THE

CORRECT, FULL AND IMPARTIAL

REPORT OF THE TRIAL

OF

REV. EPHRAIM K. AVERY,

BEFORE THE

SUPREME JUDICIAL COURT

OF THE

STATE OF RHODE-ISLAND,

1833

AT NEWPORT, MAY 6, 18[illegible], FOR THE

MURDER

OF

SARAH M. CORNELL.

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INTRODUCTION.

The object of the Reporter has been to present an accurate and correct Report of a trial which has occupied a very large space of the public mind for the last four months. The character and standing of the accused, his relative situation in regard to a numerous and highly respectable christian church, together with the awful nature of the alledged offence, threw the public mind into a state of feverish excitement, which the lapse of months has not in any degree allayed. The accused was a minister of the gospel, and the offences with which he stood charged were adultery and murder. His friends and the society to which he ministered in holy things believing him innocent, resolved to give him a fair, full and an impartial trial; and the public believing him guilty, resolved that he should have that trial. The circumstances which first created a suspicion against him were as follows.

Mr. *John Durfee* of *Tiverton*, in the county of Newport, discovered on the morning of the 21st of December last, the body of a female suspended to a stake on the inner side of a stack yard, about forty rods from his house. She hung by a piece of twice doubled marline twine with her toes resting on the ground. About eighteen inches on her right lay her shoes, and her handkerchief about the same distance on her left. Her left hand hung down and her right lay on her breast, both of them being under her cloak, which was hooked all the way down; her hair was greatly dishevelled and hung over her face in disorder. Mr. Durfee, with the assistance of two or three persons, cut the body down and gave information to the coroner, who instantly summoned and empannelled a jury of inquest. The deceased was soon recognised as SARAH M. CORNELL, an operative in one of the factories in Fall River.

Her trunk was examined for the purpose of getting suitable grave clothes for the deceased, and in it four letters were found, the contents of which excited a strong suspicion against the Rev. EPHRAIM K. AVERY, the Elder or Pastor of the Methodist church and society in Bristol, Rhode-Island. He was a man universally respected by those who knew him, for his moral integrity, his exemplary piety and superior talents. Previous to that dreadful moment, the breath of calumny had never assailed his reputation; he had lived honored, respected and almost venerated. The suspicions at first created by the letters became strengthened and confirmed by a long train of concuring circumstances which led the public to settle on Mr. Avery as the most foul and unnatural murderer of *Sarah M. Cornell.* A complaint was made against him to *John Howe*, Esq. a justice of the peace in Bristol, who issued a warrant on which the accused was arrested and held to examination. After a patient and laborious investigation before Messrs. Howe and Haile, which commenced on the 24th of December, 1832, and ended on the 6th of January, the accused was unanimously acquitted by the magistrates. In an early stage of the examination the jurisdiction of the examining magistrates was objected to on the ground that the examination should take place in the county where the offence was supposed to have been committed.

The inhabitants of Fall River being dissatisfied with the decision caused a new complaint to be entered to a magistrate in the county of Newport, on which Mr. Avery was arrested in New-Hampshire and surrendered up to the civil authorities of this State for trial.

At the March term of the Supreme Judicial Court for the county of Newport Mr. Avery was indicted and arraigned; he plead not guilty, and the first Monday in May was assigned for his trial.

TRIAL

Of EPHRAIM K. AVERY *Before the Supreme Judicial Court holden in Newport by adjournment the 6th day of May, 1833.*

Present, SAMUEL EDDY, Chief Justice.
CHARLES BRAYTON, } Associate
JOB DURFEE, } Justices.

Counsel for the State,
ALBERT C. GREENE, Attorney General,
Hon. DUTEE J. PEARCE, and
WILLIAM R. STAPLES, Esq.

For the prisoner,
JEREMIAH MASON, of Boston,
RICHARD K. RANDOLPH,
HENRY Y. CRANSTON and
GEORGE TURNER, Esqrs.

On the opening of the Court the Attorney General and the counsel for the prisoner stated that they were ready to proceed on the trial. Mr. Avery was ordered into court, whereupon a venire was directed to the sheriff to take up and return to the court forty-eight jurors by nine o'clock to-morrow morning.

For the accommodation of those who wished to report the trial seats were assigned, with the express stipulation that no part of the proceedings should be published until the conclusion of the trial. The court then adjourned to 9 o'clock Tuesday morning.

Tuesday morning, 9 o'clock. The court met, and on the request of the prisoner's counsel time was allowed them to examine the list of jurors returned on the venire by the sheriff. In about an hour Col. Randolph stated that he was ready to proceed to trial.

The Attorney General then moved that Mr. Avery be

brought into court, which was accordingly done, and he was then arraigned on the following

INDICTMENT.

NEWPORT SC. At the Supreme Judicial Court of the State of Rhode-Island and Providence Plantations, holden at Newport within and for the County of Newport, on the first Monday of March, in the year of our Lord one thousand eight hundred and thirty-three.

The Grand Jurors of the State of Rhode-Island and Providence Plantations, and in and for the body of the county of Newport, upon their oaths present, that Ephraim K. Avery of Bristol, in the county of Bristol, clerk, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, on the twentieth day of December, in the year of our Lord one thousand eight hundred and thirty-two, with force and arms, at Tiverton, in the aforesaid county of Newport, in and upon one Sarah Maria Cornell, in the peace of God and of the State, then and there being, feloniously, wilfully and of his malice aforethought did make an assault, and that the said Ephraim K. Avery, a certain cord of no value, about the neck of the said Sarah Maria Cornell then and there feloniously, wilfully and of his malice aforethought did put and fasten, and that the said Ephraim K. Avery, with the cord aforesaid, by him so about the neck of the said Sarah Maria Cornell put and fastened, then and there her, the said Sarah Maria Cornell feloniously, wilfully and of his malice aforethought did choak and strangle, of which said choaking and strangling of her the said Sarah Maria Cornell, by the said Ephraim K. Avery in manner and form aforesaid done and perpetrated, she the said Sarah Maria Cornell then and there instantly died. And so the jurors aforesaid upon their oaths aforesaid, do say, that the said Ephraim K. Avery, her the said Sarah Maria Cornell in manner and form aforesaid, feloniously, wilfully, and of his malice aforethought did kill and murder, against the form of the statute in such case made and provided, and against the peace and dignity of the State.

And the jurors aforesaid upon their oaths aforesaid, do further present, that the said Ephraim K. Avery, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, on the said twentieth day of December, in the year of our Lord one thousand eight hundred and thirty-two, with force and arms, at Tiverton aforesaid, in the aforesaid county of Newport, in and upon the said Sarah Maria Cornell, in the peace of God and of the State then and there being, feloniously, wilfully and of his malice aforethought did make an assault; and that the said Ephraim K. Avery a certain other cord of no value, about the neck of her the said Sarah Maria Cornell then and there feloniously, wilfully and of his malice aforethought did put, place and tie: and that he the said Ephraim K. Avery the cord last aforesaid so by him the said Ephraim K. Avery about the neck of the said Sarah Maria Cornell put, placed and tied as last aforesaid, and so then and there being put, placed and tied about the neck of the said Sarah Maria Cornell as last aforesaid, to a certain stake then and there standing and being, then and there feloniously, wilfully and of his malice aforethought, did bind and fasten: and that the said Ephraim K. Avery, by the putting, placing and tieing of the cord last aforesaid about the neck of her, the said Sarah Maria Cornell,

by him the said Ephraim K. Avery as last aforesaid, and by the binding and fastening of the cord last aforesaid, by him the said Ephraim K. Avery to the stake aforesaid, as aforesaid, then and there feloniously, wilfully and of his malice aforethought, her the said Sarah Maria Cornell, by the neck of her the said Sarah Maria Cornell, to the stake aforesaid, with the cord last aforesaid, did suspend and hang; by means of which said putting, placing and tieing of the cord last aforesaid, about the neck of her, the said Sarah Maria Cornell, by him, the said Ephraim K. Avery, as last aforesaid, and of the binding and fastening of the cord last aforesaid, so being about the neck of the said Sarah Maria Cornell, as last aforesaid, to the stake aforesaid, by him the said Ephraim K. Avery as aforesaid, and of the suspending and hanging of her the said Sarah Maria Cornell, by the neck of her, the said Sarah Maria Cornell to the stake aforesaid, with the cord last aforesaid, by him the said Ephraim K. Avery as aforesaid, she the said Sarah Maria Cornell was then and there choaked, suffocated and strangled, of which choaking, suffocation and strangling last aforesaid, she the said Sarah Maria Cornell then and there instantly died. And so the jurors aforesaid, upon their oaths aforesaid, do say, that the said Ephraim K. Avery, her the said Sarah Maria Cornell, in manner and form last aforesaid, feloniously, wilfully and of his malice aforethought, did kill and murder, against the form of the statute in such case made and provided, and against the peace and dignity of the State.

And the jurors aforesaid, upon their oaths aforesaid, do further present, that the said Ephraim K. Avery, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, on the said twentieth day of December, in the year of our Lord one thousand eight hundred and thirty-two, with force and arms, at Tiverton aforesaid, in the aforesaid county of Newport, in and upon the said Sarah Maria Cornell, in the peace of God and of the State then and there being, feloniously, wilfully and of his malice aforethought, did make an assault, and that he, the said Ephraim K. Avery, with both his hands, her the said Sarah Maria Cornell, then and there, in and upon the belly, in and upon the left side of the body, and in and upon the back of her the said Sarah Maria Cornell, feloniously, wilfully, and of his malice aforethought diverse times did strike and beat, giving to her the said Sarah Maria Cornell then and there, by striking and beating of her as aforesaid diverse mortal strokes and bruises, in and upon the belly, in and upon the left side of the body and in and upon the back of her the said Sarah Maria Cornell, to wit: one mortal bruise in and upon the lower part of the belly of her the said Sarah Maria Cornell, of the length of five inches and of the breadth of three inches, one mortal bruise in and upon the left side of the body of her the said Sarah Maria Cornell of the length of three inches and of the breadth of two inches, and two mortal bruises in and upon the back of her the said Sarah Maria Cornell, each of the length of two inches and of the breadth of two inches: and that the said Ephraim K. Avery a certain other cord of no value about the neck and throat of her the said Sarah Maria Cornell, then and there feloniously, wilfully and of his malice aforethought did put, fix and fasten, and that he, the said Ephraim K. Avery, with the cord last aforesaid, so as last aforesaid, put, fixed and fastened about the neck and throat of her the said Sarah Maria Cornell, the neck and throat of her the said Sarah Ma-

ria Cornell then and there feloniously, wilfully and of his malice aforethought did violently constringe, compress and squeeze, as well of which said striking and beating of her the said Sarah Maria Cornell in and upon the belly, in and upon the left side of the body, and in and upon the back of her the said Sarah Maria Cornell, by him the said Ephraim K. Avery as aforesaid, as of the constringing, compressing and squeezing of the neck and throat of her the said Sarah Maria Cornell by the said Ephraim K. Avery, with the cord last aforesaid, as last aforesaid, she the said Sarah Maria Cornell then and there instantly died. And so the jurors aforesaid, upon their oaths aforesaid, do say, that the said Ephraim K. Avery her the said Sarah Maria Cornell, in manner and form last aforesaid, feloniously, wilfully and of his malice aforethought, did kill and murder, against the form of the statute in such case made and provided and against the peace and dignity of the State.

Preferred by ALBERT C. GREENE, Attorney General.

On being asked if he persisted in his former plea of not guilty, he firmly answered, "I am not guilty," and put himself for trial on God and his country.

At 3 o'clock on Wednesday the sheriff returned the names of sixty persons taken by order of the court on the venire; and after a great number of challenges *for cause*, and several peremptory ones, the following jury was empanneled, viz:

Eleazer Trevitt of Newport, foreman; George W. Tilley of Newport; Charles Lawton, of Newport; Gideon Peckham, of Middletown; Edwin Wilbur, of Newport; Milton Hall, of Newport; Joseph Martin of Newport; William Read, of Newport; Horatio G. Taylor, of Newport; Noah Barker, of Newport; James C. Esten, of Newport; and John Sherman, of Portsmouth.

The Indictment was then read to the jury. The Attorney General stated that in consequence of Mr. Staples' having declined opening the case, he would be under the necessity of asking the court to take a recess until the morning, which was accordingly done.

On Tuesday morning the case was opened to the jury by *Dutee J. Pearce*, Esq. He stated to the jury that the indictment contained the charge against the prisoner set forth in three different ways. The first count charged the prisoner with the murder of *Sarah Maria Cornell* on the twentieth of December, 1832, by means of cords tied about her neck, whereby she was strangled. The second count contained the additional fact of his binding her by those cords to a stake; and the third count alledges the murder to have been committed by hanging, strang-

ling, bruiseing and wounding. If the government proved the charges substantially as laid in the indictment, it would be sufficient to warrant the jury to return a verdict against the prisoner. The offence was either murder or nothing; there were no circumstances which would reduce the offence to manslaughter or any other species of homicide. Murder by our statute is punished with death. Cited *State Law, page* 379. What murder is, what are its ingredients, is to be found in the learned treatises on the Common Law. Read definition, 4 B. Com. 195 and on. In every homicide malice was at law implied until the contrary was proved. There would be no controversy between the government and the prisoner as to the law that was to govern the case. If the defendant was guilty of the homicide it could be nothing but murder in its worst and most odious features—not committed from the impulse of the moment, but for a long time preconceived and determined on after reflection and meditation.

(Here Mr. Pearce gave an outline of the case as he expected to make it out by the evidence to the jury.)

He assured the jury that they should be satisfied that the deceased came to her death by violence inflicted by other hands than her own, and that beyond all reasonable doubt the prisoner at the bar was the person who inflicted the violence, and present as strong a case of circumstantial evidence as ever was submitted to any jury. On the very day when the murder was committed the prisoner was by previous appointment to have met the deceased where they did meet. He left his home without any good reason, without informing his family where he was going; without assigning any cause for absenting himself. He crossed Bristol Ferry at two o'clock on Thursday, 20th of December, from which place Mr. Pearce said he should follow him in the course he took to the stack yard where the deceased was found, and from thence back to Jeremiah Gifford's at the Ferry at ten or a quarter past ten that night. The case would be made out from circumstances which would create the most violent presumption of the prisoner's guilt; circumstances incompatible with the defendant's innocence. There was no positive proof of the murder; the prisoner summoned no witness to the execution of his most foul and horrid deed; it was perpetrated in secrecy and in private.

It was by some supposed that positive proof was necessary in order to convict a prisoner charged with a capital offence. The law was not so. An unbroken chain of circumstances which left no reasonable doubt on the mind was sufficient. There is hardly a conceivable case where it is not possible for the jury to err in their verdict, and they as often err in cases where the testimony is positive as where it is only circumstantial. Where two witnesses swear positive to the commission of a murder, they may have conspired to take the life of the accused; but circumstances well proved and connected link by link, can be relied on with safety. The jury should not refuse to convict because there is a possibility of the defendant's innocence. No case can be found, none ever did exist, free from possibility of doubt.

On the character and value of circumstantial evidence Mr. Pearce read from *Starkie*, part 3, pages 477, 8, 9, 501.

I need not, said Mr. Pearce, address you, gentlemen of the jury, on the immense importance of this case to the prisoner and to the State. It has created a greater excitement than any case that has ever occurred in this State since the formation of the government. Nor has the excitement been confined to this State alone; it has extended throughout the country. The prisoner is a preacher of the gospel; a minister of one of the most respectable and numerous denominations in the country; a denomination that has ten thousand licensed preachers; three hundred thousand members and a congregation exceeding three millions; a denomination that first introduced and established religious instruction in the western States; with that denomination the prisoner enjoyed a high reputation; he was believed to be pure in heart, pious, zealous, and intelligent. No wonder then that such a denomination should be aroused and excited when a charge of this nature is urged against such a minister. The Methodists wish to know if the prisoner is guilty or not. Another cause for the excitement is to be found among the irreligious, who think the conviction of the prisoner may bring reproach on religion; and perhaps there is a little sectarian feeling added to keep up the fever. No matter from what quarter or source the feeling and excitement springs, you, gentlemen of the jury, are not to be influenced by it; you are to have no feelings or

bias; if you allow those to operate, your situation will be worse than the prisoner's at the bar. The sin of perjury will be upon your souls. There is yet another feeling which may have an influence over the case, and which doubtless has added to the excitement. The deceased was a factory girl, one of the seven thousand operatives in our one hundred and thirty cotton mills. The necessity of the case compelled the owners and those interested in that business to take a firm stand; to investigate the case that others might be satisfied that the rights of that useful class of the community should not with impunity be invaded. This caused a great excitement in Fall River and the towns adjoining the scene of the murder. You, gentlemen, must stand aloof from all excitement, and suffer nothing but the law and the evidence to influence your verdict. If you find the prisoner guilty say so fearless of the consequences; if not, you will of course, alike fearless of the consequences, acquit him.

The first witness I will call for the government is Mr. John Durfee.

John Durfee. Swore that he now resides and did reside on the 21st of December, 1832, in Tiverton about a quarter of a mile from the line of Massachusetts and half a mile from the Fall-River bridge. That on the 21st of December, while passing with his team in the morning through one of his lots, he discovered in a stack yard about sixty rods from his house, the body of a female suspended from a stake in the stack yard. When he first discovered it he was about ten rods off. He afterwards ascertained that the female's name was *Sarah Maria Cornell.* He went up to the body to discover if she was dead or alive, and found her dead. Her hair hung over her face in great disorder. She had a cloak on which was hooked together nearly the whole way down. He thought there was but one place unhooked. On her head was a calash. Her shoes were off; her feet were as close together as though they had been tied; her toes rested on the ground and her knees were bent forward within six inches of the ground—her clothes were smoothed under her knees—her head was lower than the top of the stake. The cord by which she was suspended was fastened to the stake about six inches from the top; her right cheek rested against the stake. He immediately called to his assistance Richard Durfee and Ben-

jamin Negus who were then in sight. William Allen came with them. We first attempted to take down the body by raising it up and removing the cord from the stake, but could not well do it. Richard Durfee said cut her down, a knife was then handed him and he accordingly did—he left her laying in the stack yard. The cord was cut about half an inch from the knot on the stake and it might be four inches from the knot on her neck. Her shoes lay about 18 inches on her right and her handkerchief about the same distance on her left. In one of her shoes there was a little mud. After leaving the body he went after the coroner and brought him to my house and he proceeded immediately to empannel a jury. He went to the stack and gave the jury a charge. The body was then removed to my house in a horse wagon; it was laid in a blanket. There was hay in the bottom of the wagon, particularly under her head and shoulders. In the wagon she lay partly on her left side—her legs being bent, prevented our laying her on the back. We laid her in pretty much the same position on the ground when she was first cut down. The jury commenced the investigation at the house. I then went to Mrs. Hathaway's in Fall-River after her trunk, concluding there might be in it something useful to lay her out in. Got her trunk and band box and carried them to my house. A key was found in her pocket which was handed me by one of the women present, I think by Mrs. Cooke, with it I opened the trunk and found some letters. I got back to my house from Mrs. Hathaway's before 12 o'clock. Four letters found by me in the bottom of her trunk when I opened it—I think I can identify them; three of them were addressed to Sarah M. Cornell, Fall-River, and the fourth to Mr. Bidwell at Fall-River. I opened the band-box at my house as it was received from Mrs. Hathaway. There was clothing in it, near the middle of it I found a small piece of paper and a lead pencil. I did not then examine the paper, but have seen a piece since, which I called the same. I think I should know the paper again, if I should see it. (Here a paper was produced which the witness thought was the same.) He said it was folded in that form when he took it from the band-box and was somewhat dirty. It was shown him the next day by Lucy Burden. Our object was to know where her native place was The eas-

test way to get to the stack yard from the S. W. part of Fall-River, would be up the main road past my house 20 rods, then through a pair of bars to the place. It is S. W. from Fall-River. From my house the land descends considerably to the stack yard. From one end of my house the stack yard is visible, plain in sight. From the stack yard three windows of the house are plain in sight; the rest of the house is hid by a shed and some trees. I don't know what kind of a knot was round the neck of the deceased; that over the stake was a slip knot, made with the bite of the string. (Here the witness described the manner it was made.) Where I cut it off four ends hung down. The string round the neck was indented in the flesh more than the thickness of it. It did not appear higher on one side than on the other of the neck. After the inquest I was directed to bury the body, which I did at 1 o'clock the day following. I assisted to disinter the body on the Monday following and removed it to the barn near the burying ground. It was then and there examined by Drs. Wilbur and Hooper—they did not examine it the first day. On Saturday the day after the body was found, two of the jury of inquest were taken off and two others added in their place. On Friday the jury did not agree. I suppose the jury agreed on Saturday. I did not in particular examine the body, but stood by while the doctors were examining it. I buried it again on Monday. The body was again disintered on the 25th of January and examined by Drs. Wilbur and Hooper. The cord passed up her neck on the right side; I cannot say whether forward or right over her ear.

About sun set of the 20th of December, when I was about 20 rods from the same stack yard, I saw a man about 80 rods from me standing and looking about. It was a little before sunset. My attention was directed towards him by the blasting of a rock, which exploded at that time. He was looking towards the west and could see the whole village of Fall-River from where he stood. The stack could be seen from the village. I have no recollection of ever having said it could not. He was a tall man, with dark colored surtout and black hat, with larger brim than common, and also a higher crown. Could not see his face as his back was towards me. There was in a few minutes after another explosion loud-

er than the first. They were in a direction between the man and the village of Fall-River. I did not see the man move—I went about my business.

Cross Examination. I cannot tell who first discovered the body to be that of Sarah Maria Cornell; Mr. Bidwell first informed me—I did not unhook any part of her cloak when I took the body down, although I think one of the hooks must have opened as the aperture appeared some larger by one hook—It might have been unhooked before. The body was carried in a waggon which passed over a meadow through one brook. On Sunday I saw the Coroner at his house and showed him the small piece of paper I have alluded to or told him what was written on it; he asked me to talk to Dr Wilbur about it, which I did. On Monday the Coroner came to my house and said he had summoned another jury and directed me to have the body taken up for another examination. The jury were sworn on Monday; I was sworn as a witness; I was a witness at Bristol and described the manner the string was put over the stake as I now have; I did not say it had but two threads; I conversed with Mr. Randolph on the subject—I am certain I cut the string nearer the stake than the neck and have never stated it different—do not know who took knot off the stake—I am certain it was as I have stated it.

Direct Examination. The reason assigned for removing Cook and Negus from the jury was they were not free holders—I heard no other reason given.

Cross examined. I am not sure that I told Mrs. Hathaway that there were letters in the trunk—It was a common round trunk covered with leather—I saw the inside of the paper I took from the band box first on Saturday—on Monday I gave it to the Coroner—there was not that I saw any other piece of paper in the band box.

FRIDAY AFTERNOON, May 11.

Meribah Burden. I saw the body of S. M. Cornell after death and assisted in laying her out. The body was entirely exposed. Her legs looked dark and her tongue was just within her teeth. Stripped her. Where the string went round her neck it was very dark, or down her back. On the right side of the body, above the right hip was the marks of the hand the thumb extending upwards; the marks of fingers distinct. These marks were on both sides. The marks came forward very bad

both above and below the private parts. She appeared badly bruised. One arm drawn up very stiff, with the hand back; I think the right arm. I and Hannah Writhington applied our hands to the marks of fingers. Mrs. Ford tried her fingers and said they would not fay as aunt Hannah's did. Her privates were very much bruised and had a little blood on them. Her knees were green; perhaps only one; I think both were. I discovered nothing on her under garments, for I did not examine them. There were bruises on her back. I did not notice the small bruises if there were any; the others being so great attracted my attention. I assisted in putting on the diaper which covered her hip bones. We laid her out directly after the jury came out of the chamber on Friday. The cord was taken off her neck before I went in; I saw no cord on the body.

Cross examination. Above and below the pubis appeared a perfect bruise. I saw no white spot there. We washed her knee and the green did not wash off. We applied hot water to the arm in order to bring it down. I said in Bristol she looked as if she had harsh means used; and say so now. I formed no opinion that she had been seduced, but she looked as if she had been shamefully abused.

