, while he can from that of the fish or monkey; nevertheless, he thinks this is human blood. Now, we say, if this is the blood of a domestic animal, let the defendant show how he got it; let him show that he had been in the vicinity of a slaughter-house. We trace him near human blood; let him satisfy you that this is not human blood. The investigation was made with a great deal of care, and Dr. Schanck, who made it, is entitled to the thanks of the community for his patient examination and skilful analysis.

VII. *The Prisoner had in his possession, when arrested, a Vial of Acetic Acid, almost emptied.*

Although an attempt has been made to show that this was used for softening corns, and Dr. Schanck was charitable enough to think that Lewis may have kept it for that purpose, yet I am not so ready to believe this. It is the very thing to remove blood stains; the Doctor says it is the article to do this very thing. It is possible that the possession of this was innocent; but, under all the circumstances of the case, I submit that it is at least suspicious.

VIII. *The Prisoner is implicated by his connection with a bunch of Keys in a dirty white Handkerchief, found under the Sloop of the School House at Millstone.*

This is an interesting part of the case. Some twenty keys, with a brace and bit and chisel, were found by some boys, who had thrown the hat of one of their number under the sloop, about a month after the murder was committed. Mr. Woodruff has made a map of the building, and it appears that there was a small hole in one end of the steps, large enough to admit a dog, and no other light let in. These things, with a dirty white handkerchief partially over them, were taken to Mrs. Burns, the mother of the boys, and afterwards delivered to Mr. Hoagland, for safe keeping, until the Grand Jury met.

Lewis, it appears, was seen in the vicinity of the school house on the day before the murder was committed, and also on the day after. The first witness we called on this subject was Joseph Burns, a little boy fourteen years old. And here I must say, that while I acknowledge the courtesy shown by the counsel for the defence in the examination of witnesses and in the general conduct of the case; for how smoothly have we all gotten along!—with no wrangling between ourselves or with the Court; not even a single bill of exceptions has been sealed. I say this with pleasure, for it reflects credit on all the

counsel in the case. While I say this, it did appear to me that the cross-examination of this boy Burns was a little too rigid for a boy. I am aware of the latitude given—and very properly given—in *favorem vite* in the cross-examination of all witnesses who appear for the State. Still, I think they were too hard on him. It was a severe test, but the little fellow stood it well. I had supposed at first that he was mistaken in making it the day before the arrest that he saw the prisoner near the school house looking over the fence, but I will take the boy to be correct. We then have him there selecting the place the day before the murder was committed; and Mr. Woodruff says he saw him walking by the school house twice on the morning next after the murder, and looking so intently into the windows that he supposed he was about to enter the house. Burns identifies him as the person he saw arrested and in the wagon at Wortman's. It was difficult for him, as it would be for any man, to specify by what in particular he identified him; he could only mention his brown coat and size; but, when pressed by the counsel whether after all he had said he could now say that this was the man, he, looking at the prisoner deliberately, answered, "Yes, sir." This was a suitable place to hide the keys—and, I suppose, that the prisoner on his way from Princeton that night drove by that place; only a block from his direct road, and threw the keys, &c., partially wrapped in the handkerchief, into that hole, and the next morning went to see if they were there and possibly to get the keys then. The keys were identified by Joseph Burns and Mrs. Burns by numbers and marks.

Among these keys is a duplicate key of Rowand's safe. Its number is 171, corresponding with the number of the safe, and corresponding precisely to its mate, which was found locked up in the safe when broken open after the murder. This key is recognized by John Rowand and Richard Runyan beyond all question; and it was taken from Rowand's person on the night of the murder. How did it get to Millstone?

Among these keys there are three which are claimed as the property of John D. Tiitworth, of New Brunswick—two belonging to his store and one to his house. This witness brought his locks into Court and then selected the keys, one by one, and tried them on his locks, and each test was successful. The keys were his.

Now, unless we can show directly that Lewis put these keys where they were found, we shall be obliged to show that he had been where he could have obtained them, and thus by circumstances connect him with them. If among these keys any were identified as having been stolen, at Somerville for example, we would be compelled to show that Lewis had been at Somerville, where he might have been able to get them, before we could charge him with them.

Well, do we not show that the prisoner has been where he might have obtained—and where there is reason to believe he did obtain—all the keys that have been claimed and identified by owners? Mr. Titsworth's keys were taken from his overcoat pocket at the City Hotel, in New Brunswick, on a Sabbath in November, while at dinner; and Lewis is proved, by the landlord and Titsworth, to have been stopping at that house at that time and to have been in the room when Mr. Titsworth shook the snow off his coat and made the keys jingle. Lewis then was present when these keys were missing, and, to say the least, might have gotten them.

Then as to the safe key of Rowand's—we have shown that he was in Princeton, and in company with Rowand, the night he was murdered, and his key was taken. Who, besides the prisoner, has had an opportunity to get both of these sets of keys, and has also had an opportunity of depositing them in Millstone? There was no other that we know of.

But more than this. The fine quality of the handkerchief found with the keys is similar to those found in Lewis's trunk. Nine of those are pronounced by Duryee—who is a judge of such articles—to be of the same fine quality, while the borders of no two are alike, and all are without names. One more fact, which came out in the evidence just before the State rested, adds no little weight to the other testimony against the prisoner respecting these keys. Robert Priest stated that it became necessary when General McClellan came to the State Street House, in Trenton, to remove Lewis, who was then stopping at that House, to a room on the next floor; that removal was made by the two chambermaids, Rachel and Elizabeth Anderson. These two persons were called by the State and testified that in removing Lewis's overcoat something fell from one of the pockets, and, in taking it up, they discovered that it was a bunch of keys—brass and iron, of all sizes, like the Millstone bunch in general appearance—and that they were wrapped up in a dirty white handkerchief, in appearance like the one found in Millstone. Can there be any doubt, now, whether those keys, including the safe key of Rowand's, which were found at Millstone, were left there by the prisoner? The evidence I submit is irresistible, and the presumption conclusive. But I hasten on.

IX. *The Visit which the Prisoner made to Princeton on the Night after Election, while boarding in Kingston, shows that he was premeditating this Murder.*

This fact has made a strong impression on my mind. On that Wednesday night he was seen pacing the street, to and fro in front of the grave-yard, between Rowand's house and Wiggins street. Two reliable witnesses saw him. Matthias Van Horn was at singing-school near there, and he was told by the

girls that there was a tall, strange man walking and standing on the pavement there "for no good." He went out to see him and he noticed him for some time there; and, from his description of the person, there is no doubt the defendant was the man. But Peter Laae, another witness, had his attention called by his boy to a very large man, who was walking up and down the pavement, in front of the grave-yard, that night. He went to see him—he knew him—had seen him before—he watched him behind a green tree, and then took his gun and passed by him, when Lewis moved down Wiggins street to avoid being seen and then returned again, when young Murphy came up and he disappeared. That was about nine o'clock at night. What did Lewis go to Princeton for that night? He was not living there. In my opinion he went there to commit this murder or to prepare the way for it.

He said to Mr. Leard, when he left Kingston that night, that he was going to see a man named Lewis, near Com. Stockton's farm, and would not be home that night; but he came back at midnight. Will the learned counsel explain why Lewis went to Princeton that night?—and why he was hanging around the grave-yard and the place along which Rowand had to pass on going home? The presumption is very strong against him, and connects that visit with his visit there on the night of the murder. It had been intimated by some one that these visits were to meet some woman; but, to suppose that a man would travel so late and so far at night, as he did, for that purpose, was incredible. I do not believe it.

X. *The general Conduct of the Prisoner, as exhibited, and the Property found in his Trunk, his Habits and his Money are against him.*

His trunk contained four pair of boots—two pair never worn; eleven pocket-handkerchiefs—never used and very fine in quality; a large number of very fine new shirts. Among the large amount of money on him were three United States Treasury bonds of \$100 each, payable to the order of George W. Symonds, not endorsed, and a Savings Bank book with \$100 to the credit of George W. Simons. The prisoner calls his name Charles Lewis. How is this? It is immaterial what his real name is for the purposes of this trial. He can be convicted and sentenced as Charles Lewis while his true name may be George W. Simons. If his name is Simons, he uses a fictitious name, which is not a creditable thing.

XI. *All these circumstances, implicating the Prisoner in this Murder, are not with no explanation by him.*

I confess I was amazed that after we had offered so many witnesses, and arrayed against the defendant so many violent presumptions which demanded explanation at his hands, the defence should maintain the same

silence that the prisoner did from the moment of his arrest. Not one word is offered to rebut this volume of testimony, and I am ignorant at this moment what is to be the plea of the learned counsel. You will remember the law I read in relation to circumstantial evidence, for I called your attention to it at the time. The language of that law was that, in cases like this, where circumstances seem to implicate a defendant, and he declines to make any explanation of them when he has it in his power to do so, the presumptions become conclusive against him. The prisoner is not a poor man without means to bring his witnesses into Court. If he went to Kingston that night on business, can he not tell us the name of the person he went to see? If he stopped at any house, can he not show at whose? and where he put his horse in Kingston or in Princeton? If he is a Government contractor, and went out that night on business, as he intimated his object to Mr. Wortman when interrogated by him closely, why does he not show his relation to the Government and his occasion for travelling about the country? A man who has so much money, and who states that his residence has been at Boston, New York and Washington, ought to be able to call some friends to him to shed light on his good character and his pursuits. Yet, not a word—not a particle of evidence—is offered by him. He reveals no lawful errand to Princeton. He calls no witness to prove his business or the object of his visit to Millstone, Princeton or New Brunswick. Not a word passes his lips; not a witness is called to speak for him. He is silent as to his character, and I cannot but regard his silence as a confession of his guilt. He is the man—the man who committed that horrid murder! We can understand why an innocent person, when charged with such a crime among strangers, might, at first, especially when without counsel, decline an explanation of his whereabouts and his supposed connection with the crime, waiting for a better time to give such explanation. But when the State has piled up its evidence of circumstances; when seventy-seven witnesses have been called, and the life of the prisoner is trembling in the scales, it is no time for silence. It is the time, if ever, for him to speak if he is innocent. His counsel are skilful and experienced in conducting such trials. With such counsel and such means, therefore, as the prisoner has, I feel justified in saying that his closed mouth betrays his guilt.

I thank you, gentlemen of the jury, for the patience with which you have heard me. I know that you, as well as myself and others, desire to hear what the distinguished counsel for the prisoner, who will follow me, has to say for his unfortunate client; and I leave the case with what my associate, the Attorney General will have to say in closing the argument for the State, believing that you will have no difficulty in rendering a verdict that

the defendant is guilty of murder in the first degree.

Mr. Hageman spoke two hours and forty minutes, and the Court took a recess till one o'clock, when Edwin James, Esq., of New York, on behalf of the prisoner, replied.

Mr. James' Speech.

GENTLEMEN OF THE JURY:

You can, I assure you, appreciate deeply the emotion a counsel feels in every case in behalf of a client, whose life is committed, in a measure, to his hands. No advocate can appreciate such a case without being deeply impressed with the responsibility of the task he has undertaken. I think I am justified in asking you, gentlemen of the jury, whether in your experience, or in your history, you have ever heard of a case embarrassed with an equal amount of prejudice as the one before us.

It is the right of public opinion unequivocally to express itself on this or any other subject; but when you, as Jurors, come into that box you are to dismiss your minds at once of every thing like prejudice. I am sure, gentlemen, that whatever may be the prejudices abroad on this subject that none of you have brought them here; in the temple of Justice they should be dismissed from the mind. No advocate, however able and devoted he may be, can do his duty unless the jury will conscientiously do theirs. I do not believe, that any of you, gentlemen, are controlled by any such prejudice; but there is a prejudice abroad, not to the crime which would be a homage to virtue, but to the man; and it may be difficult under certain circumstances to prevent its effects even here; but I am convinced, that with the life or death of this defendant in your hands, no man here will suffer himself to be moved by the slightest prejudice. It works corruption if intentionally cherished. It is unjust against the accused.

I have listened with great admiration to the argument of the prosecutor (Mr. Hageman.) I was impressed with its ability; but I thought that in his zeal against the prisoner he had forgotten his position, and had betrayed the feelings of a man rather than discharging his duties as a minister of justice. Living in the place where the murder was committed, he seems to have been led away by the general prejudices and passions which met this case at its threshold; and instead of laying before you calmly and dispassionately, a statement of the facts, he has from the outset, characterized the defendant as the murderer.

The prosecutor had, from the outset, assumed that the prisoner was guilty, and he had stated that the prayers of the whole population of Princeton went up for the discovery of the murderer. I submit, that such appeals to pas-

sion and prejudice and the invocation of the Deity against the prisoner, do not become the solemn duty of a minister of Justice. When the other side so frequently invoke the Deity in their behalf to supply the broken links of testimony, may not I invoke, to prove the innocence of the prisoner by the want of such evidence, the help of

"One who sees with equal eye, as God of all,
A hero perish or a sparrow fall."

The frequent appeals to the Deity were calculated to impress the jury with prejudice, rather than appealing to their judgment. We hope to rely upon your calm, deliberate, just, and dispassionate conviction to see if the prosecution have made out the charge of murder against the defendant.

