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very dangerous condition, suffering from cerebral hemorrhage, at that time in the morning?

A. No, sir; he did not.

Q Now, madam, you were sworn before the Coroner, were you not?

A. No, sir.

Q Will you kindly look at that paper and tell me whether that is your signature or not.

A. Oh/ Dr. Potter. I talked with Dr. Potter, but I was not before any coroner.

Q Do you see there the signature of Ferdinand Levy, the Coroner, there?

A. I was before no Cor ner. There was no coroner's inquest held.

Q Were you at the Coroner's office? A. No, sir.

Q Did you sign that paper?

A. Yes, sir; before Dr. Potter.

Q You say you signed that paper?

A. Yes, sir; that is my signature.

Q And when you signed your name to that paper, you intended to speak the truth; didn't you? A. Yes, sir.

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Q And you signed that paper, in response to the request of the gentleman who asked you to tell what you knew about the case, didn't you? A. Yes, sir.

(The paper is offered in evidence, by Mr. Osborne.)

MR.OSBORNE: I will now read it to the jury.

MR.CHANLER: One moment. I object. The-witn

THE WITNESS: I didnt read the paper, and I couldn't tell what was on the paper. I know what I told Dr.Potter, and Dr.Potter didn't know whether it was a white or a black man, because he did not look into the icebox at all.

Q Now, you are creating an impression that I dont think you want to create. Answer my questions, please. You signed that paper? A.Yes, sir.

Q And you meant to indicate that it was true---what was said in the paper?

A.Yes, sir.

(The paper is admitted, without objection, and marked People's Exhibit A.)

MR.OSBORNE: I will now read it to the jury.

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(Mr. Osborne reads it.)

THE COURT: Do you claim that that differs from her testimony?

MR. OSBORNE: I do; most materially.

THE COURT: In what respect?

MR. OSBORNE: That she states there that her brother died when he came up to the stoop; that she saw him come up, and, when he returned he came up on the stoop, and reeled, and fell.

THE COURT: She swears to that now.

MR. OSBORNE: I beg Your Honor's pardon. She now swears that he returned and walked upstairs and had some trouble with his mother, and then came back and reeled and fell; and she made no statement of this fact whatever.

THE COURT: And then it is claimed that it varies in its omissions?

MR. OSBORNE: Yes, sir; of the most important kind.

THE COURT: But, so far as she states it, it is exactly as she states it to-day?

MR. OSBORNE: Your Honor has the point exactly; in its

(Mr. Osborne reads it.)

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omissions.

BY MR. CSEBORNE:

Q Now, Mrs. West, do you know the late Mrs. Elvira Boyd?

A. Yes, sir.

Q Did you know her for some time? A. Yes, sir; for about two months.

Q How long? A. For about two months.

Q Do you know her daughter, Mrs. Dean?

A. Yes, sir; I know of her.

Q Do you know her, I ask you? A. Yes, sir.

Q Do you mean to tell the jury that you know of her or know her?

A. Yes, sir; I know her for about four weeks; and they lived on the top floor of 445.

Q On the same floor that you lived on?

A. No, sir; on the top floor, back.

Q But in the same house? A. Yes, sir.

Q Now, a few days after this unfortunate occurrence, did you have a conversation with Mrs. Elvira Boyd, in the presence of her daughter?

A. No, sir.

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Q None whatever? A. No, sir.

Q I ask you, didn't you tell Mrs. Boyd that your mother gave him---the defendant--- all the money she had and a suit of clothes, to run away with?

A. No, sir.

Q You deny it?

A. I deny it positively.

Q Did you not show Mrs. Elvira Boyd the rollingpin?

A. No, sir.

Q One minute. And didn't ^{you} say, "That is what Eddy hit Jerry with"? A. No, sir.

Q Mrs. Boyd was at your mother's house when Jerry died, wasn't she?

A. No; she was not in the house when he died.

Q I ask you if she was not there from 9 o'clock in the morning until 8 P.M. when he died?

A. No, sir; she was there in the morning, but she had gone out.

Q She was not there in the afternoon? A. No, sir.

Q Didn't you tell Mrs. Elvira Boyd that Eddy hit Jerry with a rollingpin, and he was going to hit him again, when

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you stepped him?

A. No, sir.

Q Do you know Mrs. Elvira Boyd's signature; don't you?

A. No, sir.

Q Did you ever see it?

A. No, sir.

Q "Sworn to before me this 26th of October---"

A. She swears a lie. That is all there is about it.

(Objected to.)

THE COURT: It would not be evidence; counsel, has a right to cross-examine Mrs. Boyd.

MR. OSBORNE: I have all the right in the world to---

MR. CHANLER: But this woman is dead.

THE WITNESS: She committed suicide, a week ago.

BY MR. OSBORNE:

Q Well, her daughter, Mrs. Dean, has not committed suicide?

A. Well, she does not know any more than she did.

THE COURT: I do not think it is material.

MR. CHANLER: That is the reason I objected to it, Your Honor.

BY MR. OSBORNE:

Q I ask you if, a few days after this unfortunate affair, you did not have a conversation with Mrs. Boyd, in the

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presence of Mrs. Dean, her daughter?

A. No, sir; because I had discharged her.

Q Now, don't argue with me, madam. I am trying my best to treat you courteously.

THE COURT: Just say you ~~had~~ did not; that is sufficient.

A. I did not.

BY MR. OSBORNE:

Q Now, I ask you if, in your presence, Mrs. Boyd did not say, "Mrs. Hurley, where is Edward?"

MR. CHANLER: Objected to. What possible application has it here?

THE COURT: That would not be admissible. All that you can prove by the witness is ground to contradict her.

MR. OSBORNE: Well, I will leave that out. Your Honor's ruling is entirely satisfactory.

THE COURT: You can ask any questions to contradict her.

MR. OSBORNE: I say, the ruling is entirely satisfactory, Your Honor.

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BY MR. OSBORNE:

Q Now, I ask you if, in the presence of Mrs. Dean, as I said before, and I want to call your attention to this because I want to let you know that Mrs. Dean is alive--- didn't you tell Mrs. Boyd, in the presence of Mrs. Dean, that Eddy hit Jerry with a rollingpin? A. No, sir.

Q One minute. And didn't Mrs. Boyd say, "a rollingpin"? and didn't you say, "Yes. Haven't you seen it?" and didn't Mrs. Boyd---

(Objected to.)

Q Didn't Mrs. Boyd say to you, didn't she say, "No," and didn't you then request Mrs. Dean to go and get it, saying,

"Lizzie, go in and get it. It is under the tubs, in my kitchen;" didn't you say that or do that?

(Objected to.)

A. No, sir.

MR. CHANLER: Well, madam, don't answer until I object.

THE COURT: Why is that paper not admissible?

MR. CHANLER: Simply because it brings in statements made by Mrs. Boyd in the absence of the defendant.

THE COURT: He asks, didn't she state that Eddy struck Jeremiah with a rollingpin, and tell another

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woman to go and get the rollingpin

MR CHANLER: I don't care about that, but I don't want what Mrs Boyd said, because it is not admissible in the absence of the defendant.

THE COURT: But what he is trying to do is to lay the foundation to contradict the witness.

MR CHANLER: Yes, sir; and he can do that by showing what the other woman, Mrs. West, said.

BY MR. O BORNE:

Q And didn't Mrs. Dean go in and return with the rolling pin?

A. No, sir.

Q And didn't Mrs. West, didn't you say, "That is what he did ~~work~~ it with. It must have been a pretty hard blow to break off the handle"?

A. No, sir.

Q And didn't you show Mrs. Dean how Edly held it, when he hit your brother?

A. No, sir.

Q And didn't you also say that Edly had come into your house and took the rollingpin from under the sink?

A. No, sir; I didn't have one.

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BY THE COURT:

Q You didnt say so? A. No, sir.

BY MR OSBORNE:

Q You didnt have a rollingpin?

A. No, sir; I didnt.

Q And didnt you also tell Mrs. Boyd that Edward was going to hit Jerry again, when you stoppeed him? A. No sir.

Q You didnt?

A. No sir.

Q And didnt you say to your brother---to Mrs Boyd---that you said to Edward, "Hit me--"

(Objected to.)

THE COURT: That is proper. Didnt she say so to Mrs Boyd.

BY MR OSBORNE:

Q Yes, sir; that the witness said to Edward, "If you are going to hit him, hit me"?

A.No, sir.

Q Now, wasn't Mrs. Dean there from 10 o'clock all day, until your brother died?

A. No sir; she was in and out, now and then.

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Q She wa there then? A. She was there say about three hours, altogether,, in the day, all told.

Q Now, Mrs. West, you didnt hear Mr. Brennan testify,, did you?

MR CHANLER: Now, if you want to talk of Brennan's testimony, take it from the Stenographer's Minutes, and not from any affidavit that you have got.

BY MR OSBORNE:

Q I ask you i you did not hear your brother say at the time he was standing on the stoop, "He is my brother; and, if any of you interfere, I will give you the same dose"?

A. No, sir; he never passed that remark.

Q He never passed any such remark? A. No, sir.

BY THE COURT:

Q None that you heard? A. No, sir; not while I was there.

Q And I ask you if you heard a fellow, a short fellow, who came across the street, say, "You ought to get a punch in the jaw for doing anything like that"? A. No, sir.

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Q You never heard anything like that? A. No, sir.

MR CHANLER: Your Honor, I dont want to take up time unnecessarily, but she has already sworn that she heard no conversation of that kind at all.

THE COURT: I will allow it.

BY MR OSBORNE:

Q Did you hear your brother say, "He is all the time drunk, and never worked. He threatened his mother, and wanted money off her"?

A. No, sir; he didnt pass that remark.

BY MR CHANLER:

Q Not that you heard? A. No, sir.

BY MR.OSBORNE:

Q Did you say to Edward, "What have you done?"

A. No, sir:

Q And did he say, "Jerry deserved it"?

A. No, sir; I didnt.

Q Did you hear Edward say, "I dont want him in here. He is of no use; and if he comes in, then I stay out"?

A. No, sir.

Q You didnt say that?

A.No, sir.

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Q But ~~she~~ did stay out? A. He always did, when he came home like that.

Q Did Edward always stay out? I ask you simply that.

A. Yes, sir.

Re-Direct- Examination.

BY MR C ANLER:

Q Now, you said you had no rolling pin in your house, I believe? -

A.No, sir; I didn't.

Q THE COURT: I did not hear the question.

(The question is repeated by the Stenographer.)

BY MR CHANLER:

Q I Dont think I asked you on the direct-examination Did you ever show Mrs.Addeberth any rollingpin and say,"That is the weapon with which my brother killed Jerry"?

A. No, sir.

Q And did you ever say anything of the kind t Mrs.Addeberth? A. No, sir.

Q Nothing of that kind whatever? A. No, sir.

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BY THE 7TH JUROR:

Q You haven't got that stick with the keys to it, in
Q That is, he did not contribute to the support of the
court?

A. No, sir; because when I left the flat I left the
keys. I didn't disturb them.

BY THE COURT: Is the boy that has supported the family? A. Yes,

Q You have moved away from this flat? A. Yes, sir.

BY MR CHANLER: He ceased drank the money that he got? A. Yes,

Q When did you move?

Q And he was working that week previous
A. August 30th, 1892; directly after burying the boy.
I felt very nervous, and left there.

Q These keys were not your keys, but belonged to the
Q flat? been working that week?

A. No, sir; they belonged to the house that I took
care of. He came home at 5 minutes to one.

BY THE COURT: And he didn't come home before that? A. No sir.

Q You were the janitress of the building? A. Yes, sir.

BY THE 11TH JUROR: I didn't say that he never came home. He left the

Q Did your brother, Jerry, have steady employment?
his money.
A. No, sir. He hardly ever worked. When he did,

BY MR CHANLER: what he made he always drank.

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C r o s s - E x a m i n a t i o n .

BY MR OSBORNE:

Q That is, he did not contribute to the support of the family?

A.No, sir. This boy here did.

Q This is the boy that has supported the family? A. Yes, sir; for the la t six years.

Q And the deceased drank the money that he got? A. Yes, sir.

Q And do you know whether he was working the week previous to his death?

A. He hai; and he didnt come that evening.

Q He had been working that week?

A.Yes, sir; and he didnt come home that evening to no dinner. He came home at 5 minutes to one.

Q And he didnt come home before that? A. No sir.

Q Now then, you see there is a flat contradiction?

A. I didnt say that he never came home. He left the house in the morning. He always stayed out and spent his money.

BY MR CHANTER:

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Q Mrs. West, you were going to say something---Mr Osborne asked you about a statement that you signed your name to, and that was made after the conversation with Dr Potter, in your house?

A. Yes, sir.

Q He just came in and had an ordinary conversation with you, about how your brother died? A. Yes, sir.

Q And you told him what you knew at the time? A. I told him that I saw him go to work at 7 o'clock, in the morning, all right, in the morning, and I didn't see him again until 5 minutes to 1, on Sunday morning.

Q You had no intention of telling Dr. Potter---as I understand Mr. Osborne's point, it is that, when your brother came home he fell right on the stoop before he came into the house?

A. No, sir.

THE COURT: She swears that he came into the house and went upstairs, and went into the room where her mother was, and pretty soon she saw her mother coming out in her nightdress, and she saw the defendant following her, and he went

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downstairs and out on the stoop and fell down on the stoop. That is her testimony.

ELLEN HURLEY, called by the defense, being duly sworn, testified as follows:

D i r e c t E x a m i n a t i o n .

BY MR CHANLER:

Q Mrs Hurley, you are the mother of the deceased? A. Yes, sir

Q And of this defendant?

A. Yes, sir.

Q And you live at 145th ---

A. 443 Willis Avenue.

Q Now, Mrs Hurley, I want you to keep your voice up, so that the furthest juror can hear you, and do not get excited.

A. Oh, no, sir; all right.

Q Well, tell us what happened and try to answer my questions as briefly as possible. Now, do you remember the night of your son coming home , on the 7th of August; do you?

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A. Yes, sir.

BY THE COURT:

Q. 1892?

A. Yes, sir.

BY MR CHANLER:

Q. The night before he died? A. Yes, sir; he come home the very same night; on Saturday night.

THE COURT: My good woman, just answer his questions and give a responsive answer to each question.

A. Yes, sir.

MR CHANLER: Well, I think I will save time by leading the witness.

THE COURT: Yes; but do not make it too flagrant. Do you want her to tell what took place that night? Tell everything that took place that night that you saw or heard, not what was told you, but what you saw or heard. Just tell these twelve gentlemen what you saw and heard that night.