Ruth Borden. I assisted in laying out the body of S. M. Cornell after her death. I saw on her back very dark color and large bruises. They were on the upper part of the back, just below the small of the back; very large bruises on both sides. There were bruises on both sides in front with marks of both hands and fingers; the thumbs inner. Bruises all over the lower parts of the body. Several marks on her knees. There were several of them. I examined her clothes, a very little blood on them; some, not a great deal. Facies on her linen appeared to be mashed down. So many persons round we were not so particular about washing her. I don't recollect about the green marks on her knees. I washed them myself.

Dorcas Ford. I assisted in laying out the body of S. M. Cornell. I saw bruises on her body. Two marks or bruises on the back, close together, about two inches long, that appeared yellowish. A large bruise just below. The bruises in front were very dark and large

above and across the bone. When she was undressed Hannah said, Oh! Mrs. Ford what has been done? I replied rash violence.

Cross examination. The bruise in front extended on to both limbs. When her stays were taken off we bound them on her mouth to keep the froth from the bedding. I was asked in Bristol, if I though an attempt had been made to produce abortion, and I said, no. I thought she had been dreadfully abused. Mrs. Writhington said her hand fitted the marks; I tried mine, it did not fit, and I said so. Mrs. W. said it was the mark of a larger hand than mine.

Ques. Did you think at the time, that she had been attempted to be forced? Ans. I can give no other answer than I have.

Susanna Borden. Was present when S. M. Cornell was laid out and saw the bruises described by the other ladies. Noticed the front part of the body but not very particularly; saw it was black. Linen some dirty on back. Did not handle her body, or notice her knees.

Paper shown her; she said she had seen it before and taken it from S. M. Cornell's band-box by her sister. I was about midway down. I carried it down and handed it to Mrs. Fowler. I read it and the words were the same as these; a letter also addressed to her from her brother she identified as the one she tookout of her truuk.

Cross examination. The paper in band-box was found about four o'clock on Saturday afternoon. The band-box was in the south chamber at my brother's, under the bed. I was looking to find where she resided to direct a letter. I saw the paper taken out of the band-box. I saw a pencil with the paper. The band-box was nearly full of clothes. I know it to be the same paper by marks on it, and because it looks like it. The same reason for recognizing the letter. It was directed from her brother; it read so inside.

Thomas Hart. The piece of comb shown me I found the 23d of Dec. about 23 rods from the stack where the body of Miss Cornell was found, about north from it. I gave it to John Durfee. I saw the body in the stack yard after it was cut down. Made no examination and observed no bruises. The ends of the line on the stake hung down I should think about two inches. Found

comb 23d—it was near a piece of ground in which were briars; it partly lay on them.

Abner Davis. I saw the body of Miss Cornell lying in the stack yard after her death. She lay partly on one side. Noticed no marks about her face. Several days after I observed the stake and measured it from the ground to where the knot was, it was 4 feet, 6 inches. Did not observe the knot round her neck, or the knot round the stake. The top of the stake was short of a foot above the knot. On the afternoon of 20th Dec. last, I was at work with Andrew Robinson a little south-west of Fall-River, blasting rocks. After the first blast I went to rock and found it cracked. I charged it with about 20 pounds of powder, put the shavings on and started to run down westward; we were about north of John Durfee's house; as I was running down west as I rose the hill, I saw a man sitting on the wall facing north-east; he got off the wall and walked off north leisurely. When I first saw him he was about 20 rods from me. I thought he was approaching the rock, and I sung out to him to look out, and at that time, the rock exploded. He stopped a moment and then pursued his course eastward, which would lead to Fall-River. He had on a dark colored surtout; broad brimmed hat that tapered towards the crown. He was above the common size. I did not see his face. When called to Bristol I went to Court-House with Manchester and Hart, and saw at the table a man I took to be the one I saw sitting on the wall. I then told Manchester so; afterwards about half an hour I found out that the man I pointed out was Ephraim K. Avery. Saw him afterwards in street and judged him to be the man I had seen on the wall. Saw the cord with which Miss Cornell was hung; examined it with some bags I had where I had been at work; all the strings were out of one side of the bag; those missing might have been 3½ feet. I now think Mr. Avery is the man I saw sitting on the wall as aforesaid.

[This was objected to before stated, but stated before he heard the objection. Attorney General in support read Starkie 1, 187.]

Cross examination. Did not examine so as to be able to determine how many ends there were to the cord that hung to the stake. Nathaniel Pearce was with me when

I measured the stake. The bags were used when we first commenced blowing the rocks there, to set on to drill. They were bags that cloth came in and must have been cut open to get the contents out. The strings in those bags were not short, they went pretty much round the bags about four or five feet long. They were of cotton bagging not much weather beaten. The bags were left on the night of 20th Dec. in the lot we had been working in. After the rock exploded I took particular notice of the man. I was a witness at Bristol. Don't know what kind of pantaloons he had on; I had not a full view of his face; when nearest I was within ten rods of him; as I called to him he turned his head and looked up. I was running when I called to him. I then stopped; man no nearer to me than when the rock exploded. When running towards him I saw his face, but some distance off. I did not notice if he had spectacles on. Did not to my knowledge have staff or bundle. When I went back to pick up my tools saw the man in the lot north about 30 rods. I did not testify in Bristol that I recognized Avery as the man, because I was not asked. I answered what I was asked. Summoned to go to Bristol by a person whose name I do not recollect. Knew what I went to testify about; don't know that I was there only to describe the man. If I had known the man I don't know that I should said who he was if I had not been asked the question. I had the same opinion as to the identity of the man when I testified in Bristol that I have now. No one ever, to my recollection, asked me to go to Bristol to see if Avery was the man that I saw in the lot. I don't know when I received the first impressions that the string with which Miss Cornell was hung was the same as that which came out of the bag. I first mentioned that fact to Benjamin Manchester I think.

Direct examination. The man a stranger sitting on the wall so late at night attracted my attention; on first view I thought it was Andrew Robinson, and second view saw it was not. The explosion was heavier than common. The bags were in the cart in the lot something like 100 rods from stack yard. The cart was within ten feet of the path that led to Fall-River.

Cross examination. The bags were not in the cart when the stranger went through the lot. I was in Bristol when Rice was brought in to identify Mr. Avery.

Richard Durfee. Saw body of Miss Cornell after her death on 21st Dec. hanging on a stake in stack yard near where I live. I own the land my son John occupies. I was standing in door with Benjamin Negus. Heard John call out and said something about a dead person. We went; I tried to discover face, hair hung over it in frightful order. Shoes lay side by side in order, the same as though taken off in the house. Discovered nothing as though there had been any moving about the stack yard. Had a cloak on I think, buttoned or hooked. Her face inclining partly across the rail; her cheek against stake. Know nothing about the line or knot. Line was what I call marline. John Durfee cut the line and laid her on the ground.

Cross examination. Did not notice how the cord was tied on the stake, or what kind of knot it was. Randolph asks as to expression of witness—objected to—Randolph does not like to see a case of this kind pressed too hard. Attorney General, disavows any intention unreasonably to press the case and asks the court to interfere if he should. Court did not allow the question to be asked.

William Hamilton. Lived in Tiverton on 20th Dec. On that day I worked at Fall River, where I was until I went home to Tiverton after I left off work about half past seven o'clock. Stopped at B. Hambly's store; took some drink and was reading; staid until it was stated by Mrs. Hambly it wanted 17 minutes of nine. Three others stated the time. From there went direct on my road home. After passing Durfee's house there was a hollow—I heard something sound like stifled groans; appeared like female in distress. Sound came from back part of Durfee's house, below the orchard. When I rose the hill I stopped, but heard nothing more. I live a mile from Fall-River on the Newport road.

Cross examination. The cries appeared to me to be in the direction of the stack yard, which was pointed out to me as the one where Miss Cornell was found. It did not take me more than 3 or 4 minutes to walk from Hambly's shop to the place where I heard the cries.

Benjamin Hambly. Mr. Hamilton was in my store on the night of 20th Dec. I recollect taking out my watch and according to recollection when he left the store it wanted 20 minutes of nine. My watch was then 15 min-

utes faster than the Fall-River time. Do not recollect who else was in the store that evening. Mr. Gooding regulated my watch and I had not altered her; and I from him ascertained that my watch was 15 minutes faster than the factory time in Fall-River.

Cross examination. Mr. Gooding regulated my watch by his time; I was 15 minutes faster than factory time, and 5 minutes faster than his time. I went there a day or two after Miss Cornell was found. Cannot tell the day of month, but think it was on Monday. I had had the watch three weeks, and when I took her she agreed with Gooding's time. Mr. Gooding told me that his time was faster than the Fall-River time 10 minutes.

Direct examination. Can hear Fall-River bell from my store, and before I carried her to be regulated, I found her 15 minutes too fast by the Fall-River time

Eleanor Owen. I live in Tiverton, in house of Thomas Daskell; I lived there on 20th of last December evening, and at home, I heard a noise like a person screeching about half past seven. I can see the stack yard out of my chamber window; wind blew from that quarter towards my house and the screeching came from that direction. The church bell was ringing, I sent my son out to listen, he said he could hear nothing for the meeting bell.

Cross examination. One door of my house fronts Fall-River, the other the stack yard. Stack yard I think near quarter of a mile from my house. Not many houses near my house. I mentioned this fact to Mrs. Babcock the day the body was found. I also mentioned it to Dr. Hooper, but cannot tell when. I told it also to others. A great while after that a person inquired of me about the facts. I don't know who it was. I believe it was after the examination at Bristol, that he came to me.

SATURDAY MORNING, Court met.

Ruth Cooke. I live in Tiverton and was present at Mr. Durfee's and assisted to lay out the body of Miss Cornell. She was badly bruised across her back, low down not far from the hip, more on the left side. The appearance of a persons hand on both of her sides equally plain—marks plain enough to be distinguished; describes position of the finger marks. There were marks on her knees. I picked the grass off her left knee; not much. Both knees scratched.

Cross examination. I was one who assisted to strip the body with Hannah Writhington, Ruth Burden, Meribah Burden and Mrs. Ford. We commenced laying her out directly after dinner, before one o'clock, and finished before sun down. This was on Friday 21st Dec. I never left the room while we were laying her out. Don't recollect any black places on the shoulders or near them. I noticed bruises near the privates extending down the groins; how far down I cannot say. The first inquiry into this subject was made of me on Thursday last. Dr. Hooper made the inquiry. I had not before mentioned about the grass to any person but the women that were present at the laying of her out.

Wm. Pearce, Jr. I live at Bristol Ferry which I keep. Saw E. K. Avery on the 20th Dec. and transported him across the ferry that day about 2 o'clock. He had on a surtout, brownish color. Don't recollect his hat. He had no cane or bundle. I think he did not have spectacles on. The morning was cold and blustering. We crossed in the sail boat. When we crossed the weather was milder than it had been in the forenoon; about usual weather for that season of the year. The wind was from the westward. I knew Mr. Avery very well. No recollection how the weather was that night. I do not know what course Mr. Avery took when he landed on the Portsmouth side. He had carried Mr. Avery before to Portsmouth, once to the four days meeting and between the four days meeting and the time alluded to. When I have carried him over the ferry before he had spectacles on and once a cloak. I think I saw the boat which brought Mr. Avery back the next day. I saw a gentleman in it, but could not distinguish who it was. I think it would be full as likely to be after, as before 2 o'clock. It was after the stage from Bristol arrived—that arrives from 11 o'clock to 1.

Cross examination. Wind was due west. Avery asked me where the coal mine was; I pointed it out to him, but did not direct him how to get there. I stated that Oliver Brownell had been up to Bristol to get a boat to carry coal. It was milder at 2 o'clock than in the morning a considerable. I cannot be certain to a moment as to the time. I fix on that time without looking at any watch. The horse boat could have gone at the time; the wind would not have pervented her. I sometimes go by the name of Wm. Pearce, 2d,

Direct examination. There may be a difference between the Bristol and the ferry time, but I don't know what, whether faster or slower—don't know how it was at that time. There were no other passengers in the boat; he put the boat off and had to pay double ferryage.

Jeremiah Gifford. I did not know Mr. Avery when he crossed the ferry on the 20th of Dec. I saw the man pointed out to me now as Mr. Avery, when he landed that day—I think it was between 2 and half past 2; reason for knowing the time was this—I had a boat aground on Hog island and was then going, it being about low water to get her off; I had to dig her out. I do not know what road he took when he landed. He returned to my house about quarter before 10 that night. I heard a noise at my door and I got up; no one was at front door; found Mr. Avery in my sink-room; he wanted to cross the ferry. It was very cold and blowing fresh. He said that brother Weaver had informed him he could cross at any time. I told him the weather was so bad I did not think I should cross and asked him where he had been at so late an hour. He said he had been up the island on business, and had he known he should not have got over, he would have gone to brother Cook's, or brother Wm. Earl Cook's and staid all night. He gave as a reason for wishing to cross that night, that his family was unwell. I proposed his going to bed. I got him some water to drink, and he went to bed. I did not open the fire—I heard no complaint of his being cold, or tired, or lame. By my clock it wanted quarter of ten. Mr. Avery said he did not think it was as late as I supposed. He had no bundle that night. Saw Mr. Avery in the room next morning, but did not see him when he crossed the ferry. He had a brownish colored surtout when he crossed the ferry, a large sized hat, wide brim and color black, don't recollect whether he had a cane. He had no spectacles on to my recollection that night. When he came from Bristol ferry on the 20th to my side, I did not observe any spectacles. Robert Hicks lives in the house above me on the Newport road, the widow Earl in the next house. The nearest direction for a person on foot to take for the Stone bridge, is through a pair of bars south of Hicks' house. There is a creek between the ferry road and the east road. Wm. Anthony lives north of the cross road. A person going by my house for

Stone bridge if unacquainted with the road unless he went south would be brought up by the creek. [Here witness particularly described the road to Stone bridge.]

Cross examination. I looked at the clock as aforesaid just as I was lighting Mr. Avery to bed. Don't know what time I went to bed that night; suppose from half after 8 to 9. Mr. Avery said nothing about the difficulty of getting into my house. From the first noise I heard at my door, to the time I looked at the clock it was not to exceed three minutes. I had not been disturbed by any noise before that night. I don't recollect what I said at Bristol relative to his having on spectacles. I think I said at Bristol that I did not recollect whether he had a cane. I think Mr. Avery must have arrived at my house about half past 9. I don't recollect what I stated at Bristol. The coat he had on was about the same color with the one he has on now. At low water the creek is in some places not more than 20 feet wide and a foot deep. There is a path across the lots from Hicks', where the lot is not ploughed up. The place from Hicks' to where you get into main road is a quarter of a mile; to the same point round by the road is the third of a mile. In crossing there we go in at Hicks', come out by John Boyd's after passing Anthony's. John Boyd's house on a road leading from the west to the east road.

Direct examination. My supposition as to the time Mr. Avery arrived that night is on facts derived from other sources, not from my own knowledge. John Mc Currie's house next to Peckham's; on 20th Dec. Mr. Drake and McCurre lived there.

Cross examination. If you should go direct across from Hicks' house to Boyd's, you would leave Anthony's to the left about 10 rods.

Direct examination. I don't know as to correctness of my time piece that night.

Dr. Briggs. Who was partially questioned, and sent home for his papers was again called to take his stand, and stated that one letter was received from Fall River on the 19th of November, that the postage from thence to Bristol is six cents—six cents postage is charged on his book to E. K. Avery, on the 12th and 19th of Nov. and was paid by Avery at the end of the quarter—there was only one letter received from Fall River at Bristol post office on the 12th Nov. Keeps an account of the

mails received every day and makes up his account the day the mail is received—has no recollection of delivering a letter to E. K. Avery on the 12th or 19th of Nov. Mr. A. had a private box at the office at that time—can't say whether it was November or December, when he saw a letter written on pink paper in Mr. A's box—this incident was called to his mind by a circumstance to which he has now referred on his return to the post office after the examination—recollects no letter addressed to Betsey Hill—knows no such person.

Cross Examined. Recollects only from his records that letters came for A. on the 12th or 19th Nov. does not know that the bill was ever paid by or presented to Mr. Avery—his son who is an assistant in the office was sent to him and returned with the money—witness charges medicine and postage in the same bill as postage and puts at the foot of the bill so much charged for medicine. It is his general practice to charge letters received every day—has no recollection of deviating from this practice on the 12th and 19th November—the entries were made at the time the letters were received and he believes they are correct—charges and entres the bills himself, his son charges in his absence—son never writes in the mail-book, but does in the day book, at the the top there is a date of the letter and the time when they arrived—if he had been absent on the 12th and 19th the assistant would have charged the letter when he put it in the box; he made out the bill against Mr. Avery in the forenoon; don't know whether his son carried it the first or second day of the quarter.

Direct Examination. If I had been absent, on my return I should have made up this book from the original way bills. The mail arrives from Fall River on Mondays, Wednesdays and Fridays. The charge on the 12th Nov. was made by my son, that on the 19th by me. Keeps each individuals book in his own box. Mr. Avery's book had other names in it—for the box A. had was usually appropriated for the use of the methodist ministers.

Cross Examined. Number of letters daily received at Bristol from 20 to 30—in the charge on the 12th Nov. the price is not altered—in the other instance the marking out 12 and putting down 10 was probabably owing to overcharge. Sends the way-bills to Washington uniformly on the first day of every quarter and has no recol

There were two sets of pages 13-24
and no pages 25 to 36
in the original pamphlet

wear all alike next week; told the girl to get one for her, and asked me to get one; she requested me to wind some waste yarn for her, as she wanted some knitting done; her loom was out of order; she wanted the webb taken off so as to have her loom fixed to go to work on it the next week; this was on the day of her death; when the loom was fixing she said she would have time to make her apron.

Cross examination. I saw a string at Rich'd. Durfee's house, and was told it was the one Miss Cornell was hung with; it was hanging on a looking glass; one kind of string similar but smaller used for harness in upper room of factory; like this, and of the same materials; in our room they were hung with wire instead of twine; never have said the cord was such as came out of factory, or that I have seen her looking for a cord or string.

Direct examination. The string she was hung with did not appear to be the same used in our mill; never saw any as large used for hanging harnesses.

Cross examination. Did not read any of the letters.

Direct examination. Did she make any communication to you so as to induce you to suppose what her situation was? I knew she was out of health, and what her situation was, from observation and her conversation; she said she had been out of health since the Thompson camp meeting; I said she had taken cold: she said she had not: I told her she ought to take something: she said she had taken pills from Dr. Wilbur. Only out Sunday nights and Tuesdays to class meeting; one evening alone; from her situation I think I did know her situation, which she dated from the Thompson camp meeting. She said I have not been well since the Thompson camp meeting; she said something took place there as the cause, but did not mention what; since the Thompson camp meeting there was a suppression of the menses; she said she should never again go to camp meeting on account of the disgusting sight she saw there between a minister and a church member, and the minister a married man.

Monday morning, 13th May—Court met.

The Clerk of the Court being sick, *Benjamin B. Howland* was by the Court appointed Clerk pro tem.

Harvey Harnden. I reside in Fall River, and resided there in December last; was present at Court of Examination at Bristol. Present as one of the Committee to investigate into the circumstances of the

death of S. M. Cornell. On the first week in January, I called at Iram Smith's store, and requested him to let me have the remaining part of a ream of letter paper which was in his store on the 8th of December. He gave me the paper; produced ten bundles; nine half reams and one whole. When he gave me the paper he had half sheet in his hand which he looked for when he went to court of examination. I requested him to let me have it, which he did. The half sheet produced is the one I took from Mr Smith. I know it by the mark I put on it at the time. I produced it at the court in Bristol. I compared it with this letter produced in presence of the court, and found them to agree. I compared them with a glass; they now compare exactly. The water mark on the letter compares with the other sheets of paper; with some of them there is no difference. Half sheet left in Court; the other paper has been in my possession ever since. The court may have retained a part of the ream I had of Mr Smith. In all there was six quires, fourteen and a half sheets. In house with an officer who had a warrant for Mr Avery, in the Town of Ringe, at house of Mr Mayo, in N. Hampshire, in the night. Here witness described house, and manner of his entering it. Two gentlemen and a lady in room when I entered house. Avery was not in that apartment. There were six persons with me; one of them entered the house, five remained outside to watch house. I stated to the family I must search the house, if Mr Avery did not come forward immediately. A woman, I suppose Mrs Mayo, immediately left the room without a candle. I took the candle and followed her; went through several rooms up front entry; observed one door closed. door in the chamber over it was open; searched several rooms. When I came from the garret, I discovered the door that was before closed, partly opened. I put my hand against the door and found some feeble resistance. I entered the room with very little force, and Mr Avery stood behind. Neither fire or light in room. He had a cap in his left hand. He appeared to be much agitated; stood motionless and countenance showed agitation. I put out my hand and said, how do you do? told him to overcome the agitation and come out where there was more air. After we got into entry, Mr Avery said, I dont suppose you can take me from this State, without a precept from the Governor of New-Hampshire; and inquired if I had such a precept. I told him I had not, but that I supposed I was there with legal precept. He stated that his counsel had told him, he could not be taken from any state without an application to the Governor. I told him I had been so informed, but that by a recent law of N. Hampshire I found that unnecessary, that I had obtained the necessary precepts, and that I would satisfy him of the fact. I took him. When I found him, he had either a surtout or pea-jacket on, cannot tell which. He had both on when he left the house. He was not shaved as usual; shaved the front of face down to chin.—Pea-jacket of coarse quality, dark olive green, with horn or bone buttons. The man with Mr Mayo appeared like a clergyman. After precept was read, Mr Avery said he would come with me to Bristol. Mr Avery wished to shave; I told him he might have an opportunity at the public house. There was more conversation between Mr Avery and those present. Don't know whether Mr Avery knew me at first I brought Mr Avery to Rhode-Island. At public house in Rindge Mr Avery shaved, and wrote a letter. After shaving, his face appeared as it did in Bristol.

Cross Examination. From my recollection I called on Mr Smith

on Saturday of the first week of trial at Bristol. I knew of no other samples of the paper from Smith's store being produced at Bristol except what I carried there. The half sheet did not appear to have been folded when put in my hands. I believe the committee on which I was appointed was the committee of investigation. The other committee, styled the committee of vigilence, appointed I think the 24th of December. Some resolutions passed for appointing of the committees. Second meeting held in about a week after, when a resolution passed for defraying expenses of prosecuting any person or persons, implicated in the death of S. M. Cornell. Two or three hundred persons present at each meeting. There was a paper signed at second meeting, the purport of which was, that those who signed it, agreed to be assessed in proportion to their means to raise a fund to prosecute persons suspected. Number that signed about forty. I have not seen the paper since. The paper was to be circulated for subscriptions. There was another paper to be drawn where the signers were to pay a specific sum. I signed the first paper. I was present at Bristol when the opinion of the Justices was delivered. Mr Bullock stated after Mr Avery's discharge and in his presence, that Mr Avery would recognise for his appearance at the March Term of Sup. Court for the County of Newport, if the people of Fall River were dissatisfied with his discharge, and also that Mr Avery should remain in custody of officer until Judge Randall should take the recognisance. I am not certain that Judge Randall was then in Bristol for that purpose. I declined it because there was nothing on which to predicate the recognisance and I thought it would be illegal. I considered no recognisance valid without a precept. I obtained a copy of Mr Howe's opinion and read it to a meeting of the citizens of Fall River, possibly with comments. I think the meeting then instructed the committee to take measures for another examination. Possible the object of my comments was to refute the reasonings of the Justice. The meeting was, I think on Wednesday evening. On the next evening, I went to Providence with warrant from Charles Durfee, to get a precept from Judge of Supreme Court, to enable officer to take Mr Avery if he could be found, to County of Newport. I applied to Judge Eddy, who for reasons declined giving the precept. When I returned to Bristol I called on Mr Bullock with a letter from Mr Staples. Did not see Mr Avery there. I got the precept from Judge Randall and left the warrant with High Sheriff on Thursday with directions to search for Mr Avery. I have published a pamphlet of thirty-six pages containing facts, in February; thirteen thousand published. The Copy right was secured. I have ordered that number published, and have five thousand on hand.

Direct Examination. I went to Iram Smith's for paper at request of Mr Staples. Coroner was not present in Bristol when Avery was discharged. I stated to Mr Bullock after I got the second warrant, that our sole object was to get Mr Avery to recognise, Mr Bullock said he would write to Mr Randolph, and might get an answer by Monday, when he would answer definitely or not. He did not consider himself authorised. I told him I must consider that a refusal, and should take measures to secure him. I did not ascertain from Mr Bullock that Mr Avery had left Bristol.