The prosecutor had endeavored to impress you with the idea that you had nothing to do with the penalty, but I remind you that you are responsible for every act, for the conviction and the penalties that follow, and every juror that gives his voice for conviction must do it with the solemn impression that he condemns a fellow-being to death.

I have heard such a doctrine addressed to juries in England, but juries there were unwilling to disregard the consequence of their verdict, and their refusal to convict in many cases, led to a great reformation in the penal code of that country. I remember that when a boy, my poor father showed me while walking the streets of London, five men hanging at one time—some for offences which are now punished with fine or imprisonment; one man had been guilty of forging a name for the payment of twenty pounds. It was because juries refused to convict in so many cases, that the number of capital crimes was diminished by law; such a doctrine is calculated to make men careless of their responsibility to God and to their fellow men.

There is no doubt that on the 13th of Nov. last James Rowand was murdered at Princeton; but have they satisfied you that this act was committed by Charles Lewis? They have no direct testimony on the subject; they rely entirely upon circumstantial testimony.

Having taken his position, the prosecution is forced to find that there is not a possibility that any other man could have committed the act, and the innocence of the defendant is inconsistent with the state of things that any other man could have committed it. (He cites Wharton's Criminal Law, page 733.)

A metaphor has been adopted by the prosecutor. You have heard of these links in the chain of evidence. Now, if you forge a chain of one hundred feet—the strength of that chain will depend on the weakest link; however perfect and combined it may appear to be, if there is a weak link it breaks, so with circum-

stantial evidence, and so with this case of the prosecution; if there is a single weak link the defendant must have the benefit of it.

The prosecution must make their case conclusive. If they fail in a single link, the prisoner has a right to throw off the chain by which they are attempting to encircle him. I have a right to ask you, gentlemen of the jury, to know the fact for yourselves whether the prosecution has made a perfect link of testimony, and have traced the murder to the defendant.

The prosecutor has been very unfortunate in his selection of cases of circumstantial testimony. He had alluded to the case of Robinson, of New Brunswick, as analogous to this. That was a case where the body of the murdered man was found under the floor, in the house of the murderer, and his watch found upon his person. That was not a case of circumstantial evidence, but of direct testimony. He referred also to the case of Carter and Parke of Warren county; doubts still exist in regard to that case:—to the case of Dannelly, where the dying declarations of the murdered man were made; the Fox case where Fox had threatened to shoot his victim. These he submitted, were not all analogous to the case before us.

I am certain that the Prosecutor and the Attorney General will admit the cases they cited are not at all analogous to the one now before the Court.

If the prosecution attempt, in the absence of direct testimony, to make out their case by circumstantial evidence, they must prove that every link is welded together and of the same strength. If one fails away goes the whole chain. Let us approach this case with candor and without the slightest prejudice. The case itself is embarrassed by natural prejudices. The murder occurred in the respectable and honorable town of Princeton, and at once a great amount of prejudice was naturally raised, Everybody at once not only suspected but had the impression that Charles Lewis was the man who committed the deed.

So great was the excitement at Princeton, that the magistrate's office was abandoned for the Mercer Hall. All sorts of people were questioning the prisoner—by the constables, and by a man from the depot. Can it be wondered that under such a state of things the defendant should have expressed the desire to be committed. Dr. Schanck, a gentleman for whom he entertained the highest esteem, a quiet, professional gentleman, of intelligence, was himself affected in the same way. I may mention him as an instance of the extraordinary prejudice that existed in his case. He jumped at a conclusion, and showed a remarkable prejudging of the case by deciding that the acetic acid found on

the prisoner, was intended for the removal of blood spots—a position which he has since retracted. He mentioned this to show how suspicious, “light as air, come to be confirmations strong as holy writ.”

I contend that no chemical book could be produced to show that acetic acid had been used to take out blood spots; and if a gentleman like Dr. Schanck can be excited and prejudiced in this manner, what may be expected of persons less informed? He then cited authorities showing that the best article for the removal of blood spots was soap and water; that acetic acid was never used for that purpose; if Lewis was a chemist why should he carry about him acetic acid to remove blood spots, when soap and water was a far more effectual detergent?

Mr. James then proceeded to an analysis of the evidence with respect to the blood stains on the wristband of the prisoner's shirt, and upon his coat. He cited various elaborate authorities to prove that human blood could not be distinguished from the blood of domestic animals. Hundreds of men had been executed before chemists and physiologists were compelled by the light of science to acknowledge this truth. (Taylor on Medical Jurisprudence—Beck's treatise on the same subject—the last edition of the American Encyclopedia were read by the counsel.) Kaspoif, a celebrated French chemist had declared that he makes a composition of white of eggs and madder, which could not be distinguished from the stain of human blood. Schmidt a German chemist had experimented upon this subject and had declared that the result of all his labor was to show that no man could swear to the identity of human blood.

He then showed how fallacious was the idea advanced by Justice Fenning that there was brain matter on the hat. It was no doubt true that one blow was struck, and that it felled him lifeless to the ground. It no doubt sent his wig and hat one way, and his body reeling to the wall. If there was any brain matter it must have been on the wig. This shows conclusively that Mr. Fenning was wrong. Now, if gentlemen of the ability of Mr. Fenning are mistaken, how careful ought every man to be in forming his opinion in the midst of so much prejudice and excitement.

This case must be proved beyond a doubt. Every Juryman must be willing to say that he is ready to consign this man to private strangulation, and he must be willing to assume the responsibility of the act.

Mr. James then referred to the case itself—or its narrative. He took up the evidence and analyzed it closely, showing its weak points and contradictions.

The assumption that the blood on the wrist-

band was from the body of Rowand, he contended had not been made out. The way in which the shirt had been torn in the struggle he contended was a fallacy, because it was evident that the blow did the business; besides, the hands were found with large heavy gloves on them.

The idea of the defendant going home; tearing his shirt to make it appear as an old one, and putting it in his valise with blood upon it, leaving it exposed to public view, was too extraordinary to entertain for a moment. It was carrying the theory farther than any one ever imagined.

He referred to the tragetic effect attempted by the prosecutor in representing the defendant as returning to Millstone with his hands imbrued in the blood of James Rowand. The towel in his room is found saturated with blood. The wash-bowls have no evidences of blood—indeed, nothing about the room have such signs of such an hypothesis. The marks on the window curtains was an absurd fallacy. The prosecution had Dr. Schanck on the stand, but they dare not ask him to examine the spots on the curtain.

He contended that the experiments made by Dr. Schanck were unreliable. His test was erroneous. He read from Taylor's Analysis to show how the tests to discover blood spots were usually made, and showed that those made by Dr. Schanck were erroneous. The presumption fails to prove it to be the blood of a man. There is not the tittle of evidence to sustain the presumption that the spot on the coat is human blood. This is the failure first in the link of the chain.

Mr. James next referred to the evidence in regard to the papers found in the privy at Millstone. There was a deficiency there—a weak link in their chain. To make out a case of circumstantial evidence in a case of murder, the prosecution must leave no doubt.

The theory of the prosecutor is that Rowand had a pocketbook and that these papers were in his pocketbook. One is a printed card, another a memorandum of the age of a horse, others parts of a promissory note, and a bill of Mrs. McGregor. Mrs. Curtis discovers in the chamber a piece of a card on which was the picture of a watch. This is the only paper identified, I want the jury to remember this. Mrs. Curtis goes into the room between 8 and 9 in the morning. This leaves another doubt. There was time enough for some other person to have entered the room. He identifies the piece with the picture of a watch upon it—the others are taken and emptied into the privy. That card was never identified as having been in the hands or possession of Rowand. It is known by the testimony of Mr. Runyan that these cards were generally circulated throughout the

country. Mr. Runyan says he would not be surprised even now to see one of these cards in a hotel. Is it not a fair presumption to say that this card found its way to Millstone in that way. Here then is another failure.

It is said that these papers were in the pocket book of Mr. Rowand. Who ever saw this pocket book? Who knows anything about its contents? No one. Rowand's son comes the nearest and he says he has not seen it in six months. The prosecutor attempted in a coaxing mode to get this information from some of the witnesses. But they utterly failed. In regard to the memorandum given by Governor Olden, who ever saw that paper? It was five years old, and if there was a prosecution for stealing the paper, it would be thrown out of court, because it was not exactly in the possession of the owner.

The prosecution knew their case was failing here, and attempts were made to introduce illegal testimony to support this point, but they were overruled several times. We are not discussing whether the papers identified were the property of Rowand, but whether they were in his possession or not? If they fall in this another link is broken. The note of hand was given in 1855, and taken up in 1856; now, who will pretend to say that this paper, seven years old, was in the possession of Rowand? It has not been seen since 1856.

Next comes the paper of Mrs. McGregor. It has not been seen later than six weeks after the 7th of October, 1861. It was not traced to the possession of Rowand. The chain becomes valueless unless this fact is made out.

It was stated that these cards were used by Rowand to make memoranda upon; but there are no memoranda upon the card identified by Mrs. Curtis. There were pieces of two cards, showing that their circulation is general among the public.

He then alluded to the testimony in regard to the keys. The keys and the papers are the chief basis of the prosecution. They press hardly against the prisoner; but the prosecution finds it as difficult to prove the connection of Lewis with these keys as with the murder of Rowand. Where was the evidence that Lewis put them under the stoop of the school house? His being seen walking out is no evidence that he put them there, but the theory of the prosecution had been changed. They now say they were put there at night, but to support this there was not a particle of evidence.

The Court adjourned to 10 o'clock A. M. to-morrow.

Mr. James resumed his speech on Wednesday morning. He continues his investigation of the evidence in regard to the keys, and said the theory, set up by the prosecution was irrational, improbable, and inconclusive.

He concluded that this part of the case was supported by theory, and not by evidence.— There was a discrepancy in the boy's evidence in regard to the time the keys were found; he said he saw Lewis there on the morning of the same day—that was the day before the murder; then, to deposit the keys there in broad day light was an absurdity. The keys, claimed by Tittsworth were not traced to the prisoner. The presumption in reference to them was nothing more than prejudice. Because Lewis was in New Brunswick, therefore, he stole them. Was that a logical conclusion? Or was it at all a fair inference? They were found eight weeks after Tittsworth issued them. Then the testimony of the women at the State St. House in Trenton was entirely worthless. They do not identify a single key; or, at any rate, the keys of Tittsworth or the key of Rowand's safe was not among the number because they had not been taken. This was on the 27th of October.

Mr. James then came to the testimony in regard to the presence of the prisoner in Princeton. He referred to the great care and preparation with which his honorable friend the District Attorney (Mr. Hageman) had presented this case on the part of the State, and would say again how ably he had argued it; that he had felt the force of his speech pressing him from the beginning to the end of it, and that he knew what he was saying; for he had heard the ablest advocates in England; still it seemed to him as if his honorable friend had been carried along with the excited feelings of the people of Princeton, among whom he resides, and who, no doubt, esteem him very highly, and are zealous for his sake to secure a conviction of this man. He continued:

I do not deny that the defendant was in Princeton on the night of the 13th. I do not deny that he hired a wagon at Millstone and went from that place to Kingston, and thence came to Princeton. But I do deny that Lewis was in Rowand's store on the night of the murder. Lewis has assured me that he was not, and I have never yet been deceived by him; and this I am able to prove. And, first, is there any presumptive evidence, that he came to Princeton with the dark design of an assassin? Certainly his conduct that night furnishes no such evidence. It was suggested by the honorable counsel of the State that Lewis might have been drawn to Princeton by the presence of some female, which suggestion

I confess is more truthful than many others he has made. But, whatever may have been his business, it is plain from his conduct that he was not there in the capacity of an assassin. It appears from the testimony that he made no effort to conceal himself from notice; but, on the contrary, made his appearance in several public places—as the drug stores. Now, is this fact consistent with his alleged guilt? If a man went out with the deep and dark design of murder, would he not conceal every movement and hide himself from the notice of every eye? But in the present case no man ever took more pains to make himself known. Have you ever read in all history of a man taking all possible means to be seen, who was at the same moment on an errand of murder? How does he who wrote not for an age but for all time, and who understood so well the nature and impulses of the human heart, describe the conduct of the assassin, intent on spilling the blood of his victim. Seakspeare describes the murderer going into the chamber of the King:

“ Thus, with stealthy pace,
With Tarquin's ravishing strides towards his design,
Moves like a ghost. Thou, sure and firm-set earth,
Hear not my steps, which way they walk, for fear
The very stones prate of my whereabouts.”

The testimony of the five persons who allege they saw Lewis in Rowand's store was inconsistent and contradictory. They all were there about the same time, and yet, strange to say, no one of the five saw either of the other four. He contended that there was serious doubt raised by these witnesses. In one case Mr Rowand was said to be mending an umbrella and in the other reading a newspaper.

The discrepancy in the testimony of Hendrickson and Harris in regard to hearing the pounding in the graveyard was alluded to; both of these witnesses went to Harris's house; Harris denies telling his wife anything about what they had heard, and Hendrickson says that Harris told his wife all about it.

This was the character the of testimony upon which the prosecution asked for the conviction of this defendant for the crime of murder. It was impossible in his opinion that any one man could have committed this murder. It was done by more than one person; it was impossible for one man to have lifted the body over that wall.

The prisoner is here under an assumed name. He has reason for it. Respectable friends ought not to be pained by the intelligence of his unfortunate position. Mr. Field, of Princeton, very properly advised him to waive an examination. Many innocent persons had assumed names.