A. Well, my son came in about 5 minutes to 1 o'clock.

Q. Your deceased son? A. Yes, my deceased son; and he was pretty drunk, and I was in my bed, and my son Eddy

was in his bed. He came in about half-past 10 o'clock.

Q Who?

A. That boy there, Eddy.

Q The defendant?

A. Yes, sir. And he put out the gas for me, and the other boy didnt come home at all all day and didnt come home until something around 1 o'clock; and, when he came in at that time he was pretty drunk, and I was asleep, and I didnt feel very good that day, because I worked very hard, and I was very tired and I went to sleep; and he come over to me, and I was in bed and he put his hand to me and he said, "Old woman---" that is the very word he said--

Q Your deceased son?

A. Yes, sir.

Q Your son Jeremiah? A. Yes, sir. He came over and shook me in the bed, and asked me was I asleep, and I answered him, and I said, no. Says I, and "Jerry, what do you want?" And says he, "I want some money, mamma," and I said, "you know I havent got it," and he said, "Well, I ve got to get it." "I havent got it at all. I havent

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got it at all," I said, "and the best thing you can do is to go to sleep." Well, I went express the language that he expressed, but he swore quite a big word, and it isn't polite for me to say, and he said that he should get it, and he said he would pull the clothes off me in the bed if I don't give him the money, and I said no more then; and when he made an attempt to dra the clothes off me, he staggered over against the wardrobe and I ran out to the front door in my nightdress and in my bare feet, and he followed me, hot foot, and he grabbed my nightdress, and tore the shoulder out of it, and I got away from him, and when I got downstairs, here was the cellar(illustrating), and I deliberately stepped into the cellar and stood on the cellar platform and I stopped there until I heard him fall down the stairs.

Q You heard him fall down the stairs?

A. Yes, sir; when he made a grab at me, I got away, and he fell down the stairs; and I opened the cellar door and peeped out, and I seen he picked himself up, and he was pretty well full, and he was swearing.

Q

Swearing?

A. Yes, sir. And the moment he turned the arch, this way(illustrating)---here was the stairs and the arch. He got out that way through the main hall, and as he did, I got upstairs into Mrs Adleberth's room, and I was afraid of him, because always, when he was drunk, he would beat me.

BY MR CHANLER:

Q

Now, when you went upstairs to Mrs Adleberth's room, what happened?

A. Well, I rang her private hall door bell three or four times before she answered me, and she come to the door the private hall door, and she says, "Who is there?" And says I, "Oh, Mrs Adleberth, open the door. Jerry is drunk, and he is at me, and I am awfully afraid of him," and she opened the door, and I went in, and she locked the door after me, and locked her kitchen door, also and the lamp was lighted on the table, and I said, "Mrs. Adleberth, if anybody comes to the door, dont let them in," and she said, "No; " and with that she went right in. She had a little girl about 3 or 4

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years old, and she commenced to cry in the bed for the mother, and then the mother goes to bed with her.

BY MR. CHANLER:

Q With the little girl?

A. Yes, sir; back again to the child; and then she says to me, "Now, Mrs. Hurley, make your mind easy, and go inside on that lounge, and lay down, and I will give you something to lay over you," and I said, "I cant sleep. Dont bother," and with that she threw me a comforter from the bed, on to the lounge. But I could not rest. I remained there until daylight, until morning; and neither her nor me never left the house that night, to go out in the hall, nor no place else, because there was too much fear that Jerry would come after me.

Q And Eddy came up---

A. And Eddy came up in the morning to me, and he said, "Mamma, come downstairs," and I went downstairs with Eddy, and Mrs. Adieberth came down at the same time, and my deceased son was lying on the floor drunk, and didnt know there was anything at all the matter with him. I shook him up, and I went to the fire to get a hot cup

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of coffee for him, as I often did, and I couldn't get any move out of him, and I said, "Eddy, come here and help me put Jerry in the bed. He will be better there."

BY THE COURT:

Q And you supposed, at that time, that he was just drunk?

A. Yes, sir; and I was well used to that, lying on the kitchen floor. That was his bed; and Eddy and Mrs. Alleberth helped me to put him on the bed; and, in the lifting of him I said, "Eddy, there is something the matter with Jerry. I guess you had better go for the doctor," and so poor Eddy ran out.

Q When was this?

A. Sunday morning, after the fall; and Eddy went out about half-past 4, or 5 o'clock. You know the summer mornings is very bright, and he brought in Dr. Broquet. I was standing at the bedside, rubbing his face that way (illustrating).

Q Jeremiah's face?

A. Yes, sir; trying to bring him to, and make him speak to me. He was only drunk. He smelled of whiskey very much. And Dr. Broquet came in, and I said, "Doctor,

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there is something the matter with Jerry. I guess he is drunk in the bed," and he looked at him and examines him, and he said, "Oh, he is only intoxicated, and when he has a couple of hours' sleep, he will come out all right," and that was all.

BY MR CHANLER:

Q Now, did you call in Dr Broquet again?

A. Well, he came of his own accord the second time, with another doctor.

BY THE COURT:

Q At what time?

A. Something around 10 or 11 o'clock. Now, I won't tell you a lie.

BY MR CHANLER:

Q Dr Lucius and Dr Broquet?

A. Yes, sir?

Q Now, did Mrs Adleberth say anything to you when you went into her room about having seen Jerry and Edy down in the yard together?

A. No, sir.

Q Did she say anything, the next morning, when you were

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with her, in your deceased son's room, about having heard Jerry say---about having heard Eddy talking down in the yard or being down in the street below with Jerry?

A. No, sir.

Q Did any such conversation take place? A. No, sir.

Q No. Now wait until I tell you what the conversation is. Did any conversation like this take place between you and Eddy? Did he come into your room, and in the presence of Mrs Adleberth say, "I have killed my brother, Jerry, and, if I haven't, I will kill him before morning"?

A. No, sir; nothing of the kind.

Q Your son, you told us before, came home drunk?

A. Yes, sir.

Q Now, ~~when~~ ~~there~~ in all those times did Eddy ever get into a fight with him or quarrel or struggle with him?

A. No, sir; only once, when he collared Eddy for money, and Eddy merely picked up his hat and coat and got away from him; and he was very drunk and he laid down on a trunk and went to sleep.

Q And Eddy always got out of his way? A. Yes, sir.

Q And you always got out of his way, too? A. Yes, sir. I

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often took the spread off the bed and wrapped it around me and sat on the step of the steps until he would go to sleep.

Q And you did that whenever he came home drunk?

A. Yes, sir; I did.

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Q Now, when did you next see your son Rddy again -- but, before I ask you that, when did your son, Rddy, say good-bye to you and go away?

A. He went away that morning.

By the Court:

Q Sunday morning?

A. Yes, sir; because he was laid out to go. He told me, Saturday morning, "Be sure, mamma, and have my clothes ready for me, because you know I am going to-morrow," and he was intending to go a week before that, and he didn't go until this Sunday morning; and, when he heard what Doctor Broquet said, that everything was all right, he had nothing to do with him; it was none of his business.

By Mr. Chanler:

Q Now, when did you see your son, Rddy, next after that morning?

A. I moved on the 30th of August from that place, from Willis avenue to Second avenue, and my son come home on the 1st day of September then, the day after I moved. He come home the 1st of September, from his aunt's. It was on a--- I really couldn't tell you what day of the week it was on, but it was on the first of the month that he come home, because

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I remember I was paying my rent, and I am very glad -- he knocked on the door, and it was early in the morning; he knocked on the door very politely, as I was getting the rent ready to go down to the house-keeper with it.

Q And how long did he stay there then?

A. Two weeks; and he looked for work, and didn't get no work; and then he went to Mr. McMahon, that he was working for when he was arrested, and his building wasn't finished; and, when he was going out in the morning, he said, "Now, look here, mamma. The very first chance I get, I will take it."

Q And he went away and went West?

A. Yes, sir.

Q And he stayed away several months?

A. Yes, sir; until the 27th of July.

Q That was July, '93?

A. Yes, sir.

Q In other words, he was gone nine or ten months before he came back?

A. Yes, sir.

Q Now, before that, when he was living with you for the two weeks, in September-----

A. Yes, sir.

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Q After Jerry died, he was not hiding; was he? #69

A. No, no; he went every place.

Q And the next time when he came back, in July, '93, was he hiding then?

A. No, sir; he went to work the following Monday, and stayed to work six weeks, steady, with this Mr. McMahon, steady. He was working up to the very night he got arrested, Saturday night before, that he finished the six weeks.

Cross Examination.

By Mr. Osborne:

Q Mrs. Hurley, do you know Mrs. Elizabeth Boyd -- no, Mrs. Elvira Boyd? A. Who, sir?

Q Do you know Mrs. Boyd?

A. I did. She was a perfect stranger to me. I know her well.

Q You didn't know her at all?

A. I know her personally. The first time I seen her, she lived in the same house with my daughter.

Q Then you did know her?

A. Just a few weeks. I never knew her personally until

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the time of my son's death, the deceased's death.

Q And she came down to your house on the day of the death?

A. Yes, sir. She came in to help me, as she said.

Q Well, she was in there?

A. She was; with the doctor.

Q Do you know her daughter, too?

A. I don't know much about her daughter.

Q Did you ever see her?

A. Yes, sir; but had no conversation with them.

Q Do you remember being in Mrs. Boyd's room and having some talk with her about where Edward was?

A. No, sir.

Q I ask you if you didn't say to Mrs. Boyd -- didn't Mrs. Boyd -- I withdraw that question. Did Mrs. Boyd say to you, "Where is Edward?"

Mr. Chanler: I will not object.

(Allowed)

By Mr. Osborne:

Q And didn't you say, "I gave him \$5. and a suit of clothes and sent him away"?

A. No, sir, I didn't; and I didn't have a dollar that morning in my pocket.

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Q And you never said it?

A. No, sir; I never said anyt such thing.

Q Now, didn't you then tear down Edward Hurley's pictures from the wall, and say, "They will never find him from his pictures. I have sent him up to his cousin's"?

A. No, sir; I never had his pictures on the wall. I never said such a thing.

Q That night, when your son was hurt, in this affair, I ask you if you didn't pile up your clothes in the middle of the room and say that you were going up stairs, because you were afraid of your son?

A. No; I didn't pile up no clothes, nor nothing else.

Q On the floor?

A. No, sir.

Q Did you get into the press of Mrs. Addeberth and hide?

A. I did, when the knock came to the door, and when the foot came to the door, and I didn't see anybody.

Q Well, didn't you get into the clothes press?

A. Yes, sir.

Q Now, wasn't that step that came to that room your son Edward Hurley?

A. No, sir; he didn't come there until the next morning.

Q I ask you, suppose Mrs. Addeberth says that then she opened

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the door, and your son Edward came in; ask you if that is true?

A. No, sir.

Q You say you heard a step?

A. Well, I don't know. I might hear it over my head.

Q Well, you say that yourself, that you heard a step?

A. I might hear plenty over my head. I couldn't hear it from the private hall door.

By the Court:

Q Well, you did hear something that made you go into the closet?

A. Well, I did; when I heard people walking over my head. I thought it was Jerry coming. The terror of Jerry was in my heart, I tell you.

By Mr. Osborne:

Q Well, I believe you.

A. And you may believe me. The terror of him was in my heart, because I ought to get terror out of him.

Q Now, Mrs. Hurley, will you do me a favor, and I know that the Court will request you to do it. Just answer my questions, and don't get excited.

The Court: Don't get excited. Answer the

questions quietly and properly.

By Mr. Osborne:

Q You have naturally a great deal of emotion on this occasion, which I greatly respect. Now, you said that you heard a step, and that you went into Mrs. Addeberth's press. Is that true? Yes, or no?

A. Well, I might hear a step, but I couldn't tell who it was.

Q Well, did you say that just now?

A. I did say that.

Q Well, that is all I want. Now, you remember the row that Mrs. West had with Mrs. Addeberth?

A. Yes, sir.

Q And it was because Mrs. Addeberth talked about your son, Edward; was it not?

A. I don't know, sir; I didn't hear that.

Q And didn't you take a hand in that row yourself?

A. No, sir. I beg your pardon.

Q Do you remember the fight that Mrs. West had with Mrs. Dean?

A. Who?

Q Mrs. Dean?

A. No, sir. I don't know any lady by that name.

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Q I asked you just now if you didn't know Mrs. Dean, Mrs. Boyd's daughter?

A. I didn't know that name; I never heard it before.

Q Well, she is Mrs. Boyd's daughter, Elizabeth Dean is her name. Do you know her?

A. Yes, sir, I do.

Q Now, do you remember that Mrs. West, on account of what Elizabeth Dean said she knew about this case -- do you remember Mrs. West making an attack upon her and having a fight with her?

A. No, sir, I don't. I didn't hear Lizzie Dean and my daughter having a word.

Q And didn't you take a hand in that affair?

A. No, sir; not until Mrs. Addeberth came down and stuck her hands in my daughter's hair.

Mr. Chanler: Is that proper, your Honor? It will take a whole week to try this case, at this rate.

Mr. Osborne: Oh, not at all. It has a considerable bearing.

Mr. Chanler: Well, I don't want to get into too long a discussion.

The Court: Well, when I think it is getting tedious, I will shut it off.

By Mr. Osborne:

Q Yes, your Honor. Mrs. Harley, you do remember, however, that Mrs. West had a quarrel with this Elizabeth Dean; don't you?

A. No, sir; I was not there at all.

The Court: Supposing, Mr. Osborne -- I want to draw your attention to this -- supposing that was so, that Mrs. West and Mrs. Dean had a quarrel. How would that affect Mrs. Dean's testimony?

Mr. Osborne: Mrs. Dean has not testified yet.

The Court: I thought you were laying the foundation.

Mr. Osborne: Yes, sir, to show that the same process of intimidation that was that was brought to bear on Mrs. Addeberth.

The Court: I do not think there has been any intimidation shown here.

Mr. Osborne: But your Honor would not let

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me show it.

The Court: Well, I haven't seen any. All that I have seen here-----

Mr. Osborne: Your Honor declined to let me show it. I proposed to show it, and your Honor ruled it out.

The Court: If you could show that Mrs. Dean had had a quarrel with these people, how would it affect her testimony, when she came to swear against them?

Mrs. Osborne: Well, I know the inside of the case, and I don't think your Honor does.

The Court: No. But I come to conclusions pretty quick, and sometimes I am wrong.

Mr. Osborne: I know your Honor does, and I see your Honor has.

The Court: Well, go ahead. I will let you go ahead and ask her if Mrs. West and Mrs. Dean did not have a quarrel.