William Lawless. Resided in Bristol 20th and 21st of December

last, at Bristol; saw Mr Avery on morning of 21st December before sunrise, about fifteen minutes. He had a roll covered with a silk handkerchief, from twelve to fifteen inches long closed at each end; a red bandanna handkerchief. He was coming from the ferry ; spoke to him ; said brother Avery is this you, he said it was. I asked him where he had been ; he said he had been on the Island on business, and had intended to have come over the night before. I had to quicken my pace considerable to overtake Mr Avery. He did not tell me what his business on the Island was, or to what house he had been.

Zerviah Hambley. I live in Fall River, in Tiverton.—The evening that Miss Cornell was hung, I overtook in the lane in the evening, not far from seven o'clock, a tall man and a lady in a cloak, arm in arm, not far from our house. They turned down the lane near our house. Persons going to Mr Durfee's next day, went down the main road.—Meeting house near ours, so near that I can hear the preaching. It is called the old meeting house. The stack yard is north from our house. Dont know how the gentleman was dressed. I was within ten feet of them, but did not pass them.

Amey Durfee. I knew S. M. Cornell. I lived in Fall River in December last, and worked in the mill of Mr Anthony by the side of Miss Cornell. I saw her in the mill the day of her death. She left the mill between five and six and said she was going up to Joseph Durfee's. She told me in the morning that she wanted to get the web out of her loom to have it repaired. [She here confirms Lucy Hathaways statement relative to the aprons &c.] She had some cloth, that she said she was going to make caps of. Identifies the comb. Saw a letter she received, written on white paper ; before that time I saw her have two letters, one on pink, and the other on yellow paper. She had a letter in her hand on pink paper. I did not mind if the letter was sealed. She got Mrs. Smith's inkstand to direct the letter, but did not let me see where it was directed. [Here she was asked to whom Miss Cornell said it was directed. The question was objected to. Court said question ought not to be asked.]

Nancy Gladding. Lives in Bristol, and am acquainted with Mr Avery. I called at Mr Avery's and asked them to visit me. Mrs. Avery said she was not well. I asked them to come any day after Wednesday, and fixed on Thursday the 20th December. He said we will set Friday, Thursday will not do as well. I invited them to spend the afternoon, and to suit their convenience as to time. He visited

me on Friday with Mrs. Avery. Mrs. Avery appeared to be quite unwell on Friday. The child had been sick of a fever; child three or four years old. They came to my house on Friday afternoon between three and four, and remained until about six o'clock. I heard no conversation on the subject of Mr Avery's absence the day before.

Cross Examination. I think Mr Avery set the day for Friday. My impression is, Mrs. Avery left it to him. The thing was so trifling that it made but little impression. His deportment on Friday was becoming, gentlemanly, and that of a christian; nothing extraordinary in his behaviour, as cheerful as usual. He prayed with us before he left. I am a member of his society.

Rebecca Diman. I lived in Bristol last December in the same House with Mrs. Avery. I lived in the upper part of the House. Mr Avery's family then consisted of his wife. Betsey Hill lived with his family in December. She came with them to Bristol. She did not live with them when Miss Cornell was hung. She left them before that time.—I dont recollect ever seeing her in the house after the Thompson camp meeting. Mr Avery usually wore a surtout. He had a black goats hair camblet. He has now on the same surtout. I never saw him with any other on. I saw the black cloak before and after Mr Avery went to New-Hampshire. I was at home when Mr Avery came home on the morning of 21st December, but did not see him; never heard him say where he had been. I was at Mrs Gladding's part of the afternoon of the 21st December; heard nothing there said about his absence the day before.

Cross Examination. On Sabbath and when he went to preach, he usually wore his cloak, on other occasions he wore his surtout. He was in the habit of walking about considerable. He was in the habit of praying with his family every morning after breakfast. He prayed on the morning of the 21st, nothing unusual in his manner that morning. Mr Avery lived in peace and harmony with his family, and was a humane and kind husband and father.

Direct Examination. Mr Avery did not wear his cloak to Mrs Gladding's.

Silvester Luther. Saw Mr Avery one morning in the week in which the 21st of December came, very early, before sun rise. He had on a surtout coat. I merely spoke

to him as we passed. He had a red handkerchief in his hand. I am inclined to think I saw him after Miss Cornell was hung, and before I heard of that fact.

[*Mr Harnden*, corrects former statement ; now says it was Thursday he called on Judge Eddy, and on Friday on Mr Bullock.]

Iram Smith. Knows Mr Avery and Mr Bidwell, resided in Fall River on 8th Dec. last. Mr Avery and Mr Bidwell were in my store on the 8th Dec. between nine or ten in morning. I cannot properly say what Mr Avery did; I think he asked for paper; I did not give him any; I furnished some one with a wafer, which I got next door; It was common red; it has been my impression that I saw Mr Avery at my desk on the 8th of December. Identifies the letter paper produced by *H. Harnden*, also the half sheet. I wrote my name on it at Bristol. In my store, in counting my paper, to know how much to deliver to Col. Harnden, found the half sheet about in the middle of the bundle; I compared it in Bristol with the paper on which the letter was written, and found it to correspond. I was examined twice in Bristol. Col. Harnden came for the paper after my first examination. I had looked for the half sheet before my first examination but could not find it. I believe the stage from New-Bedford passed my door on the 8th December, while Mr Avery was there. There was something said about a piece published in the Village Recorder. I belong to the Methodist Church. I have some recollection of Mr Avery's asking me on that day for paper. Some times I doubt it for want of recollection. I have some recollection of his going behind my counter. I have no recollection of seeing Mr Avery on that day after he left my store. I think Mr Bidwell left the store before Mr Avery, but am not certain. The paper had been in my store some months before that time. Something said about Mr Avery's writing over to the Editor of the Recorder. Mr Avery said he would write. Letter produced was compared at Bristol with the half sheet of paper here produced. I have not seen a paper in the hands of Mr Avery folded like this letter.

Cross Examination. When I purchased the paper it was a half ream, and the man I purchased of came back to count the quires, and I found I had one half quire more than I ought to have, which I gave to the man. I do not know what the man did with the other half ream. I do not re-

member that the wafer was got for Mr Avery. I do not remember how many half quires I gave Col. Harnden. The half sheet had never been folded. I made use of that paper myself. I have no recollection of having put that half sheet where I found it. I would not naturally have done it. The half ream stood where any one might have access to it. I have not a recollection that the day I went after the wafer was the day Avery was in my shop.

Direct Examination. No one could reach the paper where it was, without going behind the counter. From 8th December to the time I was called to Bristol, I do not recollect that any one wrote at my desk. A man made out a bill at my desk; I did not see the bill. Simmons made out the bill on some of my paper.

Monday Afternoon—Court met.

George Gifford. I live about 3-4 of mile from Bristol Ferry, in Portsmouth; on the 20th of December last I was on the wharf when a person came over the ferry with Mr Pearce. He walked off about east. I did what I had to do which took me not more than five minutes, I went up to my father's Jeremiah Gifford's, but saw nothing more of the man. Had he gone up the main road I should have seen him. I only saw him about 3 rods up the road. It was not five minutes from the time the man landed before I got to my father's house; not more than eight minutes at extent.

Cross Examination A man might be seen in the road from my father's house about a quarter of a mile. Dont know that I looked up the road.

Walter D. Briggs. I am the son of the Postmaster in Bristol; on my Book I made a charge for letter to Mr Avery on twelfth and nineteenth of Nov. There was in our office before the Court met in Bristol, a pink letter in Mr Avery's box the charges of letters on 12th and 19th are in my hand writing. I presented Mr Avery's bill to him at the end of quarter and he paid it. Mr Luke Drury was in the office when I saw the pink letter. Drury spoke about it which called my attention to it.

Cross Examination. The charge of the twelfth has the appearance of having been altered, and I think I recollect having made a mistake at the time and immediately altering it. Mr Avery's account was the gross amount of the quar-

ter. There was no charges made by me in November but those of twelfth and nineteenth.

Direct Examination. I have never charged postage unless it was due. The apparent alteration is from five to six cents. There is no such thing as five cent postage for letters that I know of. I dont know where the letter charged with six cents postage came from.

Jeremiah Howland. I know E. K. Avery, and knew him the 8th of December last; on that day I saw him in the store of Hiram Smith; he came into store with Mr Bidwell. I saw the prisoner with a pen in his hands while there; I believe he was behind the counter; I heard him ask for the paper and I took it he wanted it to write on. It strikes my mind that he was at the desk; dont recollect what he did with the paper. Did not go out of the store while he was there. I heard Avery and Bidwell talk about writing a letter to the Editor of Fall River paper; I understood Mr Avery that he was then waiting for the Bristol Stage. When Mr Avery went out of the store he turned to the left in direction of Post office and Hotel. I dont know how large a piece of paper Avery had. Heard Mr Avery preach the night before. I belong to the methodist society.

Cross Examination. Occasionally a good many persons in Smith's store. I went behind the counter sometimes; others did the same. Mr Avery did not stay in the store long after the stage went by; I do not remember seeing him write that day. I believe the first talk was to answer the piece in the paper, in Smiths shop but they concluded they had not time then. Cannot state how long they were in the shop.

Direct Examination. I never went behind Mr Smith's counter and took a pen or paper to write on without permission. I have seen Mr Mason and Mr Chase behind the counter and do think that I have seen Mr Mason take paper and write on it without Smith's permission. They have dealings together. Mr Briggs who now resides in Providence was in Smith's store a part of the time when Mr Avery was there. Dont recollect what his given name is. He worked either for Mr Burden or Mr Mason.

Stephen Bartlett. I am aquainted with Mr Avery; belong to the methodist church and live in Bristol drive a stage and brought Mr Avery on the 8th of December last from Fall River to Bristol. He rode on the outside to War-

ren. He got on the stage at Lawton's Tavern in Fall River. First I saw of Mr Avery that day was between Lawton's Tavern aud the stable. Passing from Lawton's to stable he passed the Post Office, when I saw him he was on the opposite side of the street from Post Officé, I dont recollect whether Mr Bidwell was with him or not on the 8th of December.

Cross Examination. Four or six times I had carried Mr Avery between Bristol and Fall River. He was in the habit of coming frequently to my stable in Bristol. Mr Avery and myself were well acquainted. He is more fond of horses than people generally are.

Direct Examination. Saw Mr Avery on Sunday the 23d of December, he said he had some conversation with Mr Bidwell about going to Lowel and he wished me to see Mr Bidwell and ask him if he thought it best for him to go alone or for them to go together. I did not then know that Mr Avery was charged with the murder of the girl. Between nine and ten o'clock Sunday morning.

Cross Examination. At the time of the conversation above alluded to I thought he was charged with having improper connexion with Miss Corneli I had no idea of his being accused with murder. From what Mr Avery said I took Miss Cornell to be a bad character and that she had determined to revenge herself on him because she had been excommunicated &c. He wanted evidence from Lowel to show that she was a bad character and not entiled to credit.

Direct Examination. I think I told Mr Wilbur on the 23d of December that I thought I saw Mr Avery at our stable in Bristol about a quarter past two on the 20th of Dec. But I think I was mistaken.

John Orswell. Last November I was engineer of the King Philip, from Fall River to Providence. The boat went from Fall River Mondays, Wednesdays, and Fridays, and returned Tuesdays, Thursdays, and Saturdays. Pink letter shown him, which he said he had seen in Providence, in the hands of a gentleman who afterwards proved to be Mr Avery. Between eight and nine o'clock a gentleman called and asked me if I was going to Fall River, and if I would take a letter for him; I told him he could put it into the letter box; he said he did not want it to go so, but wished it delivered as soon as the boat got in; I told him that the

hands were not allowed to take letters; he urged, and I took the letter; he gave me nine-pence. In latter part of last November; don't recollect the day of the month. After I got to Fall River I inquired for the person to whom the letter was directed, and gave it to Mr Cole. I did not know Mr Avery previous to that time; he had a cloak on; did not notice his other dress except a black hat; the prisoner is the man. On the 25th of December we went to Bristol with a number of persons from Fall River; passed Mr Avery's house, went in, and recognized Mr Avery to be the man by the features of his face. I don't recollect the day of the week I received the letter; I heard that there was at that time a four days' meeting at Providence. There is no doubt now on my mind, that Avery is the man who gave me the letter. I had conversation with Mr Avery when I saw him on the 25th December in Bristol; three or four gentlemen in the room when I went in; took a seat; did not see Avery in room; he came in and I recognized him; Mr Paul introduced me as the man who said he had carried the letter for him from Providence to Fall River; he shook hands with me; Mr Avery asked if I had carried a letter for him from Providence to Fall River. I replied I had never said I had, but came to see if he was the man; he asked me if I had reason to think he was the man; I replied I had never said I had; asked me how he was dressed; I told him in a cloak; he asked me if I would go before the court and swear that he was the man; that it would afford him and his friends satisfaction to know; I told him as near as I could judge he was the man; I told Mr Avery he had no glasses on when he gave me the letter; he then put on his glasses, and asked me if he looked as the man did who gave me the letter; I told him they did not alter his features a bit.

Cross Examination. Mr Durfee passed Mr Avery's house with me, but did not go in. I went up stairs and turned to the right; in South room. I took the letter at Providence, between eight and nine; might have been a little past nine o'clock. Don't know that there were any passengers then on board the boat. We always start at ten if that is our hour. When the boat starts at ten, we usually begin to *fire up* at half past eight. I said in Bristol, that after I had taken the letter I went into the engine room, and the steam had begun to rise; I don't know that I said I had much or little. There was one man at or about the

time the letter was delivered, who wanted to see about sending a horse to Fall River. I stated at Bristol that the letter would be smutted, as my hands were greasy, and I think the letter now shows it. I did not notice whether his shirt collar came up above his cravat, or what kind of cravat he had on. From his conversation and the delicacy of his hand, I observed as soon as he went ashore to Mr Thompson, that the man was a minister; he was smooth and fair in speech; he looked snug with his cloak round his shoulders. I have had conversation on this subject with Mr Page, of Providence; also, with Mr Barton. I do not recollect that there was any cape to his cloak. I have never said that another person was the man. Mr Page tried to make me understand that he once went down to Fall River in the boat with Mr Avery, and tried to describe him to me, but I did not, and have not any recollection of it. I have always stated as now in regard to time. A number of persons asked me to go into the house to see Avery, and ascertain if I could recognize him. I saw no crowd around Mr Avery's house; some boys in lane; saw people in every direction; saw many in street that came with us; no crowd round the door when I came out; there were people there, but not a crowd. I did not say at Avery's house that I could not say he was the man who delivered me the letter. I did not say that I would not like to swear to him as the man, or that I had not confidence enough to swear to that. I am as positive that Mr Avery is the man who gave me the letter, as I am that I ever saw the man in Providence they call Page, and I have seen him a thousand times.

Direct Examination. Mr Seth Darling came down with us the day I received the letter; on that day we brought down the horse before mentioned.

Elijah Cole. Lives in Fall River; went there to live in March, 1832. I lived last November in Mr Kingsley's house; I received a letter from Mr Orswell for S. M. Cornell, not long before she left boarding at my house; it was a pink letter, for Miss Sarah M. Cornell, Fall River, Mass. to be left at Mr Cole's. She came to board at my house on the first Wednesday in October, and boarded with me eight weeks, and from the Wednesday to the Saturday following; no man to my knowledge visited her at my house; I did not mistrust her situation; she was sometimes unusually merry, at other times as if lost in thought—not gloomy.

Cross Examination. She went out to meetings in the evening, but commonly in my family. Her gaiety sometimes appeared forced. She was introduced to my family by Ruth Lawton, as a member of the Methodist Society.

Betsey E. Cole. I am the daugter of Elijah Cole and lived in his family last November. On the 27th of November last, my father brought in a letter addressed to Sarah M. Cornell, Fall River, Mass. and laid it on the window, and directed me to give it to Miss Cornell. I gave it to her in the evening. The one produced looks like the letter; it was on pink paper. There was no post mark on it. I saw the same letter afterwards on the 29th in her hands. Miss Cornell sometimes appeared gloomy, absent minded. She went to the usual meeting in the week, and the class meetings. She was out late one evening either Friday or Saturday, at or about the four days meeting.

Cross Examination. I saw the letter afterwards in Miss Cornell's hands. She said it was the one I gave her.

John J. Paine. I live in Providence, and was acquainted with Miss Cornell, at Woodstock, in Connecticut, last summer. She then resided with Mrs Rawson. I was at Camp Meeting in Thompson, in August last. The second day I carried Miss Cornell to the Camp Meeting at her request, and at the request of Mr Rawson. Camp Meeting the last of August about. I had dined and left Mr Rawson's not far frcm noon. We had to go through a lot to get to camp ground which was five or six miles from Mr Rawson's. I went on the ground with her. She had a trunk which remained in wagon until at her request I carried the trunk to Mr Elliot's house. Saw nothing in her conduct different from other persons. I did not carry her home. I think I saw Miss Cornell once or twice after I carried her there. I did not know Ephraim K. Avery then.

Cross Examination. Elliot's a Methodist house a quarter of a mile from camp ground. I understood it was a Methodist house. She was employed by Mr Rawson as a tailoress. I first became acquainted with her at the shop. I was frequently there; had considerable many clothes made there in summer. I lived a mile and a half from Rawson's. I lived on my father's farm. I was not intimate in Rawson's family. Frequently saw Miss Cornell in the shop, but had but little conversation with her. I am not a methodist; went to a methodist school, and have before attended

a Camp Meeting. I was dressed in a blue coat, and I think a palm leaf hat; I went to Camp Meeting to hear and see. I was not particularly acquainted with Miss Cornell; I think I saw Miss Cornell among the Methodists; never knew Miss Cornell to visit my brother's family; I did not at the meeting see her in company with any young men; as far as I know, her deportment and manners were modest and proper.

Direct Examinaiion. There is not a fact in my knowledge that leads me to know who the father of the child was; nor do I know any man who had illicit intercourse with her, nor had I myself.

Lucretia Rawson. I am the wife of Grindell Rawson; I was the sister of S. M. Cornell. She went to the Camp Meeting last August with John J. Paine, and returned with Mr Saunders, an apprentice to my husband; I was one day on the camp ground; she undertook to show me the ground. I did not know Mr Avery. I did my sister's washing while she was with me. Previous to the Thompson Camp Meeting one week and day, my sister was unwell, as women are monthly; I know the fact from having done her washing—she remained at my house until the 2d of October,and had no recurrence of the monthly sickness. She came to my house the 2d of June, and was regular in her sickness until after the Thompson Camp Meeting I saw my sister's trunk at the Muddy Brook tent; I laid down there and ate there; appeared to be Methodist people; I carried provisions, which were put on the common table. While at my house Maria called with me at a number of places; I don't know as I made an afternoon visit while she was there but once, and then she went with me. She told me before she left Woodstock, what she feared her situation might be.

Cross Examination. On the 21st September she mentioned what she feared her situation might be. I never knew her to attempt to commit suicide. She was born in Vermont. She would have been thirty-one years of age this May. I had not seen her for five or six years before she came to my house in June last.

Ruth Lawton. I worked for Mr Rawson last August.—I now reside in Providence; am a tailoress. Miss Cornell was sick as women usually are a week before Thompson camp meeting. I slept with her, and know the fact from sleeping with her.

Cross Examination. Never saw her before she came to Mr. Rawson's last June.

TUESDAY MORNING, MAY 14.

The *Attorney General* offered to the jury the letter written on pink paper which had been received in Providence last November from the prisoner, to be delivered to Sarah M. Cornell.

Mr. Randolph objected to the letters passing to the jury because the hand writing had not been proved, and because it was not proved that the Prisoner knew the contents of the letter. The question was fully argued by Randolph and Mason, for the Prisoner and by Pearce and the Attorney General for the State.

The Court allowed the letter to pass to the Jury as one found in the possession of Miss Cornell, and traced back to the hands of the Prisoner. The letter was then read as follows

Providence, Nov. 1831.

Dear Sister—I received your letter in due season and should have answered it before now but i thought i would wait till this opportunity—as i told you i am willing to help you and dō for you as circumstances are i should rather you would come to this place, viz. Bristol in the stage the 18th of Dec. and stop at the Hotel and stay till 6 in the evening and then go up directly across the main street to the brick building near to the stone meeting house where I will meet you and talk with you—when you stop at the tavern either enquire for work or go out to the street in pretence of looking for some or something else and i may see you say nothing about me or my family should it storm on the 18th come the 20th if you cannot come and it will be more covenient to meet me at the methodist meeting house in summersett just over the ferry on either of the above ev'ngs i will meet you there at the same time or if you cannot do either i will come to fall river on one of the above evenings back of the same meeting house where i once saw you at any hour you say on either of the above evenings when there will be the least passing i should think pefore the mills stop work this i will leave with you if i come i will come if it does not storm verry hard if it does the first ill come the second write me soon and tell me which—when you write direct your letters to *Betsey Hills Bristol* and not as you have to me *remember this* your last letter i am afraid was broken open

were your calash and not your plain bonnet you can send your letter by mail. Yours &c. B. H.

S. M. C.

let me still enjoin the secret keep the letters in your bosom or burn them up.

The white letter was also objected to and suffered by the Court to pass to the jury as a paper found in the possession of Miss Cornell, to rebut the aligation that she committed suicide. The letter was read as follows———

FALL RIVER, DEC. 8.

"I will be here on the 20 if pleasant at the place named at 6 o'clock if not pleasant the next monday eve.—say nothing."

It was directed to Miss Sarah M. Cornell, Fall River Mass.

John Boyd. I live in Portsmouth—I had some two or three days after examination commenced in Bristol Mr. Avery stated to me that he came over Bristol Ferry the 20th Dec. and went direct up the road and got over the wall near the mill, he said he could not say whether a little

this side or beyond ; that he steered off in about South West direction until he came to a brook or rivulet, near which he said he saw a man with a gun, and my impression is he said he had conversation with him, but I wont be certain, made some observation as to dress of the man that his hat was dented in on the fore part ; then he said he passed on and came out between two houses near the mine ; passed on till he came to the gate painted white or white-washed passed through the gate and passed on I think he said in a Southerly direction until he came to a lot where there were some sheep, near by which he saw a boy—don't distinctly recollect but my impression is he said he had some conversation with boy about Freeborn. Then he said he passed over another brook or rivulet and passed on to Westward of Freeborns house. He said when he was some distance to the South of Freeborns house he observed the time of day and the sun he thought was about a half an hour high, that then he thought he would go over to a Sister Wilcox, he steered off he thinks in S. E. Direction, observed that he passed some bridle paths and some more rivulets and came out near the Union Meeting House. Dont recollect that he said he went to Mrs. Wilcox's. He then said he shaped his course back to-wards Bristol Ferry ; that when he got to Meeting House hill he saw a spark flying out of a chimney which he took to be Earl Cook's shop, he then came on to the Ferry. He did not designate which road he took to the Ferry. He did not state his stopping at any house or of his seeing any other person than I have before said. The distance from Bristol Ferry to the place Mr. Avery pointed out in the course he travelled in my opinion is nearly eight miles. From Union Meeting House to Bristol Ferry on the gravelled road nearly six miles—I afterwards traced out the route as far as half or three quarters of a mile South of Freeborns—I went as far as to satisfy me—I knew the lay of the land and the marks as well before as after I went—I cannot say that the marks could be seen from Freeborns house or Bulls hill—from Oliver Brownells the gate and all about it might be seen—I went by the request of Mr. Norris—Dont distinctly recollect what Mr. Norris did say—I went to Mr. Averys at Mr. Norris request.

TUESDAY AFTERNOON, MAY 14.

Abner Talman. I left this town on evening of 20th Dec. last a little after sun set—I live nine miles out on East road, was in a wagon, went to Coggeshalls on West road and stopped there, then went to East road came out to the South of U. meeting house, stopped at Richard Shermans 20 or 30 rods off—stopped there five or ten minutes, came from there went directly home—Saw no one in the road from the U. meeting house to my house—got home a few minutes before or after 8 o'clock—about three miles from Turnpike to Ferry.

Abby A Earle. I reside in Portsmouth next house but one from Mr. Giffords at Bristol Ferry—at home on 20th Dec. last—left home for Mr. Giffords about 2 o'clock staid five minutes—I was watching for the boat to send a billet—Saw no passengers—I was not absent from the room but a short time—I concluded from the time that had elapsed after the passing of the Stage, that I went to Mr. Giffords about 2 o'clock—when I was absent from my room I went to look for boat.