After some further allusion to the testimony Mr. James concluded his speech with an eloquent peroration. He said—

I implore you to discard all prejudices. I implore you to rise above the dark clouds of suspicion which surround this case, and breathe the pure atmosphere of justice. Your duty is, indeed, a solemn and important one. You are responsible to your country, to society to God, and to your own hearts, for the verdict you will render. Your duty is a sacred trust imposed on you by the public. The eager crowds who throng this court, the painful excitement which agitates so profoundly the hearts who hear me, proves the public interest upon this momentous issue.

The mighty events which are now being enacted the great struggle in which the destiny of this great, this glorious, this freedom loving country is involved—will soon obliterate even the recollections of this trial. The history of the day is borne so rapidly down the stream of Time into the wide ocean of the Past, that you and I who are engaged in this case will, after a few hours be forgotten. But not so the sense of not having discharged your duty—it will cling to you to the last hour of your existence; and my earnest hope, my sincere prayer is that you will secure that peace which the world can neither give nor take away, from the feeling that you have found a verdict dictated by mercy and founded upon the eternal and immutable principles of impartiality and justice. [Applause.]

Mr. James occupied, in all, five and a half hours in delivering his speech. We are indebted to the Reporter of the *True American* for the greater part of this speech and regret that it is not fuller.

Mr. Frelinghuysen, the Attorney-General, followed Mr. James, with the closing argument for the State.

Mr. Frelinghuysen's Speech.

GENTLEMEN OF THE JURY:

We have a solemn duty to discharge—one from which the Court, and Counsel, and Jury would gladly be relieved. It has relation to the life or death of a fellow-man. Not that we are, in any event, to determine on his death; neither Jury, nor Court, nor Counsel determine that. The law, that mysterious power which is our King, which we obey, and for which, if needs be, we are ready to die—to vindicate the insulted dignity of which hundreds of thousands of our sons and brethren are marshalled to-day on the field of battle—that power, the law, echoing the righteous and wise mandate of Heaven—“Whoso sheddeth man's blood, by man shall his blood be shed”—alone pronounces the penalty of death.

We have no direct responsibility as to consequences. We have truly to find the inde-

pendent fact of guilt or innocence. For us to embarrass our minds by all the complex considerations, moral and civil, arising out of the question of the propriety of capital punishment, when we have nothing to do with that question, would be to make an effort to disqualify ourselves for the important duty of truly finding whether the defendant is guilty or innocent—a duty we are sworn to discharge.

And yet our duty is a solemn one, for it has relation to human life. The issue is infinitely more momentous than any mere civil question; and I never see a juror sworn in such a case without commiseration. You are yourselves put on trial. On the one hand, the security of society—the safety of the life of the innocent and virtuous—the peace of families—the sanctions of your oaths—call on you to be firm and resolute; while, on the other hand, human sympathy for the unfortunate prisoner, who stands trembling in view of the threatened fearful termination of his existence, prompts you to seek for some discharge from your obligations.

It is right to give the case a most careful investigation; to give the defendant the benefit of every reasonable doubt and of a rational manly charity. But if the guilt be proven, then to be guided by weak sympathy for the culprit, regardless of the havoc and desolation, the widowhood and orphanage and bleeding hearts he has occasioned, is the very refinement of cruelty, and is to become yourselves the sharers of his guilt. The painful attention you have given this case satisfies me you are prepared to acquit yourselves faithfully alike to the prisoner and to the State. The life of the prisoner and the life of society will each be properly considered. You have been warned against the insidious influence of prejudice by the defendant's counsel. I join in that warning—New Jersey does not want sacrifice.

But I submit the learned counsel has been unfortunate in the instance he has given of the manifestation of prejudice. It certainly was not prejudice, but great fairness, that induced Dr. Schanck to adopt the prisoner's theory, that the acetic acid was in his possession as a cosmetic and not to remove blood stains. It certainly was not prejudice that revealed on the hat of the deceased, blood and brains, when an inspection now shows plainly there blood, or serum, and hair.

Gentlemen, you have been most skillfully and learnedly addressed as to the kind of evidence on which the State asks the conviction of the prisoner. I shall not enter the arena to compete in any manner with that skill and learning. With a plain remark I shall leave this branch of the case:

You are conscious that your Maker has given each of you a faculty of mind called judgment; and that he has established certain laws regulating the conclusions which

you cannot resist, in an honest search for truth, any more than you can annul the laws of physical nature. If the evidence produced before you in this case convinces your judgments of the truth of the charge the State makes against Charles Lewis—I care not whether you call it "direct," "presumptive" or "circumstantial"—it is evidence on which you may rely. In an honest search for truth, by reason of the laws governing your judgments, it is evidence you cannot resist. Ninety-tenths of all our own conclusions are based on no other than direct evidence. It is sought to prove that I wrote a paper which contains evidence that I knew of a crime before any one else—that I had a guilty knowledge of the offence; and a fragment of paper, before any one knew of the crime, was found in my possession, in my hand-writing; another fragment is found in the rubbish box of a stationer in London, and they are put together. The paper is the same, the ink is the same, the hand-writing is the same, the fragments match; and, while each without the other is unintelligible when attempted to be read, now, when together, they are sensible and reveal the guilty knowledge. No one saw me write either; there is no direct evidence; but the proof is irresistible that I had the guilty knowledge.

In the case in hand perhaps no isolated circumstance proves the guilt; but do not the combination of many prove it? As the gathering and twisting of the attenuated straws which alone a feeble child can sever, compose the vigorous cable which holds securely the ponderous ships against the storm of ocean, so the combination of a multitude of circumstances may form a ligature fastening the prisoner with the crime of which he is accused beyond the hope of escape. I do not tell you that you should rely on the evidence of circumstances—I tell you, "You cannot avoid doing so."

God governs and controls circumstances. He says where the key shall be hid and where found—where the blood shall leave its guilty stain—where the fragments of papers shall be deposited, and in what position they shall fall. It is by means of these seeming uncontrolled events that He reveals to human justice deeds of guilt and darkness; and, to contend against the clear, full evidences of circumstances, is vainly to attempt to pervert the purposes of the Most High.

The distinguished counsel, in the most graceful manner possible, and, as if casually, presented to your minds, at the threshold of his argument, a figure or metaphor intended to be descriptive of the nature and effect of the State's testimony. That metaphor, I think, is pregnant of error. He says our evidence is or should be a chain of many links—all connected—"the weakest of which is the measure of the chain's strength." That, I submit, is just what circumstantial evidence

is not, instead of what it is. *Direct* evidence must constitute a chain. If you would make title by possession for twenty years, if you fail to prove possession for any one year, your chain is broken—your title gone. If you would make a documentary title, there must be no links weak—none wanting. Demonstration, too, must be a connected, continuous chain, uniting the premises with the conclusion with irresistible and unerring certainty. Circumstantial evidence is not a chain, but a multitude of independent facts, "*circum-stans*," standing around, the great central fact, to wit, the murder of James Rowand; and telling when, how and by whom he was murdered. Each fact is isolated and independent of every other." It proceeds on the principle of probabilities. If a man is proven to be flying from the murdered man, with blood on his garments, it is probable he may be the man. If, also, the property of the murdered man is found on him, it is more probable; if he gives a false account, still more so; if he gives no explanation, still more—until we come to what is called "moral certainty." As you decrease the number of events standing around, you weaken the probability; as you increase, you strengthen it. The reason why the proof of certain events makes the event to be ascertained probable and more probable—and then certain—is because all events in life, all the facts in time, are consistent the one with the other. It must be so, for they exist with each other. Here, as in nature, there is harmony. Truth is a unit, consistent with itself. If Charles Lewis is innocent of the murder of James Rowand you will find all the surrounding events arranging themselves in harmony with that innocence. If he is guilty of that murder, you will find the events standing all around the circle and pointing to his guilt.

In the trial of indictments for murder two questions always arise: 1st. Has a murder been perpetrated? 2d. Was it committed by the accused?

Frequently the first of these questions is involved in as much uncertainty and doubt as the second. If death is charged to have been produced by poison, the question arises, may not the chemist be mistaken in his analysis? May not the death be the result of suicide or misadventure? If the death was occasioned by physical violence, may there not have been a rencounter? May it not be a case of self-defence? May not, at least, the crime have been committed in the heat of blood and without malice, and so the offence be greatly modified? At this point a painful uncertainty often lingers. But, in this case, the proof of the *corpus delicti*, as it is called, is so perfect that there is not a shadow of doubt.

That James Rowand was murdered on Thursday, the 13th of November, is a proven, an admitted fact in the cause.

And, oh! what a murder that was! It was

"A bloody deed, and desperately dispatched."

The distinguished counsel deprecates any effort to excite the jury by picturing the atrocity of this crime. We desire to avoid all excitements, but it is as legitimate that the jury should consider the enormity of the offence that they may be firm in their duty to the State, as that they should bear in mind the fearful consequence of their verdict to the defendant that they may not wrong him.

A worthy, unoffending and highly respected man—a father, a husband—one who avoided always the haunts of dissipation, the industry of the day being accomplished, early in the evening, in a quiet village, surrounded by human habitations, hastens to the enjoyment of his home; when, with stealthy step, and under the concealment of darkness, an athletic assassin is on his trail; without provocation, without giving any notice; with a weapon as rude and deadly as that employed by the first murderer; in an instant he strikes him to the ground—the skull is crushed—the brain protrudes, and James Rowand, within eighty yards of his own hearth-stone, is a mangled corpse. The heart that even then was throbbing with affection for those hard by, has forever ceased to beat. The eye that beamed with kindness is dimmed, and the hand accustomed to deeds of humble usefulness is motionless.

There was a witness to the horrid deed. Looking with clear vision through the murky darkness, One who never sleeps saw it all! And it seems to me that while the guilty wretch, whoever he was, in yonder graveyard desecrated the resting place of the distinguished dead, a hundred spirits must have whispered hoarsely in his ears, "Be sure—Be sure—your sin will find you out;" for, while God controls the concatenation of human events, there is nothing hidden that he may not reveal. There are some crimes so atrocious that justice refuses to delay, and the punishment follows as quickly as the rolling thunder succeeds the lightning. There, on the spot, commenced the retribution. The perpetrator there failed to safely secure the little key which alone could give access to the treasure; and, losing it within a few hundred yards of his victim, that avarice, which had instigated the fearful crime; was robbed of all its miserable reward. While he made this loss, he carefully possessed himself of the worthless papers which will prove his death-warrant, and he then received the apparent, and yet, from him, hidden stain of blood which he bears with him to the very tribunal of justice.

But, enough. Who committed this deed, which, because it has tended to destroy that security which a life of virtue, removed from the haunts of vice, was thought to give, has sent a shock through society? Who committed this deed, which, ever since the wife looked upon the mangled remains of her hus-

band encuffed before her, has brought only anguish to her soul?

Who was it? Did a resident of Princeton do it? Did one, who knew how the death of James Rowand, from his peculiar position in the community in which he lived, would be investigated and how avenged? Did one do it who knew how little there was to gain?—how much to suffer?

Or whom at Princeton has any shade of suspicion been cast? On no one! if we except the mean and Satanic effort of the prisoner still more deeply to wound and injure the son of the deceased, bereft as he is by this crime of a father's counsels and left with his widowed mother to mourn the cruel death of him who had all their affection. And no sooner does this effort to implicate this afflicted youth manifest itself than the State proves by four truthful men that the son of the deceased was not in Princeton, but in Kingston, for two hours before and for two hours after the perpetration of the murder. Deluded man! Did he imagine that the God of the widow and of the fatherless would suffer him by fastening even this foul suspicion on that boy to inflict on both mother and son a deeper wound than that from which their cemented hearts now bleed? The world is not without a God!

The man that killed James Rowand must have been one who, judging from Mr. Rowand's tasteful home and from the glitter of his stock of jewelry, had an over-estimate of his wealth; one who knew his habits, as to the hour he went home, the path he followed, and that he carried his keys with him; and yet one who had no sympathy with the general estimate in which the community held his virtues. It must have been one who had given way to lust and passion until virtue had lost all restraint upon him; one who is so abandoned that in this hour of fearful trial no friend stands by him; one who, though possessed of ample means, finds it his interest and true policy to leave his occupation, his residence, his very name a problem.

In assisting you to ascertain who is the perpetrator of the deed, I make no appeal to your passions—I invoke no rhetoric and I use none of the strategy of logic, but content myself with giving a plain though connected statement of the facts and events clustering around this murder, and leave it for you to say whether there is a reasonable doubt as to who is guilty. Let us, for the purposes of order, divide the fearful tragedy into three parts:

1st. The prisoner's conduct preceding the murder.

2nd. The murder; and,

3rd. His conduct subsequent to the murder. The counsel of the defendant insists that the law governing circumstantial evidence requires that to authorize a conviction the State must show such a combination of facts

as is "inconsistent with any other rational conclusion than that the prisoner is guilty." On behalf of the State I accept the law as stated by the counsel. I cannot do otherwise. The prisoner's guilt is the conclusion sought; and, if the facts are consistent with his innocence, we cannot ask you to pervert that conclusion. But, observe, the facts must be inconsistent with any other "rational conclusion," not with any other imagination, suggestion or weak possible doubt. Take this law as we agree to it and you will have a safe guide.