Mr. Osborne: Well, if your Honor wants, on the ground of mercy-----

Mr. Chanler: Oh, no; we don't want any

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talk like that.

The Court: No, not a particle of mercy;
justice.

Mr. Osborne: That is all I want.

The Court: Justice; that is all.

Mr. Chanler: Now, will your Honor pardon
me a second. I don't want to take up your time. The
reason I objected to the quarrel being gone into is
this: If Mr. Osborne gets in his side of it, I
will have to get mine out, too.

The Court: Well, go ahead. Let us see
what light it will throw on the case.

Mr. Osborne: Yes. There is no question
before the Court now.

By Mr. Osborne:

Q Now, you remember when your son, Edward, came up to Mrs.
Addeberth's room, that night?

A. No, sir.

Q You don't remember his calling for you up there?

A. No, sir.

The Court: In the morning, she says.

THE WITNESS: He called me in the morning;

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no other time.

By Mr. Osborne:

Q About 4 o'clock?

A. I couldn't really tell you the time; I don't want to tell only what I know.

Q And do you remember that he said, in your presence -- did you say that you were afraid that Jerry would kill you?

A. I did.

Q You did say that?

A. I said I was afraid that Jerry would follow me up to Mrs. Addeberth's, and kill me.

Q And did you say that in the presence of your son, the defendant, and Mrs. Addeberth?

A. No, sir; I told Mrs. Addeberth that.

Q And didn't Edward say, in reply to that, didn't he say, "If I haven't killed him, I will kill him before morning?"

A. No, I beg your pardon; I never heard in my living life; never, sir.

Q You admit, though-----

A. I never heard my son, Eddy, say any such word.

The Court: Now, my good woman, just answer the questions.

By the Court:

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Q You neaver heard any such words? A. No, sir.

Q Or anything like that? A. No, sir.

By Mr. Osborne:

Q But you did say to Mrs. Addeberth, "I was afraid Jerry would kill me"?

A. Well, I said that Jerry was drunk, and I got afraid of Jerry.

Q Well, did you say what I have said?

A. No, sir, I didn't say altogether that he would kill me.

Q Well, you changed that.

A. Well, I said that he beat me so bad that I got a terror in me of Jerry.

Q Now, you said just now to the jury-----

A. Well, I didn't say that Jerry was going to kill me.

Mr. Osborne: Well, will your Honor kindly instruct the witness to answer the questions?

The Court: Yes. We will never get through this trial. Hear the question and give a responsive answer, without any speech or explanation. Say yes or no.

By Mr. Osborne:

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Q And didn't you say then, "Eddy, don't say that"?

A. No, sir.

Q And didn't Mrs. Addeberth say, "No, Eddy, don't say that"?

A. No, sir; I never heard her.

Q Didn't the defendant say to you -- didn't you go down stairs with your son, Edward, when he came up for you in the morning; you went down with Edward when he came up for you?

A. Of course, I went down in the morning.

Q I ask you if you did?

A. I don't hear what you say.

Q Did you go down with Edward Hurley in the morning when he came up to Mrs. Addeberth's rooms for you?

A. Of course, I went down. Eddy went down ahead of me, and I went down the stairs after him, and-----

Q Now, please, madam, do not give us an inundation of words. Just say yes or no, and I will be very much obliged. And when you got down there with Eddy, you found Jerry still lying on the floor; didn't you?

A. Yes, sir.

Q And did you put your hand over his face and say, "Oh, he isn't hurt." Did you say that?

A. Yes, sir, I did.

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Q Did you say, "There is no blood on his face"?

A. No, sir; not a drop.

Q I say, you said that; "There is no blood on his face?"

A. Yes, sir, I did; that he had no hurt on him.

Q And that there was no blood on his face?

A. And that I didn't know but that he was drunk.

Mr. Chanler: She says that she didn't
speak of blood at all. Why ask her again?

By Mr. Osborne:

Q Now, one moment. You said that he was not hurt. You just
~~now told the jury that you said that he was not hurt?~~

A. I said that there was no blood. You must excuse me.

Q But you say at that time that he was not hurt?

A. I said that he was not hurt; there was no blood on
him.

Q I say, you said that?
blood at all that morning.

A. I didn't speak of

Mr. Chanler: You have asked that ques-
tion three times.

Mr. Osborne: Well, make your objection
to the Court.

The Court: Well, give the District Attor-

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ney a chance. I have been on your side long enough.
Give him a chance.

Mr. Osborne: Yes, there is no question
before the Court.

By Mr. Osborne:

Q Now, will you please answer this question again? You said
that, "There is no blood on him. He is not hurt;" did you?

By the Court:

Q Did you say he was not hurt?

A. I did; I said that he was not hurt.

Q Well, that answers that question.

Mr. Osborne: Yes, sir, that answers that
question.

By the Court:

Q And you didn't know that he was hurt; did you?

A. No, no; my goodness, no.

By Mr. Osborne:

Q And, not knowing that he was hurt, and not having heard that
he was hurt----

A. No, sir.

Q You never heardit?

A. No, sir.

Q You therefore made the remark, "He isn't hurt"?

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A. No, sir, I never knew the boy was hurt. I merely thought the boy was intoxicated.

Q Now, that will do.

Mr. Chanler: Well, she may tell what she thought, under the circumstances.

The Court: Well, she said it.

By Mr. Osborne:

Q Now, did you hold down the light, or did Mrs. Addeberth have a light, when you came down stairs with her?

A. No; I didn't see no light in her hand.

Q Well, you had a light in your room?

A. No, sir, I didn't.

Q Well, there was a light in your room when you went down; was there not?

A. A light in the room, in the morning?

Q Yes? A. There was a light that the Lord sent.

Q And yet it was 5 o'clock in the morning?

A. I don't know what time it was.

Q And then you didn't have a light there?

A. No, sir.

Q At any rate, you looked over your son's head, examined it?

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A. I looked at him, of course, the same as any mother would look at her child, but I didn't know that he was hurt or anything the matter with him, except that he was drunk.

Q Will you please just answer the questions? Did you see a lump over the left ear, or a cut over the left eye?

A. No, sir.

By the Court:

Q When you first saw your son?

A. No, sir; he had no cut at all then.

By Mr. Osborne:

Q And did you see a ridge at the back of his head, and a dent?

A. No, sir; indeed I didn't, sir; no such thing.

PHOEBE KING, called by the Defence, being duly sworn,
testified as follows:

Direct Examination.

By Mr. Chanler:

Q Now, Miss King, you have known the defendant how long?

A. About Four years.

Q You knew him very well in August, 1892; did you not?

A. Yes, sir.

Q You were, in fact, keeping company with him at the time?

A. Yes, sir.

Q And he was in the habit of frequently going to your house and talking to you about his plans?

A. Yes, sir.

Q And did you see him about the 7th of August, shortly before his brother Jeremiah's death?

A. Yes, sir.

Q Did he have any conversation with you then about going away, before you heard of the brother's death?

A. Yes, sir.

Q You did?

A. Yes, sir.

Q When did he talk to you about it?

A. Well, that whole week before he went away.

By the Court:

Q That is, he talked to you about going away, the week before his brother died?

A. Yes, sir.

By Mr. Chanler:

Q And did he tell you where he expected to go -- don't say where it was.

Mr. Osborne: That is all right.

By Mr. Chanler:

Q Did he tell you where he expected to go?

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A. No, sir.

Q Well, did he tell you where he was going -- that he expected to go to his cousin's?

(Objected to)

Q (Question repeated)

A. Yes, sir.

Q Well, when was the last time you saw him before he went away?

A. Saturday evening, early.

Q And did he say good-bye to you then?

A. Yes, sir.

By the Court:

Q What time was that?

A. Well, it was early in the evening, around 6 o'clock.

Q On Saturday evening he bid you good-bye?

A. Yes, sir.

Q Early in the evening?

A. Yes, sir.

By Mr. Chanler:

Q You didn't see him on Sunday morning?

A. No, sir.

Q And when did you next see him again?

A. The next time was around the 1st of September.

Q And did he tell you then where he had been?

A. Yes, sir.

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Q And did he see you frequently during September?

A. Yes, sir.

Q Was he going about as usual?

A. Yes, sir; just as usual.

Q Was he hiding, or going under an assumed name, or anything of the kind?

A. No, sir.

Q Did you and he walk out in the day and evening together?

A. Yes, sir.

Q And then when did you say good-bye to him again? When did he leave you again?

A. On the evening of the 26th of September.

Q And did he tell you on that occasion where he was going?

A. He didn't say just where he was going.

Q Did he say what he was going for?

A. He said that he was going to look for work. He didn't say exactly the place.

Q When did you next see him after that?

A. In July.

Q Of the following year?

A. Yes, sir.

Q And he was arrested in-----

A. In September.

Q Between July and September, did you see him often?

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A. Yes, sir.

Q Was he making any attempts then at hiding?

A. No, sir.

By the Court:

Q Was he in the city all the time between July and September?

A. Yes, sir, all the time.

By Mr. Chanler:

Q How far was your house from where the defendant lived; about?

A. From where he lived when he came home?

Q Well, at first. At the time of Jerry Hurley's death, did you live far from where he lived?

A. I should judge about five blocks.

Q And then, when they subsequently moved, did you live further or nearer? A. Further.

Q And you used to go down to his house, to see his sister?

A. Yes, sir.

Q And you used to see him there? A. Yes, sir.

Q And he used to visit your house? A. Yes, sir.

Q You were living with your father and mother?

A. Yes, sir.

Q Did you on any occasion while you were with Eddy pass police

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officers?

A. Yes, sir.

Mr. Osborne: When?

By Mr. Chanler:

Q About when was that?

A. Well, I couldn't say just the date, but I passed Mr. Gilmartin and Mr. Woods, also.

Q With Eddy?

A. Yes, sir.

Q And they didn't seem to notice Eddy?

A. No, sir.

Q And they didn't speak to Eddy?

A. No, sir.

Q Did you see Mrs. Addeberth after the death of-----

A. I saw her on the Monday; yes.

Q After the death of Jerry?

A. Yes, sir.

Q On a Monday?

A. Yes, sir.

Q And did she say anything about being surprised?

A. Yes, sir. When she saw me, in the morning, she was standing with her back to the table in the kitchen, and I was standing over against the tubs, and she asked me if I wasn't surprised when I came over, and I said I was, and she said I couldn't be one bit more surprised than she was, when she came down in the morning.

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Q He just left it entirely indefinite?

A. Yes, sir.

Q And I understood you to say that you were engaged to be married to this young gentleman at that time?

A. No, sir.

Q You were just keeping company with him?

A. Yes, sir.

R e D i r e c t E x a m i n a t i o n .

By Mr. Chanler:

Q One moment. While he was away, did you correspond with him?

A. Yes, sir.

Q And did he correspond with you?

A. Yes, sir.

Q And that correspondence kept up all the time he was away; did it not?

A. Yes, sir.

Q And you wrote to him under his proper name?

A. Yes, sir.

Q And posted the letters in the general Post-office?

A. Yes, sir.

Q And you made no attempt at hiding?

A. No, sir.

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Q Or at deceiving anybody when you wrote to him?

A. No, sir.

Q And he wrote to you openly?

A. Yes, sir.

Q So that anybody could see whom you wrote to, when you wrote to him?

A. Yes, sir.

Q And you had been keeping company with him for some time before he went away?

A. Yes, sir.

Q And it was generally known in the neighborhood that you were keeping company together?

A. Yes, sir.

EDWARD HURLLEY, THE DEFENDANT, being duly sworn, in his own behalf, testified as follows:

Direct Examination.

By Mr. Chanler:

Q Edward, you are the brother of the deceased?

A. Yes, sir.

Q The one who died on the 7th of August or the 8th of August, 1892?

A. Yes, sir.

Q You were born in this country?

A. Yes, sir.

Q And you have lived here all your life?

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A. Yes, sir; all but a few years, I was here off and on.

Q And you have always worked for a living?

A. Yes, sir.

Q Have you ever been arrested before this, for any charge whatever?

A. No, sir, for nothing whatever; never an officer's hand on me.

Q Do you remember the night that your brother came home?

A. Yes, sir.

Q Now, just tell us what occurred?

A. Do you want the whole of the facts?

Q Yes. From the very evening until the next morning?

A. Well, on the Saturday evening, of August 7th, 1892, I came home from work. The job was finished. There is a young man in the audience that was working with me, and I left my tools in his charge; in case that I didn't go to work on Monday morning, they would be in safe keeping; and I came home that evening and changed my clothes and went out, and met a young man by the name of Frank Harbeck, and we walked around, and I played in the ball team, and the team busted up through a quarrel with the captain; and we were organizing that team over, that Saturday evening,

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and we met, and, about half-past 10, I got tired and sleepy; and I had done a hard day's work, and it was hot weather, and I was not feeling well; and I made a motion to go away, and Mr. Harbeck and Mr. Bloom went with me about a block and a half. We were not in a room, but sitting on the stoop, and we went into the corner saloon, and Harbeck and I had soda and lemon, and Bloom, beer, and we had a talk and went out, and Mr. Bloom wanted me to go to Harlem.

Q No. Don't tell that. Just tell us what happened when you got to the house. You walked home to the house?

A. I want to get in every fact. I shook hands with Mr. Harbeck, and I said, "Frank, if you don't see me to-morrow, it will be allright with the team. I will be with you as soon as I am home. It will be over two weeks or over two weeks and a half," and I left the gentlemen and went home; and I got home just in time, and took off my shoes and put on my slippers.

By the Court:

Q About what time was it?

A. Between 10 and 11 o'clock I got home.

Q On August 7th?

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A. Yes, sir. I made a practice of going in and putting the gas out for my mother, and I get home in time to put out the gas and shut the front doors and leave everything in good order, and I went home and my mother went to bed, and I sat reading awhile and went to bed, and dozed right off to sleep. I was kind of stirred with something at the foot of my bed. I just kind of opened my eyes up, I didn't come naturally to my senses, and identified my brother.

Q Jeremiah?