Cross Examination. I returned home from Giffords and about 15 minutes after saw the other side boat just about to return—saw no passengers, I think the boat came over before 3 o'clock ; I dont recollect in particular when I was first enquired of relative to this matter.

Margaret B. Hambley. Lives now at Tiverton, 20th of last December lived at Lawtons Hotel in Fall River—three strangers took supper there that night—first one of them and next the two. The gentlemen who supped alone had on a brown surtout and I think a cap—I got some brandy for him from the bar ; he was about as tall a man as the Prisoner at the Bar ; he had no spectacles on, the Prisoner resembles the man in every feature ; he did not remain two minutes after supper, he went to the bar-room I saw him open the bar-room door, I thought I had seen the man before at New-Bedford and Fall-River, that I had heard him preach—I thought so at the time but did not recollect the place where I had seen him ; I had seen him at Fall River not more than a month before at the methodist meeting house and heard him preach as I think.

Cross examination. Testified in Bristol and pointed out for Mr. Avery the wrong man; I did not point out Mr. Avery as the man I had seen in Fall River; I don't recollect seeing Mr. Avery there; I saw him after I had pointed out the man; he was sitting at the table; cannot tell why I did not know the man as well in Bristol as now; I did not know Avery until I was told which he was; I came from Fall River to ascertain if I could recognize Mr. Avery; only saw him in court house at Bristol; I saw him in Newport by the jail since I have now been in Newport; he resembles the man I saw in Fall River; I cannot say he is the same; I think I heard him preach in the vestry of methodist meeting-house in Fall River about a month before death of S. M. Cornell; he drank the brandy raw; tumbler half full; several persons with me when I saw Avery yesterday; since I left Lawton's I have lived at my father's in Tiverton; left Lawton's soon after I returned from the court at Bristol.

Bailey Burden. I live and lived on 20th of Dec. last at Fall-River and was there that evening. I was in Fall-River on Saturday evening of the four days meeting, held last October, on the 20th of October. On the evening of 20th October, met two persons, man and woman. Man had on a cloak, rather higher than common men; did not notice woman's dress. Met them as I was returning from my sister's in Tiverton between nine and ten o'clock. Met them a little before I got to the corner of the main road. I met them a few rods from the old meeting-house. Mr. Hathaway lived on Spring street. Mrs. Cole lived below where I saw them. Man had on a black hat with a broad brim. They were going down main road towards the meeting-house. He had a broad brimmed hat on. My wife was with me at the time.

Cross examination. It was not far from half past nine when I met them; but a short distance from Spring street to old meeting house. It was a star light night. I passed very near them.

Mary D. Burden. I am the wife of Bailey Burden. Was with my husband on Saturday evening 20th October, at his sister's. Returning home met a couple, the girl looked up. My husband asked me if I knew who the girl was, I told him I thought she was Sarah Cornell. I now think it was her. Opposite Mr. Sherman's when first I saw them. After they passed I turned round to look at them. Man was tall with a cloak on, and broad brimmed hat; appeared to be in a close conversation—passed near enough to touch them. I knew Miss Cornell before that time by sight. It was on Saturday evening.

Cross examination. I had known her by sight three weeks before that time; I was informed who she was. I was never introduced to her. I should think Miss Cornell was not far from my size; perhaps a little taller. I think she had black hair and eyes.

Direct examination. I have seen her since 20th of October. I saw her after her death. She was the same person.

Lucy Spink. I live in Fall-River and lived there last October. I heard Mr. Avery preach on the Saturday in October last. He preached in the house where I now live. I saw Mr. Avery come out of meeting and saw a young woman a few yards from the door. The preacher went up to the young woman and I think he spoke to her; he stooped over; I heard no words; they walked off together from the door towards the street. He left the house so soon that I remarked it. Meeting broke up a little before 9.

Cross examination. I was standing in the outside door—I had been at the meeting—I came out with the preacher—I saw the young woman standing at the door—but a little before 9 after meeting. I did not go to look at the clock. Mr. Avery preached that evening and I think he took a text. I thought it was a very short meeting. Don't know what time the meeting begun. I got there before the sermon when it was commenced. He mentioned in his sermon where he was born and that he came of good parents. I have two daughters who belong to the Methodist Society.

Grindall Rawson. Lives in Woodstock, (Con.) I have lived there two years last September. Lucretia Cornell was the name of my wife, before I married her. She is the sister of Sarah M. Cornell. I knew Sarah; she came to my house about the first of last June, and worked at my shop at tailoring. I carried her to Providence about the first of last October. She came to my house on a visit and went to work for me 2 or 3 weeks after she came. I saw her at the Thompson camp meeting. She went to the camp meeting with Mr. Paine and returned with Mr. Saunders. The camp meeting was held about 5 miles from my house. I sent Saunders for her. I was on the camp ground on Wednesday. Saw Maria in a number of places. She was with her sister, we dined as I judged among the methodist people. She went to meeting on Tuesday and returned on Friday. I saw her with Miss Burt and Samuel Boyd. She had requested me to provide her with a conveyance to the camp ground. Paine had been at my shop and something had been said about her going with him. Mr. Paine thought it doubtful. Mr. Cornell our minister said he would either carry her or bring her back that I thought doubtful. I requested Mr. Bowen to take my family to the ground on Wednesday. Miss Lawton who lived with me had gone to Mr. Paine's on a visit, on Teusday morning Mr. Paine brought her home and told me I would now carry Maria to the ground. I told Maria; she said she would like to go. When Maria left my house she mentioned to me and my wife what she feared her situation was, from facts that she related.

Cross examination. The communication was made to me not many days before I brought her to Providence. I had conversation about coming to Providence with Maria, with Rev. Mr. Cornell of Woodstock, I considered it my duty to consult with my minister on the subject. He

was as ignorant as I was on the subject. We concluded it was best for Maria to come to Rhode-Island and there to remain until she knew certainly her situation and then to make Mr. Avery acquainted with it. If I had any thoughts on the subject they were these; if that was her situation I did not want her to remain with my apprentices at that place. I did not wish her to be exposed. And also in consequence of what Mr. Lellan told me relative to the law. Maria stated to Mrs. Rawson and myself, that on the ground she saw Mr. Avery, he spoke to her and said, how do you do Maria, I am glad to see you; she said, how do you do Mr. Avery, I am glad to see you. Avery said I should like to see you Maria and talk with you. He said, I will meet you to night when the horn blows for preaching at the house. Mr. Avery said there is no room in the house for us; go along further and I will overtake you. She said she went along the road; Mr. Avery turned back as if going to the tent ground. After passing on a little further, Mr. Avery met her from another direction; they then walked on arm in arm and went into the woods. He asked her to take her glasses off, which she did. After some distance into the woods, he asked her to sit down, which she did. She then asked Mr. Avery if he had burnt those letters; he replied no. He then said to her, there is one condition on which I will burn the letters and settle the difficulty. He then took hold of her hands and put one of his hands into her bosom, or something like that. She tried to get away from him, but could not. She said he had intercourse with her; and he promised when they parted to destroy the letters. They both returned to the camp ground. This is what Maria told me and my wife. She said it took place on Thursday.

I am not positive when the camp meeting began, but think it was on Monday, 27th August. Miss Cornell visited with my family. I did not hear Sarah say she had seen Mr. Avery while at my house, except at the camp meeting. I have known her about eleven years; and I knew her in Providence previous to my marriage. Never thought of marrrying Sarah: when I first saw her I was engaged to my wife. We have always called her Maria. Her mother and sister told me her correct name was Sarah or Sally Maria Cornell. I have no distinct recollection what conversation I had with Mr. Boyd at camp meeting concerning Maria. I have no recollection of saying to him that she was an unfortunate, or a poor girl. Mr. Boyd has told me that I said so, but I have no recollection of it. I never knew of her having attempted suicide.

Direct examination. I do not know of her having sent from my house any letter to Bristol. She always spoke kindly of Mr. Avery before camp meeting, and after she did not wish him any harm. She said the letters Mr. Avery agreed to burn, were some she had written him from Summerville and at Great Falls. I think I received the letter here produced after she left my house; it appears to be the same. I received two letters and both mention the subject she had told us of, as I have before stated. She stated the facts to me very reluctantly. She made the confession first to Mrs. Rawson, who told me Maria was in trouble. She then made the confession to me. I had not heard Mr. Avery's name mentioned in connexion with the affair at that time, but from Maria. I never knew of any illegal connexion being had with Miss Cornell.

Benjamin F. Saunders. I lived in the family of Mr. Rawson last summer and carried Sarah M. Cornell home from camp meeting at the direction of Mr. Rawson. I carried her home to Mr. Rawson's on Friday. I found her at a stand. The preaching had then ceased. Before she left Mr. Rawson's, and before the camp meeting, she sent 2 or 3 letters to Bristol. I know of no improper intercourse she ever had with any person.

Nancy Bidwell. I am the wife of Rev. Mr. Bidwell. At the time of the four days meeting Mr. Avery resided at our house in Fall-River; when he came home the Saturday evening of the meeting, he said it was half past nine. It was rather later than usual for ministers to come in after meeting. I inquired of Mr. Greene, neighbor, I went into his house, if he had seen Mr. Avery; he said the last he had seen of Mr. Avery, he was going up street and he thought he would not come to my house that evening; that he had gone somewhere else to stay. It was John Greene of Fall-River. Mr. Avery said he had been up to Mr. Warren's stable, that made it rather late.

Cross examination. I don't know how far Warren's stable is from my house. I live but a few rods from Mr. Greene's. I think it was a dark night; some ladies thought it was so dark that they could not go to meeting from my house, without a lantern. I went without any lantern to Mr. Greene's. I think it was a cloudy night, but it did not storm. I was not out that evening except to go to Mr. Greene's.

Sarah S. Jones. I reside at Portsmouth near coal mines; I did not see Mr. Avery pass my house on 20th of December last; saw Avery in Bristol; saw a man pass my house in forenoon; in Bristol Mr. Avery asked me if he looked like the man; I told him I said he did; he asked me to describe the situation of the coal mines; I did. Mr. Bullock described the place in chalk mark on the floor. Mr. Avery then told me not to repeat to any one that I had conversed with him on the subject. In the entry he, Avery, told me that his life was worth a thousand of worlds, and that his life depended on his evidence. They wanted to know why I thought it was in the forenoon I saw the man. I told them. I took tea at his house. Mrs. Avery sent for me. I think Mr. Avery was not the man I saw on the Island the 20th of December.

Cross examination. I was summoned to Bristol as a witness; I staid in Bristol at Mr. Burges' tavern; I don't know the name of the young man that was sent for me by Mrs. Avery; Mrs. Avery and a young lady was present during a part of the conversation; Mr. Avery walked out that I might see if he looked like the man; I told him he was about his heighth; Mr. Avery said the gate was white; the man I saw went through the gate; I said in Bristol I looked particularly at the man because I expected my brother; I said the gate was white on the inside; I had lived there four or five months. We cooked no dinner that day as there was no one at home but me; had tea and dinner together towards night; the stranger passed while my father was gone to mill, between 11 and 12 o'clock in the morning; I have learnt the hour since then, that is, that he went after breakfast; I think my father returned home before 12 o'clock, am not certain; I did not recollect the time when I was at Mr. Avery's; I knew then that it was in the forenoon, and that my father got back before 12 o'clock; I was not asked the question at Mr. Avery's, and did not think any thing about the time my fa-

ther went to mill; I did not doubt about the time when my father went to mill; the chalk marks were made in the kitchen to explain the directions of the road; I left Avery's in a chaise and went to the ferry; I left Mr. Avery, his wife and the young woman when I went away; I don't know who she was; the night I came from Mr. Avery's I mentioned to Mrs. Brownell our conversation, and that Mr. Avery wished me to keep it a secret; I was summoned on the part of Mr. Avery; I work in the Bridge Factory, owned by Mr. Burden; I have changed my boarding house since I first came to Newport because I did not like to board there; Mr. Drake came to my house and asked me if I could not think it was in the afternoon, and what reason I had for thinking it was in the forenoon; I said it was the forenoon; uncommon to see a stranger going through that gate.

Direct examination. I do not know that Mr. Burden knows that I work at his factory; Mrs. Brownell was present when I had the conversation with Mr. Drake; I changed my boarding house at my own will; a few of the Methodists asked me if I could not remember that it was in the afternoon as well as in the morning that I saw the man.

Cross examination. I never told Mr. Simmons that it was in the afternoon I saw the man.

WEDNESDAY, MAY 15, Court met.

Philip R. Bennet. I live at Fall River; I have been to a place where they say Miss Cornell was hung; I left that place sixteen minutes after one, and arrived at Mr. Jeremiah Gifford's fifteen minutes before three on foot; this I did last Monday; the air was foggy; Benjamin Manchester was with me at the time; the wind was ahead and very fresh; some parts of the distance we walked, and trot some; I did not fatigue myself; I had not been in the habit of walking much; I did it to ascertain the time it would take to accomplish the journey; we kept the main road until we got to the ferry neck, then crossed the fields and came out at a pair of bars south of Mr. Gifford's; not knowing the road exactly we got a little out of the way into a boggy place; in the month of December the meeting-house bells in Fall River ring at a quarter before eight.

Cross examination. There are three meeting-houses in Fall River; one Baptist and two Congregationalist; there are four factory bells; I know of no more; two school-house bells; I have never heard any nine o'clock bell ring in the evening; I mean in the evening: the factory bells strike the hours from nine through the night; Dr. Hooper said if we would come through he would get a purse made up for us; I was in the habit of walking some ten years ago; generally kept up with those I walked with; I might have trot half the way; I walked the last part easier than the first; did not sweat; took off my coat; sometimes I have heard one of the factory bells strike the hour after the other had finished.

George Duval. I lived last October in Fall River, where I now live. I remember a meeting on the Saturday of the four day meeting in that building; Mr. Avery preached there that evening; I lived in same house with Mr. Spink.

Cross examination. I don't know when meeting began; it was soon after candle light; I don't know when it ended, but it was not a great way from nine o'clock; I did not look at a time piece; It was a prayer meeting; he improved there; I won't be positive, but think Mr

Avery did not take a text; by "improved" I mean he exhorted and expounded, &c.

Grindall Rawson, called again. I am acquainted with the hand writing of S. M. Cornell, having seen her write; examines a paper produced and says he supposes it to be her hand writing.

Cross examination. I saw her write during her stay at my house last summer; I will not say that I saw her write with the pen; she had a pen in her hand and paper, and with letters I supposed she had written; I will not say with certainty that I ever saw her write with a pen; on reflection I say I have seen her write with a pen on some measures in my shop; I saw her write on them waist and breast, and make figures, I cannot say what time, but it was during her last stay with me; the occasion of her writing was, I was teaching her the rules of cutting. No recollection of ever having seen her write with a pencil; I have received letters from her and she has written in my books; I think the paper to be her writing from all the circumstances; If I had never seen but those two words I should not have been able to recognize her writing so as to swear to it.

Direct examination. She brought me some money once and said she had settled the books, and I saw on the book she had.

Cross examination. I don't know but that I may have written one letter to her; her letters that we received were friendly letters; according to my recollection I have written her more than one letter; I think one of my letters was directed to her at Lowell; might have been more or less than five or six years since; don't know that I ever received an answer to my letters; I never became bound as security for Miss Cornell for a theft which she was accused of.

Direct examination. I have received letters from her, a number, addressed to me on the outside; the inside to the family; I read them.

Cross examination. Two I received from Fall River, and two, one at least, directed from Taunton. In answer to question from court, he says he believes the paper to be her hand writing.

Here the Attorney General offered the following letter on ye'low paper: rejected by the court.*

He also offered the paper in pencil mark, containing these words: "If I am missing inquire of Rev. Mr. Avery, Bristol. He will know where I am gone.

Dec. 20th. S. M. CORNELL."

This paper was admitted by the court and read to the jury.

WEDNESDAY AFTERNOON.

Rufus H. Lushure. I resided in Fall River, Troy, in months of November and December last; a clerk in the post office; know the post office books; examines the one produced; declares it the office book; the entry of a letter for Bristol made by me the 12th of November last; the entry on the 19th I should think was Mr. Darling's; one letter only

*Nov. 13th; 1832.—I have just received your letter with no small supprize and will say I will do all you ask only keep your secrets—I wish you to write me as soon as you get this nameing some time and place where I shall see you and then look for answer before I come and will say whether convenient or not and will say the time. I will keep your letters lill I see you and wish you to keep mine and have them there at the time—write soon say nothing to no one. Yours in haste."

for Bristol the 12th of November; think I have delivered S. M. Cornell a letter marked one cent postage; the prisoner looks like the man who dropped the letter into the office, which was marked with one cent postage; he dropped it in between nine and twelve; at that time I knew Mr. Avery, and the man who dropped the letter in resembled Mr. Avery; I think the letter was delivered to Miss Cornell the day it was dropped into the office; she inquired frequently for letters; I do not recollect to whom the letter for Bristol mailed on the 12th of November was addressed, or of having any letter in the office addressed to him.

Cross examination. I saw Mr. Avery first some time during last summer; frequently saw him with Mr. Bidwell. Mr. Bullock at his stable; I had seen him four or five times before last November; I was a part of the time deputy post master; first appointed by Mr. Bowen in 1831; acted as such three months; the office was in the house where I lived; the last year I was appointed deputy post master, and continued in office from May to January, 1833; I was sworn; commenced in May or June; post master was there most of the time; for six weeks of the time the post master was sick; the book is the memorandum from which the way bills are made out; I was in the post office the 19th of November in the morning, and left it that day; I have a general recollection without reference to the office book, that I was in the office most of the time during October and November; the post master was sick during those months, and was absent from the office from five to eight weeks; cannot say the day he was taken sick; I know the entries on the office book of 12th November are in my hand writing; those of the 19th are not in my hand; they are in Mr. Darling's hand writing in my opinion; I have seen him write; I had known Miss Cornell before I delivered her the letter; she came to the office more than once, twice or three times; I took the letter out of the box directly after it was dropped in by the person I took to be Mr. Avery; I do not recollect how he was dressed; he had on a black hat and dark clothes; I saw him pass by the office, return to the box and drop something in; I cannot say what day it was; the letter was addressed to Sarah M. Cornell; his hat appeared to be a pretty good one. I was at the Bristol examination a part of one day, but not as a witness; I first told of this letter and the circumstances attending it. this day since noon, to Mr. Staples; I went to him to know when I should be needed at the trial; I was summoned as a witness yesterday; I did not tell it because I was not called on, and I did not think it necessary; I did not know it would have any bearing on the case; Mr. Staples was questioning me about the office book, and I was asked if there was any thing more, and then I told about the delivery of the letter as aforesaid. I think it was Mr. Avery that dropped the letter in the office; I am not positive; I am positive Mr. Avery passed at that time. Inquiries were made of me at Fall River if I had ever delivered letters to Miss Cornell: I said I had: the post master at Fall River asked me; I thought he wished to know if there had been a correspondence between Avery and Miss Cornell; I think I told him there had been, but did not mention about the one cent postage letter, because I was not positive.

Direct examination. I had no acquaintance with Mr. Staples before to-day; I saw Avery pass, saw his hand go towards the box, heard something drop in, and think I took out the letter immediately, but am not positive that it was the letter he dropped in; think it was.

Attorney General offers a document from general post office department, of mails received in Bristol 12th and 19th of November, 1832 copies of the original papers in that office.

Mason objects to its reception. It was withdrawn for the present.

Mason objects to the post office books of Fall River going to the jury, and reserves the argument for another time.

Seth Darling recalled. Says the entry of 19th November in the book produced is in his hand writing.

Here the testimony on the part of the government closed.

The following testimony offered on the part of the government, was omitted in its proper place—under the head of the day it was given.

William Durfee. Resides and resided in Tiverton the 20th of December last. On that day he was taken as a juror to examine the body of Sarah M. Cornell. He went to the stack yard where she lay. The coroner called on the by standers to give all the information they possessed relative to the death of the deceased. He did not examine the body until it was carried to the house. He first undertook to ascertain if the neck was broke. The cord was so deeply imbedded in the flesh that it was not visible. Near the right ear he discovered a knot, which farmers call two half hitches, and sailors a clove hitch; (here witnest described to the jury the knot) The cord passed directly round the neck. He took the cord from her neck by taking hold of one end and unwinding it from the neck, which it passed round twice. It passed over the strings of her calash; he gave a part of the cord he took off to the court of examination in Bristol, and the residue of it to Bradford Durfee to compare with the cord used in factories; it consisted of three yarns, and is sometimes called marline; a clove hitch must be drawn by the ends seperately to tighten it; with both ends together no weight in the hitch will tighten it; he saw the knot on the stake the ends being down about four inches; some one had taken it away before he had a chance to examine it.

Cross examination. Do not now recollect what I said in Bristol; don't recollect that I said the piece of cord I had cut off for Mr. Durfee was four or five inches long; thought it was two or three inches; the cord was cut from an half to an inch from the neck; the knot was but a small distance from the ear; the string went directly round the neck at about equal distances from each ear.

Seth Darling. Lives at Fall River in the town of Troy; he saw the body of Sarah M. Cornell on the 21st of December, after her death, at about 9 o'clock; the body of a female lay in the stack yard; she lay partly on her left side; her legs were bent; she had gloves on; I saw her left hand through her cloak, which was opened one or two hooks; her right hand extended up; she had a calash on; saw shoes and handkerchief as stated by the other witnesses; the stake from which she was cut down was about five feet high, and the cord went round it about six inches from the top; it was cut off when I saw it about four inches from the knot; the grass did not appear to be trampled down much if any, near or under where she hung; there was no appearance of there having been any struggling there; the fence was about four feet high; within the stack yard some of the grass appeared like fog and some of it appeared green at the ground as if it had been touched by the frost; the strings of the ca-

lash were beneath the cord that went round the neck of the deceased. [Here the witness described the manner Mr. Wm. Durfee removed the string from the neck of the deceased in the same manner Mr. Durfee had described it.] Mr. Durfee called it a clove hitch. [Here he described the knot.] Examined the indentation made in the neck by the string, and found it one quarter or three eighths of an inch deep; it was about as far from the ear on one side as on the other; he discovered no difference, and it made as deep an indentation where the knot was as elsewhere on the neck.

He has acted as assistant post master at Fall River, and made up the mail on the 19th of last November; on that day there was a mail made up for Bristol which contained one letter; my memory is refreshed on this subject by a copy of the entry made by myself in the book of that post office; I saw the book the first of last March; he made up no other mail for Bristol that month; he thinks he recollects to whom the letter was directed; when making up the mail, after having a half a minute before cleared the letter box, he heard something thrown into it; he went to the box and took out two letters, one of which was directed to Mr. Rawson, South Woodstock, and the other to Mr. Avery, Bristol; he recognizes the post mark in his hand writing on the letter to Grindall Rawson, which was produced; did not see who put the letter into the box.

Cross examination. He had got to the stack before those he saw there knew who the deceased was; it was inquired who she was; he is one of the committee of vigilance appointed by the citizens of Fall River to investigate the case and to report facts to them; there was something said at the meeting about funds to pay expenses; he believes he signed a paper agreeing to pay his part of the expenses in proportion to his means, which he was willing to do; he has paid nothing yet; his expenses amount to eighteen or nineteen dollars, which he has defrayed himself. (He here describes the ground from stack yard to John Durfee's house.) He went to Bristol 23d December with John Durfee to have Mr. Avery arrested for investigation, and after applying to Mr. Coggeshall for a warrant and being informed he was not a justice of the peace, applied to John Howe, Esq.; told Howe he thought there was something wrong about the death of Miss Cornell, and that he believed she had been murdered, and that Mr. Avery was concerned in the affair; he first mentioned the circumstance of the two letters to Mr. Staples during the examination at Bristol, the first or second day after he arrived there; he recollected the name of Grindall Rawson before the letter was shown him in Bristol; he was examined in Bristol three or four times; did not mention the circumstance of the letters the first time examined, for he was not asked the question; he mentioned the letter to Mr. Avery but not that to Grindall Rawson at the first examination; he did not then remember his name; heard in Bristol that Grindall Rawson had arrived, and that he was the brother-in-law of Miss Cornell; I mentioned in Bristol about the letter to Grindall Rawson being dropped in my box before I saw the letter there, and before I testified; is sure the letter to Grindall Rawson is the one he alluded to; he recognises it by the figure *ten* in his hand on the post mark; it is the common practice in the office to mark the figures in red ink, but on the 19th November he marked with black ink because the red was thick; I recollect this fact without any reference to the record of the letter

of the paper itself; I have not since that day attended the post office; the post master was sick and I attended that day at the request of his deputy; without my memorandum I could not say from memory what packages went to Bristol that day; he did not know Avery; my impression is that the letter was addressed to Mr. Avery; I knew that was the name of the minister at Bristol; I did not know the hand writing; I think I stated this to Mr. Burden or some of my neighbors; I had not examined the way bill at the post office in Bristol before I was examined before the court of examination; in Bristol I testified to the two letters I think after Mr. Rawson arrived; on the Wednesday after; the wafer of the letter was wet when I took it out of the box; I am sure that one of the letters which I took out of my box on the 19th of November, was directed to Bristol, and I think to Mr. Avery.