1st. The prisoner before the murder.

The prisoner is in the mid-day of life. He is an American. He says he was born in Massachusetts. He says that he resided in Boston in 1840; and that he has resided in New York. He said he was a Government contractor. He had eighteen hundred dollars on his person. He had a good wardrobe, a gold watch, gold pencil and breast-pin; and yet this man, who has a history, when charged with the gravest of crimes; who has counsel (one of whom, though still not advanced in years, has won a reputation in two hemispheres); having abundance of means and time; the telegraph and mail open to his use—leaves this jury—ready, anxious to acquit him if possible—without any proof of his residence, his business, his relations, his character or his name. I believe he has concealed it from his own counsel, otherwise the skill they have manifested would have led them to remove this guilty secrecy. This concealment is pregnant evidence that his biography, were it revealed, would only deepen and not relieve the cloud of guilt that lowers over him.

When the humane Mayor of Princeton (James T. L. Anderson) suggested that he should send word to his friends of the position he was in, his reply was, "I have no friends to refer to." Did ever an intelligent, temperate man of property, forty-five or fifty years old, live in this country without acquaintances? No—never! He knew that the less there was revealed, the better his prospects.

The first we know of him is when, on the twenty-seventh day of October last, he was at the State Street House, in this city. While there an incident occurred which it will be well for you to remember when we come to another part of the case. His room was desired for the accommodation of another guest; and, when he was out of his room, the two chambermaids (Rachel and Eliza Anderson) removed his overcoat, from the pocket of which fell a bunch of keys, wrapped in a handkerchief; the keys and handkerchief they have described—but of that hereafter.

The next we learn of him is Thursday, 30th of October, when he is seen by John Benham, Jane Harris and others at the Democratic meeting at Princeton when Mr. Stockton

spoke. His conduct there, in coughing at and following Jane Harris you remember. It is by reason of his having been present at that meeting that he was so readily identified on the fatal night. Thus, while hideous crime was teeming in his heart, he was wearing the meshes of that net in which he was afterwards to be a captive. After the meeting, and at 9 P. M., he presents himself at the Rittenhouse Hotel, in Princeton, with his valise and umbrella. There he staid until Monday, the 3d of November, when he left in the evening without having for five days disclosed his name or residence. Does this secrecy point to innocence or to guilt? While there he was out usually in the evening and home in the day-time. He asked Cornell as to the wealth of Mr. Stockton and Mr. Tulane and Governor Olden, and as to Professor Alexander's salary or twenty-five hundred dollars, when it was payable, &c. He asked VanDyke Gulick, who kept a livery stable, as to Stockton's connection with the canal office. He also asked Simmons, a colored man, as to Mr. Stockton. He has surveyed the whole ground of Princeton, and after coolly canvassing the advantages of several others, he finally settled down on James Rowand. Why should James Rowand attract his cupidity? He knew that he had available wealth in gold watches—his own and others—silver, jewelry, &c.; that he (different from the other candidates for his favor) could always be found at 9 o'clock in the evening at a certain lonely place, and he knew that it was his habit to take the keys home with him—possessed of which the seductive treasure was his. This point settled, look at the subsequent arrangements.

There was but one spot in the path of Rowand where the foul deed could be perpetrated. It would not do to kill him on the sidewalk at 9 o'clock and then stop there to rifle his pockets. He would be seen; or, if not discovered in the act, Rowand's remains would be discovered by passers-by before the defendant could enter the shop, take its contents and effect his escape. The only possible plan to adopt was that which was devised and the only feasible spot on Rowand's route that which was selected. That spot was by the side of the grave-yard, midway between the lights. The plan was to strike Rowand dead in an instant, so that there would be no cry, and then cast him into the grave-yard, where he could possess himself of his wallet and his keys, and where the corpse would remain concealed until he could effect the robbery and his escape. The plan formed, he commences its execution. He makes a reconnaissance of the grave-yard; and this stranger goes there by day-light and looks about, probably to see if any windows open upon it, or if there are any public thoroughfares through it. Colou White, the sexton, is found there by him. A bludgeon is then

placed under the gate, (not the fatal stick), and the next thing to do is to leave Princeton, so that suspicion shall not fasten on him. On Monday, 3d of November, he goes to Kingston to the house of John Leard. He has, so far as appears, no earthly purpose for going there. He takes only his carpet-bag; his trunk is in New York, so that he can reach it. He, during his stay there, never recorded his name. He stays there from Monday, the 3d of November, until Wednesday, the 5th of November, and then he starts on some guilty errand, for he falsely tells Leard that he is going to see a Mr. Lewis, who, he says, lives within half a mile of Commodore Stockton's place. The proof is that there is no person of that name living in that neighborhood: At 9 o'clock that evening (mark the hour—it is that on which Rowand habitually returned home) he is seen by VanHorn and Lane walking up and down in front of the grave-yard. It is the place Rowand always passes. It is the only place where the murder could be committed. It is where it was afterwards perpetrated.

On being watched and followed by Van Horn and Lane, the latter having a gun, he withdraws up Wiggins street. Their presence and that of Murphy protracted the life of poor Rowand until the night of the 13th.

He returned that night to Leard's, arriving there about 12 o'clock, without stating where he had been.

Tell me—Does this visit to the path in front of the grave-yard—when he stated he was going to see a person who did not exist there—at 9 o'clock in the evening, point to the innocence or the guilt of the defendant? Do we or do we not find in this visit from Kingston evidence that this cruel murder had been for weeks before it was committed festering in his heart?

The next day, to restore Laird's confidence in him, he suffers him to see his money, and remarks, "It is hardly safe for me, with so much money, to travel late at night." "Out of the abundance of the heart the mouth speaketh."

The next day, (November the 6th), while smoking in the bar-room after breakfast, two gentlemen from Princeton, on a hunting expedition, came in, and he is thus discovered by those from whom he would be concealed loitering in the neighborhood of Princeton. He immediately leaves the bar and goes to the barn-yard; and, under the pretence that he wants exercise, when he had been out till 12 the night before walking to and from about Princeton, commences splitting wood.

Thus discovered by Princeton men, and dissatisfied because Leard knew he had been out towards Princeton until 12 o'clock, he concluded "to change his base." Had Rowand been murdered that night, Leard would not have seen him again. He would have gone by the train to New York, where his

trunk was; and, as Leard did not know his name, would not have connected him with the murder.

He must now go further; and as he came afoot to Leard's so he started, and that day (Thursday, November 6th,) he arrives at the City Hall, kept by Silas Hall, in New Brunswick. This being a large City Hotel, he must register his name. He gave it as "C. Lewis, of Washington." While there an incident occurred in connection with certain keys, which hereafter becomes important. Mr. Titsworth came into the reading-room where Lewis and others were seated. As he (Titsworth) shook the snow from his coat, he now remembers that the keys of his drag store rattled in his pocket. He took his coat to the sitting-room, went to his dinner and did not see his keys again until he saw them here before this jury. He had the locks on the doors of his shop changed. More of those keys hereafter.

That Lewis is the man who was at Hall's Hotel at New Brunswick is certain, for he stole a key from Mr. Hall, which he has returned, on request, since arrested. Had the locks not been changed it is possible that the cupidity of Lewis might have been satisfied without the sacrifice of Rowand. But he is still intent on Rowand. He is too far from Princeton and in too public a place. He stays there six days—until Wednesday, 12th—and then goes to East Millstone, a little village of two hundred persons, where he arrives the same day, 12th November. This is the day before the murder. You will remember that the next day it was indispensably necessary for him to go to Kingston. Why did he not go by the train direct from New Brunswick? Why did he not go to Millstone by the cars? No; he travelled on foot along the canal, although he had eighteen hundred dollars in his pocket. He did not want to be seen. Secrecy, a badge of guilt, marks all his steps. He departed clandestinely from New Brunswick, comes by the canal to Millstone; and here again, as at Kingston, he gives no name, until directly asked by Mr. Wortman when, the next day, he is going off with his horse and wagon.

At Millstone he met Mr. VanDyke, who had seen him before, and so told Lewis, who denied having seen him; but, when VanDyke told him he had seen him Monday, the 3d day of November, at Rittenhouse's Hotel, he admitted he was there. On Thursday, 13th, he prepared for the fearful journey. His purpose is formed as early as between 8 and 9 o'clock in the morning, and yet he delayed starting until in the afternoon. He wanted some information, but did not seek it at the hotel. He did not mean to subject himself to suspicion again, as he had at Leard's, by asking about Princeton at the Hotel where, on inquiry, it would be disclosed. At 8½ o'clock, A. M., he walked from the hotel to the lime-

kiln and asked Thomas Malone, a laborer, how many miles it was to Kingston and how many to Princeton? Why did he ask about Princeton? Was he going there? His purpose was never to return to Millstone, but he intended after the deed was done, not to take the cars at Princeton, but to drive from Princeton to New Brunswick and there take the cars and get to New York, where his trunk was; he also asked Malone if there was a turnpike from Kingston to New Brunswick; and he also asked Mr. VanDyke, whom he met after he started in his wagon for Kingston, how far it was before reaching the stage-road from Trenton to New Brunswick.

At Wortman's Hotel he only asked about Kingston. His work was one of darkness; for, while his purpose to go is manifest by his conversation with Malone at 8½ A. M., he did not speak to Wortman about a horse till 2 P. M., and proposed starting at 3 P. M. to go fifteen miles to Kingston and return that night over muddy roads. He told Curtis he wanted a truck wagon, with a cover. Strange, that he should have preferred such a conveyance! He, however, got a buggy wagon with one horse. Between dusk and dark Mahan saw him driving on a walk near to Kingston.

Did he go only to Kingston—or did he go to Princeton? If he went only to Kingston, he is innocent. If he went to Princeton the night of the 13th of November, it is fearful evidence of his being guilty of the murder of James Rowand; because he told Wortman he was only going to Kingston; because he told Isaac Lot on Friday morning, at the hotel in Millstone, he had not been to Princeton; because he told Edward Holcombe, the marshal, alone, after he was arrested, that he did not need counsel, because he was not at Princeton that night. If I am accused, I make my own defense—say not guilty, because not there. He formed his own issue. Was he in Princeton the night of the 13th of November? This is an important question. If he went only to Kingston he got there at 6 P. M., for Mahan saw him before 6 o'clock. Where did he go? Who saw him? Where did he stay? Was he not at Princeton?

Dr. Wyckoff saw him by the full gas-light of Marsh's drug store; saw his face and now recognizes him; describes him by his hat, his whiskers, and by the mud which is still on his overcoat. Crowell Marsh and William L. Hankins, two druggists who waited on him, swear positively to seeing him, and so do some nine other witnesses. Is the test of his guilt, which he himself selected, determined against him? I need go no further to prove him at Princeton. If he was not there where was he? His silence to this inquiry has the moral force of confession. Let us now see what he did at Princeton.

Judging from the time Mahan saw him near Kingston, he must have reached Princeton about 6 o'clock. He put his horse and wagon

under the shed of the Methodist Church. John R. Slayback, coming from his tea, saw such a horse and wagon as Lewis had under there. William Leggett, the sexton, saw a man answering in size, dress and whiskers to Lewis standing in front of the church before 7 o'clock; and John Leggett, about 10½ o'clock, heard a wagon pass over the bridge, which is between the church yard and the public highway. The counsel of the prisoner argue that he is not guilty, because he showed himself so publicly at Princeton. This is a strange argument, after the prisoner's repeated declarations that he was not at Princeton that night. Lewis had on him, as his garments disclose, a foul disease, and was suffering under his torture. That pain disturbed this depraved man more than the horrid purpose he had formed. He did not know that Dr. Wikoff would be there to watch him. He did not know that his appearance was so marked that he would be observed by Crowell Marsh and William L. Hankins. He had never been there before; he never intended, as I will show you, to be in these parts had he got Rowand's property. And about 7 o'clock he went to Crowell Marsh's and asked for "Tarrant's Extract," a gonorrhœa medicine—another evidence of his identity. At a little after 7 o'clock he was at Hankins' drug shop, on the same errand.

At about 7½ o'clock Stephen Magerum saw him in front of Hudnut's store—his hat down and coat collar up. He went in front of Rowand's store and obtained one piece of information that he desired. Rowand, he discovered, was at home. He now wanted to know that the club was where he had left it November 5th, when he came from Kingston.

Magerum saw him turn down Witherspoon street, going towards the grave-yard. Isaac Sutphen, a student, saw one he supposed to be him, at 7¼ o'clock, opposite Rowand's, and go down Witherspoon street. George Fenning met him a little after—he says between 7 and 8 o'clock—at his father's store in that street. Jane Harris, who saw him before, saw him there that night. Colon White, the sexton, had that morning removed the club from under the gate and taken it to his own house. Lewis discovered the club was taken away, and, at 7¼ o'clock, White says he heard the wood—at the wood-pile near the grave-yard—dropping. The wood on that pile corresponds with the stick that was found, bloody, beside the body.

That arranged, he returns to get information as to Rowand's shop and watch Rowand's departure. The defence strongly deny that Lewis was in Rowand's shop, and say that the witnesses of the State contradict each other. I will show you that he was in the shop and that there was no contradiction.