A. Yes, sir; passing my bed. I seen him drunk. It was the custom. I didn't mind that. And I must have dozed back to sleep again, and I didn't know any more until I was waked by the noise of the bell. I didn't know whether it was a dead bell in my ear or the natural sound of the bell, and I lay there and I heard the door-bell ring, and I was often locked out at night, and I knew what a great thing it was to throw out the keys after me. And so I jumped up and put on my pants, and my mother usually kept the keys on a small piece of broom-handle, and the front door key was on that, and I went in to take that, and it was in the closet right by her bed, and I missed her out of the bed, and I grabbed the bunch of keys and I went into the front room with the intentions of throwing that front door

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with the intentions of throwing that front door key out of the window, to let this gentleman or lady, or whoever I thought it was, ringing the bell, to let them in, and next day mother used to get the key. And, when I missed mother out of bed, and I saw the front door open, it stirred me up a little bit, knowing that her and I was alone in the house, and her bed-room door was open, opening on the private hall; and I walked right out into the hall, and the bell kept ringing and it stopped and I went down stairs, and I went down the stairs, and you couldn't see out to the street. You had to walk through a twenty-five foot hall to the stoop, and I identified four men on the side-walk. Two came south and two crossed the street. At any rate, it looked to me that we met at once. If I had kept on walking out on the stoop, we would have met like that (illustrating). We all seemed to meet together. When I got there I asked what the trouble was. Somebody said, "Who is this fellow?" I looked off the stoop. I was in my bare feet and I didn't want to go out on the stones, and there was a mat in the hall, and I gave a little kick to the mat and stepped on it and held one hand on the jamb of the door and the other hand held the keys, and my shoulders and head were outside

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of the door, the way I could identify the side-walk and see what was going on; and I seen what it was, and I said, "To hell with him," and I was on my actions to turn and go up stairs again, and someone said, "Why don't you carry him up stairs?" And I said, "I have carried him up stairs once too often," and he said, "You ought to get a punch in the snout," and I said, "Well, if you're inclined to make trouble, you come up here and I will give you some. We will exchange that punch in the snout," and I said, "Why don't you go on about your business? This thing, it isn't any affair with you. This is my brother; and, if you were in my place, you would do the same thing that I am doing. I don't want him up stairs. I keep this house. I support my father and mother and pay the rent, and I am sick and tired of this man, and I don't want him in there. Go about your business, and let this question drop," and, with that, I stopped and identified my sister coming out of the next hallway, and she stooped down and she picked him up, and she said, "Oh, Eddy, carry him up," and I said, "No," and she requested some men to help carry him up stairs; and I went up stairs and put on my coat and hat and slippers, with the intentions of going out and getting an officer to carry

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that man out. My poor mother was heart-broken with him. I went out with the intentions of getting an officer, and I had hardly reached the corner when I heard my name called, "Eddy," and some gentleman came up, and I heard afterwards it was Mr. Durr, and he said, "Well, there is no use of going out, Eddy. Let it drop. There is no use of getting an officer," and I said, "No, I will have that man arrested to-night, or I will not put a foot in the house," and he said, "No. Come up in my house and stay all night," and I said, "No, I can't have nothing, like any other fellow. I can't have a home or anything. I try hard enough, God knows I am troubled enough. I can't have any enjoyment with the drunken loafer coming in and disgracing us every place we go," and he said, "There is no use of getting excited;" and I said, "No, Mr. Durr. I hope you will excuse me. I don't want to vent my angry temper on you. I hope you will excuse me if I have said anything wrong to you," and I doubled back and went up to my sister's, and she had a sick young one and I said to her, "You ought to know better than to bother with that man. You ought to be ashamed of yourself to be in front of those men down stairs in the condition that you are in. Where is your husband, to let you go down

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stairs at this time of night?" And she said, "Oh, he is our brother," and I said, "Brother? I wouldn't acknowledge him as a brother. He is no good to us, and I will have him arrested before the night is over," and I sat down on the sofa and I got drowsy and sleepy, and I pulled off my hat and coat and laid on the sofa. And my mother said on the stand herethat I laid there and she couldn't name the hour, but I can name the hour. It was between 5 and 6 o'clock that I got up and put on my hat and coat and I walked out; and the front door was still open and the kitchen door, in the very same way that it was when I left it. And I walked in, all through the house, and when I got to the kitchen, from my bed-room, I looked in and I seen my brother laying on the floor, and I kind of tapped him on the feet, with my feet, like that (illustrating), and, if it was a dog, I would pity him. If a man stuck a knife in my heart, I would pity him, and I walked up and I said, "Jerry, Jerry," and he didn't speak; and I said, "Where the devil must mother be?" And I went out in the hall, and I thought of Mrs. Addeberth. She was quite a good friend of my mother's, and I knew she would go up there when he came in drunk; and I went up and rung Mrs. Addeberth's bell, and the outside pri-

vate door was locked, and I rang that bell twice or three times before I got an answer. And I heard the inside door open, and I said, when she came out, "Is mother here, Mrs. Addeberth?" And she said, "Yes." And, when she came out, I said, "You had better come down stairs with me. This is no place for you up here," and she came down after me.

By Mr. Osborne:

Q That was your mother?

A. Yes, sir, my mother. And Mrs. Addeberth, if I ain't quite mistaken, and I won't swear to it, but somebody came down after us, and came into the room. There was my mother and somebody else there, and my mother says, "That poor fellow, anyway," or something else, when she looked at him. She kind of looked at his face or something, and she said something about, "Oh, if the Lord would only take him, or turn his mind," and she lifted her hand from his face, and she said, "You poor fellow," and she turned to me and threw her arms around my neck, and she said, "Oh, if he was only like you;" and I said, "Well, let us put him on the bed," and his body kind of hung in a dead way, no life in his arms or anything; and we laid him on the bed, and I looked at him and said, "You poor, good-for-nothing fellow," and I didn't like

the looks of the man, somehow or another, I didn't like his actions. He wouldn't speak; and, if he was ever drunk, he would give me some motions, and I would be the first one that he would come to, and I was the only one that could get along with him; and I said, "Mother, there is something wrong with Jerry," or she said it to me. Anyway, it was passed between us, and I said, "I'm damned if I will go away without seeing that things is in no danger. I can't go no place with a comfortable mind," and I went around the corner and rung Dr. Braquet's bell.

By the Court:

Q You went for the doctor?

A. Yes, sir, and he came to the door. He had just got out of bed. And I said, "Doctor, would you please come down to see my brother. He hurt himself last night. I think he fell, and I would like you to look at him and make sure," and he said, "Who is going to be responsible for it, who is going to pay me?" And I said, "I will pay you before you leave the premises," and he said, "Will you be responsible?" And I said, "Yes; whatever the bill is," and I walked around with the doctor, and at the bed-side I said, "Now, doctor, I want you tell me what is the matter with that man," and

he turned his head and looked at his eye-balls and he said, "There is nothing the matter with that man. He is in a drunken condition. In an hour or two he will be alright," and I was satisfied then. I didn't want no more, and I turned around and my mother and sister were in the room. I didn't see anybody else, I didn't identify anybody else; but I am pretty sure they were in the room, and I said, "Well, I am going over. I promised Mr. King to meet him." I had the habit of going down every Sunday morning and buying him a SUN and a WORLD.

By the Seventh Juror:

Q Your brother?

A. Yes, sir, every Sunday morning I used to go out and buy those papers; and I never missed that, and may be I wouldn't look at them. I bought the papers, and, instead of turning back home, I stuck them in my pocket and walked over to where Mr. King lived, and I seen something in the paper and stopped to look at it, and I got a tap in the back of the neck, and it was Mr. King, and he said, "Helloa, you night-hawk. You are out early," and so it was. It was a nice Sunday morning. And he said, "If you don't come over to see my wife, she would be after you with an axe," and I

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said, "I was heading over that way now." And then there was a Mr. Martin there, and we got into conversation, and I said, "Well, I will treat you," and Mr. King don't drink anything, and I don't know what the taste of it is. We had a drink in the saloon on the corner and a cigar and left the place, and Mr. King and I went over to the house.

By the Court:

Q Over to your house?

A. No, sir; Mr. King's house. Miss King was in bed, and her sister, her younger sister, and her brother, Johnny. There was nobody up but Mr. and Mrs. King, and I had a cup of coffee in over there, and started back to the house. And I met a young lady on the way, and she said, "The next time you meet me you must treat," and I said, "Well, Jane, it will be two weeks before you can get that treat," and I walked over to the house. And my sister had my valise packed to go to the hop country, and it was going on to 8 or 9 o'clock, and I laid around the house until a quarter after 9, and then I took my little satchel in my hand and bid they all good-bye; and my mother went with me to the head of the stairs, and she shook hands with me over the banister and kissed me good-bye. And I went to the Mott Haven depot and took the

10:10 train for Albany, and I got to Albany at 1:10 that same afternoon, and I arrived in Troy at a quarter after 2, and I took a car from Troy right away and arrived in Cohoes about 4 o'clock, just in time for my two cousins having their valises packed, to go down to my house.

The Court: Now, I think you can go on and ask questions.

By Mr. Chanler:

Q Yes, sir. Now, you went up into the hop country?

A. Yes, sir.

Q And work in the hop country is a wandering life?

A. We didn't know what farm we were going on. We went for enjoyment; not money. People don't go to pick hops for money.

Q You got paid, though?

A. Yes, sir; forty cents a box and your board, and you get your meals, and there is hop dances in the barn every night.

Q Well, when you left your home, you didn't know what part of the hop country you were going to?

A. No, sir; but I knew what part of the country I was going to, but I didn't know what farm I would go to.

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Q You didn't know your address then?

A. No, sir.

Q Now, when did you come back from the hop country?

A. I think it was the first day of September, if I ain't mistaken. Now, I might be mistaken in a day.

Q Well, about the first of September?

A. Yes, sir.

Q And how long did you stay then?

A. Until the 26th day of September.

Q Yes. And during that time what were you doing?

A. What was I doing?

Q Yes?

A. Well, a gentleman by the name of McMahon -- I went to see him every morning.

Q Looking for work?

A. Yes, sir; and he kept putting me off.

By the Court:

Q Well, you were looking for work? A. Yes, sir.

Q And you couldn't get work? A. No, sir.

By Mr. Chanler:

Q And then where did you go?

A. I seen an advertisement in the papers for plumbers out through the State of Ohio, for four and a half a day. I

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went down to the PLUMBERS' JOURNAL, and went to Columbus, Ohio, and stayed there until some time in July.

By the Court:

Q July, '93?

A. Yes, sir. I would have been home long ago, but I was laid up, which letters I can prove.

By Mr. Chanler:

Q Never mind about that. You wrote letters home?

A. Yes, sir, every week.

Q And you did break your rib there?

A. Yes, sir, my hip. I didn't break it, but I got a bad bruise; and I had the pleurisy from a cold, and I intended to stay for the winter, and come home about May.

Q I understood that you came back about July?

A. Yes, sir, I came back about July.

Q Now, did you hit your brother with a rolling pin?

A. Well, my hands never handled one, let alone hitting him.

Q Did you have anything to do with killing him?

A. No, sir.

By the Court:

Q Did you even touch him?

A. No, sir.

AFTERNOON SESSION. 209

Mr. Chanler: I would like Your Honor to permit another witness to go on the stand now, plumber. He is a ~~carpenter~~ and a very busy man.

Mr. Osborne: Certainly; I would be willing to accommodate you in any way I possibly could.

JOHN T. MCMAHON, Called for the defense, being duly sworn, testified as follows:

By Mr. Chanler:

Q Are you a plumber? A. Yes.

Q Your partner is Mr. Reynolds? A. Yes sir.

Q Do you remember seeing defendant at all in 1892?

A. Yes.

Q Remember when it was? A. September; it was the first week in September he applied to me on a job I had on the East side one morning. He asked me for a job, if I am not mistaken.

By the Court:

Q You can leave the conversation out. You saw him in September, 1892? A. Yes sir.

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By Mr. Chanler:

Q He applied to you for work ? A. Yes.

Q Did you see him more than once ?

A. Yes sir.

CROSS EXAMINED BY Mr. Osborne:

Q Now I will let you say what he said when he applied to you?

A. He said "I arrived in the city this morning". If I am not mistaken he said I think this morning or yesterday morning. He said "I would like to get a job." I asked him what he wanted a day --

Q That is only about the price. Is that the whole of the conversation ?

A. Yes sir, that is the first part of it.

Q You are sure it was the defendant Edward Hurley ?

A. Yes sir; he has worked for me since.

By Mr. Chanler:

Q He worked for you again last summer ? A. Yes sir.

EDWARD HURLEY, the defendant, recalled for cross-examination:

By Mr. Osborne:

Q You were present when Dr. Broquett came to see your brother?

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A. Yes. 209

Q And you were present when the doctor diagnosed his case, --
when he examined your brother ? A. Yes.

Q You were in the room with him ? A. Yes sir, right by his
side.

Q You heard all he said, did you ?

A. Yes sir.

Q When you went to see Dr. Broquett you told the doctor
that your brother was unconscious ?

A. No sir, I did not; I told him --

Q You did not tell him he was unconscious -- you say no
to that ?

A. That is over fourteen months ago; I told him my brother
was hurted.

Q You are getting riled -- just answer my questions ?

A. I told him my brother was hurted, and to come around
and look at him, -- he was in a bad condition, -- I might
have said it and might not.

Q Then you might not have said he was unconscious ?

A. Yes.

Q You knew at that time your brother was hurt, didn't you ?

A. At the time I went to the doctor I didn't know what

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was the matter with him.

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Q You just said that he was hurted, didn't you ?

A. I said the man looked bad; he was in a helpless condition and I thought he needed a doctor and I went for him. That is what I said.

Q Do you remember when Dr. Broquett examined your brother he told you at that time that he was in a very dangerous condition ?

A. Not to my memory.

Q Don't you remember that the doctor told you at that time that he had cerebral hemorrhage ?

A. Not to my memory.

Q And you tell the jury that the doctor told you at that time that it was a case of simple intoxication, and that he would be well in a few hours ?

A. Yes sir, and that is true.

Q That is true, is it ?

A. Yes, what I understood the gentleman to say.

Q You were arrested by officer Thomas Gilmartin, were you not ?

A. No sir.

Q At no time ?

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A. No sir, I was never arrested by Officer Gilmartin. *Zell*

Q You ~~were~~ walked from the stationhouse to the Tombs, didn't you, with him?

A. Yes sir.

Q On the way to the Tombs you told Officer Gilmartin that you were not present when this thing happened, didn't you?

A. I told him I wasn't present when the man died.

Q Question repeated -- and that you were up in the State?

A. When the man died I was not at home.

Q Then you deny that you told the officer that you were not present when this thing happened, and you were up in the State?

A. I cannot recollect it that way what I did say. I said "I was not home when the man died" -- and neither was I. I was at home when he fell from the blow; how he fell I don't know that. I was not at home when the man died; I was in Cohoes.

Q You remember you were arrested by Officer *Kutchman* Ketcham?