Elihu Hicks. He was the coroner of Tiverton, and testified to the appearance of the body of Miss Cornell when he saw her in the stack yard; to his empanneling of the jury and to the papers delivered him by John Durfee and others; that after the inquest he kept the papers until he delivered them to the court in Bristol. [The proceedings before the jury on Friday and Saturday were very irregular, and it turned out that two of the jurors were not freeholders: this induced the coroner to dismiss them, and on the Monday following he summoned together the other four and joined with them two new men.]

Dr. Foster Hooper. Testified he was a physician by profession, and had resided and practiced in Fall River five years last January. On the 24th of December, which was on Monday, he saw the body of Miss Cornell in John Durfee's barn. There was round her neck a horizontal indentation from three eighths to one half an inch deep: it was nearly horizontal: it was of the color of a yellowish black with redish tint. The skin at the bottom of the indentation appeared dry like parchment. The neck was not broken. The indentation was by measurement one inch and an eighth of an inch below each ear. I could discover no difference: on the right side of the neck there was the appearance of the circle having been pinched up by them: on the right cheek and temple there were angular indentations, perfectly colorless as if those parts had been pressed against some hard substance after respiration had stopped. Her stomach appeared healthy and her lungs were engorged with black blood. On her knees there were several scratches and wounds that had drawn blood. Her knees appeared stained with the juice of green grass. Below her left knee there were two bruises of the size of a 4½d penny. There was dirt on the inner side of the knee extending upwards. The abdomen on the right side appeared discolored—of a livid hue like the incipient state of putrifaction rather than a bruise. On the left side above the left hip there was a considerable contusion. The uterus was examined, and a female fœtus about half grown found there. I thought the woman might have gone about half her time: it required a minute examination to distinguish its sex. The eyes of the deceased were closed and the countenance paler than I had expected to find a person who had been hung—her tongue just projected through her teeth. The cause of the lightness of the complexion may be accounted for by the great compression of the nerves from the tightness of the string that had been round her neck. I again examined the body on the 26th of January, 1833. Then the face where the bruises before appeared was covered with a white mole. The body ap-

peared in as perfect order as when I made the first examination on the 24th of December. There was no smell to it more than at that time. On removing the diaper which was placed over the abdomen I discovered that the parts discolored extended low down, and on dissection found the muscles of the abdomen very low down in front bruised, and found extraversated blood there. I also found bruises on the back on each side of the spine on the superficial muscles of the back. The bruises on the sides were two inches over. They extended in front part above the bones of the pelvis, from one groin to the other. The uterus appeared healthy except at its mouth, which was black or nearly so: it was open. The vagina was also of a dark livid color different from the intestines: we then tried the test of washing, and found that those parts washed white. The intestines would not wash white, but the bruised muscles would. The arm was not broken. I measured the fœtus and found it eight inches long, and it weighed five ounces. By moving the head of the deceased back the diameter of the circle round the neck: when the head was erect the circle was rather higher on the back part of the neck. The string passed round the neck above the phyroid casthelge and second vertelve of the neck. I measured the circumference on the inside at the base of the indentation, and also a little below it where the neck is naturally smaller and the distance was from an inch to an inch and a half more below the indentation. Dr. Wilbur was present at both the examinations I made. I was satisfied on the second examination that the parts were bruised: in my opinion the cord round the neck was tight enough to stop the circulation the cofroled artery.

Cross examination. From the appearance of the body when I saw it I ooneluded that the death was produced by strangulation. After the first examination the fœtus was immediately returned to the uterus. I think that after death discoloration first appears about the abdomen, and putrefaction takes place sooner after an operation is performed than otherwise. I do not recollect ever before examining the countenance of a person who had been hung: if the cord round the neck was very tight I should expect to find the face pale; if not then it might be suffused. After death the blood descends by gravitation, and the part immediately adjoining that pressed by a hard substance would be likely to become discolored. I should not expect the blood to settle under the skin on the ospubis of a person who had been hanging but fourteen hours. After death when the vessels become decayed they discharge their contents. I have seen a body lay on the dissecting table three weeks without undergoing any perceptible change, and I could discover no change in the body of Miss Cornell between my first and last examination. The blood was so clodded on the bruised parts that I had to remove it with a fauceps, but it was not so on other parts. The prisoner was not notified of the time or place of the second examination. That examination lasted nearly three hours. I could draw no satisfactory conclusion from the fact that the mouth of the uteras was open when we examined the body thirty-six days after death; shou d not place great reliance on the appearance of the vagina alone,and I am of opinion its appearance was the effect of bruises. Our first dissection commenced with the abdomen, in presence of the jury: it was an imperfect one as the jury objected to our going further. After the jury left the body we examined the thorax, but made no incision into the neck. On the second examination we dis-

sected into the spine and out the phyroid carthelge: there were no appearances but from the tightness of the cord. Our dissections were made two or three inches below the indentation made by the cord. There was no bruise below the cord mark on the neck; the muscle below it was a little fuller than that above. The deceased was about five feet high and well proportioned. My second examination was made at the request of Mr. Staples, chiefly to ascertain if the arm was broke or dislocated. The first symptom of pregnancy is the suspension of the monthly returns: impregnation is most likely to take place soon after mensturation, and is commonly reckoned half way between them. According to Mr. Beckler a fœtus of eight inches long would be before the fourth month: Dr. Dewees makes the time longer, between four and five months. The fœtus increases most during last month; that is, more than in any other month. A fœtus three months and twenty days old would, according to Beckler be eight inches long. They differ in size as men do.

Direct examination. Fœtus is larger in some cases than in others. When he first saw the fœtus he thought the deceased was further advanced in pregnancy than three months and twenty days.

Dr. Thomas Wilbour. I reside in Fall River, and examined the body of Sarah M. Cornell after her decease. I saw the corpse in the stack yard before it was removed to the house of John Durfee; it lay nearly on the back and was dressed in a calash, gloves and a cloak, which was hooked all the way down, leaving an aperture over the abdomen of 12 or 14 inches. Her arms were under her cloak; I did not at first discover any cord round the neck, but on examination found one deeply imbedded around the neck. Her countenance was livid and her tongue protruded through her teeth, and pushed out her under lip a little; I did not observe the knot. The string had been cut about three fourths of an inch from the knot on her neck: I saw the cord on the stake, it appeared faithfully put on; it had been cut off some 3 or 4 inches from the stake. To satisfy myself if she was pregnant, I put my hand on her abdomen and found that she was. I went into the room with the jury, but made no examination of the body at that time. On the 24th of December I was requested by the coroner to examine the body of the deceased. which I did in company with Dr. Hooper. The body then lay in John Durfee's barn. There was a deep indentation about her neck made by the cord: it was from three to four eighths of an inch deep, and as deep on one side as on the other. The skin at the base of the indentation appeared and felt like parchment. The indentation extended directly round the neck one and one eighth of an inch by measurement below the tip end of each ear. There was an irregular cavity on her right cheek presenting the appearance of having been pressed by something hard. I observed small marks about the lower extremities: her knees were discolored and looked stained with grass: there were some trifling small marks below her knees, two or three of which were as large as a four pence or a ninepence. On examining the abdomen I found a female fœtus measureing eight inches. At first view I told Dr. Hooper it was a male, but on closer examination, the organs not being fully developed, I discovered it was a female. On opening the chest I found the lungs gorged with dark venous blood. The stomach appeared sweet to the smell and healthy. I concluded that her death was produced by strangulation. On the 26th of January following I with Dr. Hooper

made a further examination of the body of the deceased. Our principal object was to ascertain if the right arm was broken or dislocated: I found that it was neither. We removed the diaper and proceeded to the examination. [Here the witness stated the same facts that have been attested to by Dr. Hooper; the appearance of the parts, the finding of extraversated blood and the tests he applied to discover whether the appearances proceeded from putrefaction or from bruises received during life.]

Miss Cornell consulted me during her life several times in relation to her condition. She wished to find out if she was pregnant, and applied to me for advice seven or eight weeks before her death. At the first interview I came to no definite opinion. She consulted me several times after, and although from her symptoms and from what she said, I became satisfied of her condition, yet there was no absolute certainty: I so informed her. [The Attorney General asked the witness what conversation passed between him and Miss Cornell on the subject of her situation. The question was objected to by the counsel for the prisoner. The Attorney General withdrew it.]

Cross examination. I saw no bruises on the body the first day for I did not see it divested of its clothing: I saw only the face and neck. What I saw that day in connexion with other things, led me to think she had been murdered. The tightness of the cord and the situation of the cloak were circumstances that excited suspicion which I could not remove. I said on that day after I got home that it was possible for her to have hung herself, but I did doubt the fact. I was in the room when the cord was taken from her neck, and do not recollect having heard any thing about a clove hitch: if a common slip knot I think it would not have been as tight as that was; the part where the knot was I think would not have touched the skin. Miss Cornell was not far from five feet high, and might have weighed from 110 to 115. The effort that drew the cord as tight as it was must have been continued some time: she could not have done it herself with her strength or weight. On the 24th of December I saw no wound on the body below the neck that would ordinarily have produced death. The ground where her comb was found was rough and swampy and full of briars. The contusion on or above the hip was rather light, the skin was discolored about three inches in diameter. Her hair round her neck was short. [The witness was then examined relative to the written deposition he had given to the jury of inquest: it appeared he had borrowed it of the coroner some time in the winter, taken a copy of it, to which he had added explanatory notes; that he gave the copy to a gentleman in Fall River, and he had seen it published in a newspaper in Providence. The counsel for the prisoner handed him a paper containing the deposition, and asked him if that was the same. After examining the paper he said it was with some variations; in the main it was correct.] I do not know what could have so discolored the vagina but the introduction of some hard substance during life. I can account for the fact in no other way. [The Attorney General then, in direct examination, asked the witness to take the paper that had been produced and point out the difference between his statement there and the deposition he had given to the inquest This was objected to by the prisoner's counsel on the ground that the newspaper deposition was not evidence. The court decided that as the paper

had been introduced by the prisoner to show that in different statements the witness had contradicted himself, for the purpose of impeaching his testimony, the government had a right to show the nature and extent of the discrepancy, and directed the witness to take the newspaper and point them out. The witness said the depositions were alike: the newspaper contained explanations and remarks and one or two additional facts, which were placed after his signature. He gave the copy to the gentleman in Fall River for publication when Mr. Avery was absent from the State, and he did not expect him to return. He had no idea of its being published when it was, which was after his return, and he regretted that it had been.]

Mr. Randolph opened the case for the prisoner ; he said as intense as were his feelings he should endeavor to suppress them in the argument of the important case to be decided by the jury—Gentlemen of the jury, with the best intentions, actuated by the purest motives you are nevertheless liable to err in deciding this case ; so much has been said and so much written on the subject, that opinions have been formed by almost every member of the community. It is impossible but that impressions have been made, and that too on false statements and publications—If and such impressions have been made on you, I ask you to wipe them from your minds, that you may come to a correct decision on the law and on the evidence that shall be submitted to you—I shall not attempt to make an appeal to your passions but shall address your understandings alone—With advice of my client you gentlemen have been selected from a very large number of men, to decide this case which by your oaths you are bound to do according to the law and the evidence given you. There are two points in the case on which we shall place the defence—First, was there a homicide or did the deceased commit suicide? When first found the impression of all who saw her was that she had hung herself; there were no appearances to warrant a different conclusion—The first verdict rendered by the coroners jury was that she came to her death by suicide. The government must show beyond all reasonable doubt that the deceased was murdered, or you must acquit the prisoner ; in support of this position he read from one Starkie 509. Here Mr. R. went into the evidence in relation to this part of the case and considered the circumstances connected with it—He commented at large on the cause of the first suspicion against the Prisoner, and the great excitement that had been produced, which he said was in Fall River more extensive than ever the Cholera had been any where ; he considered the testimony relating to the various examinations ; the appearance of the corpse, the length of the string, the indentation around the neck and the position of the body, and inferred from all these circumstances that she must have come to her death by suicide and not homicide.

Mr. Randolph said he expected to prove in the course of the trial, that the deceased had been guilty of fornication and stealing, for which she had been expelled from the church under the care of the prisoner, and that she had declared she would be revenged on him if it cost her her life; that she had often threatened to commit suicide, and that those who were acquainted with her were fearful lest she should execute the threats; that at times she was partially deranged; that she had gained admission into a church by means of a false certificate, and that the prisoner knew her history and character. He expected also to show that the prisoner

was not and could not have been the father of the child with which the deceased was pregnant if, as she said, it was begot at the Thompson camp meeting; that Mr. Avery always bore an excellent character, and that he had no propensity for the vice Miss Cornell charged him with. if I show you these things, (said Mr. R.) they will surely weigh strongly agaist the circumstances attested to ; he said he should show a great discrepancy in the testimony of the principal witnesses on the part of the State which could only be accounted for by the excitement under which they labored; the witnesses appeared desirous to satisfy the community in which they lived; it was a community easily excited, when that was done suspicions passed for proof—surrounded as the prisoner was by suspicious circumstances and having the wealth of a place like Fall River, he must have strong friends to resist the charges against him however false. Suspicious circumstances and willing witnesses will hang any man. The feelings under which some of the witnesses had testified were visible on all sides, and if the prisoner was convicted on such testimony he believed the time would come after the infatuation had passed away when the verdict of a jury would be considered on the same footing with the trials, conviction and execution of the Salem Witches. He should show that Mr. Avery left the State not with the intention of flying from justice, but at the solicitation of his friends, resolved to return when this court last met and surrender himself up for trial; after showing how he should account for Mr. Avery when on Rhode-Island the 20th of December and ingenuously and with much ability arguing the case on the testimony of the government, he read *Ryans Medical Jurisprudence*, page 194, *Becks Medical Jurisprudence*, vol. 2, pages 10, 14, 22, 26, 37, 42 and from the appendix to *Philips law of evidence* 104. The Attorney General from *Beck* 2d vol. 24, 25, 36, 41, 44, and 50.

Mr. Randolph then proceeded to examine his witnesses. His speech occupied the attention of the court and jury five hours.

WITNESSES FOR THE PRISONER.

THURSDAY MORNING, MAY 15.

Dr. Nathaniel Miller. I reside in Franklin (Mass.) I have been in practice as a surgeon aud physician since the year 1792 ; I was present in this court at the examination of Dr. Hooper and Dr. Wilbur ; I also heard the testimony of the females relative to the dark appearance about the pubis of the deceased ; Such appearances might have been expected after death ; I should think that ladies examining such appearances would describe them well, but not be good judges of the cause; The change after death is great ; The first that Dr. Hooper saw of Miss Cornell according as I understood him was on the Monday after her decease; he examined her neck and indentation around it which was horizontal and the skin appeared like parchment and said that where the knot was, there appeared a sort of parching of the skin and above it a slight appearance of the cord ; He examined the surfaces of other parts and found some scratches and excoriations and a small contusion on one of the hips. He found at the lower part of the abdomen a discoloration which he doubts if incipient state of putrefaction or bruise (here the Attorney General objects to this mode of examination) Dr. Miller proceeded—

It is common for persons after death, to exhibit dark appearances about the private parts whether man or woman ; It is supposed that the parts about the lower regions of the abdomen are the first discolored after death;

such appearances are no evidence of bruises ; if you injure the vessels under the skin of the abdomen, the appearance will be the same there, as if done in any other part of the body ; he describes an ecchymosis and describes a trumbus; The first in small vessels the other in large ones, I should expect to find the region of the pubis darker in a person who had hung 12 or 15 hours, than in one who after death had been laid in a horizontal posture ; These parts are full of vessels ; the cellutar membrane there is spongy ; the difference between a bruise in those parts and the natural appearance after death, it would be difficult to discover thirty-six days after death, and it would be dangerous to give an opinion founded on an examination made at such a lapse of time; those are the first parts to decay and probably decay would commence in that time ; it is not thought safe to rely on any appearance of the soft parts of the body 36 days after death ; a hard blow struck on the abdomen would produce a mark on the interior, probably sooner than on the outside ; the parts yield ; strike on a bony place and the resistance of the bone will cause a mark on the exterior ; a heavy blow on the abdomen may produce marks on the exterior without effecting the interior ; If you make impressions with the hand on the abdomen before death, no marks will appear after, but if made after death they will remain. The clothes of the deceased lying in folds will it is said form marks on the body. Ordinarily a fœtus would not be 8 inches until 5 moths or more old; it would be 3½ inches long in 3 months 20 days; they grow faster as they grow older ; the fœtus at one month is but a speck, at two months as large as an ant ; I think it would not at three months and twenty days exceed 4 inches, at four months it would be 5 or 5½ inches; at five months from 7 to 8 inches ; 9 inches would be large ; they however vary some ; I come to these results from authorities which have confirmed my own experience ; it would be against all experience to find a fœtus 8 inches long at three months and twenty days. I have no experience which shows that prostitutes have smaller children than virtuous women ; it is not very uncommon for women after pregnancy to have a discharge resembling menstruation : it does not happen very frequent ; many cases probably happen that we know nothing about ; the authorities say a woman may be unwell after impregnation some three or four months ; I should apprehend if a person was strangled before and hung after death, there would be two distinct marks on the surface of the skin ; if the cord was very tight the skin would be stretched upwards. It is generally thought that when a person is strangled in a horizontal position the cord will be low down the neck ; If the cord was small it might be put higher up and compresssion would keep it there ; I have seen two persons who had been hung, their faces were not very dark ; professional gentlemen say it is not usual ; whether there would be a swelling above and below the place the cord went, would depend on the size of the cord.

The appearance of the uterus 36 days after death would give me no satisfactory evidence of an attempt to produce an abortion during life ; it would be dangerous to rely on the dark appearance of the mouth of the womb 36 days after death so as to come to the result that an abortion had been attempted ; I dont know that from my experience that I differ from Drs. Hooper and Wilbur as to the result by washing ; a bruise before death would wash out, gangrene would not ; to d scover ecchymosis you should examine by dissection when first discovered ; the opening of the

os uteras is not a circumstance to be relied on to prove an abortion. Hanging is a common mode of suicide, and an uncommon mode of committing murder. A person hanging loses sensation in half a minute ; suicide is more frequent than murder as eight or ten to one.

Cross Examination. The reliance of an examination 36 days after death would depend on the condition of the body at that time ; if no more decay had taken place at the end of 36 days, the result of an examination would be as safe as if made one day after date. In measuring a fœtus it would be longer than the measure of the esceliton ; I have read of cases where the fœtus was 8 inches long at the age of 3½ months; If the fœtus is much out of size we think the mother has not correctly stated its age. The general rule as to length of the fœtus, is not always certain ; the first intimation a woman has of pregnancy is the cessation of the menses; the menstration I have spoken of after empregnation happens to women in and out of health ; their period is uncertain and not as regular as before empregnation, some women have this sickness all through their pregnancy. If the woman had been in ordinary health and regular in her monthly sickness I should date her pregnancy near the time before it ceased ; a female is most likely to be empregnated soon after menstruation ; an attempt to produce abortion would be as likely to produce fainting as blows; it is not possible for a person with a cord round her neck indented quarter of an inch, or so as to stop respiration, to fasten the other end round a stake ; in the ordinary course of hanging the mark round the neck would not be horizontal ; in ordinary cases of hanging with an ordinary knot the indentation on the neck would be deepest on the side opposite the knot ; if the cord was put round tight it would not slip.

The principal authors on the size of the fœtus I have read in the English translation ; I dont know the difference between an inch French and English ; I should think a bruised muscle might be washed white ; immediately after death we are in a state of decay.

Direct Examination. It would not be probable after the opening of the abdomen and the interment of the body, for it not to be greatly changed in thirty days. The fœtus 3½ months old is often preserved in spirits. If a clove hitch and the distance of the rope was three inches from neck to stake, it would be sufficiently long to enable a person to strangle himself with his own hands. English authors do not make the fœetus as long as the French ; I should not think the temperature of the earth five feet below its surface much greater in winter than in summer ; a dead body would decay sooner interred in summer than in winter ; no testimony would satisfy me that a body underwent no change after being buried thirty-six days.

Dr. Usher Parsons. I reside in Providence, have given public lectures several years at the University and elsewhere ; have been in practice twenty years ; have seen only one person who hung himself,—his face was pale. The faces of persons hung are quite as often pale as dark colored ; after death there will sooner or later be dark livid spots on the most depending part of the body called sugillation. I was called a few days since to inspect the body of a person found dead in his bed. The bystanders called my attention to what they termed marks of severe bruises. I found them to be marks of sugillation from settling of blood in the most depending parts. They are often seen in parts resting upon a board. If a person be suspended by the neck twelve hours they are

most likely to appear at the lower part of the abdomen extending across from groin to groin and in the neighboring parts where the texture is less compact than in the limbs. After a body has been opened for the examination of the abdominal and pelvic organs, the blood escaping from divided vessels and the aqueous fluid from the gravid uterus would settle upon the loins and hasten putrefaction in the muscles of the loins. After a lapse of thirty five days these muscles as well as the skin and cellular substance that covers them would become darker colored than other parts. I should therefore expect to see two dark colored spots, one on each side of the spine near the top of the pelvis that might be mistaken for severe bruises made before death ; should place no dependence myself on appearances at this part as indicative of bruises. A wound with a bullet or cutting instrument might be ascertained with some degree of accuracy, but a simple contusion could not be determined. I should place no dependence upon appearances upon the pubis after a lapse of 36 days, especially if from the position of the body some hours after death favored the settling of blood at that part I should place no dependence upon a bloody appearance of the os uteri as indicative of an attempt to effect abortion by a hard instrument unless wounds of the uterus were apparent, a slight dilatation of the os uteri might naturally take place after death and would be no evidence that abortion had been attempted unless its membranes were ruptured ; the os uteri would be the most depending part while hanging and would be dark colored.

A female would consider herself pregnant about the fourth month at the period of quickening, she might have strong suspicions of being so after a lapse of six weeks or two months from her last periodical return.

The length of a fœtus at a given month is stated differently by different authors. I have examined twelve respectable authorities on this subject and find that one of them (Beclard) states the length at three months to be six inches, at four months eight inches. All the other authors state the length to be much less at these periods and that a fœtus must be about five months in order to be eight inches in length. Taking the average of the twelve authors including Berlard, and the length of the fœtus at three months is a little short of four inches ; at four months about five inches ; at three months and twenty days about four and a half inches ; and this accords with my own observation.

If a person were first strangled and then hung, the cord would slip if there were sufficient room or space left for it to slip upon. The mark from strangulation would be the most visible of the two ; the books state that the mark of the cord is lower down the neck when the person is strangled than when suspended after death.

I think that when a body has laid long enough for the white mould to form on the face that decomposition has begun in the depending parts as the loins.

Sensation would cease in less than a minute after suspension that would interrupt circulation ; suicides are most frequent by hanging and in a majority of cases that have come to my knowledge the feet touched the ground. I have read of cases where strangulation was effected by means of a stick by which the cord was twisted.

In Paris at the lying inn hospital the age of the fœtus is determined by its length ; cases are recorded in our books where females have menstruated regularly through the whole period of gestation, but they are very

rare. A sanguinous discharge is however not uncommon during gestation but is very variable in time and quantity.