William Schenck, a farmer, saw Lewis about 8 o'clock—he says in Rowand's store. Schenck lives four and a half miles off and

got home at 9 o'clock. It was earlier than 8 o'clock probably when he saw Lewis. Lewis was not talking, neither was Rowand. Rowand was marking an umbrella. Lewis probably said, "Don't disturb yourself; I only want to look at the articles in your case." Rowand's back was to him. Lewis was leaning over the counter and his eyes looking up and down behind it. Isaac Baker says the safe was kept under the counter.

But he also wanted information as to where he kept his things, &c.; and conversation now took place. Tindal and Little, two colored men, came from Stout's saloon and separated at Witherspoon street. Little went to take a walk up town and Tindal went into Rowand's shop to get his watch set. Rowand set it for him. Tindal then saw Lewis there; he knew him by his size, his whiskers, his hat, and the rip on the left shoulder of his overcoat—which rip Mr. Lot saw before he left Millstone, and which is still to be seen on the coat. Tindal heard Lewis ask Rowand how much he averaged a day. Tindal was there but a minute and left. Then Little returned from his walk and stood on the stoop twenty minutes. He saw Rowand get up and stand by Lewis. They conversed, and Lewis said to Rowand, "Good-by; I don't know when I shall see you again." Lewis then left the shop, and Little left the stoop and went off. Tindal now returned again and saw Lewis come out of Baker's alley and go over towards President Maclean's. The point of the defence is that these witnesses swear they did not see each other at Rowand's. My answer is, if they tell the truth, it was impossible they should have seen each other. As to discrepancy in time, that amounts to nothing. Time has no identity; every hour is alike; one hour is only distinguished from another by its events; and time to these men, at that hour in the evening, was a blank.

Sylvester Martin, another colored man, says he saw Lewis going into Rowand's at 6½ o'clock. It is insisted that his statement is not true. It is unimportant whether he saw him or not. No one, however, contradicts him. That he did not state the fact before the Grand Jury is only evidence that he was not then as certain as to the identity of the man as he now is.

The distinguished counsel examined this witness an hour and a half, and, I admit, embarrassed the witness and broke him down; and he has paid Sylvester, or Mr. Martin, as he prefers, marked attention in his summing up. The counsel should not be surprised that this poor man was moved and agitated by his cross-examination. The descendant of a race that have been degraded and trodden on for generation after generation should not be expected to be able to stand up before the strong will of a free-born Englishman—it takes an American citizen to do that. [Applause.]

We have traced Lewis in front of Rowand's shop—and he saw he was in; then to the grave-yard—the club had been taken away.

We have heard the rattling of the wood-pile while he was there. We have traced him into Rowand's shop, and now he is on the opposite side of the street.

John Benham (Special Marshal), at 8½ o'clock by his watch, saw Lewis by President Maclean's gate. He had seen him at the Democratic meeting. Lewis turned away from him, but the light from Rowand's store fell on him and he recognized him. Benham suddenly missed him, and concluded that he had either gone into President Maclean's gate or to the church.

Mr. Dechert, of the Seminary, later (about 20 minutes before 9 o'clock) went to Slayback's store, near the market; and, as he went down, he noticed a man behind or near the pillars of the church. When he came back the light from the tavern struck the figure. He saw him still—a large man—side whiskers.

Benham and Dechert, together, put him at the church; and there is a view from there of Rowand's store.

At 9 o'clock Warren saw him at Duryee's corner. He knew him and followed him, and Lewis went up by the fence, then turned and walked to the curb opposite President Maclean's. George Fenning saw him there at 9 o'clock.

He must have crossed over again, for Tindal had taken his seat on Hudnut's cellar door; and, when Rowand shut up, Lewis crossed over in the mud to Duryee's corner and followed Rowand (twenty-five feet behind him) down Witherspoon street.

Mary Veighte also saw Rowand go down Witherspoon street with a light coat and a valise, and a man of the size of Lewis, with muffled throat and high hat—and whom she believes to be Lewis—going after him, about twenty-five or fifty feet behind him. She came to Nassau street and found the stores shut. Lewis had been watching till Rowand shut the store and then followed him. Thus he is traced step by step at Princeton.

And, now, we come with horror to the consideration of the murder. As in the upright we expect some stain of sin, so in the vicious we look for some streaks of virtue to relieve the deformity. But the perpetrator of this bloody deed is without any palliative. The debtor pressed and goaded by his relentless creditor—the proud man chagrined by insult—the victim of passion fired by offence—the poor slave of penury coveting wealth—have often, in defiance of the laws of God and man, imbrued their hands in their brother's blood; and, while far from having any justification, can at least plead in extenuation their temptation. But here there is nothing to mitigate the atrocity of the deed.

He, whose blood cries for justice, had made

no claim or demand—he had given no insult—no incitement to passion—the penalty which left his widow poor and dependant one would have thought gave him exemption from the cupidity of one whose pockets were well-filled with current funds. And, as the crime has nothing to extenuate it in motive, so in the mode of its execution it is most brutal.

No opportunity for flight—none for defence—for weeks he had marked him; possessed of vigor beyond most of his race, he resorts to guile and hypocrisy. Sixty minutes before his victim was bleeding at his feet, he bade him "Good-bye," saying "I don't know when I shall see you again." He strikes him from behind; and before Mr. Rowand can utter the brief prayer, "God, be merciful to me, a sinner," which all would desire to make, he is in eternity!

Can it be that this guilty effacer of God's image was once a gentle child upon a mother's bosom?—that he was intended for endless ages of happiness in peace, and purity, and love? What unappalled deformity has seized upon him!

The manner in which the deed was done is as apparent as if we had witnessed it. He followed Rowand down the street. The stick had been provided just before. He struck him from behind, on the right side of the head; the blow knocked him to the curb. There was no blood there, because of the wig Rowand wore, and which was there discovered that evening. He then picked Rowand up and put him feet foremost over the wall into the grave-yard. This is manifest from the fact that blood was found on the top of the wall; and there was a pool of blood on the side-walk at the base of the wall. All the blood that came from the deceased came from his head, and the blood trickled from it as the lower part of the body was elevated and fell on the left skirt of the prisoner's overcoat, and is here to-day bearing witness against him.

The defendant then himself leaped into the grave-yard. The convulsion of the mangled body, as expiring nature tries to rally, he mistakes for recovering life: and then and there, with the club which he had cast over the wall with the body, he inflicts three more blows; these Harris and Hendrickson, while passing, heard about 9½ o'clock. They not imagining the perpetration of any such atrocity, carelessly shouted and looked through the gate and saw something of a dark color at the spot where the body was found, and they passed on home. That about startled the murderer. He left Mr. Rowand's watch; but, intent upon the keys and pocket-book, those he took.

Now he flies! He probably went down the same side until he came to the lamp-post and then crossed. At all events, opposite the lamp-post, between Hulfish street and Nassau street, he was met by John J. Stryker. He

knew Lewis before; saw him at the Democratic meeting. He saw his overcoat—his heavy whiskers. He had his coat collar up and was walking very fast, and Stryker recognized him.

We have traced him once before to the fearful spot, on Wednesday, the 5th of November. We find him leaving Kingston when Princeton men came there. He asked at Millstone the distance to Princeton. We prove him at Princeton on this fatal night (when he said he was going to Kingston) going to the grave yard. We show he was there when the wood pile was heard to rattle, from which the bloody club seems to have been taken. We show him watching Rowand's store when it should close. We observe him going; about 9 o'clock, down Witherspoon street. We show the murder committed while he was there. We show his hasty return immediately after the murder. The wig was found about 10 o'clock and the store was unlocked at 11, showing, in addition to what George Harris and Anthony Hendrickson say, when the murder was committed. The regularity with which deceased went to his house, as well as Miss Veighte meeting him, all prove the hour of the murder.

Charles Lewis, after watching and dogging Rowand, followed him down that street just before the murder was committed and hasted away afterwards;

Now we will follow him after the murder. He cast the keys of the door of the store into Baker's alley. They would be of no value, as he had learned at New Brunswick that the locks could be changed. His chisel would answer a better purpose. The safe-key he wanted. He started for Millstone. John Leggett heard the wagon pass from the Methodist church-yard about half-past ten o'clock. He did not reach Millstone until 2 o'clock. Did he delay? Did he hesitate whether it was safe for him to return and hunt for the little key, the loss of which had disappointed him of his game?—and, did he, finally, remembering the shout of Harris and Hendrickson, conclude that it was unsafe, then go on?

As he approached Millstone he remembers the guilty safe key. He does not want to part with it. He does not cast it into the canal; but, I believe, he then put those keys under the stoop of the school-house. I will show you why I think so hereafter. The bunch of keys on which the safe-key was found were his keys. He had a weakness for keys. He took one from Hall's, at the City Hotel of New Brunswick. He admits this, for he returned it to Hall since his arrest. On arriving at Wortman's Hotel he went to his room.

What was he engaged in doing in his room that night?

He had been travelling to Princeton and back over heavy roads. He had been walking about Princeton. Did he go to his bed? No. At 3 o'clock old Mrs. Wortman heard

him up in his room; she heard the window raised. Bloody or dirty water is found on the window-curtain. There was three times as much water in the large pitcher when he went to his room as was found in all the vessels of his room the next morning. His towel was all wet. In a vessel in his room the next morning were found papers which, we say, were in Rowand's pocket at 9 o'clock the evening before; but of that presently.

After breakfast Isaac Lot walked with him at the hotel; observed the mud on his coat and the rip at the left shoulder, and asked him if he had been to Princeton; and he answered—No! He was in trouble. He felt uncertain whether he was safe at Millstone; but he did not want to leave the keys under the school-house stoop. He walked up to the school-house. He looked to see if he was observed. He was noticed by the teacher (Robert Woodruff.) Twenty minutes after he came again, and was again observed. He did not get the keys. He then went down to the canal. He stood meditating, brushing his clothes, and moving off when looked at. He did not come to dinner with the other company at the Hotel.

After dinner he seemed to seek company, and took his seat in the parlor with the ladies. Had he not been arrested that night, he would have repossessed himself of the keys and been off; but they held him as a magnet at Millstone. In the afternoon Payran and Holcombe came to arrest him. He had seen them before. When he saw them at Millstone pass the window, he involuntarily sighed, and in agitation struck his leg and commenced tanning himself.

He was then brought to Princeton by the Marshals. Then he asserted his innocence, and gave as a reason that he had not been to Princeton. At Princeton his attention was called to the mud on his coat and he attempts to remove it. There, too, he saw the blood on his coat. He attempted to scratch it off. All Neptune's waters could not remove that trickling stain until it had told you the story of his guilt.

Was it Rowand's blood? If so, Lewis is guilty. It was the same blood, to all appearance, as that taken from under Rowand's head in the grave-yard and from the bludgeon. It is intimated that it may have been the blood of a mere animal. Had he been where any mere animal was killed, how easily could he have proven it. Ah! it is the witness of the crime; and he tried secretly to scratch it off. There was blood on the wrist-band of a shirt found in his valise. He said it came from a scratch he had five weeks before. Did he keep a soiled shirt five weeks? Had he stated the scratch to be more recent he would have been asked to show it. At all events, he admits it was human blood on his shirt. His story of its having come from

his own person five weeks before is very improbable.

When Mr. Payran and Mr. Holcombe came to Princeton, and Mrs. Curtis heard that Lewis was arrested on a charge of having murdered a jeweller, she remembered that she had seen the picture of a clock in a vessel in the room Lewis occupied. A search was made at 10 o'clock that night for that paper in the sink where Mrs. Curtis had cast the slops, and there again the picture of a clock is seen. With it some fragments of five other papers were found, which the State insists were on Rowand's person at the time he was murdered. These papers were, we insist, at 9 o'clock, in Rowand's pocket, and at 2 o'clock in the prisoner's room at Millstone. Comment is unnecessary, but we will consider these papers hereafter. And to this array of circumstances, which it needs no argument to prove point to the guilt of Charles Lewis, he makes no explanation.

Now let us look briefly, before concluding, at some of those circumstances. If they are inconsistent with any other rational conclusion than the guilt of the prisoner, convict him. If you can come to any other rational conclusion than his guilt, acquit him.

The collection of circumstances is that the prisoner came to Princeton on the 27th of October and stayed until the 3rd of November without any ostensible business. While there inquired as to men of wealth; did not reveal his name to any one; visited the grave-yard; departed clandestinely; went to Kingston; did not reveal his name there. Next day (5th of November) said he was going to see Lewis, when there is no person of that name; came to Princeton; walked up and down in front of the grave-yard at 9 o'clock—at the hour and place Rowand was afterwards killed. He was driven off. A club was found concealed there afterwards. He got back to Kingston at 12 o'clock. The next day, when the word from Princeton came, he went to cutting wood and left. Why these inquiries? Why this falsehood as to where going? What was he doing at the grave-yard at that hour? Why did he leave Kingston?

Does not this class of facts point you to what afterwards transpired at 9 o'clock on the 13th of November, at the grave-yard?

Again: He goes to Millstone from New Brunswick. He asks Malone on the next day, between 8 and 9 o'clock, how far it is to Princeton; tells Wortman he wants to start at 3 o'clock for Kingston; tells Curtis he wants a truck wagon with a cover; does not reveal his name till asked; returns as 2 o'clock; says he has not been at Princeton—while he was at Princeton, and Rowand was murdered during the time he was there.

Why this falsehood as to his being there? Is it an innocent concealment or a cover of guilt?