A. Yes, if that is the gentleman's name.

Q Did you tell him that you were away two or three weeks in the western part of the State, and that you knew nothing of it until your girl wrote to you?

- A. About the death? When the man died, I knew nothing *2/2* about it that he was dead; it was three weeks after -- a day lacking or more of the three weeks.
- Q You never heard of his death until three weeks afterwards?
- A. It might not be exactly three weeks but close to it. I knew nothing about the man's death, I said to the officer.
- Q What time in the morning did you leave there to go away?
- A. Between nine and half-past nine, that is as near as I can come to it.
- Q Though you don't remember now that the doctor told you that he had cerebral hemorrhage -- do you know whether that made any impression on your mind at the time?
- A. Not to my memory, I don't recollect that.
- Q But you know that he told you it was a case of simple intoxication?
- A. I am sure of that.
- Q And that he would be well in a few hours?
- A. That is what I am pretty sure of.
- Q And resting on that statement you went away?
- A. Yes, seeing the man was all right.
- Q How many steps was there to the stoop -- I don't recollect what your sister says as to the stoop?

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A. It makes four. There is two stone steps and two other²¹³ steps, and that makes four steps to go on the top of the stoop.

Q When your brother was lying on the ground, was there two or four steps between you ?

A. There was five. I was inside the house altogether; inside the roof of the house; the mat was inside between the vestibule door and the front door.

Q Will you state to the jury who were present at that time ?

A. I don't know none of the gentlemen by name.

Q Don't you know Mr. Dew ?

A. Don't know the man and wouldn't know him if he stood before me. I knew only one person in the house I lived in, and that is Mrs. Adelberth and her husband.

Q You did not see Mr. Dew there ?

A. I won't swear he was there, but heard afterwards that he was there.

Q You don't know the names of any of the four witnesses that were there ?

A. No sir, I don't know them.

Q After you stood there a while you went upstairs ?

A. After I came down I went up again.

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Q Then your brother was carried up ?

A. I went up before he was carried up.

Q Then you came down again? A. Yes.

Q Then where did you go ?

A. I started to walk to the corner, but did not reach it before I heard some one say Eddie.

Q Then it was as you told the jury you said to Mr. Dew you were looking for a policeman ?

A. I said I was not sure -- I wouldn't swear to it. If I am not badly mistaken I did not.

Q You told the jury that it was ^{to} Mr. Dew that you said you were going after a policeman ?

A. I said I was told afterwards it was Mr. Dew; I didn't know the gentleman.

Q Is he here ?

A. I don't know if he is in the house or not.

Q When you changed your mind and did not get the policeman, you went back to the house upstairs ?

A. Went up to my sister's.

Q You spent the rest of the night at your sister's ?

A. Yes sir.

Q What time did you go and wake up your mother ?

A. Close to five o'clock, between five and six. 316

Q When was it you discovered your mother was not in her own room?

A. At that time.

Q But from the time you went into your sister's rooms until five o'clock you did not know your mother was not in her room?

A. I didn't know where she was. My sister said "You lay down and go to sleep."

Q You say you did not miss your mother until five o'clock in the morning?

A. When I woke up and got out of bed I missed her; but not both doors were open. I went down to look for her, but went down to answer the door bell when it was rung.

Q So then you missed your mother when you went down stairs?

A. I missed her when I came to put on my slippers and hat and coat. Then I went to get an officer.

Q When you went to Mrs. West you did not know where your mother was?

A. No sir.

Q And you were very angry with your mother in the morning and thought she had run away on account of your brother,

is that it ?

A. I don't know.

Q Is not that the reason you told the jury that you went for a policeman, that you were angry and did not want her to go away ?

A. I will not answer you -- speak a little slower and one question at a time -- not two.

Q Didn't you tell the jury that when you woke up and got out of bed you found your mother was not there -- or when you found she was not there you knew that Jeremiah had come home drunk and that you didn't want your home broken up and you went and got a policeman ?

A. Did I say I went home, or did I not ? No, I didn't say that part of it.

Q Say no, then, you did not tell the jury that ?

A. Not exactly that way.

Q You did go for a policeman because you were angry with your brother ?

A. I was not angry with him -- had no words with him -- did not speak to the man.

Q You went for a policeman because you were in a good humor with your brother ?

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A. Because he was drunk. 217

Q And because he had driven your mother out of the room?

A. Well, yes.

Q Why didn't you answer that?

A. Well, I wanted to know what you were talking about.

Q And though you knew your mother had been driven out of her room you nevertheless went over and spent the night with your sister, Mrs. West, is that right?

A. Yes sir. I spent the night there.

Q At that time you knew your mother was not in her room?

A. When I went to Mrs. West's house she was not there; I didn't know where she was.

Q You never found out until five or six o'clock in the morning where she was?

A. Yes.

Q When you went up and knocked at Mrs. Adelberth's door?

A. No, I rang the bell there.

Q Then Mrs. Adelberth came out?

A. Yes sir.

Q And you and your mother and Mrs. Adelberth went downstairs together?

A. I won't exactly swear that Mrs. Adelberth came down.

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Q You won't say she was there ?

A. She came to the door; I won't say she came downstairs.
I was looking at the man.

Q You won't swear that Mrs. Adelberth was not there ?

A. I won't swear either way, but I swear my mother came downstairs.

Q When your mother came downstairs your brother was laying on the floor ?

A. Yes sir.

Q And you made an examination of your brother ?

A. Well, yes, I looked at him -- not at that time I examined but before I had looked at my brother.

Q You made an examination before that of your brother ?

A. Yes sir.

Q Did you make an examination of him when your mother came down ?

A. No; an examination, no.

Q Did your mother examine him ?

A. She looked at the man -- she rubbed his face over -- she looked at him.

Q Did she turn his head over ?

A. I don't know; I walked out in the front room.

Q Did you see the knot on his head?

A. Yes -- and there (indicating) is the man that did it -- the officer sitting next to Gilmartin.

Q You saw the knot on your brother's head when first?

A. Yes, three weeks before that, right back of the ear.

Q Did you see the dent in his head too?

A. No sir, not that morning, but saw it before that; I saw it in that week that had passed by, -- that is the knot.

Q Did you see the dent in his head too?

A. No sir.

Q At any rate on account of the examination you made you went to see the doctor?

A. Well, no.

Q You just went to see the doctor anyhow?

A. When I picked the man up his body fell lifeless -- his arms and legs dropped without any life in them.

Q You went then for the doctor? A. Yes.

Q And when you went for him did you tell him that your brother was unconscious?

A. I don't remember; I told him to come around anyway, and I would pay him.

Q In consequence of that did the doctor come around?

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A. Yes. 220

Q At the time that these four men were standing out there your brother was lying at the bottom of the steps, wasn't he? A. Yes.

Q And you were standing above him?

A. Yes sir.

Q And you had a stick in your hand?

A. A piece of broom handle.

Q How long?

A. Six inches long -- a regular broom handle.

Q Do you remember saying this: "I will give it to any of you sons of bitches that come near me." A. Not exactly

that way.

Q "You fellows would do the very same thing if you were in my place" did you say that? A. Yes.

Q At that time did your sister come out and raise up your brother's head?

A. Yes, right after that.

Q Did you hear anybody hallo that night?

A. No sir.

Q Did you call these two men from the corner?

A. No sir.

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Q Did you hear your sister call the two men from the corner?

A. Not to my memory. When I went downstairs the men were there when I got there.

Q Do you remember seeing a little short fellow there?

A. Yes.

Q And is he the one that went across the street and said "You ought to get a punch in the jaw" or anything like that?

A. I don't know which of the people said it, but it was said between the four of them.

Q He said "You ought to get a punch in the jaw for doing anything like that"? A. Yes, it was said.

Q And you hadn't done anything?

A. Not that I know of, only I came downstairs. I talked a little angry to my sister when I said I wouldn't take the man upstairs. That made the four men mad.

Q You ^{are} were arguing. I will give you an opportunity to explain. Did your sister or not come until after the conversation with the men?

A. I said just as this man spoke to me -- "If you were in my place you would do the same thing" After ^{that} my sister walked out of the doorway and picked up the man's head and put it

in her lap.

Q You just now told the jury that it was in consequence of your talk to your sister that the four men got mad and you now say the conversation took place before you spoke to your sister ?

A. My sister wasn't there when the men and I had the conversation.

Q Then the conversation between you and the four men did not take place in consequence of any talk with your sister ?

A. Part of it did and part of it didn't.

Q And yet you say your sister did not come until after you had had a quarrel with the four men ?

A. I said "If you were in my place, you would do the same thing." She came out after that; then I told her to go upstairs and mind her business and take care of the sick young one. Then the four men got mad at me. They thought I was a brute for not taking him upstairs.

Q You had not refused to take him upstairs, had you ?

A. No sir; they said to take him upstairs, and I said "No, not if he is dead before morning."

Q These four utter strangers asked you to take your brother upstairs, and you became angry at that and they became

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angry with you for not taking care of your brother -- that is the reason of the quarrel taking place ?

A. Yes sir.

Q You never saw the four men before ?

A. I may have passed them on the street, but don't know them and could not identify them.

Q You now tell the jury that you refused to take your brother upstairs before your sister got there ?

A. Yes sir, and after she got there too.

Q So you mean to say the men got angry after your sister came there -- only partially so ?

A. They were angry before my sister got there.

Q You said before your sister got there "He is my brother; if any of you sons of bitches interfere, I will give you the same dose" ? A. Not quite that way; there is two sides to the story.

Q Tell us your side ?

A. These gentlemen were standing around the door. I said "You go about your business; don't interfere with this thing-- it don't concern you; this man is my brother, and if you were in my place you would do as I am doing." -- that is not to take him upstairs -- disown him.

Q Did your sister go up after that? A. Yes sir. 238

Q Did you say to the crowd "He is all the time drunk, he never works, he struck his mother and wanted money off of her"?

A. I don't know, -- not in front of my sister -- not as I know of.

Q So if any one of the witness in the case has said that you said it -- you deny it? A. I deny it

Q It is a fact that he was drunk? A. Yes sir.

Q And it was a fact he did try to get money off of his mother? A. I don't know anything about that; I was asleep.

Q You heard your mother say he tried to get money off of her, didn't you?

A. I didn't know that until I went away; after I came back I knew it.

Q Did your sister say to you at that time "What have you done"? A. No sir.

Q Did you say that he deserved it?

A. No sir.

Q Didn't you tell the jury that just now?

A. I don't know what he deserved -- explain yourself.

Q Didn't you say your brother deserved it ?

A. Deserved what ?

Q Anything ? A. What ? There is no answer to that question.

Mr. Chahler: Your Honor, he asks the witness didn't he say so as if in reply to a remark of his sister, and then the witness denies it and it goes down upon the record. Then at another time he asks him if he did use those words, to different people. It is confusing -- that is all I can call Mr. Osborne's cross examination.

The Court: The witness must pay attention to the question and take time to answer it.

Q I ask you if you did not say to the crowd some time during the night "He deserved it" ? A. Not that I know of in that way.

Q You deny saying that ? A. I deny saying that part.

Q What did you say about his deserving it ?

A. I don't remember saying it any way at all.

Q Did your sister say to you "Take him upstairs" ?

A. She said "Help me upstairs."

Q Did you say "I don't want him in there, he is of no use

and if he comes in there I will stay out" ?

A. No sir.

Q You did stay out ? A. Yes sir -- I didn't say I did.

Q But you did stay out ? A. I didn't intend to -- I didn't have it in my mind to stay out -- I was just as like to go up in my house as in my sister's; but I thought my mother was up in my sister's, and that is what drove me up there.

Q Do you know what your brother was working at ?

A. He was so seldom working I don't know.

Q Did he work that week ?

A. I don't know as he did; I think he did part of the week; he was no mechanic or tradesman or anything of the kind.

Q Do you know whether he gave his mother any money that night ?

A. Couldn't tell you; I don't know.

Q Did you hear him talking to your mother about money ?

A. No sir, I did not.

Q How many rooms are there in that house ?

A. Four rooms.

Q How many rooms away from yours was your mother's ?

A. Just a partition -- just one partition between the two rooms.

Q You say you did not hear any conversation between him and

his mother that night ? A. No sir. 227

Q Didn't you say that night he was a son of a bitch and "I will hang for him" ? A. No sir, never said anything like that.

Q Did you go into your sister's Mrs. West's house that night after you came downstairs ?

A. After I came downstairs ?

Q I mean immediately after you came down ?

A. The first time ?

Q Yes ? when you heard the bell ring ?

A. No sir -- the furthest I went was to the mat -- never went farther than the mat the first time.

Q You came upstairs to see your mother and went into Mrs. Adelberth's room ?

A. Yes, in the morning.

Q Did you know your mother had been in the clothes-press ?

A. In the clothes-press ?

Q She testified to it ?

A. I don't know -- was I in the room to see if she was in the clothes-press ?

Q Don't argue it, but answer the question ?

A. I say no.

Q Did she say to you that she was afraid of Jerry in Mrs. Adelberth's room?

A. Not that I know of.

By the Court:

Q Not to your memory? A. Not that I remember.

By Mr. Osborne:

Q And did you say "If I have not killed him, I will kill him before morning", or any similar expression?

A. No sir.

By the Court:

Q Did you ever threaten to kill him?

A. No sir, never had a word between us. When he was drunk I would always leave the house.

By Mr. Osborne:

Q When he came in the house drunk, did you go for a policeman?

A. I had him arrested once or twice.

Q Did you see your mother get all her clothes and all his clothes?

A. No sir, I did not see her do it.

Q And did you ask her what she was doing?

A. No sir.

Q Do you remember when the doctor came there that morning he had cracked ice put to your brother's head ?

A. No sir.

Q Don't recollect it ?

A. Don't remember it.

Q How long did you stay up there in the hop country ?

A. I went away on the 8th; I came home around the 1st of September.

Q Around the what ?

A. 1st of September.

Q I ask you if you did not go into your sister's house and get that rolling-pin ?

A. No sir, I have not handled such an article in my life.

Q You say you did not ? A. No sir, I swear I did not.

Q I ask you after you got the rolling-pin if you did not take it up into your mother's house ?

A. I did not.

W I L L I A M J O N E S, called on the part of the defense,
being duly sworn, testified as follows:

By Mr. Chabler:

Q You used to live at 443 Willis Avenue ? A. Yes.

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Q Do you know Mrs. Adelberth ? A. Yes. 230

Q Did you ever have a conversation with Mrs. Adelberth shortly after the death of Jerry Hurley ?

A. No sir, had no conversation.

Q Did you hear her talk ?