Cross Examination. (The witness described the different lengths by different authors) *Barstow*, the person by me alluded to died from suffocation occasioned by the rupture of an absess. The face of the man I saw that had been hung or who hung himself, was as pale as if he had died any other death ; the reliance to be placed on the examination of a body after death depends on the state of the body ; I should not give an opinion under oath, as a satisfactory one could not be formed on a body by me examined after the lapse of thirty-six days. I should place no reliance on the test of washing after the lapse of ten days. The first indication a woman has of pregnancy is the suspension of menstruation ; there are quite rare cases where menstruation goes all the time of pregnancy ; I have met with several cases that might be mistaken for menstruation after conception. The weight of a fœtus is not as certain a test of its age as the length ; Beck and Dewees say a fœtus at three months weighs from two to three ounces, and at four months from four to five ounces. Suicide by strangling without suspension is not of ordinary occurrence ; I should not think that after a person had drawn a cord so tight as to make an indentation three eighths of an inch in the neck the person could possibly fasten the other end of the rope to a stake ; a horizontal mark around the neck I should not expect usually to find in cases of hanging.

Direct Examination. From the above calculations at three months and twenty days the fœtus would be about four and a half inches. Indentations in the abdomen could not have been made before death.

Cross Examination. I should not expect to see on a dead body from any natural cause, marks resembling and corresponding with the thumb and fingers of hands ; Impregnations most likely to take place in the first half of the month after menstruation.

Dr. Jabez Holmes. I live in Bristol and have practiced medicine and surgery 22 years ; have not seen any one that had been hung ; my impression is their faces are usually dark; *Dewees* and *Burns* place the lenghth of fœtus at 3 months from 3 to 3½ inches, and at 4 months at 5 inches ; that corresponds with my experience ; I have a fœtus 3 months old, not three inches long ; a woman could not tell with certainty that she was pregnant until the third or fourth month ; she might expect it from the suspension of the menses, the first time after impregnation ; I should not think it probable that any satisfactory conclusion as to bruises could be come at by an examination of a body that had been dead thirty-six days.

Cross Examination. I have never dissected a corpse after it had been disinterred ; the correct examination of a dead body depends on its state of preservation ; It is rare for women to menstruate after conception.

Dr. William Turner. Resides in New-Port, has practiced medicine and surgery 36 years. The books say that the faces of persons hung are dark colored, sometimes otherwise ; never saw a person that had been hung ; the part of a dead body most pressed would not be likely to be discolored after death, but that part immediately adjoining ; there are black or dark appearances about the private parts of persons after death ; In case of a person hung, if the body hung all night I should ex-

pect to find such appearances about the private parts, more satisfaction would be had from an examination soon after death, I should have no confidence in an examination thirty six days after death, unless I found some laceration ; the appearance of the neck of the uterus or of the vagina, being discolored to appearance thirty-six days after death would be no evidence to my mind of an attempt having been made to produce an abortion ; I should expect to find the length of a fœtus at three months to be 3½ inches long, at four months from 6 to 7 inches ; but there is great variation, as much in size, as at the time of birth ; the ordinary length of a fœtus at the birth is 18 inches ; they sometimes are but 16 inches and sometimes 22; I should not expect to find a fœtus 8 inches long that was but three months and twenty days old ; If the cord was drawn so tight round the neck as to produce death by strangulation, I should expect to find a mark on the muscular substance to correspond with that on the skin ; I should expect a change in a body that had been buried 36 days, more especially if it had been opened before death ; it is not uncommon to find spots on dead bodies that are taken by the unskilful for bruises.

Cross Examination. Violent impression on the abdomen of a pregnant female would be likely to produce fainting ; it must be very great violence to effect abortion by external pressure ; I think a person would be quite likely to faint under an attempt to produce an abortion ; I should expect a horizontal mark around the neck of a person strangled before death, otherwise if the person was hung ; If death was produced by hanging the indentation would be less on the side of the knot ; an indentation three eighths of an inch would instantly destroy respiration.

FRIDAY MORNING, May 17, 1833.

Theophilus C. Dunn. I reside in Newport, and for upwards of twelve years have been in the practice of medicine and surgery. I have seen four persons that have been hung. In three of the cases the countenances were flushed and dark, and in the fourth the face was of the color of a person who had died a natural death. Dark, livid spots often appear on dead bodies, and by the inexperienced they may be mistaken for bruises: whether I should rely on an examination of a dead body thirty-six days after death would depend on the degree of violence that had been used when living; as if I found a lacerated muscle or a broken bone; if the abdomen was discolored at interment I should not form a positive opinion as to the cause by examining the exterior thirty-six days after death. The appearance of indentation of fingers on a body I think must have been produced after death. I should expect to find the lower parts of the abdomen darker colored if the subject had been hung, than if death had taken place in a horizontal position. I should not be willing to testify to an opinion formed by examining a body thirty-six days after death unless as before said. A black or blue spot may be produced on the body without eccymosis. From the knowledge I have derived from books, a fœtus at three months and twenty days would be from four to five inches long; at four months, five or six inches, and at five months, from seven to eight inches. I should think the sex of a fœtus might be discovered at three months. A woman could not know to a certainty that she was pregnant until she had gone half her time; she might suspect it from the suspension of the menses. Women sometimes continue to menstruate after conception, but the instances are few.

Cross examination. The fœtus increases the most rapidly after the third month, but its increase is uncertain. No reliance can be placed on the mere size of a fœtus between three months and a half and five months. In ascertaining the age of a fœtus I should rather consider the developement of the organs than the size. A fœtus eight inches long I should judge to be more than three months and twenty days old, but if it had not the organs developed and was without nails and hair, I might change my opinion. The reliance to be placed on a body examined thirty-six days after death, would depend on the state of the body. A body intered in December would not be likely to decay as fast as one intered in August. If on dissection I should discover clotted blood on the muscles that could be removed with a fauceps I should consider it as produced during life, or what is called eccymosis. A cord indented three eighths of an inch into the neck, all round it, might not stop the circulation.

Direct examination. I should not expect a body that had been buried thirty-six days to be in a state of preservation. The length of a fœtus is prima facie evidence of its age. I think the sex of a fœtus would be apparent to the eye at five months of age. Dead bodies are better preserved in dry, gravelly soil. I never to my knowledge saw a dead body that had been buried thirty-six days.

Williaw Graves. I live in Lowell, Mass. and have practiced medicine over twenty-five years. I presume I was acquainted with Sarah M. Cornell. She called on me at Lowell on 30th of August, 1830, for medical advice. and called her name Maria S. Cornell. She was severely afflicted with lues veneira; a very severe case, but not of long standing. I cannot say this was Sarah Maria Cornell. She called on me between 10 and 11, and said as a reason for calling so late that she had just come from the methodist meeting-house. She stated she had contracted the disorder from a young man. She called seven times from 30th of August to 20th September: she did not call afterwards until I saw her a year or six months after at the house of Mr. Howe. When she first called she said she belonged to the methodist church, and that the methodists thought her a bright christian, and that she could pray and exhort as well as any of the methodists, from which I thought she was a little crazy. I did not at the time believe she belonged to the methodist church. The second time she called on me she showed me a letter of recommendation from Mr. Avery to the methodist minister in Dover: I presumed it was from Mr. Avery. When I saw her at Mr. Howe's she blamed Mr. Avery for turning her out of the church: she called him rascal, villain, and I believe she said he ought to be hung: she did not threaten him: she said then nothing about suicide. In my office she once said, if her clergyman knew her situation he would swear a little, and that she would drown herself rather than have him know it. She inquired of me of two other young men to know if they were under my care: she said she thought it for her interest to continue in the methodist church, because they would not then suspect her of being a bad girl. She wanted me to keep the matter a secret, but from circumstances I thought it my duty notwithstanding our rules of secrecy in such cases, to communicate the fact to Mr. Avery. I did not suspect that she was going to drown herself from what she said; she said rather than be exposed she would drown herself. I have delivered lectures on the theory and practice of medicine. The first and the last time I saw her, her con-

versation was strange; I hardly knew what to make of her, whether she was partially deranged or not. The last time I saw her she seemed to be in a great passion, and whether the strangeness of her conversation was the effect of passion or partial derangement, I could not tell.

Cross examination. I testified to the fact of the time she called on me from an examination of my books where the charge was made against her; my books are not here. I don't know that it was very stange for a member of the church, situated as she was when she first called on me, to talk to me as she did: her face was covered up. I do not know that she ever spoke disrespectfully of me: the three young men she spoke of resided in Lowell, but were not under my care for any disease. There was a student in my office at or about that time by the name of Fellows. Fellows practised medicine in Lowell. I have always had a boy to attend my shop and to go of errands: I do not know that Mr. Avery ever received any medical advice from Mr. Fellows. I believe at the time the girl called on me first I was the family physician of Mr. Avery. I think I have prescribed for him; I have for his wife.

Direct examination. Mr. Avery resided in Lowell two years, and his character as a minister and a moral man generally speaking was good. I know nothing against his moral character. I never prescribed for him for the bad disorder.

Noah Martin. I reside in Somersworth, Great Falls village: I have been in practice of medicine about ten years. I knew Maria S. Cornell in January, 1831: she called on me for prescription for chronic ghonorea of long standing. The first time she called on me she only mentioned as to her complaint; the next time she told me she had been expelled from the methodist church. She told me she had been afflicted for some time with the disease: she appeared to be familiar with the use of the instruments: she also said she had been doctored for the same disease by Dr. Graves in Lowell, and that by his indiscretion a knowledge of the fact got to Mr. Avery, which had been her ruin. She called on me six or seven times in the course of as many weeks: she was talkative: she said she got the disorder from a young gentleman, a merchant in Lowell. From her conversation I did not think her much deranged, but there was something singular in her appearance, peculiar and different from ordinary cases: not that she was insane, but acting under an excitement produced by the nature of the disease and her mental anxiety.

Cross examination. The disease affects the sympathies of the system; I do not say she was insane: she mentioned Mr. Avery, and that he had pursued her from Lowell to where she was: she did not threaten him any harm. I recollect that she called on me in cold weather, but I depend on my books, (which are not here) for the year. I think I should without the books remember the year, but not the day of the month.

Assaneth Bowen. I reside in East Sudbury, Mass. I knew Maria Cornell in Waltham. I think her name was written on the list of girls in the mill, *Maria S. Cornell.* She wove with me in the same room: she manifested a strange appearance. I have seen her start suddenly from her work as if something alarmed her; she looked about her one side and on the other; I saw her once pass out of the room into the privy, with a string in her hand; I followed her and saw her looking up as if to a place to fasten it to; on my approach she started back, and put

the string in her pocket. I stated to some one the fact, and said that I did not think Maria would make way with herself. The door was shut when I went to the privy and she was there alone: she stood with her hand out looking up; I followed her because I had the impression she was about to make way with herself. She was at Waltham three weeks and boarded at three or four different places: I don't recollect whether this took place one or two years since: it was in the summer, whether the last summer or the summer before the last I cannot tell. I worked at the Waltham factory almost two years.

Cross examination. It was not three summers ago: I should think she was about 25 years then. I don't recollect the name of the girl I mentioned these facts related to. The room she went into was one frequented by the girls in the factory: I thought she went there to commit suicide because she looked around and appeared strange, and had a string in her hand. I cannot recollect how long I had been to work there when she came to work. I left the mill last August. I next communicated the fact to a lady by the name of Smith at West Sudbury, directly after I heard of her being found dead. Mr. Joseph Merrill applied to me to know the facts some time last winter. Maria remained to the factory about a week after. She did not do as much work as girls generally do. I worked in the middle of the room, Maria at one end. There were twice twenty girls in the factory. The string was of cotton yarn double and twisted, three quarters of a yard long. She called herself an old weaver: I never exchanged but a few words with her. I said nothing to her or she to me when I followed her into the room as aforesaid. I was at Thompson camp meeting and saw Miss Cornell there; she was with the congregation, and was I think in the muddy brook tent; I did not speak to her at the meeting because I could not get a chance to; she appeared to shun me. I saw Mr. Avery once or twice at Thompson camp meeting. I belong to the methodist church.

FRIDAY AFTERNOON, MAY 17, 1833.

Mary Ann Lary. I reside at Dover and was acquainted with Sarah Maria Cornell in that place and at Great Falls, in 1830. She told me in 1831, that she had been out to make way with herself, but that when she came to the place her courage failed her. She had been out and when she returned she was crying. She gave as a reason that Mr. Avery had not treated her well by expelling her from the church. This was in May, I believe in the afternoon. I have heard her say she had been tempted to make way with herself. I boarded at the same house with her.

Cross examination. I first communicated these facts to Miss Holmes, the daughter of the lady I boarded with, and a few days after it took place. I communicated the facts to Rev. Mr. Deming about six weeks since. Both at Dover and at Great Falls Miss Cornell attended the meetings, but not as a member. She considered it a great misfortune in being removed from her station in the

Methodist church. I never knew any other attempt on her part to commit suicide. I left Great Falls before Miss Cornell. She went by the name of Maria S. Cornell. I expect they were the same persons, but my knowledge is derived from other persons.

Ezra Parker. I reside in Thompson, Connecticut. I knew Sarah M. Cornell by the name of Maria Cornell. I knew her seven or eight years since, when I kept tavern. She came into my house about three o'clock one afternoon. She asked if she could stay until the stage arrived next day. She looked eight or nine months gone in pregnancy. She said she belonged to the Methodist church and appeared very much engaged in the work of God. I put her into a room with a fire. Charles and William Taylor came to my house in the evening to get entertainment. Maria was sitting by the fire down stairs. "The devil," said Taylor, "are you there Maria." "Yes," she said, "and you cannot help yourself." Maria told Wm. Taylor she was pregnant by him. They talked together in her room until near 11 o'clock. She gave him in my presence a writing to free him from being the father of the child she was pregnant with. He handed her some money, I don't know how much, and she gave him the receipt. She said William Taylor you must get up earlier than ever you did, to make a garden of me to bear seed for you. In the morning she did not appear to be pregnant, and told Wm. Taylor she was not and had not been pregnant. The next day she took the stage and came towards Providence. This was seven or eight years ago. I am a member of the Baptist church in Thompson.

Cross examination. I have never seen the woman before, or since. I know nothing of her but from that interview. I have seen Mr. Rawson, but did not know of the connexion between his wife and Miss Cornell, until the session of this court. I have communicated the facts lately to Elder Thatcher.

Direct examination. I saw the woman sign her name Maria Cornell. She did not put down any middle letter. I read the paper; it stated that she was not likely to have a child by William Taylor, and that she would not lay one to him. This was done the next morning.

Richama Parker. I am the wife of Ezra Parker. Maria Cornell came to my house and told me she had a

mother who resided in Killingly with her sister who married a Rawson. She said she had been in Thompson to see a young man that she had got into trouble with. Charles and William Taylor came there, and William Taylor said, the devil Maria, are you there? She said, yes and you cannot help it. She in the evening told William Taylor, he was the father of the child and that she would be allowed her oath. Charles Taylor told her he had better settle it, than to go to court with such a dirty character. She told the amount that would settle it, and it was paid and the receipt mentioned by my husband was by her delivered to Wm. Taylor. She had a blanket doubled round her body to make her appear pregnant. I saw it when she stripped to go to bed. She said she put the blanket there on account of the inclemency of the weather. She looked very trig when she went away the next day. I saw the money and writing delivered. She wrote and read it. She told me she was a professor of religion, brought out under Mr. Maffit, and that she had sewed with Mr. Rawson, until she could sew with any tailor. She said she had lived in Providence.

Cross examination. I think it was eight years ago. There was a very great difference in her appearance between night and morning. The papers were delivered in the morning. I cannot account for Mr. Taylor's not noticing the difference in her appearance. I never saw that woman before or since. It appears to me she had a bundle.

Ezra Parker called again. I cannot positively say whether the money was paid before her appearance altered. She did alter after the money was paid. She looked gaunt when she first came down in the morning. William Taylor is dead, and Charles has moved to New-York state.

Brooks Shaddock. I reside in Lowell. I knew Miss Cornell in the year 1829 or 1830, by the name of Maria S. Cornell. She worked in the weaving room at Lowell that I had charge of. She worked at the mill twice. She went away the first time because there was fault found with her work. She was discharged. After being absent 10 or 12 months, she came back and acknowledged she had done wrong and promised to do better if I should take her back. I took her back. I did not

know her general character. She worked a few weeks and I discharged her, being satisfied she was not a good character. She acknowledged she had had intercourse with one or two individuals in Lowell. She was desirous to remain. After her confessions I told her I would not employ her. She wanted to stay a few days. I told her she might go to Mr. Avery and make acknowledgements; and on her promising to do so, I consented to her remaining in the mill a few days. She did not go, but I informed Mr. Avery, but do not recollect what he said. Mr. Avery sustained in Lowell, as far as I know, a good character; as fair as any clergyman. I belong to the Congregationalist society.

Cross examination. Maria Cornell was dismissed the second time, the latter part of September, or beginning of October, 1830. She worked for the Appleton Corporation.

Nathan Howard. At present I reside in Northbridge, Mass. I knew Maria Cornell from the fall of 1829 to June of 1831, in the town of Lowell. At or near our first interview she told me she had been charged with theft, in consequence of which she had been tempted to destroy herself. This was in Lowell. She was then speaking of her present trials. It was a religious conversation between us. The conversation took place near the first of September, 1829. I knew nothing of her character being bad until July, 1830. It was reported she had had illicit intercourse with different men. I preferred charges against her to the committee of the Methodist church, near the first of October, 1830, and she was tried and expelled the church. Mr. Avery was minister of the church at that time. The next time I saw her I think was in June 1831. The charges I preferred were for fornication and lying. When I saw her in 1831, she confessed herself guilty of the charges and said she had powerful temptations to kill herself and thought she should at some future period. I noticed flashes with her eyes that appeared different from when I knew her before. I noticed something peculiar in her walk, and that in conversation she could not stand still. She did not appear rational; her eyes looked red and wild. I have never seen her since that time.

Cross examination. When in Lowell she attended church on the Sabbath. Until expelled she was a regu-

lar member of the church. She said she had been called to account for the charge of theft, and I thought it not necessary to call her again before the church; and from her then standing I did not think it my duty to bring her before the church. The reports I heard against her were in July, 1830, and her trial was in October, and she in her abscence was expelled. Mr. Shaddock and Mr. Avery were witnesses against her. Mr. Avery put the charges into form and preferred them in my name. She left the place the latter part of September. The reports began to be circulated just before she left. The rule of the church requires that the accused and the accuser should be confronted. I had no opportunity to see her She attended the church regularly. She left the place as I was informed to go to camp meeting. The charges were preferred in her abscence. Mr. Avery was a witness.

Direct examination. Mr. Avery said after her confession he told her there would be a trial in the usual way before the church and advised her to leave the place. I never knew a female charged with lewd conduct to be brought before the church or the committee. There is a provision in our rules for an appeal if the member is not satisfied with the decision.

Cross examination. I understood that she came from Great Falls to Lowell, after her discharge from the church in Lowell to make confessions and to get a certificate that would enable her to sit in the church where she was. It was a conditional certificate placing her on probation.

Mary Ann Barnes. I reside in Lowell. I have been acquainted with Maria S. Cornell; first acquainted with her five years ago this spring in Lowell. In 1830, she confessed to me that she had behaved improperly with men, and named the persons. She had been guilty a number of times and with three or four men. She said she carried on her conduct at a village called Belvidere. One Sabbath day, she was absent from the communion and I asked her where she was; she said she had been to a public house and had drank so much wine, that she did not know what she was about. Her countenance indicated that she had been in company with a man. She told me she had been to a physician to be doctored. When she came from Great Falls, the day before she left

Lowell, she showed me the copies of letters to Mr. Avery. She asked me to forgive her and burst into tears. *I* told her I would forgive her and hoped the Lord would. She said she hoped so. The copies before mentioned were shown me on Monday morning. She told me the doctor had called on her to settle her bill, and that she refused not intending to pay him anything. She said she would not pay him a cent. She left the house went up the back street and fastened herself into a room. The doctor and sheriff came but could not find her. She sent for me after the stage had left her to come to a particular house; I went and found her fastened in a room. She read the letters to me. They contained confessions of her having been guilty of fornication and lying, and told me that she had been accused of having the bad disorder, but knew not whether she had been affected with it or not. She said she had sent the original of the letters to Mr. Avery. She had a certificate of character given her by Mr. Avery, before her character was suspected. She said Mr. Avery had asked her for it, and she told him she had lost it, but that she had not, and then she she showed it to me, and said with it she could gain admission into any church. At a subsequent conversation she told me Mr. Avery had written her for the certificate and she had sent it to him. She disguised herself and left the house for another where she could stay all night. Her countenance appeared agitated and her eyes wild. Mr. Avery sustained a good character in Lowell.

Cross examination. I was not very intimate with Miss Cornell, I attended class meeting with her. She was more intimate with Miss Teleston and others, than with me. She continued to be a member of the church while she remained in Lowell until she was expelled. I heard nothing against her character until just before she left Lowell. The doctor's bill was ten dollars, and she said she did not owe him but half a dollar. It was in 1830 that she showed me the certificate, and in 1831 that she told me she had sent the certificate to Mr. Avery. In 1831 she got no regular certificate. It was a paper signed by some of the members of the church. I saw it, but don't know that Mr. Avery's name was signed to it. *I* know nothing of her since 1831. *I* should say *I* have heard Mr. Avery say he had received letters from Miss

Cornell. (Here the attorney-general called on counsel for prisoner to produce the letters.) The letters related the particular bad conduct she had been guilty of. She borrowed the calash of Abigail Bigelow, to disguise herself with as beforesaid. She took from her band-box a poorer dress than she had on and put that on.

Lucy Davol. *I* reside in Lowell. *I* was acquainted with Miss Cornell by the name of Maria S. Cornell, in Dorchester 7 or 8 years since. When she came from Great Falls to Lowell, she asked me to forgive her; this was in June 1831. She confessed the truth of the charges brought against her, which were lying and fornication. *I* told her *I* would forgive her if she repented and would do so no more. She said she had been tempted to make way with herself. She told about a man with whom she rode from Boston in the stage and an assignation made with her. They went the Sunday following to Andover, and he gave her wine, and not knowing what she was about, they had unlawful intercourse. She also walked to a brewery with him, and there had unlawful intercourse with him. She said she had been with the man over a week to Belvidere. She said she had had unlawful intercourse with four or five different persons, and that she had had a disease but did not say what it was. She said when accused of taking things that did not belong to her, she had been tempted to make way with herself. She said she had written to Mr. Avery for forgiveness, and that she would be revenged on him and on the whole Methodist church. She told me she had been a bad girl ever since she was fifteen years old. Mr. Avery's character in Lowell was good for anything *I* know. She told me she had been before the church in Dorchester for taking things that did not belong to her, but it was not proved on her.

Cross examination. The confessions were made when Miss Cornell came to get a certificate. *I* did not sign the certificate, but promised to forgive her if she would do better.

Lydia Pervire. *I* was acquainted with Maria Cornell, but about 5 years ago. *In* 1830, in August she saw me in Boston and asked me if *I* was going to the camp meeting in Weston; she said she did not want to go if Mr. Avery was to be there. *In* Lowell she told me she did not want to go to camp meeting if Mr. Avery was there. She con-

fessed the truth of the charges that had been made against her. She was publicly read out of the church. Mr. Avery's character in Lowell was good. She one day came into the factory dressed in white, and she screamed and cried a considerable, and got her arm round my neck, and *I* was disgusted with her. That was an unusual dress to come into a factory with to work.

Cross examination. Maria was a member of the church at the time of the camp meeting in Weston, in 1830. My conversation with her, and her confessions were made after *I* heard that the charges had been preferred to Mr. Avery. She appeared in the white dress alluded to, before the camp meeting at Weston. *I* saw Maria at Mr. Avery's one evening. She set down in the room, but did not stay long. *I*t was the same summer that the charges were preferred against her.

SATURDAY, May 18th, 1833.

Ellen E. Griggs. *I* first became acquainted with Maria Cornell in the summer of 1829. *I* saw Maria standing on the door of Mrs. Prescott, in Lowell, in the year 1831, in the fore part of the summer. I asked her if she had seen Mr. Avery, and she replied she had. *I* asked her what he said; she replied she knew and that she would be revenged on him, if it cost her her life. She did not tell me what Mr. Avery said.