Again: While at Princeton, he, who said

he had not been at Princeton, was in Rowand's store and looking under the counter. He was skulking behind the church pillars, where he could see him close up. When he closed his shop he followed him. The murder is done after he followed; and after the murder he was next seen hastening from the direction of the murder, and a key was found at a point in the path he had come, which key was on Rowand.

Again: He returns to Millstone; he does not sleep; he stays from breakfast and dinner; is seen walking about the school-house; is disturbed when he seen the men from Princeton.

Again: Blood is found on that part of his coat where it would be if he did the murder. (And, now, let me say that Dr. Schanck deserves the thanks of the community for his very learned and satisfactory scientific investigation of the questions relative to the blood.) Was it human blood? It corresponds with the blood on the shirt, which Lewis admits is human blood. If it was animal blood, why has he not explained where it came from? The point against him is that it is blood unexplained. He proves it guilty bloody by not explaining it and by trying to pick it off when discovered.

Again: In a vessel in his bed-room fragments of five different papers are found that at some time had belonged to Rowand—two cards, a note, a certificate of horse's age and McGregor's bill. It is said that only one piece of card is identified in the vessel. A correct statement is that one piece of card and scraps of writing paper with writing on, looking like those in evidence, were found there, and found together in the sink. No papers from any other room had been placed in the sink. This is circumstantial evidence, excluding any other rational conclusion that the same papers that were with the card in the vessel were found in the sink with the identified card. Thus all the papers are circumstantially identified in the vessel. But, if they had been found in the sink instead of in the vessel, it would still fasten guilt on Lewis and no one else, because it is a fact that connects itself with and harmonizes the other facts in the case. No one but Lewis had come from Princeton to Millstone since Rowand was murdered. No one but Lewis had been seen to follow him; no one but him coming from him. The coat of no one else was bloody. The fact that Lewis had the papers, and not any other person, arranges itself consistently with all the other facts.

But it is insisted that the State must directly prove that these papers were on Rowand when murdered, and that the State has not so proven. I deny the State need so prove by direct testimony, but insist it has. The papers were Rowand's, and are presumed to have been in his possession. They are just the papers he would naturally carry.

A man is found murdered. One is found following to the spot before and flying from it after the murder with blood on him, and is found in possession of his keys and his pocket-book. Is it no evidence, unless you prove by an eye-witness, that he at that time had his pocket-book and keys? The facts stand mutually supporting each other, because consistent and natural. No man can shut his eyes to the force of this consistency of facts. Would, I ask, those five papers have been in the vessel in Lewis' room at Millstone, or in the sink on Friday, if Rowand had not been murdered on Thursday, and if Lewis had not gone to Millstone? Answer that. Argument confuses. We act on this harmony of facts without processes of thought.

But we have direct proof that one of the papers was in Rowand's possession; and proof as to one paper is as conclusive against Lewis as proof as to a thousand would be. George Langdon swears that he had an interview with Rowand a few days before his death as to the age of his horse. He says he saw in his possession a paper relating to a horse. It was a small piece of paper; it was about as large again as the one presented. His impression is that Rowand took it from his pocket-book, and "it seemed to me singular that he should carry it in his pocket-book." Alexander Stout says that the afternoon of the murder he bargained with Rowand for his horse, and that he believes Rowand took a paper as to the horse's age out of his pocket, but won't swear positively. The certificate is blackened by being worn in the pocket book. He had not more than one paper relating to the age of the horse. A few days before the murder they are in Rowand's possession; and, within twenty-four hours after the murder, they are in Lewis' possession in the manner stated. As to the cards, it is proved that Rowand carried them to make memoranda on, and this has such memoranda. Under all the circumstances, when we find that five different papers of Rowand's were at Millstone with Lewis, immediately after the murder, is there any other rational conclusion than that Lewis took them there? Did they get there by accident? Is there anything indicating that any one else took them there?

Again: It is proven that Rowand had with him the key of the safe; it was his custom to carry it with him. The finding of the picker, which fits in the key, confirms the fact that he had it that night, and the key was not found in the shop; Rowand had the key with him. After Lewis left Millstone a little boy's fat rolled under the stoop of the school-house and he there found a bunch of keys wrapped up in a handkerchief. The handkerchief corresponds in quality with those found in Lewis' trunk. The Anderson girls say it is such a handkerchief as the keys which fell from Lewis' pocket at the State Street House were wrapped in; that the keys were brass and

iron, large and small. Such is the character of the bunch found under the school-house stoop, without adding to the bunch those of the New Brunswick druggist. The keys of that drug-store were added after the Anderson girls saw the bunch at Trenton. You have seen before you that keys from that bunch unlocked the locks from that New Brunswick druggists' store. Is this not proof that the bunch of keys belonged to Lewis? If that was not his bunch of keys, where is his bunch? He had such a bunch. Why has he not produced them?

And now we have the condemning fact that Rowand's safe-key, which was on Rowand's person at the time of his death, is found with Lewis' bundle of keys at Millstone. Is there any rational conclusion that you can come to but that the man who put Rowand's key in that bunch killed Rowand? Is there any rational doubt that Lewis put the keys under the stoop?

Now we understand why Lewis was walking about that school-house. It was to get the keys before he left Millstone. His early arrest disappointed him.

Again: The man who killed Rowand was a large, powerful man. No other than a strong man could have thrown him over the wall. Lewis is such a man. And, with all these facts pointing at him, the prisoner is silent! Is it possible that a man can be innocent and have such an array of facts against him and not able to give any answer? It is not possible. We are not left in that deplorable condition. Facts are consistent; truth is a unit. If Lewis were innocent, he could show an array of facts all harmonizing with that innocence, instead of all pointing, as they now do, to his guilt.

Gentlemen, I will not detain you. Providence has devolved an important duty upon you. Meet it.

If all these facts can be accounted for rationally, not by conjecture and imagination, but rationally, according to the principles on which men act, acquit him. If this clearly cannot be done, stern as is the duty, convict him. The dearest interests of the prisoner, and the sacred interest of society, are in your hands. May God direct you aright. [Applause.]

Mr. F.'s speech occupied three hours in its delivery.

TENTH DAY.

Judge Brown's Charge.

The counsel of the State and of the defendant having well and faithfully discharged their duty, it remains for us to do ours.

The questions in this case are:—1. Was James Rowand murdered? 2. If so, Was it done by Charles Lewis, the defendant?

As to the first:—James Rowand was last seen alive by Mary Veighte, so far as appears by direct testimony, on the evening of the 13th of November last, about 9½ o'clock by Duryee's stoop, in Witherspoon street. He was going, according to his usual custom, towards his home, after his day's labour: A large man, with his throat in some way muffled up, was following the same path, a few feet behind him. He was within two minutes walk of his home, but did not reach that home alive.

On the morning of the 14th, the next day, about 10 o'clock, he was found in the graveyard, a few rods from his dwelling, lying in the hollow of a sunken grave, dead. The bones of the right side of the head had been crushed in, from behind the ear to the forehead, by a blow. A large bludgeon lay near him, on which was blood and hair resembling that of the deceased. He lay about forty feet from the wall which separated the yard from the street. A small pool of blood was under his head where he lay, and traces of blood were found on the dried leaves to the wall, and upon the board which covered the top of the wall, and upon the paved walk outside. The leaves in the yard were disturbed, and the clothes of the deceased pressed upwards upon his body, as if he had been dragged from the wall feet foremost to the place where he was left. When last seen he was alive.

His keys were not found with him. His store, which he had locked when he left it, was not locked two hours after. The keys were found in Baker's Alley next morning. The safe key was missing. The pick for the flap of the safe lock was found in Witherspoon street, near Anderson's house. The wallet he usually carried was missing.

These facts, if you find them to be so, prove by what is called circumstantial or presumptive evidence the manner of James Rowand's death. There is no direct proof. No witness saw the blow; and yet the circumstances point it out, and the motive of the perpetrator with as much certainty as direct proof could do.

He could not have inflicted upon himself the wound, nor have placed himself where he was found, nor have carried away the missing articles.

He was struck with this bludgeon a heavy blow by which he was felled to the ground—lifted over the wall and dragged to the place where he was found, and then rifled of such things as the perpetrator sought. It was done with a premeditation at a point where it was easy to dispose of the body under cover of this wall, and in a place not very much frequented at night, and where the lamps of the street did not throw much light. It presents to us a case of murder of the first degree, done upon a man whose life was blameless—who had not an enemy so far as known in the world; not in

any heat of blood or sudden quarrel, or from motives of revenge, but for the purpose of gain by some one, enough imbruted to suppose that property so acquired could bring any comfort to the possessor. James Rowand died and the homicide left the place in which he perpetrated the deed, alive and probably unhurt. The requirements of law and the impulses of humanity demanded of the grand inquest an earnest search for the guilty person, in order to his trial and condemnation, if guilty of this highest of crimes.

But our indignation is directed only to the guilty. If Charles Lewis be innocent of the deed he unites with us in detesting the criminal and in desiring his punishment. He is *innocent* before the law until he is proved to be guilty?

2. Has Charles Lewis been found guilty of this crime? The testimony is not direct but circumstantial. Circumstantial testimony is based upon the consistence of facts proved with those to be proved. Every fact that ever occurred from the creation to this hour is consistent with every other fact. No one fact presses or jostles another. They all stand fitted and perfect in their place, in the eye of him who sees them all, and so they will stand forever. Not only so. They are all consistent with every fact that will occur in the never ending future. All that have occurred, or shall hereafter occur, will stand in their proper order and make up the body of what we understand by the word, *truth*.

Facts are not only consistent, they speak to the eye, the ear, the touch, as it may be, and through them to the understanding. It may be by foot marks, hand marks, by things whether natural or artificial, changed from their previous condition and relations. As we trace the earthquake and tornado from their effects to the cause of them, so we trace the acts of men or animals by the tracks they leave.

As the body of James Rowand spoke to the manner of his death, by the wound upon his head—the club by his side—the bloody leaves and wall and pavement, so it is claimed by the State's counsel, that other accompanying facts prove that the defendant was the perpetrator. The principle is well stated by the counsel of the State and of the prisoner. The facts proved must be inconsistent with every rational conclusion, except that of the guilt of the prisoner at the bar.

That the defendant was in Princeton on the night of the murder seems past a doubt. The witnesses to the fact are numerous and most of them speak positively, and state facts which show their knowledge of the prisoner's person. Among them are Dr. Wykoff, Crowell Marsh, Wm. L. Hankins, W. Schenck, Charles Tindall, Samuel Little, George Fenning, John J. Stryker, John Benham and Stephen Marger-

um. These ten witnesses testify to the fact of their having seen him at different times and places in Princeton on the evening of the 13th, between seven and ten o'clock. It is past belief that all of these witnesses should be mistaken.

The homicide was committed after 9 o'clock and before ten, and it is therefore, material to ascertain where in Princeton the defendant was during that hour, and what was his conduct earlier in the evening. If the defendant is guilty of this crime, it is manifest he did not go to the place and lie in wait for Rowand until he came. There is some evidence that he was by the grave yard, but for the most part of the time, it will appear by a review of the testimony, that he was in the main street of Princeton and not far from Rowand's shop.

Before calling your attention to some portions of the testimony, I mention here, to avoid the necessity of repetition, that the credit of any witness is to be considered by you with reference to its matter and manner of its delivery, and the character of the witness, so far as you knew it or can ascertain it from what occurred in your presence here.

The colored man, Charles Tindall, says he went to Mr. Rowand's shop to have his watch set back; and that Mr. Rowand did set it back to $\frac{1}{4}$ to 7. This testimony, if you rely upon the witness, fixes time with certainty. He says further, that Lewis was then in the shop talking to Rowand; that his overcoat had a rip or tear on the left shoulder, which you will remember Mr. Lott testified he also saw about the time Lewis left Millstone. Sylvester Martin says he saw defendant go to Rowand's store between 6 and 7; come out and go into Baker's alley. Tindall did not see Martin there, nor does Martin say that he saw Tindall go in, as he must have done if they were both there at the same time. Martin may have seen what he says he saw, before Tindall came. Tindall is clearly the most reliable witness, if there is conflict of testimony. Martin hesitated throughout his examination, and particularly at the close of the principal examination, when he was asked whether he had seen Lewis that evening before he saw him go into Rowand's shop. Upon the cross examination he became more confused and for a time it seemed as if he would not or could not give any answer at all to a plain question. If the counsel for the defendant had left the witness there I should have advised you to lay aside his testimony altogether. A witness who cannot or will not be cross examined in a case like this, must be considered as no witness. But the counsel of the defendant continued the examination until he was satisfied. The witness, in the progress of it, recovered somewhat, but he gave no satisfactory explanation of the difference between his present and former testimony, nor of his failure to tell any

one of the new facts to which he now testifies. His testimony should be received with great caution, except as far as it may be found corroborated by other witnesses, or circumstances in the cause that are well proved.