A. Yes, I heard her say on Saturday night -- I was on the sidewalk and Mrs. West was passing --

Q After the quarrel was over and after they went to the police court, and after the charge was dismissed, did you hear Mrs. Adelberth use these words, or words like them, "Very well, --

Mr. Osborne: You need not use the exact words.

Q Tell us what you heard her say coming back from the police station?

The Court: If you want a particular conversation, locate it; if you leave it open, you throw open the door and rove all around. Make it specific, so that I can rule upon it.

Q I want to give the words that Mrs. Adelberth used coming back from the police station ?

A. I came out with her, and she bid the two detectives at the top of the stairs good-by.

Q Did you make these words out ?

A. This is in the Third Avenue Court; she said when she could not take satisfaction out of Mrs. West she would take it out of her brother.

By the Court:

Q You heard her say that ?

A. Yes sir, I was with her.

Q She told you that if she could not get satisfaction out of Mrs. West, she would get it out of her brother ?

A. Yes.

By Mr. Chanler:

Q The police court charge was dismissed ?

A. Yes sir.

CROSS EXAMINATION by Mr. Osborne:

Q How did you happen to go to the court ?

A. I was on the sidewalk.

Q I withdraw that question -- did you go there as a witness ?

A. No sir.

Q You were not subpoenaed to court ?

A. No sir.

Q Did you go with Mrs. Adelberth ?

A. No sir.

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Q Did you go with Mrs. West ?

A. No sir.

Q Did you go out of curiosity ?

A. No sir, I overheard her saying a few words.

Q Did you see a part of the row between Mrs. Adelberth and Mrs. West ?

A. I heard a couple of words of Mrs. West's, and I went to court. I live in the house they did, and knew the whole business.

Q You never quarrelled with Mrs. Adelberth ?

A. No sir, never in my life; I happened to stand on the sidewalk, and when Mrs. West passed I heard --

Q You heard the conversation in court ?

A. No sir -- coming from the court she bade the two detectives on the top of the landing good-by -- Mr. Gilmartin was there.

Q And the other one was there (indicating) ?

A. No sir, the other one is not here.

Q She said it to Gilmartin ?

A. No sir, to me.

Q You by yourself ?

A. No sir, she had two ladies more with her, Mrs. Boyd and

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Miss Boyd.

Q Elizabeth Boyd and you ?

A. Yes sir.

Q And you state she said in your presence, "If I cannot get even with Mrs. West for this assault, I will take it out of her brother" ?

A. That is not the way. I asked her how the case got on; she said "It is discharged, but if I do not get satisfaction out of her, I will get it out of her brother." I bade them good-day corner of 3rd Avenue and 125th Street.

RE-DIRECT EXAMINATION by Mr. Chanler:

Q Tell how it happened you went to court -- you say you went there because you heard Mrs. Adelberth say something on the steps ?

A. That is what I wanted to tell first.

Objected to.

Q Did you see Mrs. Adelberth the day after Jerry Hurley's death ? A. Yes.

Q Did you hear her talk about it ? A. Yes.

Q Did she say anything about the rolling-pin ?

A. No sir, she knocked at my door on the other side of the hall, and I said "Come in." My wife was getting

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dinner ready. She asked for the loan of a bowl for the doctors to wash their hands in. I handed her a big bowl. She said "Jerry Hurley fell down and he hurt himself, and the doctors are in there." I went in looking while the doctors were tapping him. He told me he fell down while he was drunk.

Q The doctors were performing the operation while you were there ?

A. Yes, I stood looking at him.

By Mr. Osborne:

Q How long have you known Hurley ?

A. While I was living in the house; I lived there between three or four months.

M R S. A N N I E K I N G, called on the part of the defense, being duly sworn, testified as follows:

By Mr. Chanler:

Q Did you know this boy Hurley, the defendant ?

A. Yes sir.

Q You remember seeing him a short time before his brother's death ? A. Yes.

Q You are the mother of Miss King ? A. Yes.

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Q Did he tell you before he went away that he was going away any time ?

A. Yes.

Q When was the last time you saw him ?

A. The last time he was at my house Sunday morning.

Q Before your daughter was up ? A. Yes; he had a cup of coffee in my house and went away.

Q Did he say he was going away ? A. Yes sir.

Q Did you see him when he came back ?

A. Yes, and I set table for him and he ate in my house.

Q Your daughter used to correspond with him ?

A. Yes, she has kept company with him now three years.

CROSS EXAMINATION by Mr. Osborne:

Q That is the first time you knew he was going away, when he came there that morning ?

A. No sir.

Q He told you before that ? A. Yes.

Q How long before ?

A. He was a good while expecting to go away to his cousin.

Q How long before that had he told you he was going away ?

A. They had been talking about it I guess two weeks.

Chandler
Mr. Osborne: I think I will rest.

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D R. B R O Q U E T T was called by the People in rebuttal: 256

Mr. Chanler: I did not know you intended to subpoena him. I supposed he was my witness, and I have a note from him (showing paper to Mr. Osborne.)

Mr. Osborne: I had a conversation with this witness at recess. I do not want to delay the case, and if Your Honor does not think it of enough importance, I will let him go.

M R S. E L I Z A B E T H D E A N, called in rebuttal by the People, being duly sworn, testified as follows:

By Mr. Osborne:

Q Where do you live ?

A. 107 87th Street.

Q You remember the night after Jeremiah Hurley met with the accident ?

A. Yes sir.

Q Were you in Mrs. Hurley's room with your mother ?

A. Yes sir.

Q Did you hear some talk there by Mrs. Hurley ?

A. No, I heard some by Mrs. West.

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Q Did you hear Mrs. Hurley say anything about \$5 ?

A. Yes, I heard Mrs. Hurley say that she gave Eddie --

Mr. Chanler: What is the object of this ?

The Court: To contradict Mrs. Hurley.

Mr. Chanler: I have no objection.

Q Go on ?

A. Mrs. Hurley told mama at least to me that she gave Eddie a suit of clothes and all the money she had to go away to his cousin's people; she said they would never find him by the pictures, and took the pictures off the wall and tore them off the wall and burned them.

Q At four o'clock that evening did you hear any conversation on the part of Mrs. West?

A. Yes, Mrs. West asked mama if she knew what Jeremiah got hit with, and mama said no. She said "With a rolling-pin"; mama said yes. Then Mrs. West asked me to go into her kitchen and get the rolling-pin under her tubs. I went in for it and brought it to her, and the handle was broken off, and she said "It must have been a pretty hard blow when the handle was broken off" and she lifted her hand to show how it was done.

Q Did she show you how Eddie held it ?

A. Yes, like this way (indicating) .

Q That way (indicating) ? A. Yes sir; and she told me if Eddie was going to hit him he should hit her instead -- and of course he would not hit his sister, she said.

U Q Did she tell you where Eddie got the rolling-pin ?

A. She did not tell me, but mama, that she got it in her house.

By Mr. Chanler:

Q You were there at the time ?

A. Yes, I was there all the time with mama.

By Mr. Osborne:

Q What did she say ?

A. She said that Eddie came into her house for the rolling-pin.

Q Did she tell you whose it was ?

A. She did not, but it was in her house.

Q Did she tell your mother where he got it in her house ?

A. Yes, she told her that he came in and got it off the tubs in her house.

Q How long were you in Mrs. Hurley's rooms ?

A. All day with mama until he died about 3 P. M.

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CROSS EXAMINED by Mr. Chanler:

Q Did you go before the Coroner and make any statement when your mother went down there ?

A. Make a statement before the Coroner ? No, I was in the room when the Coroner was there.

Q When the Coroner was talking to Mrs. West ?

A. No sir, I made no statement, I was right by the ice-box when the Coroner came in.

Q You did not tell the Coroner about the rolling-pin ?

A. No sir, because my folks would not allow me.

Q How long have you been married ?

A. Two years.

Q Is your husband living with you now ?

A. No sir.

Q Is he in the penitentiary ? A. He is not.

Q If your husband was convicted of larceny --

A. No, he was not.

Q Let me finish. All the goods were found by the detective upon your person -- clothes -- stolen property ?

A. No sir, he had him arrested for non-support and things he had taken from me.

Q Was he sent away for two years to the penitentiary ?

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A. No sir, for a year.

Q A year for non-support; is that true? A. Yes sir.

By Mr. Osborne:

Q Sent away for not supporting you? A. Yes sir.

By Mr. Chanler:

Q Have you been living with your mother?

A. No sir, -- have been in 77th Street -- live by myself.

Q In a furnished apartment?

A. No sir, my own furniture.

Q Do you have more than one room? A. I have.

Q Two rooms? A. Five rooms.

Q Live alone? A. Alone.

Q With a family? A. No sir, no family.

Q How long have you lived alone in 77th Street?

A. Near Third Avenue; have been there about two months.

Q On what floor?

A. Third floor.

Q What is the number of the house?

A. 178 East 77th Street.

Q East 77th? A. That is what I said.

Q What is your occupation? A. Well, I don't know as it is right to tell you that.

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- Q Question repeated ? A. I do sewing home.
- Q You dress yourself on the proceeds of what you make in sewing home ?
- A. Certainly.
- Q You do ? A. Yes.
- Q How many people do you employ at home ?
- A. None at all.
- Q How much do you make in sewing home ?
- A. \$10.
- Q You get regular employment ?
- A. I have regular employment, steady work.
- Q Who employs you to do sewing ? A. Mr. Wilkstadter, 108 Weoster Street.
- Q He sends goods every week to you ? A. Yes sir.
- Q And you sew for him ? A. Yes sir.
- Q And it is simply from the money he gives to you you live ?
- A. He did not give it to me; I worked for it.
- Q Are all those seven rooms furnished ?
- A. Did I say seven ? I said five.
- Q Are all those five rooms furnished ? A. They are.
- Q How many parlors did you have ?
- A. I had none at all.

Q Five bedrooms ? A. No sir, I have one bedroom and four rooms, sitting room, diningroom and kitchen.

Q Do you employ a servant ? A. No sir.

Q Live all along in these rooms ?

A. I had people with me, but they are not now no more.

Q It was your mother who had the misfortune to die some time ago at 10 Willis Avenue -- is it a fact (Pause).

Q Is it a fact that she died from want and destitution ?

A. It is not.

Q Is it a fact that she had a small child living with her in want ? A. No sir.

Q Then I ask you is it not a fact that she killed herself by taking poison ? A. She took the poison.

Q Wasn't it because she was in want and destitution ?

A. No sir, it was no such thing, that is not true.

RE-DIRECT EXAMINATION by Mr. Osborne:

Q You say you work for -- A. Mr. Wilkstadter, 108 Wooster Street, New York, -- 108 and 110.

Q What is the nature of his business ?

A. Infants' wear.

Q Are you an expert finisher of infants' wear ?

A. No, I don't finish the dresses; I make them all except

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the fancy work.

Q How long have you been working and supporting yourself at that?

A. About a year.

Q You lived with your mother how long?

A. I lived up to about a year ago with her, and then I went to housekeeping.

Q How long have you been married altogether?

A. Two years -- no, it will be two years this coming year.

Q You brought an action against your husband?

A. No, it was my father brought it first.

Q It was your father had him arrested for non-support?

A. Yes sir.

Q Is your father living? A. Yes.

Q Where does he live?

A. 416 Willis Avenue.

Q How long since you had the misfortune to lose your mother?

A. It was a week last Wednesday.

Q She is only two weeks dead? A. Yes.

Q Is your father working now? A. Yes.

Q Whereabouts? A. I can't tell exactly the place; somewhere in 125th Street.

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Q What is the nature of his work ?

A. Decorative painter.

Q Did he support your mother when she was alive ?

A. He did not support her; he was away for two or three years.

Q She was not in want ? A. No sir.

Q You and your mother were on good terms ? A. Yes, I was up there the day before she died.

Q You were there yourself the day before she died ?

A. Yes.

By Mr. Chanler:

Q You say your father did not support your mother for the last two years ? (Witness leaves the witness-stand).

Mr. Osborne: Take your seat again.

Q You say your father was not able to support your mother ?

A. He was not.

Mr. Chanler: I would rest if I had the testimony of the doctor.

The Court: I understand you want to prove by the examination of the doctor that he reported deceased was dangerously ill.

Mr. Osborne: Yes sir; and I will submit an

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affidavit. I think my friend has a statement from Dr. Broquett. I will read it, and you can see if you have any objection to it.

The Court: If you have no objection, it can be read to save time.

Mr. Chanler: I have no objection to this affidavit being read in evidence.

Mr. Osborne: Then I offer it in evidence. It is dated ~~7th~~ August, 1892, -- about 6 or 7 o'clock in the morning I was called to 443 Willis Avenue -- I diagnosed the case as cerebral hemorrhage.

A Juryman: Is that the first time he called?

Mr. Osborne: That is the first time. He was called again at 2 o'clock when he performed an operation with the other doctor.

MRS. ELIZABETH ADELBERTH, recalled in rebuttal by the People:

By Mr. Osborne:

Q Don't answer this question until Mr. Chanler has time to put in an objection. You remember standing on the stoop

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of 443 Willis Avenue the Saturday after Jeremiah was hurt.
in the presence of Mrs. Boyd and Mrs. Dean? A. Yes.

Q Did Mrs. West say anything to you at that time?

A. Yes, she told me I had better keep my mouth shut.

Mr. Chanler: I have no objection to it, if I
can put Mrs. West and Mr. Jones on the stand again.

The Court: We will see -- you and Mrs. West
had words and quarrels?

Witness: Yes.

Q About this case? A. Yes.

By the Court:

Q There was considerable difficulty between you and Mrs.

West? A. About this case; it was all about the case.

Mr. Chanler: Mrs. West will say that she had
no difficulty about the case -- if you will concede
that.

Mr. Osborne: I concede that.

The Court: The District Attorney of his own
motion withdraws the counts of murder in the first
and second degrees.

Mr. Chanler: Both sides can refer to the
report of the Coroner's minutes as given in summing

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up. It is conceded that the person referred to²⁴⁷
in the indictment is dead, that he died on the 8th
of August, 1892, from fracture of the skull.

The Court: The question is who killed him --
that is one of the questions.

Counsel then proceeded to sum up.

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MR.OSBORNE'S SUMMING UP.

May it please the Court and Gentlemen of the Jury:

As I said to you, in the outset of this case, I have never, in my experience, encountered a case in a court where my sympathy was more closely drawn to the defence; and, if it lay in my power, I would have gladly dismissed the indictment and permitted the defendant to go.