Cross examination. There is nothing more than *I* have stated. *I* asked her if she had seen Mr. Avery, because *I* had heard she was going to see him to make her confession. Her face and eyes were red when *I* had the conversation with her. She appeared as if she had been weeping. *I* was a member of the church. No one was present during the conversation. *I* don't recollect who *I* first told of the conversation; it was to a woman and shortly after the conversation. *I* don't know that *I* ever mentioned the fact to any other person, before *I* came to Bristol. *I* then mentioned it to the Rev. Mr. Griffith who came for me to go Bristol. *I* live now in Cambridge. *I* mentioned it to Mr. Avery after the examination, going to Boston. *I* rode in the carriage with him to Boston. The Rev. Mr. Griffith and his wife were with us in the carriage. We left Bristol in the forenoon, *I* don't recollect the day, Mr. Avery joined us in the forenoon, but when *I* do not know. *I* don't recollect what he said when he first came up. He said he should give himself up to the su-

preme court. *I* do not know who came with him to the carriage. To the best of my recollection we arrived in Boston on Friday. We stopped Thursday night in Dedham; that was the only night we were on the road. *In* 1831, *I* was not quite so deaf as *I* am now, but a person would have to raise his voice for me then to have heard. When Mr. Avery joined the carriage he had on a surtout.

Direct examination. *I* came to Bristol to testify in Mr. Avery's case, but did not get there in time.

Sarah Worthing. *I* reside io Lowell; knew Maria S. Cornell, *I* first became acquainted with her in 1828, at Lowell. She received a letter from her mother, which she read to me and told me how long it was since she visited her mother. She said her sister was jealous of her and had often told her she would come to the gallows because there were so many men after her. She said that Rawson had often told her she was more attractive than his wife. She used to keep brandy and cherry rum in her room. *I* never saw her intoxicated, but have seen her when she said she had taken to much. She once told me that she had been accused of stealing, in consequence of which accusation she went out to hang herself, and after the rope was fixed and she was ready to swing, the thoughts of eternity prevented her doing the deed. She said she fastened the rope to an apple tree. This conversation *I* had with her in 1829. *In* the summer of 1831 she told me she had a paper which she wished me to sign as *I* was acquainted at Great Falls, and that she wished to know the feelings of the methodists towards her. She said she had written two or three confessions to Mr. Avery, and had received no reply. She said he did not regard her feelings, that he was a hard hearted man, and that he and the methodists would be come up with some time or other. *I* asked her if the charges against her were true, she said she was guilty—that she had had unlawful intercourse with three men, and that she had been affected with the bad disease, although she was ignorant of it at the time. She was prevented, she said, from having intercourse with two other men, there being so much passing by the place they had selected, that she was deprived the privilege—*no!* (said the witness correcting herself,) *she did not say privilege.* She was in the habit of reading letters to me. *I* belong to the Bap-

tist church. *I* refused to sign the paper and she called me a hard hearted girl and wept.

Cross examination. Miss Cornell was in good standing in the church until she was expelled. *I* mentioned these conversations at the time. *I* think she said it was in Providence that she went out to hang herself. She told me Mr. Avery had signed her paper and that he said forgiveness from him was nothing.

Mrs. Lucy B. Howe. *I* knew Maria S. Cornell in Lowell. She came to my house in June, 1831, from Great Falls. A lady who boarded with me said, "Do you know who is up stairs," and added M. S. C.: she further said she guessed she wanted to stay all night. Maria sent for me and *I* went up stairs. She wanted me to sign a paper that we would forgive her. *I* told her what *I* had heard about her and her having the venereal, and how she had agreed to meet a man once a week at Belvidere. She said she was very tipsy at the tavern then, and that the young man had to hold her in the chaise to keep her from falling out—that they went to bed together at the tavern. She acknowledged that she was a very bad girl—but these things were nothing to what she had been guilty of. She staid at my house all night. *I* asked her what Mr. Avery said to all this? She said he told her forgiveness from him was nothing unless you lead a godly life, and use a well ordered conversation. A physician came next morning and demanded the payment of his bill. She called him hard names and said she didn't owe him a cent. She came back shortly after she left my house, for a linen pocket handkercheief, and *I* advised her to pay the doctor. She said she wouldn't pay the old devil a cent. She said she had the money. She told me she had written two letters to Mr. Avery and he had taken no notice of them, and had not behaved as a christian minister ought, and she had now come to see about it herself. When I told her she ought to pay Dr. Graves, (for he could make her pay,) she said, Do you think I aint cunning enough for that old fellow. I've borrowed a calash and shawl and been all over Lowell this morning, and met him half a dozen times, without his knowing me. I told her I thought Mr. Avery had acted right. Says she "What do you think *I* care for you or Mr. Avery. I'll be revenged on him him, and you, and the whole methodist church." She said this with a look that frightened me.

[Here a question was made by the counsel, whether a conversation which took place between Mr. Avery and another individual, in October last, in Bristol, in which Mr. Avery proposed a visit to Rhode-Island, to see the coal mine, might be given in evidence. Court decided that it might be given in evidence.]

Witness stated that she was in Bristol about the first part of October, and heard Mr. Avery ask Mr. Holloway if he would go with him to the island. Mr. Avery said he had never been on the island and wished to see the coal mines, before he was removed from this station. Mr. Holloway said he couldn't well go then as some of his family were sick; but he would go with him at some more convenient time.

Cross Examined. Maria said that Mr. Avery told her the paper she wanted signed would not enable her to get into another church. I was present at the church meeting when Maria was read out; I think it was in cold weather; after her return to Lowell in 1831, she staid at my house all the time except one Sabbath-night; I didn't ask her where she had been; she came to my house on saturday, and saw Mr. Avery before she came to my house; she brought the paper with her signed; I did not sign the paper she made no accusation against Dr. Graves before me; I heard Dr. Graves say he had read in a pamphlet what she had said of him; Mr. Avery left Lowell for Boston in July.

Elizabeth H. Shunway. Lives in Grafton, first knew Maria Snow Cornell in Slatersville 1825 or 6; she told me her name was Maria Snow Cornell; about a year after she came she joined the methodist church there; her brother came to see her there; his name was Cornell; she said to me one day in 1826, whilst looking at the water, "how beautiful the water looks, I wish I was at the bottom of it." I asked her why she wished so, she said Grindall Rawson courted her, and her sister by her cunning got him away; but she had one thing to comfort her, she said, he liked her best now, and her sister was jealous of her; I asked her why her sister was jealous, because, says she, Grindall and I have been as intimate as husband and wife; she said he composed some verses for her and wrote them on a blank leaf of a testament; she presented me with a copy of them; Maria told me she

was frequently tempted to make way with herself, about the time she was dismissed from the church in Slatersville for intimacy with men. The charges against her were for lying and fornication; I was present at the meeting when she was expelled seven years ago last October.

Cross examined. I became acquainted with her after I joined the church; a gentleman of the name of Palmer called on me about testifying; I left Slatersville before Maria; the conversations between us took place after I joined the church, and I told what Maria said to my mother and another lady; I went from Slatersville to Douglass; don't know that Maria was brought before the church but once at Slatersville; saw her last fall at Thompson camp-meeting; and at North-Bridge camp-meeting four years ago; saw Mr. Avery once at Thompson; didn't see him with Maria; here witness repeated the following verses.

Maria, will you these lines accept,
And for them make me ne'er regret
The pains I've taken to procure
Amusement for a half an hour.

Will you, my friend, thus trivial dreem
This simple offering of esteem:
Accept it as a tribute due
To youth, to friendship and to you.

And with it take my fervent prayer,
May you be heavens peculiar care:
May virtue o'er your breast preside,
And wisdom all your actions guide.

Be careful, dear, in choice of friends;
Take not the first that fortune sends,
Until with scrutiny and care
You find the character he wear.

Should slanderous tongues your name condemn,
Remember they cannot be friends
Who listen with a curious care,
To that name, which only fools can bear.

Maria, when you these lines peruse,
I pray the errors do excuse:
A poet I do not pretend to be,
Therefore excuses are for me.

What other friends, dear girl, you find,
Let me not vanish from your mind;

But keep me in remembrance too,
And the same love to you I'll shew.

I saw Maria once to speak with her at Thompson, and once after in conversation.

Miriam Sibley. Lives in Somersworth, Great Falls; Maria S. Cornell came there two years ago, from Dover, in January; she came into the same room to work where I was; she told me she received a recommendation when she left Lowell, but that she should not join a church for a twelve months. Afterwards she said she had not a recommendation, but she could send to the Rev. Mr. Avery and get one; she afterwards said she could not get one; appeared to be very sorry, and said she would be revenged on Avery if it cost her her life; she said she could get along well enough if there were no folks from Lowell at Great Falls, for she could write a certificate herself; she lost one once, she said, and wrote another, and the minister did not know but what it was the one she had received; she said she was well acquainted with Mr. Avery's hand writing and could imitate it so that no one could tell the difference, and that she could imitate almost any one's hand writing. She said she would be revenged on Avery if it cost her her life, that her life was of no value. She told me that she expected to have had Mr. Rawson as much as if she had married him, and that she should have made way with herself, but her friends would not give her the opportunity.

Cross examination. I communicated these conversations with Maria to some persons in Somersworth; none of them are in Newport; Maria told me she saw Mr. Avery's hand writing in Lowell; did not say she had any of it in her possession; Maria lived in Somersworth from January to September; I did not see any thing very bad in her conduct; she told a great many wrong stories; I did not board in the same house with her; she boarded with Timothy Paul and Mr. Holman, in respectable families; she only told me one story, and that was about the certificate; witness is a member of the Free-will Baptist church.

Caroline D. Tibbitts. I came from Dover here; I knew Maria S. Cornell, and by the name of Sarah Maria Cornell. I first saw her at Mr. Merrill's four years ago in Lowell, and afterwards worked with her in a factory in

the same place. Mr. Merrill was the minister at Lowell; I knew her afterwards at Great Falls; she came in January and left some time in August or September; her name was put on the class book at Great Falls, but some of the class insisted on its being taken off about a week afterwards; the class leader came and inquired for Maria, and she wanted me to go to the door, for fear it was some one after her for debt from Lowell; on hearing who it was Maria went herself to the door; when she first came she told me about her excommunication; she said she was exposed by her physician, overseer and another person, and that Mr. Avery sent for her and asked for her certificate. She told him, she said, that she had lost her pocket book at camp meeting, and the certificate was in it, but that she had not lost it when she told him so. Avery told her, she said, to go home to her mother, that was the best place for her; I am not a member of the church now; Maria told me she went out one evening on purpose to destoy her life, but her courage failed—she said Mr. Avery wrote to her at Dover, requiring her to give up the certificate or he should expose her in the public papers; she sent him the certificate inclosed in a letter; she told me after her return from Lowell that she had got a paper signed by the leading members of the church there, and that if the people at Somersworth were of a mind to receive her, those who had signed the paper had no objection; don't recollect that she said any thing about Mr. Avery then; shs showed me a letter addressed to Mr. Avery, in which she confessed the charge of theft, lying and fornication, and entreated forgiveness; it covered three pages. Maria declared she would be a member of the Methodist church in spite of brother Avery. I told her he would expose her wherever she went; she told about going to Connecticut and making a certificate herself; she said she used to visit a young man in Lowell, in his counting room in the evening. One time Maria came to me in great trouble, said she had been turned out of her boarding house, threw her arms around my neck and wept; she spoke of her past life and said she meant to kill herself.

Cross examination. I thought Maria manifested a spirit of revenge or pride rather than of contrition; said she had been a member of the church too long to be crowded out in this manner by Avery. I have no recollection of

her being particularly affected by a sermon preached at Great Falls by Mr. Storrs. Maria never told me she staid one night at Mr. Avery's; she told me something about taking some cambric, which she did not appear exactly to consider a theft. Maria had a habit of throwing her arms around my neck and weeping. I first mentioned what she told me to my aunt in New-Hampshire. I understood Maria to say that the certificate was in the hand writing of Mr. Avery; she spoke of her intimacy with the young man in Lowell as a courtship; did not say they were engaged; said they had criminal connection; I saw her last when she was turned out of the mill two years ago last August; I do not know why she was turned out; I received a letter from her when she was in Boston, requesting me not to tell where she was as she was greatly in debt in Great Falls. She told me that Dr. Graves had attempted to have improper intercouse with her; she went to church as regularly on Sabbath as female members generally did; she told me Dr. Graves wanted her to pay him more than she owed him, and said the Dr. did wrong in disclosing the circumstances of her disease.

Mary E. Warren. I live at Great Falls; I knew Maria there two years ago; she told me she could forge a certificate, and they would not know but what brother Avery had written it; she said she had written one or was about to write one; Maria told me she had been expelled from the church in Lowell; she said she had been ill treated, and she would have her revenge on Avery if it cost her her life; she told me she had been tempted to jump into the canal and drown herself a number of times, and she thought she should do it yet.

Cross examined. I did not communicate these conversations to any one till after this affair came out; I told them first to Mr. Storrs. Mr. S. asked me if I knew any thing about the girl; I boarded with Miss Tibbitts. Maria never told me she had any of *M*r. Avery's writing in her possession, or that she visited his house when she went to Lowell to get the paper signed; I do not know why *M*aria left Great Falls.

Miss Ann Cottel. I live at Great Falls; three years ago I boarded in the same house there with *M*aria Cornell; I heard her say after being refused admission to a love-feast, that she had a mind to drown herself; it was

two years ago last winter; she was weeping at the time; I slept in the same room with her, and told her I thought she had nursed; she made no reply; appearances were such as to induce me to think she had nursed.

Cross examination. I told *M*rs. Paul, the lady where I boarded, what I had seen at the time; *M*rs. Paul and myself were both present when *M*aria threatened to jump into the canal; *M*aria left Great Falls between January and *M*arch; I have never seen her since; I never heard her speak of *M*r. Avery; never gave her any advice about her throwing herself into the canal.

Sarah Honey. I was acquainted in 1831 with Miss Cornell at Great-Falls by the name of Maria S. Cornell; she boarded at my fathers trom March until August; she had been out one evening in the month of June, I asked her what she had been out for, and she said she had been out to drown herself, but that her courage failed her; she said she had been tempted before to make way with herself; I have heard her say Mr. Avery did not treat her with common politeness when she went to his house; she said he was hard hearted and unfeeling.

Cross examination. When she first came to Great-Falls she did not board at my fathers; she showed a paper on her return from Lowell which she said had Mr. Averys name to it; I did not see it; I belong to the methodist church; she attended the meetings; I talked to her some about her going out to drown herself, but did not ask her for her reasons; I told her it was wicked to indulge such a thought; I recollect nothing more of the conversation; I did not at that time communicate the conversation to any one, nor did I adopt any measures to prevent her drowning herself; I believe after she left the place I said something to my mother about it; I cannot remember stating the whole of the conversation until I went to the Bristol court; I stated some of it to Mr. Kilbourne before I went to that court.

SATURDAY AFTERNOON.

John G. Dow. I now reside at Concord, N. H. In 1830, I resided in Dover, and a girl called on me, calling herself Maria S. Cornell. She did not write her name. She said she wished to obtain work in a factory, and then said she was a member of the methodist episcopal church in Lowell, and that she had a certificate of membership from Mr. Avery. It was dated some months

back and we did not receive her into the church as a member in full. I told her the best we could do would be to receive her in the church on trial, and on the next meeting of class leaders she was so received. Soon after I received a letter from Mr. Avery stating that a girl of that name had a certificate which she ought not to have, and that she had been expelled from the church in Lowell, for fornication and lying. The girl called on me and said she had received a letter from Mr. Avery requesting her to send back the certificate, which I advised her to do. I told her *I* had also received a letter from Mr. Avery, and told her the contents of it and that she could not be a member with us for trial. She denied both charges and said if she had been expelled, it was since she left Lowell. Shortly after I wrote Mr. Avery to know if the reports were unfavorable to Maria before she left Lowell, and if he had advised her to leave the place before trial, and generally to give me more particular information as to the nature of the charges. He wrote me a second letter, which with a number of other papers I burnt when I left the station. I did not consider it a church paper. He answered the questions, and said he had advised her to leave the place on account of her being a female, after which she was, in her absence, tried and expelled. He said she was a liar, and proved to be a common strumpet, that she had been affected with the bad disorder and also guilty of theft. I saw her soon after and told her I had received a second letter from Mr. Avery and that the point was settled, and that she could not remain in a state of probation in the church.

Cross examination. In ordinary cases sincere repentance and reformation would admit an expelled member back to the church. I knew nothing of the girl after that time. I had no personal acquaintance with Mr. Avery.

Timothy Paul. I reside at Great Falls; and knew Miss Cornell by the name of Maria S. Cornell, in January 1831. She wanted me to take her to board; which I did. In the evening she told me she did not belong to the church, but was at heart a methodist. She said she was deprived of the privilege of the church in consequence of reports from a young man whom she had been intimate with. I heard her read the latter part of a letter she had received, as she said, from her brother in

New-Orleans. She read it to show that she was regarded by her friends. She confessed in a letter to Mr. Avery, that she had been guilty of lying and fornication. She stated that being sick, she called on Dr. Graves, who insulted her, and said if she would not comply with his requests, he would report that she had the foul disease. She confessed herself guilty of fornication, (same stories told before.) She boarded with me two months. The confessions were made after I told her she could not board at my house. My wife being satisfied that she was a bad character, caused me to request her to leave the house. I had no fears of her committing suicide.

Thaddeus Bruce. I reside in Woonsocket Falls, in Smithfield, R. I. and formerly knew a young woman in Jewett city, (Conn.) named Maria Cornell either in the year 1822 or 1823—*I* think 1823. She came to the manufacturing establishment *I* was at, for employment. She was employed, and came into a room I had charge of, to work. She said she was a member of the Congregational Church in Bosworth I saw her come out of a building late in the evening, two or three times, accompanied by a young man. I talked to her about it. She said she had been led astray by the young man, was sorry she had taken that step, and would do so no more. She staid in Jewett city about 3 months. She did not conduct any better after my expostulation. She was dismissed from the factory. In the spring of 1824, *I* knew her in Slatersville, in Smithfield. She went there by the name of Maria Snow. I called her Maria Cornell; she said that was not her name. Afterwards she came to me and said she was sorry she had altered her name; but she had altered it, first, because she did not wish her parents to know where she was; and second, because she once knew a pretty girl by the name of Maria Snow. Her character there was bad. She associated there with lewd company. *In* 1825 she joined the methodist church in Slatersville. She professed to have experienced religion. *I* left her there in full connexion with the church. She was expelled afterwards from the church and applied for admission into the church at Pawtucket. Her general character was bad.

Cross examination. The charge against her in Slatersville, was her keeping company and walking the streets with young men, who by report were of bad character.

I admonished her and she confessed the fact. She confessed nothing that looked like fornication. She did not confess herself guilty of any crime in Jewett city. I did not charge her with fornication, neither did she admit that she was guilty of that crime. I met her in Pawtucket occasionly at class meetings.

Direct examinaiion. I don't know that she had any improper intercourse with the young man in Jewett city.

Zilpah Bruce. Wife of Thaddeus Bruce. (She repeats the statement made by her husband.) She called herself Maria Cornell. She had dark hair, dark eyes, and red cheeks. She said she was 19 years old. She was small size. I was satisfied in Jewett city from her appearance that she was pregnant. I first made a communication of these facts to a man I think by the name of Taylor, a *circuit preacher.* In answer to a question from the court she said, *I* do not know what you mean by chastity. Mis Cornell's character was that of a low young woman.

Philena Holmes. I reside near Slatersville in Rhode-Island and knew Maria Cornell, there in the year 1826. She requested to be allowed to stay at my house until she could get work. I asked her why she did not go home, she said first she had no home, and then she said the man who had married her sister, was first engaged to her, and she meant to be revenged on her sister, and had made the attempt to drown herself and was prevented by the man she boarded with. She also said her sister was jealous of her. This was all the conversation she had with me. I think she went from my house to Millville. I saw her two or three times after, but had no conversation with her.

Cross examination. She did not tell me the name of the man that had prevented her drowning herself. She told me of but one attempt to drown herself; but did not tell me when or where it was made. She told me the name of the man who married her sister was Grindall Rawson. I stated this to my husband at the time. I have not stated it lately, except to Mr. Blake since I came to this place. I often mentioned it after the death of Miss Cornell, in Slatersville. Mr. Amasa Taylor of Northbridge, asked me if I was willing to attend court.

William Holmes. Resides in Slatersville. In 1824 at Slatersville, I knew Miss Cornell; she called herself

Maria Snow. Her character there generally speaking was not good. She kept company with the men. In July or August of 1825, she made profession of religion and was baptized in August by William Taylor. She confessed her sins and promised to reform. For a while after she seemed to do tolerably well. She soon got off her guard. We reproved, and she confessed herself guilty of keeping company with improper persons, and of lewdness. After Mrs. Bruce came there, she went by by both names Maria Snow and Maria Cornell. Baptized by name of Maria. She was dismissed from the church on the charges of fornication and lying. She was admonished by me and others When she left Slatersville her character for chastity was bad. She confessed the charge of lewdness. She confessed herself guilty of fornication. She remained but a short time at Slatersville, after her expulsion from the church. Her general character for chastity has been bad.

Cross examination. The charge before the church in Slatersville, was not reduced to writing. Her character was bad while she was in fellowship with the church. The charges were preferred to me as class leader and I laid them before Mr. Rawson the minister, but not in writing.

Susan Walton. *I* reside in Lynn, (Mass.) I was acquainted with Miss Cornell in Dorchester, in 1827, by the name of Maria S. Cornell. *In* conversation she stated to me, that in consequence of disappointment in marriage, she went to the river, with a bible in her hand to drown herself, but her courage failed her. She confessed herself guilty of profanity, but nothing more. She said she was tried before the church for profanity, but did not tell me the result. She was charged with theft before the church of which I was a member. She related nothing to me about that. She left Dorchester about three weeks after she was brought before the church.

Cross examination. She did not tell me when, or where she attempted to drown herself. She said she was tried before the methodist church for profanity. I did not at the time communicate the conversation. First mentioned it after the death of Miss Cornell, to Rev. Mr. Bonner. She was acquitted before the church in Dorchester for want of sufficient evidence.

Mary Hunt. I reside in Milton. I first became acquainted with Miss Cornell in Dorchester, in 1827. She appeared strange or absent-minded. I told her once she appeared to be crazy; she said she had been told the same by others; that she had been disappointed in marriage, which produced a great effect on her, and that she had attempted to make way with herself. She said the man to whom she was engaged married her sister. She was well educated. Since she was charged before the church of theft, her character has been bad.

Cross examination. After that charge she has spent some time in respectable families in Dorchester on visits.

Rebecca Fuller. I reside in Canton, (Mass.) I knew Maria Cornell in Waltham, between July and August 1831. She told me she had been unfortunate, had no clothes nor money, and wished me to keep it a secret from the methodist people that she was at my brother's house. I found out afterwards that she had good and rich clothes. She showed me a number of letters, one of which was from Rawson, she said he lived in Providence and had married her sister. The letter began as follows, "My dear sister Maria it rejoiceth my heart exceedingly to hear you say you love God and continue with his people." I saw a copy of another letter to the Rev. Mr. Avery, in which she confessed her faults. She left our house in a strange manner; left her clothes and trunk with us, for which I reproved her, she burst into a flood of tears and said we had many acquaintances in Lowell, and as my sister had gone there she feared on her return she would bring back the reports relating to her. She said her character was so bad that she was obliged to move from place to place. She was so affected that she could not read the copy of the letter to Mr. Avery, but gave it to me to read. It was a confession of her guilt. In it she stated that when in Lowell she was unwell and went to Dr. Graves, to consult with him. The first evening he could not attend to her, but requested her to call at 10 o'clock the next evening, which she did. On her entering his office he locked the door, put his hand round her waist and told her she was a pretty girl. She told him he must not treat her so, as she belonged to the methodist society. The next time she went to him, she showed him her certificate to convince him she was a methodist. He threat-

ened if she did not comply with his wishes to inform *Mr.* Avery that she had the bad disorder. The letter contained confessions of the charges that had been brought against her and prayed for forgiveness and pardon. She said she hated Avery above all flesh living, but loved the methodist people as she did her own soul. She showed me a certificate from a church in Dorchester.

Cross examination. *My* testimony has not, to my knowledge, been by any one reduced to writing. I have told it to many, particularly after I saw *M*iss Cornell's death in the papers. *I* conversed with the Rev. *M*r. Palmer about it.

Direct examination. *I* belong to the Baptist church in Canton.

MONDAY MORNING, MAY 20, 1833.