Jane Harris says she saw the prisoner standing near the small gate of the grave yard, by Wiggins-street, at 7 o'clock, and that he turned when he saw her and walked out into the road where it was muddy, and remained there until she passed. She says she knew the defendant before and then recognized him by his size. He may have left Rowand's shop in time to go there by 7 o'clock, either by way of Baker's alley and Hulfish-street, or Nassau and Witherspoon streets. You may not be satisfied that Jane Harris did recognize the defendant at that time as she had not much opportunity to observe the man she saw, without doubting that she did see a man such as she describes. If so, he may have been the person who afterwards met and killed the deceased. The club found near his body was not such as could be carried through the streets without attracting attention, but may have been obtained before hand and placed near the place selected by the assassin. Colin White, who has charge of the cemetery, says that he found a club under the fence near the gate, before the murder, and took it away. It is here, and an equally effective weapon with the one used. He also says that Mr. Martin has a wood-yard adjoining the cemetery, and that wood of the same kind with the club used may be taken from the pile by a person standing in the grave-yard; that on the night of the 13th, about half past seven, as he was going home across the yard, he heard some one raising the pile of wood and the wood dropping or falling after being moved. Was the man Jane Harris saw, whoever he may have been, there, and did he then obtain and put aside for use this club?

George Fenning says he went to his father's on Witherspoon street, about half-past six o'clock, to tea, from his place of business (the drug store of Mr. Marsh,) and that on his return, between seven and eight, he met Lewis by his father's office going towards the grave-yard.

Isaac F. Sutphen says he saw a man between 7 and 7 $\frac{1}{2}$ o'clock standing near Dr. Maclean's gate, and a short time after, pass the college gate and pass over the street, where there was no crossway, and go down Witherspoon street. He does not swear it was the prisoner, but says it resembled him closely, and he describes him in much the same way as the other witnesses have done who knew him, and had better opportunities to judge.

Stephen Margerum says he saw defendant standing by Hudnut's store at 7 $\frac{1}{2}$ o'clock, and that he passed him near the front of Rowand's shop and turned down Witherspoon street by

Duryee's corner. This witness makes the time later if Lewis was then on his way to the graveyard, but some difference in estimating the time must be expected. In most instances proof of time is conjectural and a variance between witnesses as to it is no impeachment of their testimony.

At about 8 o'clock, Wm. Schenck says he saw him at Rowand's shop, and recognized him as the man he saw at the Democratic meeting, at which Mr. Stockton spoke, which was about Nov. 1st; that Rowand was sitting near and fronting the window, and this man further back in the shop, leaning on and looking behind the counter.

Samuel Little, a colored man, says he was standing for fifteen or twenty minutes, near 8 o'clock, in front of Rowand's shop, and saw this man come out, saying good-night and goodbye to Mr. Rowand, and that he did not know when he should see him again.

John Benham says he saw him at Dr. Maclean's gate at 8½ o'clock; that, as the witness passed him, he turned to look at him; that Lewis turned away; that, as the light from Rowand's shop struck him, he recognized him as the same man he saw at the Democratic meeting; that when he, Benham, came to the crossing, he looked for him, and he was missing, and he thought he had gone into a lane there or Dr. Maclean's yard, as there was not time for him to cross the street.

The map shows that Dr. Maclean's house is next to the church, with only a lane or alley between.

Howard P. Dechert knew the defendant from seeing him in front of his rooms; you will remember the occasion. On this night he saw a man like him in size and gait, in the vestibule of the church, next building to Dr. Maclean's, at about 20 minutes to 9 o'clock. He is not sure but thinks him the same person. He stopped to observe him as he returned soon after, and saw him come out of the front gate of the church yard. At a ¼ to nine, Robert Warren says he saw him at Duryee's Corner; and that he went down Witherspoon street, and that he (Warren) followed him and as he passed him Lewis faced the fence, and he (Warren) went on to the corner of Hulfish street and turned; that on his return Lewis went before him up Witherspoon street to Duryee's Corner, again, to the curb; that he (Warren) then turned and went to the Post Office; and then the nine o'clock bell rang.

The last fact stated by this witness if correct, is very important, because it fixes the time by reference to the College bell, which it is proved always rings at 9 o'clock.

Robert Warren is supported by George Fenning, who says that after meeting Lewis going towards the graveyard about nine o'clock he saw him at Duryee's corner—that he came

up Witherspoon street to the edge of the crossing from Duryee's corner—that he recognized him as the strange person in town, that he had his collar up and hat pulled down. John Legget, was with Warren and saw Lewis at the tree box at nine o'clock. Charles Tindall says that at 8½ to 9 o'clock he was by Hudnut's store. Saw defendant come out of Baker's alley and go across the street and walk up and down on the College side and saw Rowand come out after a while, lock and shut up his store and go down town. That this man went down on the college side and crossed to Duryee's, and went down Witherspoon street, that this was 9½ o'clock, that Lewis was a few steps behind Rowand. I think he said twenty feet.

Mary Veighte says she was coming to the Post Office and met Mr. Rowand at 9½ o'clock, in Witherspoon street, near Duryee's corner. A large man, with hts. throat muffed up, following him. She is not certain of the person but thinks it was the defendant. Rowand's store was shut up when she got there.

John J. Stryker saw the defendant at the Democratic meeting at which Ross spoke. Describes him and dress as the other witnesses. Says that he saw him also in front of Krauskopf's store, looking in the window.—That on the night of the 13th of November, as witness was going home, he met him coming up Witherspoon street, about 9½ o'clock, and with two doors of where witness lived, walking fast. The point of meeting was near Hulfish street. This is the nearest point in time and to the place of the murder to which the testimony brings the defendant, and you are to determine whether it is reliable.

In fixing the position of a man who is moving about a village at various times and places, for the period of two hours and more, some mistakes of time must be expected and we find it in this testimony. But if you are satisfied that Lewis did go, down Witherspoon street after Rowand that night, as Tindall says he did, then Mary Veighte is correct in her opinion that she saw Lewis following on after Rowand; and if you believe the testimony of John J. Stryker, that he met Lewis going up Witherspoon towards Nassau street about 9½ o'clock then Charles Lewis was in such position relative to James Rowand, both in time and place, as that he could have committed this crime. His conduct during the evening—going in Rowand's shop and looking behind the counter, the mode of wearing his collar and hat, and crossing the street out of the usual track, and in the mud, and his being at the graveyard, if they are established to your satisfaction—may excite your suspicion that he went down Witherspoon street with a criminal purpose, but does not prove the crime.

There are other suspicious circumstances.

The rule of law as to them is, that in general an innocent person can explain suspicious or unusual circumstances or appearances connected with his dress, person and conduct; and if not explained, they stand with some force against him. But such circumstances of suspicion *alone* are not sufficient to justify conviction even in the lesser grades of crime. Those to which I have alluded are his denial of his visit to Princeton; his pretence of going to Kingston; blood on his coat; the night visit to Princeton, on the 5th of November, from Kingston; the possession of a bunch of keys in Trenton, of such number and kind as to be unusual, in connection with the fact that this crime was committed, in part at least, to get possession of keys; his taking a key from the City Hotel, New Brunswick, which he returned after arrest, on its being sent for; his manner of travelling and leaving clandestinely, not disclosing his business or seeming to have any; his inquiries as to the income and property of individuals in Princeton—and there may be others which I do not now remember—have all some force in the case made against him; but if they stood alone would not, in my judgment, justify a conviction. Those which relate to the day of this murder have, of course, more significance than the others; and, considered in connection with other evidence, may have an important bearing upon the result. I refer to the secrecy of the visit to Princeton, and the blood on his coat, which is not explained: though it is reasonable to suppose it might be if it were animal blood, or even human blood if dropped there upon some other occasion than the one you are now investigating. His being in Rowand's shop, looking behind the counter and where the safe was, and his proximity to the place of the crime, and at or near at the time of its occurrence.

Where did Lewis come from that day?—There seems to be no doubt that he left Millstone between 3 and 4 o'clock. Mr. Wortman says 20 minutes to 4, which driving moderately would bring him to Princeton between 6 and half-past 6 o'clock. He returned to Millstone the same night, arriving there at about 2 o'clock in the morning. Supposing that he left Princeton at 10 o'clock or half-past, the intervening time may have been passed on the road. So that the whole of that afternoon excepting at intervals is reasonably well accounted for in the drive from Millstone, his appearance in the streets of Princeton and in the shops he visited and his return to Millstone. One interval of time not accounted for is that space between 9 and 10 o'clock, in which James Rowand was killed. It is that short space of time that intervened between the defendant's going down Witherspoon street, as testified by Tindall and Mary Veighte, and his return when met by John J. Stryker, as he testifies. If the prisoner would

account for that hour of his life satisfactorily to you the whole of the case made by the State would be answered. He has not done so. No doubt he would if it was possible, but it does not follow that he is guilty because he has not or cannot make that proof. It is a peculiar fact in the case that this period of time remains unaccounted for either by the State or defendant, and the effect of it is that he is left subject to such opinions of his guilt as are created in the minds of fair and impartial men by the other evidence in the cause.

The direction in which he was going about 9 o'clock and from which he was returning about half-past 9, and the loss of the pick key in Witherspoon street near Anderson's house, are very important facts in the case, if you believe the witnesses who testify to them.

He arrived at Millstone about 2 o'clock in the morning, and went to his room at that time, but not, if you believe the evidence of Mrs. Wortman, to rest. He had ridden, during the afternoon, to Princeton and back, and was standing or walking when seen in Princeton, but was not in bed at three o'clock, if Mrs. Wortman is correct. She says she heard him open and shut the window, after that time.—If not in his bed, how was he engaged during that hour.

It is for you to determine whether the evidence of Mrs. Curtis answers that question. It seems that she was, at the time, her own chambermaid. She had, on that day and the day before, attended to the bed-rooms of the house, No. 7, Mr. Lewis' room, among the rest. She said the towel was wet and had the appearance of having been wrung out, and that the window curtain had upon it a stain not there before, but the most material fact that she states, is that in the chamber she observed a number of small pieces of paper, some of writing paper, written upon; one that had printed upon it a figure representing a watch. These bits of paper were thrown with the slops in the vessel into a pail with that from the other bed-rooms, and carried, by Mrs. Curtis, to the privy, and there thrown into the sink. It was very improbable at that time, these papers should ever appear in evidence. But, Mrs. Curtis, when she heard, in the afternoon of Friday, that a watch maker had been murdered the night before, in Princeton, and saw that the occupant of No. 7, in her house, was arrested for the crime, remembered the card with the watch upon it.—She told her husband of it, and he testifies that he searched, that same night, in the filth of the privy, and among the papers floating there he saw the same piece of card with the watch upon it. He was induced to get up from the sink what he could. Mr. Wortman did the same thing after him, and so has been brought before you the principal evidence upon which Charles Lewis is accused of this murder.

Upon examination, three pieces of card prove to be remnants of one or more cards of Rowand & Runyan who had been in partnership four or five years before. It is said that they were made for distribution and it is not at all remarkable that those pieces should have been found at Millstone. There is some force in this answer and the defendant is entitled to your consideration of its weight. I do not dwell upon it, because more important matters follow. But you will remember that New Brunswick is 8 miles from Millstone and Princeton 14, so that a watch maker in Princeton would hardly expect to extend his trade so near New Brunswick.

It appears by the evidence of Ex-Governor Olden that he copied from his herd-book the entry of the date of the foaling of a horse called Zachary, by his or one of his brood mares. That he did it three or five years ago at the request of James Rowand who then and until his death owned the horse; that he never made another copy, and that one he gave to James Rowand at his shop in Princeton. He is shown a fragment of that paper here, recognizes it as the one he made and that one of the papers found at Millstone with the fragments of the business card of Rowand & Runyan. This presents to you in a serious way the question, how came these papers there?

But the question is yet more heavily pressed by the evidence of Mr. George Langdon and Alexander Stout.

Mr. Langdon says he saw Rowand a few days before his death in reference to the purchase of his horse. That he saw in his hands a paper relating to the horse—about as large again as that shown him—that he thinks he took it from his pocket; that Rowand read it to him.

Alexander Stout thinks he took a paper out of his pocket relating to the horse—this was on the afternoon of the day on which Rowand was killed. What paper was this that Rowand had in his pocket relating to the horse? If he had been a sporting horse it might have been a certificate of his performance or pedigree; but there is no pretence of this. He is known to have once had a certificate of the age of the horse, and that is found at Millstone the next day or within a day or two. It is stated by the Attorney-General that the paper shows marks of having been long worn in the pocket or pocket-book. To this I ask your attention as you may, if it be so, regard it as a fact of importance.

Was that the paper Rowand had exhibited to purchasers? He was an old horse, and the question of age was important to the purchaser, Rowand once had possession of it, and it is a legal presumption that such possession continued until the contrary is shown. It is also a natural presumption, because it was of no value

to any other person. If taken by the person who caused Rowand's death, with or without the wallet, *he* had a motive to keep it till he had an opportunity to examine it and then get clear of it. If that paper was on Rowand's person on the night of the 13th of November, of which you must judge, who carried it to Millstone?—Rowand did not.

Again: among these papers there was an account in favor of McGregor, a tailor in Princeton. He is in the army, and could not therefore be produced as a witness. His wife testifies that it is his handwriting, and on, as she thinks, such paper as he used—torn from a memorandum book; that McGregor worked for Rowand and that he owed a bill for that amount, and that she called to collect it not long before his death, that some of the work charged in the account she knows was such as her husband did for Rowand; she does not know when the account was presented to him. Did this paper, which certainly belonged in Princeton, go to Millstone alone or with the cards and certificate?