As I said to you, also, at the outset of this case, the prosecution would prove that the deceased was a bad brother. It is conceded that the deceased came home that night drunk; it is conceded in this case that he demanded money from his mother; it is conceded in this case that he drove her mother out of her room; it is conceded in this case that the defendant woke up when his brother came home, and yet he wishes you to believe that he heard none of that quarrel.

I ask you if you believed him, when he swore that he heard none of that quarrel? I ask you to believe that he heard it all. I ask you, do

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you believe that he was there, and that he took the part in that quarrel that Mrs. Addeberth said he did?

I ask you, which of those two stories is the more natural? Mrs. Addeberth swears, and you must remember that they lived immediately above, and that there was an air-shaft running up into the building, and she says that she heard what took place at the time of the quarrel between Edward Hurley, Edward Hurley's brother, and Edward Hurley's mother. The defendant wants you to believe that he was there, and that he had been waked up by the deceased when he came in, but never heard him demand money from his mother or drive his mother out of her room and down into the cellar. I ask you to believe that that was one point where the defendant did not tell the truth. I ask you to find, as matter of fact, on that question, that the defendant was awake, that the defendant heard that entire quarrel, that the defendant saw his mother driven out, that, in his spirit of righteous indignation,

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he was overcome, and that he said just what these men said that he said, down at the door, "I am tired of putting up with this thing." It is natural and reasonable that he should have said so.

Let us see what is the evidence of the witnesses on both sides in this case.

The witnesses who testified for the defence in this case are a sister, a brother, and a mother. You must remember that not only is it a case of sister, brother and mother, but it is a case of a good brother, of a brother to whom they have been under many, continued and uninterrupted obligations. I ask you, could any one of you gentlemen of the jury stand the strain, when it came down to the question of punishing one brother for the crime committed against the other brother?

I said in the outset of this case, and I still say it, that that man was justified, to a very great degree, by the evidence in this case. I say that, if ever there was a man justified by mere insults and provocations, to strike another a

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blow that would produce death, that that defendant was justified in doing so. I say that he saw his own mother, who brought him forth into the world, driven out of her own room by a drunken brother; and I say that he had a motive to do what he did; and I ask you to find, as a part of the facts in this case, that the first thing that you start out with is a motive. In the minute that you find a motive, that minute you have started out to find a criminal. The very minute that you find a state of facts such as supply a motive to a human being to do a particular thing, I ask you if it is not the natural thing to expect him to go and do it. We have here before us one of the strongest and most powerful motives that ever moved a human being on the face of the earth to commit a violation of the statutory law. We have here the mother driven out of her room by a loafer, by a drunkard, coming and demanding money; and I say that the thing ^{never} happened in such a quiet way, but that the defendant heard it.

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I will ask you to find that as a fact, as Mrs. Addeberth swears to it.

Now, what really happened was this: The Coroner's representative came to that house.

MR. CHANLER: There is no evidence of that, Mr. Osborne.

MR. OSBORNE: You said that I could refer to the Coroner's minutes, and they have been referred to by both of us.

He took a statement from Mrs. West, and he went down and gave a death certificate that the deceased came to his death by a fall, and it was not until reports went around, and that there began to be talk, that Mrs. Addeberth began to tell what she knew; and then it was that Mrs. West, and I ask you to find that as a fact, from her demeanor on the stand, to find that she is a woman who is likely to go up to any one and say, "You had better keep your mouth shut about this case," went to Mrs. Addeberth's.

That is what produced the quarrel between them, and I ask you to find that, as a second fact, and I ask

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you to find that from the inspection of the witness on the stand, that that was just the identical thing that she would say to any one that she thought was going to say anything against her brother. I ask you to find that Mrs. West there intimidated or attempted to intimidate Mrs. Aidenberth, and I ask you to say that that is of a piece and of a similar character with the efforts that were brought to bear on the man Roddy, to endeavor to make him withdraw the charge against the defendant.

Now, let us analyse the evidence. We have to come down from the general to the particular in this case. It is absolutely impossible to take a glittering general view of the whole case. We must come down to the details. It is conceded by the defendant here that every word sworn to by the man Roddy, is the truth, except the mere fact of the rollingpin. It is conceded that every fact that Brennan swore to is the truth in this case. It is conceded that every

single fact that Mrs. Adieberth swore to is the truth, except as to the threats and as to the fact that Mrs. Adieberth looked out of the window. Every other fact is conceded. It is conceded that Mrs. Hurley went upstairs for protection, to Mrs. Adieberth. It is conceded that this defendant came up there, and there is a discrepancy between his testimony and that of his mother, to a certain extent. It is not of enough importance to make it my duty to go into it, but I say that he came up there, and that his mother heard him coming, and, thinking it was some other person, hid herself in the clothes-press, and she and Mrs. Adieberth agree about that. It is conceded here that, after that, Mrs. Adieberth, Mrs. Hurley and the defendant went downstairs together, and there they examined this wounded boy, and I say to you and reiterate to you that every single and solitary fact that Mrs. Adieberth swore to is conceded, except as to the matter of threats.

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I want to say that this is the most astute defense that I have ever seen put up in a court of justice. They come in and concede everything, and it is one of the reasons why I have some respect for this defendant's intellect, together with his past character, for he had the astuteness to come in and admit everything, without placing himself in contradiction with the witnesses, and then attempt to explain away. For instance, he asks you to find that this affair took place as he expressed it, and I ask you to look at the collocation in which the words are placed, and see if it is possible for him to have entered into an unfounded quarrel with four men out there on the stoop, who had never seen his brother or himself before, as far as we know. One of them was a man named Durr. Why was he not put on the stand, why was he not called? The defendant says that he met Durr, and he told Durr he was going for a policeman. Why did he not prove that by Durr, if it took place? He asks you

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to believe that this conversation between Roddy and himself could not possibly have happened in the way Roddy says it did. Roddy says, "We looked and saw one fellow stretched on the sidewalk. We walked up toward the fellow, and some fellows came across Willis Avenue, " and he gives the names, " and one of them said to the defendant, "You ought to have a punch in the face for doing that." At this time the defendant was standing on the stoop."

MR.CHANLER: Are you reading from the evidence or an affidavit?

MR.CSBORNE: That is my recollection of the evidence. And if you find it is not the evidence, gentlemen, you will find the evidence as you recollect it. That is my memory of the evidence, and if you do not find that I quote the evidence correctly, gentlemen, you are not bound by any statement I make. You will be governed exclusively by your own memory of the evidence. My memory is that those were substantial-

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ly the words that took place; that this man Roddy walked up and that then the conversation occurred, and that was a part of the res gestae, a part of what took place there. There was the defendant standing on the top of the stoop, and the deceased lying on the sidewalk, the defendant standing over him with the rollingpin in his hand, and one of the men exclaimed, "You ought to get a punch in the jaw for doing that." What is his answer to that? "I will give it to any of you sons-of-bitches that come near me." I believe the witness said that he did not remember the words, "sons-of-bitches," but that there were words to that effect. Then he said, "You fellows would do the very same thing, if you were in my place."

The defendant says that, at that time, he had declined to take that drunken brother upstairs, and these four strangers, who did not know that they were brothers, and had never seen either of them before, were so outraged by his

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conduct that they said that he ought to get a punch in the jaw. I say on the face of it that that proposition is absurd, and I say that I expect you to find that what took place there, and I think I have a right to claim it from the evidence, was that this defendant, struck him with a rollingpin, and that he fell on the sidewalk, and that these four men came across the street and said, "You ought to get a punch in the jaw for doing that," and then he said, "If any of you come up here and come near me, you will get the same dose."

Now, gentlemen of the jury, you are to find the facts in accordance with the evidence, and you are governed by the evidence, and you have a right to be governed also by your usual experience with human nature and human affairs, and I believe that you will not allow yourselves to be stultified by any statement of facts that strikes you as absurd.

I ask you if this statement of Roddy's does not bear upon it the impress and stamp of

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truth, and it if is not in accord with your ideas of common sense. Is it not exactly probable? I ask you if it would not have been the most improbable thing in the world that four strange men would have entered into any such conversation or made such remark as that, just simply because one man declined to take another man upstairs, who happened to be drunk? "You deserve to get a punch in the jaw for doing that." Observe the words. The natural remark would be, "You deserve a punch for not doing that," if that was the state of the case, as the defendant says it was. It was thenot taking, according to his statement, that made him liable to the criticism of these four men; it was the refusal to take his brother upstairs; it was the declining on his part to do an act; and these men would say, under those circumstances, "You deserve a punch in the jaw for not taking the man upstairs," and not "for doing that."

I ask you, now, gentlemen of the jury, if you can resist that view. Suppose you meet a

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truth, and it is not in accord with your ideas of common sense. Is it not exactly probable? I ask you if it would not have been the most improbable thing in the world that four strange men would have entered into any such conversation or made such remark as that, just simply because one man declined to take another man upstairs, who happened to be drunk? "You deserve to get a punch in the jaw for doing that." Observe the words. The natural remark would be, "You deserve a punch for not doing that," if that was the state of the case, as the defendant says it was. It was thenot taking, according to his statement, that made him liable to the criticism of these four men; it was the refusal to take his brother upstairs; it was the declining on his part to do an act; and these men would say, under those circumstances, "You deserve a punch in the jaw for not taking the man upstairs," and not "for doing that."

I ask you, now, gentlemen of the jury, if you can resist that view. Suppose you meet a

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man. You see a man standing, and beneath him is another man, run through the body with a sword. In the righthand of the man who stands above him is the sword. In his body is found a wound, and four men are heard to exclaim, "You ought to have been treated so and so for doing that." Would not you naturally and reasonably infer that it was because he ran the other man through with a sword?

Let us take the facts here. You find, in this case, that the deceased had a dent, a depression, upon his head, that could have been produced by this rollingpin. You find him lying prone upon the sidewalk, which condition might naturally be produced by such a blow as could be administered with the rollingpin, and you hear as a part of that transaction, an exclamation arising from one of the witnesses, "You ought to get a punch in the jaw for doing that," and the defendant says, "You come up here and interfere, and you will get the same dose." Now, is that an

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absolutely impossible situation, in regard to his refusing to take a drunken man upstairs? They have conceded that Roddy and Brennan have told the truth in every particular; they have conceded that all those things took place; and I ask you if it is possible that any such remark could have come forth, because the defendant declined to take his brother upstairs, his brother who was drunk.

"Come up here and you will get the same dose." The "dose" was what the brother got, not that he was to be taken upstairs when he was drunk. You see that such a remark made under such circumstances, would be utterly absurd, and could not, by any means, have taken place, in connection with this affair. You must remember, gentlemen of the jury, that the witness Roddy and the witness Brennan had no reason on earth to tell anything but the truth. They are absolutely disinterested witnesses, interfered with by no degrees of passion. They have no motive but an honest one, a fear of the law, brought down here against their will. Both of

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them, in their testimony on the stand, have demonstrated the fact that they have been in communication with the defendant, at least Rodly admitted, out and out, that he felt such a sense of sympathy for the defendant that he had been down to the Tombs to see him, and that the defendant had told him that, if he would withdraw his statement, he would be very much obliged to him, and that, when he got out, they could have a good time together.

I ask you if that act of the defendant was the act of a man who was innocent, or was it the act of a man who was guilty? I ask you whether he has now changed his defense and come to the conclusion that the testimony of Rodly was not going to hurt him anyhow. He admits that it is all true; and, if it is all true, and it is all written out in the stenographer's minutes of the Coroner's Office, and his lawyer knew that it was, I ask you why he wished him to withdraw it, I ask you why it was that he wanted Rodly to come down to the Tombs to see him, and why it was that he wanted to have

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that statement withdrawn, if that statement was true.

I want you, gentlemen of the jury, to answer that question for me, and I want you to answer if the defendant has not been compelled to change his defense, in consequence of the fact that he must, if possible, fit in his testimony with the testimony of Roddy; and I ask you if this testimony about the quarrel with the men outside, about not taking his brother upstairs, about his refusal to take him upstairs, has not been made up out of whole cloth, since Roddy refused to change his statement. I ask that simple question, and now we will go on.

Brennan testifies to the same facts, but with more details, and the defendant stands on the stoop and gives a full explanation of his conduct. He says, "This man is my brother. This man has been drunk. This man has driven my mother out of her room. This man demanded money from my mother; and if you were in my place, you

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would do the same thing," not leave undone the same thing. You can see the difference. One of them is a positive act. "you would do the same thing," not, gentlemen of the jury, "You would leave undone the same thing."

I say, to my mind, believing that Roddy tells the truth, and believing that Brennan tells the truth, believing that this defendant stood above his brother, with the rollingpin in his hand, and that he was lying down beneath him, and that these remarks were made, that it is impossible to feel otherwise than that the defendant struck his brother in the head with the rollingpin. I know it is possible for the human mind to, to a great many extraordinary things; but, if these two witnesses have told the truth, it is absolutely impossible, it seems to me, to come to any other conclusion than that the deceased was struck on the head by the defendant with the rollingpin.

Now, we come down to the question of

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flight. Dr. Potter, a disinterested and intelligent witness, tells you here in plain language that he came to the house that morning, and that he diagnosed the case as cerebral hemorrhage. He said, "I found the defendant breathing stertorously and his pupils were dilated, and you need not tell me that the defendant, who displayed much intelligence, who seemed to know as much as any man in his condition of life ever knew, and who has put up the most astute defense that I have ever seen placed on the records of this court, did not know the full import of what the doctor said. Do you mean to say that the defendant does not know that cerebral hemorrhage---why the sound of it is enough to terrify the ordinary mind---is a most serious condition. Yet he swears that he stood by the bedside and heard the doctor speak, and that the doctor said it was only a plain case of drunk, and nothing more. Are you going to believe the doctor or this defendant who has a deep interest in this case.

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I will concede, if it may be necessary, that this defendant was thinking of leaving the City. I have no doubt but that he was thinking about it, and I have no doubt but that, as this girl said, when she went on the stand, that his mother gave him all the money she had and a suit of clothes, and that he went out of town the Minute he heard those words, "cerebral hemorrhage." I don't say that he did not come back in three weeks, and I say that he came back in three weeks, and, having heard of the disturbance with Mrs. Adleberth, and knowing that it arose out of this case, that he again left town, and did not return for more than a year afterwards; and, when he was arrested by the officer, he said that he knew nothing about the case whatever; that he was in the country when the whole thing happened. That is what the officers swore to, both of them.

THE 7TH JUROR: Did the doctor---while you are talking of the diagnosis--- did he write that before the second visit?

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MR.OSBORNE: He did not write that, but he swore that it took place before his second visit.

THE JUROR: Well, you ought to have had that doctor here.

MR.CHANLER: He was here.

MR.OSBORNE: You could have called him.

MR.CHANLER: No, sir; you sent him away. He was subpoenaed by you.

THE 7TH JUROR: Was that before his second visit?

MR.OSBORNE: Yes; there is no question about that, at all. He will state it to you, the defendant's lawyer will state it, that it was on the doctor's first visit. I will read the whole affidavit. It is in evidence.
(Reads.)

Now, gentlemen of the jury, let me show one of the internal evidences of truth in this case. I want to call your attention to a circumstance that gives a complexion of truth to the

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case for the prosecution, the minute that I show it. Here are this mother and this sister and this son, all swearing that the doctor said that it was a case of plain drunk, and yet the doctor, of his own motion, and without any invitation, come back again in two hours. You heard them say that; didn't you?

Now, I ask you if that is not a palpably ridiculous statement on its face, that a doctor should go into a tenement house and find a man lying in a condition of plain drunkenness and go back of his own accord. That is the defendant's own testimony, and it is Mrs. Hurley's testimony that he came back of his own accord. That is perfectly ridiculous on the face of it. I asked Mrs. Hurley about that matter, how he happened to come back, and she said he came back of his own accord. It is in Mrs. Hurley's testimony, and, if you feel enough curiosity about it, I will read it to you from the testimony. It showed that that whole testimony was put up, and there is no doubt

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about it, and the jury know it.

Now, I will go on with the doctor's affidavit to the end of it. (Mr. Osborne completes the reading of the affidavit.)

I did not see that in the affidavit myself until now, as to the administration of ergot at the first visit, to contract the blood vessels. What does that mean, gentlemen of the jury? It means that a man is dying from blood pouring in on his brain, and you know that the ergot is an astringent.

MR. CHANLER: And that affidavit was made two years ago, and that visit was made then. He got the two visits mixed up.

MR. OSBORNE: Do you find, gentlemen of the jury, that a doctor of intelligence could mix up two visits? He says that, at the second visit, he put cracked ice on his head; and at the first visit, he injected ergot; and that was to stop a flow of blood on the brain, as everybody knows, where a blood vessel bursts and blood flows in.

on the brain, which causes this condition known as cerebral hemorrhage; and that is the reason why the ergot was injected. Yet the defendant and his sister and his mother, seeing that done, are prepared to come on the stand and swear that it was a plain case of drunk, and that they were so informed by the doctor at the time.

Now, gentlemen, this is a plain case, and I ask you to find that the defendant's witnesses are, without a single exception, interested witnesses, and I wish you to take into consideration the fact that Mrs. Adieberth would have to be the most depraved, the meanest, the lowest, the most contemptible of all God's creatures to come on the stand and attempt to swear this man into a state of punishment. I could not tell you how loathsome that woman would be to you and to me and to all decent persons, if she was prepared to come on this witness-stand and swear falsely against an innocent man. I ask you, do you believe that that woman felt that way?

I have not a doubt that she was angry with Mrs. West. I tell you that I have not a doubt that she was embittered, and that Mrs. West told her that she had better keep her mouth shut, and that, in consequence, there was trouble, and that Mrs. West's conduct in regard to her was in accordance with the conduct of Mr. King in approaching the principal witness, as he thought, of the prosecution, Mr. King, the prospective father-in-law of the defendant. Who will stand by a man in trouble, if not his relatives? That is what we have had here. I concede that Jones told the truth, and that Mrs. Adieberth said possible, "I am going to get even with them," in a burst of passion, but you must remember that it was months and months after that that she testified before the Coroner, and that she had had time to think, that she had had an opportunity to reflect; that it was three months after that that she made her first statement, and that it was a year after that almost before she made the statement to me in the

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District Attorney's Office, and from which I examined her, and that she had had all the opportunity in the world to reflect. Do you believe that that woman would carry in her mind all those months the bitter desire to send this man to state prison by reason of her perjury, can you believe it of Mrs. Aildeberth? No motive has been suggested. It is not in accordance with human conduct that she should testify falsely without proof. I could not imagine her doing anything like that. As for this girl who was on the stand, Mrs. Dean, one circumstance seemed to excite the remarks of the counsel for the defendant, or give occasion for them in his opinion, and that was the fact that she had a pleasant appearance. She did not seem to me to be a woman who was dressed exceedingly gaudy. She looked to me like an ordinary girl who was at work. Perhaps you know how many tenement houses in this city there are where you can hire five rooms for ten dollars a month, if you have ten dollars a week. I know hundreds of

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my acquaintances on the West side of the City, among the people where I live, who get rooms for twelve dollars a month, a set of rooms. she lives in a tenement house, and upon the balance of that income she could very well support herself.

Another suggestion that was made by counsel for the defendant against that woman was that her mother was so unfortunate as to take poison. Why, you would have thought that this little girl had poisoned her own mother, in view of the unkindness with which he attacked her. I saw nothing in her appearance or manner which called forth such vindictive remarks or suggestions from the counsel. The girl was asked where she worked and she gave the name of the man that she worked for, and she told you how long she had worked for that man. Those are not the ways of lying witnesses; they do not answer questions that way. you have been in this court for weeks, and you have found that, when the defendant goes on the stand, in a certain class of crimes, that that

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defendant will not be able to tell you where he was working. You have seen it a hundred times. He does not dare to say, "I was working for John Smith, at such and such a number in such and such a street, and I worked for him a certain number of years." You know very well why he does not dare to do it. Because the lawyer on the other side will dispatch some one at once to that place, that he said he worked at. I am willing to stop this argument now, and the Judge is going to hold the case open until to-morrow morning, and, if that girl has lied about that matter, I would like to know it. Do you believe that she has come on the stand and told a falsehood in that matter?

Now, then, if she has not, and no motive has been suggested for her telling a falsehood, not a suspicion of a motive, then a girl making her own living respectably in this City, comes on the stand and tells you that Mrs. West showed her the rollingpin---and she told it with such a degree of circumstance and detail and so naturally that I

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know you must believe that she told the truth--- and that the mother, at that time, took the boy's picture from the wall. Do you believe that that girl made up all of that out of her inner consciousness, do you believe that she is so spiteful and low and degraded that, without any motive, or the suggestion of any motive, but simply from malice, she would come here and testify against this boy untruthfully? I cannot believe it of her, and it is hard for me to believe that of any human being, that they will do that without any motive. Give me a motive, and I will concede usually that a person has committed a crime, but none is shown here.

Now, gentlemen, I have extended my remarks more than I intended to do, and I leave this case with you, as I said before, in the greatest degree of pity for the defendant, and yet claiming, on behalf of the prosecution, that, in view of the facts proven here, that he struck his brother on the head with the rollingpin, from which blow he

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died.

THE DEFENDANT: Will Your Honor allow me to tell the motive of this thing? I am an innocent man.

THE COURT: Yes; come around to the witness-stand here, if you want to talk. Say what you like to the Jury.

THE DEFENDANT: Then, Jury, on the first Sunday in June, 1892, I was playing ball all that afternoon. I came home. I was sweating and tired. I took off my clothes, as far as my shoes, and my mother had an empty room where she done cooking.

THE COURT: Has that anything to do with the case?

THE DEFENDANT: Yes, sir. It is the motive.

If I have to turn away my mother and sister and all in the world, I will tell it to the public. I went into that room to wait for my supper, and this woman came

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on to that sofa, and threw herself on top of me, and it put me in the heat of passion. What could I do? I was young. And that woman lay there, and teased me and coaxed me, and my sister caught her with her arms around me, and I pushed her back and spit in her face, and I didn't know what to do, and there ain't ten men in this room would do what I done.

THE COURT: Is that all?

THE DEFENDANT: No, sir. I took and left the house, when I pushed her away from me.

I spit in her face, and I said, "If you come around me again that way I will tell your husband," and which I will do to-day, and that is the motive.

THE COURT: Do not make a speech. If that is all you have to say you can go back to the bar.

MR. OSBORNE: Is that all you want to say?

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THE DEFENDANT: Yes, sir. And I am very thankful, Your Honor, for allowing me to say it.

MR.OSBORNE: I would like to ask him a question or two on that subject, though I hate to prolong the case.

THE COURT: Yes; you may come back again.

You may ask a question or two, Mr.Osborne.

Cross - Examination:

BY MR.OSBORNE:

Q. Was it Mrs.Adieberth or Mrs.Dean?

A. Mrs.Adieberth.

Q. It was this old lady, Mrs.Adieberth, that came in and threw her arms around your neck?

A. Yes, sir.

Q. And lay on top of you? A. Yes, sir.

Q. And tried to excite your passions? A. Yes, sir.

Q. And when was that?

A. That was on the first Sunday of June, if I ain't badly mistaken.

Q. Well, I would not be mistaken about a little thing

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like that. And your mother was the janitress of that building?

A. Yes, sir.

Q. And Mrs. Adleberth was living there? A. Yes, sir.

Q. And she was a woman of that character? A. Yes, sir.

Q. And your mother never put her out? A. She didn't know it.

Q. Your mother didn't know it?

A. No, sir.

Q. But your sister knew it?

A. My sister called me down twice about it.

Q. Then she knew about it? A. Yes, sir.

Q. And she called you down again about it? A. Yes, sir.

Q. And was that because she threw her arms around you again?

A. No, sir; because she saw her throw her arms around my neck again, and kiss me.

Q. Then it was twice that she offered herself to you?

A. Yes, sir.

Q. And did you spit in her face both times? A. No, sir.

Q. It was only the second time?

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A. No, sir; the first time.

Q. And yet again, after you had spat in her face, again she offered herself to you?

A. Yes, sir.

Q. And your sister knew of it both times?

A. I won't say the second time; no.

Q. Well, then, what did you tell the jury for, that she called you down twice about it?

A. She spoke to me about it twice.

Q. And when I asked you why your sister called you down twice then you said she did it twice?

A. That don't say that my sister didn't call me down twice about it. She said it a couple of days after, not in her presence. She seen her throw her arms around me and kiss me. Coming in the door she seen it and she said, "I am ashamed of you."

Q. Was that the third time? A. No, sir; that was the first time.

Q. That was the first time? A. Yes, sir.

Q. And you didn't spit in her face that time? A. Yes, sir; I did.

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Q. It was the first time, then ? A. Yes, sir.

Q. And where was that then? A. I was in the empty room.

The two apartments in the rear of the house were empty,
and we had a sofa lying there.

Q. Where? A. On the same floor of the house that I lived
in.

Q. The rear rooms? A. Yes, sir.

Q. And, of course, nobody was present but you? A.

No, sir; nobody was present but me. I lay on the sofa to
get cooled off. I was sweating.

Q. And so it is unrequited love that makes Mrs. Adieberth
make that charge against you?

(Objected to.)

A. No; it is not love.

Q. But it is unrequited passion, unsatisfied passion?

A. Yes, sir.

Q. What did you do to her the first time she put her
arms around your neck.

A. I pushed her back and said, "Don't do that
again," and I spit in her face.

Q. Well, did you spit largely in her face?

A. Well, I don't know how large or how small.

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Q. And do you usually spit in ladies' m'faces that put their arms around your neck?

A. No, sir; but I had respect for my mother and sister. One brother disgraced the family, and that was enough.

Q. And is that the way you are going to keep up the honor of the family?

A. Well, that is the proper thing to do.

BY THE 7TH JUROR:

Q. Did she make advances to you after you spat in her face?

A. Yes, sir; but not the same day.

BY MR. OSBORNE:

Q. . was it quite a long time after? A. Yes, sir.

Q. And how many weeks or months after the first of July was it that she made the first advance?

A. Your Honor, I didn't say July.

Q. Well, you said it was the first Sunday in June, then?

A. Yes, sir.

Q. And when did she make the second advance?

A. The first was made before June and the second

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about the 1st of June.

Q. When did you spit in her face? A. The first time.

Q. Then you did not spit in her face on the first of June? A. No, sir.

Q. Well, after you spat in her face did you go into your mother's rooms?

A. No, sir; I left the house. Now, dont talk about the first and second time.

Q. Now, where did the thing take place the second time?

A. The first time in my bedroom, and the second time in the empty room in the rear of the house.

Q. That was the second time? A. Yes, sir.

Q. And what were you doing there?

A. I was laying there, simply waiting for my mother to get supper for me.

R e - D i r e c t - E x a m i n a t i o n .

BY MR. CHANLER:

Q. Is that the woman over there, laughing over there, Mrs. Adleberth? A. Yes, sir.

MR. ADDEBERTH: Oh, that is false.

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MR.CHANLER: Wait, a minute. You will have time to answer that.

MR.CHANLER: Your Honor, I tried to keep this quarrel out of the case. I knew this was coming.

THE COURT: Well, that is all right. He has chosen his own part and he must judge whether it benefits or hurts him. I shall certainly allow this woman to be recalled to deny this.

MR.CHANLER: Can I prove that it was true by Mrs.West?

THE COURT: No; I am going to recall this lady. I am not going to allow the defendant to come on the stand in an open court-room and make such a charge, without giving the woman affected an opportunity to deny.

MR.ADDERBETH being recalled by Mr.Osborne: testified as follows:

BY MR.OSBORNE:

Q. Mrs.Alderbeth, you are a married woman? A. Yes, sir.

Q. And you live with your husband?

A. Yes, sir.

Q. And what is your husband's business? A. Plumber.

Q. A respectable plumber? A. Yes, sir.

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Q. How long have you been married? A. Seven years on the 20th of February.

Q. How many children have you?

A. Two are dead and one is alive.

Q. Did you put your arms ever, at any time, around the neck of the defendant? A. No, sir.

Q. Or make any advances whatever to him?

A. No, sir.

Cross - Examination.

BY MR. CHANLER:

Q. I will ask but one question: Did you think it was amusing to hear such charges made against you in an open court?

A. No, sir.

Q. Well, then, why were you laughing?

A. I was not laughing, sir.

Q. You were not?

A. No, sir.

THE COURT: Now, gentlemen of the jury, the case is closed. This is a little diversion. I allowed the defendant to come on the stand again, because I think his disposition is such that I ought not to

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deny him any right that he asks. He wanted to make a statement, and I allowed it, and, having made a statement that implicated a woman, I allowed her, as I thought was just and right, to deny the charge, in just as public a manner. Now, the case is closed. We cannot finish the case to-day. It is near 5 o'clock, and I don't intend to charge you to-day, but I will charge you to-morrow morning at 11 o'clock, and then you can take the case and dispose of it. In the meantime, do not talk about the case among yourselves or with any one else until the case is finally submitted to you. You can go, now, until to-morrow morning at 11 o'clock, when I will place the case in your hands.

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