Again: Rowand and Runyan gave a note to Elijah Stout for \$500 in 1855. Isaac Baker says he was surety upon it, wrote it, endorsed upon it Rowand & Runyan's note; that a new note was substituted for it to relieve Mr. Maple, who was co-surety; that he is administrator of Rowand, and has paid the new note since his death; he is shown three pieces of paper found at Millstone with the others; he says "they are in my handwriting, and belong to our instrument—the note to Elijah Stout;" that the endorsement on it be made.

Did this paper go alone to Millstone or with the others? If with the others, where and by whom where they found together? If thrown into the same sink at Millstone, how did they get together unless found by some one in the same custody? Whose custody was that? It is insisted on the part of the State that these papers were, on the night of the 13th of November last, in the custody of James Rowand, and that they were taken from his body. On the other side it is contended that, there is no proof that *on that day* Rowand had any of them.

It is true that there is no *direct* proof that Rowand had them on that day, and it is not necessary that the proof should be *direct*. Every fact in any cause may be proved by direct or presumptive evidence. The fact, therefore, that Rowand had possession of these papers till his death, may be proved like any other fact in the cause—by presumptive evidence. It is shown that those papers were his—I speak of the certificate, note, and bill of McGregor; that he once had them in possession; that they were of some value to him, of no value to any one else; that they were of such a character that he could not sell them or give them away, nor

would he wish to part with them voluntarily send them to Millstone for any purpose. If he had lost them or thrown them away, who would have picked them up and carried them to Millstone? We know that Rowand was killed one night about 10 o'clock, his store opened with keys taken from him, his wallet missing, and the next morning these papers were found, torn in bits and put where one would suppose they would never again be noticed or examined.

Do these facts if you believe them to be such, support the conclusion that these papers were found upon the body of Rowand and taken by the person who caused his death to Millstone, and there examined, found worthless and then thrown privily away.

Is this a rational conclusion from the facts. Do these facts admit of any other rational conclusion being drawn from them? These are questions for you. If these papers did not come from the pocket of James Rowand whence did they come? If a rational conclusion not conjectural that they came from another place and not from the body of Rowand, can be drawn from the facts, the defendant is entitled to the benefit of it.

It is said in behalf of the defendant that Mrs. Curtis identified in the defendant's room only the piece of card with the watch on it, and not the other papers, and therefore the defendant cannot be charged with having had the other papers. It is true that Mrs. Curtis gave only a general description of the other papers which were in company with the card. But they were together in the sink. The defendant had been to Princeton. If you find that he was there at the time and after Rowand was killed—that he came from Princeton and the papers came from Princeton the same night, the facts are consistent with the defendant's having brought them, are they consistent with any other rational conclusion? If it be said some other person may have come from Princeton and brought them, the question for you is whether that is a rational conclusion or a mere conjecture.

Was there any man from Millstone in Princeton that night at about ten o'clock who returned to Millstone in the night or in the morning before nine o'clock who had access to Lewis's room? All this must be true in order to support such a theory. There is no evidence to sustain it.

These papers came from different persons.—Gov. O'den, Elijah Stout, Mr. McGregor, and Rowand's & Runyan's store. They all point to one person as the probable custodian, and as to two of them, the bill of McGregor and the certificate of Gov. Olden there is some evidence tending to show that they were in the possession of Mr. Rowand near the time of his death. There is evidence that they were found at Millstone, in the room of defendant in a vessel pro-

vided for his private uses. If you believe that by whose agency came they there? If by that of the defendant it is a circumstance which remaining unexplained must have a powerful effect upon the judgment in this case.

The collection of these various papers at Millstone, all coming through the possession of the deceased to the room of the defendant, calls for explanation from the defendant.

Again, the safe key was found under the school house stoop at Millstone. It was taken from the person of Rowand at the time of his death. When it was put there does not appear. It was after the 13th of November, of course, and before the 15th of December last. Lewis could have done it on the night of the 13th of November, or the morning of the 14th. He might have had the New Brunswick keys.—These are reasons for suspicion, but to support the charge of having the safe key independently of the papers, requires proof. If with the safe key there were keys Lewis was known to have had in his possession it would show when it was done and who did it.

The keys under the stoop had a white handkerchief around them. There were some soft brass and some of iron. Some large and some small, exclusive of the safe key and the New Brunswick keys.

He had the same kind of keys in Trenton, wrapped in a handkerchief, large and small, iron and brass.

Now, these were found under the stoop at Millstone, with the safe key.

If you believe this, the testimony is equally important with that of the papers.

If, then, you are satisfied that Charles Lewis had possession either of these papers or of the safe key immediately after the murder, and that they were taken from the body of James Rowand at that time, what is the effect of it upon your judgment?

The possession of stolen goods recently after their loss is an indication not only of the offence of larceny, but of a more aggravated crime which has been connected with the theft. Such facts are of the highest importance in cases of murder committed for the purpose of obtaining property. True the papers were of little value, but did the person who carried them to Millstone know that before they were disposed of there?

If you find the defendant guilty, it should be of murder in the first degree. There is no fact in the case which indicates that the crime committed was of the second degree.

And now, gentleman, I submit this cause to you. I know that it is an arduous and painful duty you have to discharge, whatever may be your verdict.

There is but one satisfaction you can expect, and that is the highest that can be enjoyed on earth—the consciousness of having discharged

our duty faithfully according to our best judgment.

If you have a reasonable doubt of the defendant's guilt, he is entitled to the benefit of it. But it must be a doubt founded upon reason and not conjecture.

The Verdict.

The jury, after an absence of about an hour and a half, notified the officers in charge that they had agreed upon their verdict. The Court House bell was rung, and the Court called together. The junior counsel of the prisoner, Messrs. Dunphy and Banghart, had remained in the Court Room during the absence of the Jury, and were present when the Judges and counsel for the State returned.—The room was densely crowded by persons anxious to hear the verdict. The Judges took their places on the bench, and the President Judge, Hon. Geo. H. Brown, directed the Sheriff to bring the prisoner into Court, and the officers to notify the jury to attend.

After a short absence the officers returned with the jurors, who took their places in the box. Every person in the Court felt that the short absence of jury could be caused only by an unanimous opinion that the prisoner was the guilty man. The greatest silence prevailed while the court was opened in due form by the crier, and while Mr. Belville, the Clerk, called over the names of the Jurors. Then, in the usual form, the Clerk asked:

"Gentlemen of the Jury, have you agreed upon your verdict?"

"We have."

"Who shall speak for you?"

"Our foreman."

"Mr. Foreman, how say you? do you find the prisoner at the bar guilty or not guilty?"

"Guilty of murder of the first degree."

"Gentlemen of the Jury, hearken to your verdict as the Court have ordered it to be recorded. You say that you find the prisoner at the bar guilty of murder of the first degree and so you say all."

At the request of Mr. Dunphy, of counsel with the prisoner, the jury was polled, when each juror, on his name being called, answered "Guilty."

Mr. Hageman, Prosecutor of the Pleas, moved that sentence be passed upon the prisoner.

Mr. Dunphy asked that sentence might be postponed to a future day. He thought that in a case of so grave and important a nature a postponement ought to be granted. In the absence of the senior counsel, Mr. James, he was not prepared to state the reasons for the motion, but he trusted that the Court would grant it.

Mr. Frelinghuysen, the Attorney General, said that he had no objection to the postponement, but it was a matter resting entirely with the Court. If the counsel for the defence

had a valid reason for the postponement they ought to state it.

Mr. Dunphy—It is, of course, discretionary with the Court to grant or allow such a motion, but he had no doubt that discretion would be exercised humanely toward the unfortunate accused, and did not think in a case of this kind it would be refused, for, in fact, he never knew of an instance in which a prisoner, after verdict, was denied such right. There might be a reason for such postponement, which it would not be prudent for us to state in absence of our learned senior, such as an arrest of judgment, or motion for a new trial.

The Court then said that sentence would be postponed until Saturday next, at 2 o'clock P. M., to which time the court was adjourned.—The prisoner was then remanded to the custody of the Sheriff.

ELEVENTH DAY.

On Saturday, the 21st, Mr. Hageman renewed his motion for judgment. The prisoner was brought to the bar, and after a motion in arrest of judgment upon the ground that the jury had not been drawn from the box was made and overruled, the Court sentenced the prisoner thus:

The Sentence.

CHARLES LEWIS—Have you any reasons to offer why sentence of death should not be pronounced upon you?

Lewis replied, under the advice of counsel I have nothing to say

Judge Brown then continued—It is not our purpose to address any remarks to you that will add to your present distress. Enough has passed during your trial to test your firmness to the utmost. You have borne it with apparent composure. We now earnestly but kindly urge you to turn your serious attention with like composure to the future. Dismiss from your mind all hope of respite or escape. Such hope will be sure to fail you. "By the crime you have committed your life on earth is forfeited; but all is not lost. You may learn through Divine grace "so to number your days as to apply your heart unto wisdom." You may by seeking an interest in the atonement of Christ secure the life to come. Seek advice from those able to aid you in the effort and to direct your thoughts wisely. In penitence you will find sympathy and aid from good men; perhaps a hope of the future may support you through execution of the sentence now to be pronounced.

The judgment of the Court is that you be taken to the jail whence you have been brought and there kept in close and safe custody until FRIDAY, THE THIRD DAY OF APRIL NEXT, and on that day, that you be taken

thence to the place of execution provided by the Sheriff of Mercer county according to law; and there between the hours of 12 o'clock at noon and 5 o'clock in the afternoon, be HANGED BY THE NECK UNTIL YOU ARE DEAD. And may God Almighty have mercy on your soul.

The prisoner manifested throughout a total disregard of the awful doom to which he was consigned, and sat down with a smile.

A Writ of Error Denied.

Mr. Banghart and Mr. Dunphy, on behalf of Charles Lewis, applied to Chancellor Green, on Saturday, the 7th of March, for a Writ of Error to the Mercer Oyer and Terminer. The application was based upon an error alleged to have been committed in not having drawn the names of the jurors by ballot from the box; the same objection that had been urged before the Oyer and Terminer in favor of a new trial and overruled.

Mr. Hageman and Mr. Frelinghuysen opposed the granting of the writ. They urged that in capital cases it is a writ of grace, not of right, and that there were no exceptions to the ruling of the Court below, sealed, and no error could appear in the record when made up; and, besides, that the jury were impannelled according to the statute—citing the original statutes.

The Chancellor, with his usual clearness and force, delivered an opinion, denying the application and holding, decidedly, that the names of the jurors should not have been drawn from the box in such a case; that he would have granted the writ if such had been the case; that the question had been raised and settled in this State often before, and that the question is clear of doubt. He had no doubt himself that such was the law, and his reference to the original statutes and the nature of the subject seemed to place the question at rest, and satisfied the applying counsel of the propriety of his decision. The matter was argued at the State House.

When Lewis was informed of the decision, he is said to have remarked that he did not expect anything else in New Jersey.

largest in the State—was crowded from the beginning to the end of the trial. One third, if not more, of the room was occupied by the ladies. The presence of the crowd increased as the evidence was drawing to a close—and during the argument of counsel and the subsequent proceedings, the room could not contain all who sought admittance. It was impossible for a large police to keep the room comfortable for the business of the trial.

Through the whole trial the prisoner exhibited perfect composure, and a wonderful control of his feelings.

An officer from Auburn State Prison has been to see the prisoner and he recognized him as an inmate of that institution for five years, by the name of Charles Davis, convicted for house entering and stealing. He was discharged some year or two ago.

Another gentleman from New York has recently called to see him and recognizes him as George W. Simons, and that in 1838 or 1839 he worked as a baker in Roxbury, Mass. This gentleman then left Roxbury and saw no more of the prisoner until last summer, when the prisoner called upon him in New York and told him he had been keeping a hotel in Chicago and was then engaged in buying horses for the Government. The prisoner at first pretended not to know this gentleman, but afterwards told the visitor that he was sorry he had come to see him for he did not wish to gratify the public so much as to let them know who he was, or where he came from. This stranger said that the prisoner was a native of Massachusetts, and had not, he thought, any relatives living.

Lewis since his sentence has entertained some idea of breaking jail. On the 20th of March, the Sheriff made a careful search, having suspicion that he had been filing his chain, and found the ring of the chain around his ankle filed off. It appears that he had been furnished with a file, but none could be found in his cell. He told the Sheriff that the mice had gnawed it off. There is some evidence that a colored man waiting in the Sheriff's family was implicated in getting him the file. The prisoner was both manacled and chained after that, and a guard of seven men placed over him.

On Saturday morning, the 28th of March

* The trial of this cause excited the deepest interest. The large Mercer Court House—the

the Sheriff, with his officers, Dean and Disbrow and the other guards, entered the cell of Lewis, and found that he had attempted to commit suicide. There was a mark of a cord around his arm, and the appearance of a wound made by his teeth, by which the principal vein on his arm was torn, and there was evidence of his having lost considerable blood. He had one shirt sleeve torn off, which was found under his bed, and stained with blood. He has recently grown sullen and shows the same impatient and un-

relenting spirit that has characterised him from the first. A close watch is kept upon him, and it seems as if he cannot escape or commit suicide.

The execution is to take place on the south end of the Court House, within an enclosure to be erected.

In preparing the foregoing account of this trial we have used the evidence as reported in the *True American* and *Gazette*, but have had it corrected from other notes.