Samuel N. Richmond. *I* reside in Providence and am a dealer in dry goods. *I* knew Miss Cornell; her sister afterwards married Grindall Rawson. *I* never had but one interview with her, and that was in Providence nine or ten years ago. [Here the witness was asked if he knew of her having committed a theft in Providence. The Attorney General objected to the question, as being irrelevant to the issue. The question was argued by Randolph and *M*ason, who contended that the testimony was relevant as showing the moral condition of the deceased; that it had a great influence over all men, and occasioned many to commit suicide. Court asks *M*r. *M*ason, if he could refer to a decided case where such testimony was ever ruled in. *M*r. *M*ason replied he had not such a case at hand. The question of sanity and insanity presents a broad issue, and opens an inquiry into the parties life. Attorney General. The public prosecutor has been very liberal in admitting testimony, but he thought he was bound to object to this testimony as irrelevant. He disputed the premises of the learned gentleman, that a person who 9 or 10 years ago committed theft, was more likely to commit suicide, than a moral man. *I*f this act of theft is admitted to be proved, the prisoner may prove the whole history of the girl's life from the cradle to the grave. The Court decided that the evidence offered was irrelevant and not admissable to show that the deceased committed suicide, but might be admitted to show a depraved and abandoned disposition.]

I saw *M*iss Cornell at *M*r. Thurber's; her sister who

married Mr. Rawson was present; Miss Cornell stated that she had taken goods from my store which she would return or pay for the amount, which was small. I staid with her about half an hour. I never knew anything more about her. A part of the goods were restored. She admitted that she had taken goods also from Mr. John R. Carpenter. The amount she took from me did not exceed five dollars. It was full nine years ago.

Cross examination. Mrs. Rawson was not in the slightest degree implicated in the affair. She was not then married.

Charles Hodges. I reside in Providence, and have resided there since 1805. I am in the dry goods trade. In the fall of 1822, I saw a girl in my store, who called hername Maria Cornell; I suppose it was the deceased. She saw a piece of silk, and wanted a dress from it, but was not prepared to purchase and I trusted her for it. Some time after the month of January, 1823, she confessed that she had taken goods from me. The confession was made in Pawtucket. She did not say what articles she had taken or their value. At first she denied, but then confessed she had taken all the articles which I had missed. She was in my shop half a dozen times, and would go to the back end of the shop and approach me as if she had something to communicate, when in fact she had nothing. At Pawtucket, when she confessed the theft, she would one moment cry and the next smile. I knew at the time that Mr. Rawson was paying his addresses to her sister. Some of the articles I think were returned and the others paid for. The whole amount was from five to six dollars. She bore the character of a thief; that was her general character among our shopkeepers.

Cross examination. This is all I know about her.—She said she was then visiting in Pawtucket, when I saw her there. It was in the year 1823. I judge from recollection. I never saw her afterwards.

Jonathan Cady. I reside in Providence, and was at the Thompson camp meeting; I went on Tuesday in company with Rev. Mr. Horton and Rev. Mr. Avery. I overtook Mr Avery at Mr. Cady's tavern about 20 miles from Providence. I think *M*r. Avery did not go on the camp ground that evening. I found him next morning at Mr. Elliot's, about a mile from the camp ground, about sun-

rise. I went on the camp ground Tuesday night I parted with Mr. Avery at old *Mr*. Elliot's about 20 minutes after sunset. I saw *Mr*. Avery several times on the camp ground on Wednesday. I cannot tell what hour I first saw him that day on the ground. I saw him in the afternoon at the preachers stand during the services which commenced at 2 o'clock. I saw him and conversed with him in the evening at the commencement of the services, which were at half past 7 o'clock I conversed with him 5 or 10 minutes and he then went towards the stand. I did not see him after that time, that day. I saw him on Thursday in the tents a number of times, but cannot state the hours. I merely saw him as *I* did other preachers that were there.

Cross examination. I cannot tell how many times I saw him on Thursday. On Wednesday evening *I* conversed with him about the discourse of Mr. Griffin, who was then preaching. When I overtook *Mr*. Avery on the road he was alone in the chaise; at *Mr*. Cady's he took in *Mr*. Horton's son and carried him to the ground. I don't recollect that *Mr*. Avery took any part on the stand in the religious ceremonies. He did not to my knowledge deliver any public discourse to the congregation. Mr. Avery left the camp meeting on Friday morning in company with the Rev. *Mr*. Crandall. I left the meeting on Friday and I presume it broke up on Saturday morning.

Direct examination. Old *Mr*. Elliot lives about a mile from young *Mr*. Elliot's.

Sophia Elliott. I reside in Thompson, Conn. I am the wife of John Elliot—we live about three quarters of a mile from the camp ground. *Mr*. Avery came to our house about early candle light on Tuesday of the camp meeting. He did not go on the ground that night. He remained at our house that night and went on the ground between 6 and 7 next morning after breakfast. I did not go on the ground that day. He came back on Wednesday evening between 9 and 10. He and brother Sabins lodged together in one bed that night. *I* think they came together, but don't know. After breakfast on Thursday he went on the ground. *I* was there on the afternoon of that day. I did not see Avery there. *I* heard one discourse and part of another. Avery came to our house on Thursday evening past 9, with Rev. *Mr*. Crandall; not much if any past 9. They both staid at

our house that night and lodged together. They left my house on Friday morning for their homes. They did not at any time, before Friday, go to the camp ground in Avery's chaise. They left on Friday soon after breakfast. No female called on *Mr.* Avery at my house. I never saw or knew there was such a person as *Maria* Cornell, until after her death. *I* know it to be a fact that females have the monthly sickness after pregnancy. It once happened to myself and to another person, on whom it continued 3 or 4 times. The person I spoke of was in ordinary health; so was I. This happened when pregnant with our first children. I had the return but once after pregnancy.

Cross examination. *My* father Elliot's is a large half mile from our house and about a quarter of a mile from the camp ground. His name is David W. Elliot.

John W. Elliot. I reside about three fourths of a mile from where the camp meeting was held in Thompson. *Mr.* Avery came to my house between sun down and dark on Tuesday evening; I was at my father's when he arrived there, and went with him to my house; he did not go on the camp ground that night; I put *Mr.* Avery's horse and chaise in my barn; they were not afterwards used by him until he started for home. *Mr.* Avery first went on the camp ground between six and seven Wednesday morning; I went to the ground a number of times on Wednesday; I don't know that I saw *Mr.* Avery on the ground that day. He returned to my house that evening between 9 and 10. Peter Sabins was with him, but I cannot say whether they came in together or not. I do not know that he left the house after he came in. Sabins slept with him. He went on the ground soon after breakfast on Thursday between 6 and 7; I am not positive, but think Mr. Sabins went with him. He returned home on Thursday evening with Mr. Crandall not far from 9 o'clock. Mr. Crandall slept with him that night; they left my house in Mr. Avery's chaise next morning to return home, and did not come back.

Cross examination. I was at my father's barn when Mr. Avery arrived at his house; I saw him first when he brought his horse to the barn: he wanted to stay there, but the barn was full. I don't know whether *Mr.* Avery stopped any time at my father's before I saw him there; I was at the barn when I first saw him. Sabins

is a preacher; I did not know *Maria* Cornell, and saw no one who went by that name; I did not see *Mr.* Avery with any female I did not know, on or near the camp ground; I do not recollect that *Mr.* Avery gave any reason for leaving the camp meeting on Friday, before it broke up.

Cloe Elliott. I reside in Thompson, about a quarter of a mile from the camp ground; my husband's name is David Elliot; *Mr.* Avery did not at any time during that camp meeting call for a room at my house; I do not know that *Mr.* Avery was at my house at any time during the camp meeting. I knew him but did not see him at my house. *Mr.* Avery was formerly a minister on that circuit, and that is the way I knew him. (Here the court told *Mr.* Randolph that he must not put leading questions to the witness.)

Cross examination. There were a number of the methodist ministers and the society at my house during the meeting; but if *Mr.* Avery had been there I think I should have seen him; he was on that station 10 or 11 years ago; I had not seen him since he left the station up to the camp meeting. He preached on the circuit a year. He was often at my house then, and I attended his preaching.

Direct examination. I once knew a female 9 or 10 years since, who had her sickness a number of times, that is, three or four months after her pregnancy. The person lived in our house, and it impressed my mind as something extraordinary.

Elias C. Scott. I am a clergyman, and reside in Ashford; *I* was at the Thompson camp meeting; *I* arrived there the 27th of August, on *Monday* the first day of the meeting, in the afternoon; I saw *Mr.* Avery first on the ground on Wednesday morning, between 7 and 8 *I* got a boarding place for him at a tent, where he could get refreshment: I think at the Plainfield tent. He said he should not stay on the ground at night. No recollection of seeing him afterwards on Wednesday until evening, when I saw him during the public services, near their close, in front of the stand opposite the encampment. It was probably about half past eight o'clock. I conversed with him some minutes and did not see him afterwards that evening. I saw him on Thursday near the preacher's stand, between 8 and 10 in the forenoon, and con-

versed with him several minutes. I saw him again in the afternoon at 2 o'clock, at the preacher's tent. He remained with me until the public exercises closed, probably half past 4 o'clock. I next saw him as early as 6 at the Weston tent. I left him there as the sun was setting. The sun set at 36 minutes past 6 o'clock; there was a prayer meeting at the tent; he introduced the services there and prayed twice. The meeting commenced as early as 6 o'clock; Mr. Avery was, I should judge, in the tent with me more than half an hour. On Thursday morning between 8 and half past 10, I informed Mr. Avery that there were bad characters on the ground; he informed me that one of them was the Cornell girl whom he had expelled from the church at Lowell for lewdness. He told me under what circumstances he saw her on Thursday morning, and that when she cast her eye on him she dropped as though she had been shot; I don't recollect any further couversation about her. I inferred from his expression that she meant to conceal herself from his view. On Friday morning soon after breakfast I saw him in his chaise; don't recollect that any body was with him; he was then at *Mr.* Elliot's house. I conversed with him 15 or 20 minutes. I think he drove off and left me; he bid me good morning; I do not recollect that any person joined him.

Cross examination. I expect the service on Thursday evening began at the usual hour, at half past 7. *Mr.* Avery came into the tent after I was there. I do not know where the muddy brook tent was; there was such a tent; I have no recollection of seeing him with any female that I did not know; I did not know Miss Cornell. My impression is, but I am not positive enough to swear to it, that I saw Mr. Avery on the ground on Thursday evening when the horn sounded. When I spoke to Mr. Avery about bad characters I referred to females. I do not know that measures were taken to remove *Miss* Cornell from the ground. I received my information relative to bad characters being on the ground from the Rev. Mr. *Merrill.* I have known *Mr.* Avery for five years. I invited him myself to attend the camp meeting. (Here the witness described the various places where *Mr.* Avery had been stationed as a preacher.) I remained on the ground every night from the first night until the meeting closed.

Direct examination. The first conversation I had with *Mr.* Avery relative to *Miss* Cornell, was two years ago next September. He mentioned the lewdness and other crimes of the Cornell girl; *Mr.* Avery's character is good as far as I have the means of knowing.

Phinneus Crandall. I reside in North Bridgewater; I was at the Thompson camp meeting; it commenced on *Monday* the 27th of August, and terminated the Saturday following; I saw *Mr.* Avery first at that meeting in the afrenoon of Wednesday; I wished to see him to know if he could give me a seat in his chaise to Providence on Friday. I was with him 10 or 15 minutes; I saw him frequently in the course of that day; I have no recollection of seeing him particularly after that time until next morning. On Thursday morning proposed that I should leave the camp meeting with him that evening after the services, and go to sleep with him at *Mr.* Elliot's. The conversation took place about noon. I again saw him in the afternoon at or near the stand, at the close of the services, not far from 5 o'clock. I was with him but a few moments; I asked him to take tea with me at our tent, and he concluded to; he took tea with me; he left me a short time and came to the tent about half past five. It was one of the Plainfield tents; we were then together about 30 minutes. I do not know where he went from that place; I left him at the tent; I next saw him immediately after the close of the public exercises in the evening about 9 o'clock. I am wrong, I saw him as I was going on to the stand at half past 7, and he agreed to meet me where he did. I preached myself that evening. When I came off the stand I found him waiting for me, and we went off the ground together to Mr. John Elliot's. There we conversed perhaps an hour before we retired to bed. We slept together. Mr. Avery was not absent from me after I came off the stand until the next morning. The next morning we got into the chaise and rode on to the camp ground. At old Mr. Elliot's I left the chaise and went on the ground to get something I had forgotten, and left Mr. Avery alone in the chaise. When I returned I got into the chaise with him and rode to Providence. I first became acquainted with Mr. Avery about 10 years ago. I have never known any thing against Mr. Avery's character. I have never head any thing against his character until I heard he had murder-

ed a woman. What I have heard of him has been favorable. When I knew him intimately, which was a few years after I became acquainted with him, his character was good. I have heard nothing against Mr. Avery's character until the present case.

Cross examination I first became acquainted with him in Connecticut. I have never known Maria Cornell. I did not at the camp meeting see Mr. Avery in conversation with any woman that I did not know.

Abraham D. Merrill. I reside in Lincoln, Mass. I was at the Thompson camp meeting. I arrived in the morning of Tuesday, the 28th of August. I saw Mr. Avery there on Wednesday morning from 7 to half past 7: We were together but a few moments and had some conversation. I next saw him in the afternoon of the same day, probably from 4 to 5 o'clock: I named to him that Maria Cornell was on the ground: we expressed a regret that she was there, and agreed that it was our duty to inform the people at the tent where she boarded of her character: I think Mr. Avery must have complied with the agreement, as the people of the Weston tent knew she was there, before I gave the information. Mr. Avery conversed with me about her expulsion from the church and the causes. The first I ever heard against Miss Cornell's character was at Lynn. Mr. Avery took tea with me at the Weston tent; the tea hour was half past 5. I don't know how long he remained there; I next saw him at noon on Thursday, and think he dined at the Weston tent with me. I don't recollect how long he remained there. Between 5 and 6 I saw him again near the Weston tent, and conversed with him, was with him between 10 and 15 minutes. I also afterwards saw him at the Plainfield tent at tea, at about half past 5. I left him there probably a quarter before 6. He was at the Weston tent afterwards at a prayer meeting. I do not recollect which of us left that tent first. He was there at the sounding of the trumpet. I saw nothing more of him that evening. I saw him on Friday morning in his chaise alone, that was the last I saw of him. I have been acquainted with Mr. Avery for 9 years, intimate for the last 5 years; his character has been good since I knew him. Miss Cornell's character in Lynn was bad; she was there between 2 and 3 years since. I was stationed there; she said she came there to enjoy religious privi-

leges, and wanted a place in my family; I got her a place where she staid 2 or 3 weeks and was dismissed. She left the place without seeing me. She was received on a certificate into the church at Lowell over which I was. I knew nothing then against her character. I knew her character to have been bad in Lowell before I saw Mr. Avery at Thompson. I saw Miss Cornell at the Thompson camp meeting; at first I did not know her on acconnt of her large green glasses. On Thursday she came to shake hands with me and said, brother Merrill will you forgive me: she was much affected, and said she believed God had forgiven her, and it would be a satisfaction to know that I had forgiven her. I told her confession would not secure my confidence, nothing would do but a well ordered life. She left me. When I was at Lynn Mr. Avery was stationed at Saugus, and used frequently to pass my house, that is all I know about his rambling. He walked towards Nahant, which was a place of resort. Some times he would have his children and some times be alone, and from his passing my house frequently and not calling, I thought he was peculiar in his habit of rambling I may have seen him pass so during the year I was at Lynn, a number of times in the course of each week. It attracted my attention.

MONDAY AFTERNOON.

Cross examination. Mr. Avery was in the Weston tent when I get there on Thursday; I saw him there at about sun set, and he remained there all the time, until the horn blew at half past 7. I was not questioned on this subject in Bristol and said nothing about it. I think when I mentioned to Mr Avery that Miss Cornell was on the ground, he said he knew it. I saw nothing improper in the conduct of the deceased while on the camp ground. I heard nothing against Miss Cornell while she was under my pastoral charge at Lowell; she was active at our prayer meetings. She was admitted to my church on a certificate from Dorchester. I know nothing but that Mr. Avery's temper is good. I may have said in allusion to his preaching that he was a man of warm temperament. I have not said anything against his temper in any other relation. The bad characters I alluded to were removed from the ground. I did not allude to Miss Cornell. I think Miss Cornell boarded at Muddy Brook tent. Mr. Avery was not present when Miss Cornell asked my forgiveness.

When I received letters pertaining to church business, on leaving a station, I usually left them for my successor. I staid at Lowell, I think, one year. I know of no charges against Mr. Avery, but a lawsuit against him for defaming the character of an individual. I have not seen and examined witnesses in this case very particular, out of court.

Direct Examination. Before Miss Cornell spoke to me at Thompson as I have before said, I had told the tent master that she was a bad character. Letters of acknowledgement from an expelled member I should not consider as records belonging to the church. Mr. Avery was prosecuted in Massachusetts for defamation of character; the subject was examined in an ecclesiastical council and Avery was acquitted. There have been no charges against Mr. Avery separate and distinct from the law suit referred to. Our practice is on leaving a station to destroy unimportant letters. A minister and a committee should decide on the sufficiency of a confession made before expulsion but after expulsion the minister would lay it before the committee or not, at his discretion. The minister can receive any person on probation.

Henry Mayo. I reside in Mansfield (Con.) and was at Thompson Camp Meeting; I arrived there on Tuesday 28th August. I saw Mr. Avery on the camp ground on Wednesday morning between 7 and 8. I took him into the Weston tent, was with him most of that day, was with him and heard a sermon, but don't know who preached. It was from half past ten to noon. Saw him 2 or 3 times between then and night. He came into the Weston tent just before night and I think he took tea there. After tea I went to Mr. Elliott's and returned about 6 and found Mr. Avery there, and we remained there together until the horn blew which was half past 7. When the horn blew he got up to go and asked me if I was not going to meeting. We went and staid outside of the congregation until the preacher had laid out his course; we then went into the preacher's tent where we staid until about half past 8. I saw no more of him that evening. I saw him on Thursday morning in the preacher's tent about half past ten. He came on the ground between 7 and 8. Brother Horton preached; we made some remarks on the sermon. Mr. Avery took

dinner with us between 12 and 1 at the Weston tent. I have no recollection of seeing him but a short time after dinner. He must have been there from 12 till two most of that time. About half past 5 he again came into the Weston tent. He staid but a short time and went elsewhere to tea. I went to see to my horse and on my return he was in Weston tent. A prayer meeting was about closing. He remained there until half past 7 o'clock. We talked about *faith and grace*. I stepped out of the tent and my attention being attracted by something else *Mr.* Avery came out, without my seeing him; I passed towards the preacher's tent and saw him conversing with a man under a tree. I went on and before I got into the tent Mr. Avery came there I think with brother Crandell. Before we went together into the tent, the sermon was finished; he went out of the tent and shortly after returned into it with brother Crandell, and shortly after they left it together. The preacher's tent was directly behind the stand. The Weston tent was about 10 rods off. From sun down until the close of the meeting at 9 o'clock, Avery could not have been out of my sight more than three minutes. I saw a person there on Thursday morning about 7 o'clock who some one told me was Miss Cornell. I remarked to my wife she ought to be married to save her credit. The manner she walked and her clothes not being quite large enough to meet behind led me to that opinion. I did not see her in front. I saw her, as sailors say, rather quartering. She had the appearance of being pregnant.

Cross examination. There was a contrast between her walk and the other ladies' with her. Her walk was irregular and not such as young ladies ordinarily had.—Her clothes were opened behind about half an inch. I cannot say there was any material difference from her common size. I did not know the ladies she was with. I think I have seen one of the ladies in this court house. I have seen her in town this day. Her name was Pamelia. I should have noticed Mr. Avery's absence from the tent 10 or 15 minutes that evening because we were together in the tent. Brother Palmer was also present in the tent; he went out and was gone about 15 minutes. On Thursday night he went out of the Weston tent but 2 or 3 minutes after the horn blew. I had never seen Miss Cornell before that meeting. My wife pointed her

out to me. I reside in the north parish of Mansfield. I am acquainted with a gentleman by the name of Storrs. I had a conversation with Mr. Fuller in his presence relative to the trial of Avery. Mr. Fuller was always talking to me about Mr. Avery. He showed me the trial and I asked him what he gathered from it. He said he could get nothing. I *ironically* said the magistrates were not competent, &c. I had other conversations with him on the subject of the universal doctrine. Mr. Storrs said, then you think Mr. Avery ought to be acquitted guilty or not. I told him he misunderstood me. I said I was with Mr. Avery Thursday evening of the camp meeting. I am distantly connected with Simeon Mayo, and have known him ever since I was a boy. I did not know anything about Mr. Avery being at Mr. Mayo's in New-Hampshire.

Direct examination. Fuller said that justice would not be done Avery, because he was a free mason. My object in answering Fuller as I did was to stop his accosting me on the subject of Mr. Avery in the manner he had.

Betsey Mayo. I was at Thompson camp meeting last August. *I* saw Mr. Avery there at the Weston tent on Wednesday forenoon. *I* saw him a number of times that day. He was at that tent at tea. He staid in the tent some time after tea; *I* cannot tell how long. *I* saw him Thursday morning in the same tent, soon after breakfast. I also saw him at noon, and in the afternoon before tea in the Weston tent. He did not take tea there, but returned directly after tea and staid until after meeting time. *I* think there was a prayer meeting in that tent after tea. He opened the meeting and prayed after it was opened. The prayer meeting was over before the candles were lit. He remained there until the lamps were lit. *I* did not hear the horn that evening to my recollection. I saw Miss Cornell on the ground two or three times. On Thursday she stood before me at the meeting and *I* remember the remark my husband made the same as he has related. Miss Cornell spoke to me in the afternoon. She said the Lowell preacher is here, Mr. Avery. *I* said Mr. Merrill is also here. She said she had spoken to Mr. Merrill. I told her Mr. Avery was in our tent, and she passed away immediately. *I* went into the tent and on being asked who it was *I* had been talking to, I replied Miss Cornell, and undertook

to point her out to some person, but could not see her, and Mr. Avery by his looks reproved me for having noticed her.

Cross examination. Mr. Avery said something to me but I do not know what he said. I told him I was sorry for having pointed her out, after I saw that he disapproved of it. The persons she was with were strangers to me. I noticed no improper conduct in Miss Cornell. I knew Miss Cornell at Lowell. I lived there not quite four years. She was a member of the church at that time. While Mr. Merrill preached there, I knew nothing against the character of Miss Cornell. I was a member of the church in Lowell. I saw nothing in the appearance of Miss Cornell at Thompson, that warranted the remark made by my husband.

Samuel Palmer. I reside in Stoughton, Mass and was at the camp meeting in Thompson, last August. I arrived on Tuesday. Saw Mr. Avery on the camp ground about half past 11. When the exercises closed I went and spoke to him. I saw him again at the stand that evening soon after the exercises commenced which was a few minutes past half past 7. I saw him in the preachers tent sitting on a trunk, and afterwards, near nine o'clock, I saw him passing off the ground alone. On Thursday at noon I saw him going into the preachers tent. At 2 o'clock I saw him in Grafton tent and conversed with him. I remained there but a few minutes. I next saw him coming to the stand just after the horn blew, which was a little before half past 7. A few minutes after I saw him conversing in the preachers tent with brother Mayo. This was while they were singing. I went out and was gone about 15 minutes and then returned and remained with him until he left the ground with brother Crandall. I saw him next morning (Friday) in his chaise. He and Mr. Crandall came up to the camp ground; as they were passing from the preachers tent to the chaise, brother Crandall said he had forgot his cloak. Avery said he must go and get it; and Mr. Avery got into his chaise alone and drove to the road where he stopped.

Cross examination. I did not see Mr. Crandall get into the chaise. He went to the house after his cloak—Mr. Elliot's house. I cannot name who was in the tent on Thursday evening, except Avery, Mayo and myself

Sanford Benton and others were there. I remember Mr. Avery, because I was directly by his side, and a good part of the time I had my hand in his. During the sermon some persons went in and out the tent. I don't recollect any conversation except with Mr. Avery, and but a little with him. I understood Mr. Crandall that he had left his cloak, but it might have been something else.

Patty Bacon. I reside in North Woodstock, am 45 years old and have had 9 children. I was at the Thompson camp meeting last August. I saw Maria Cornell there in North Woodstock tent; it was called Muddy Brook tent. She came into our tent on Thursday. Sister Waters said it was a girl; I said it was a married woman, or ought to be. I saw her change her dress and I asked sister Waters to look and see. I looked over when her dress was off and judged from her countenance and appearance. I saw her bosom. Her countenance looked as if she was pregnant. I cannot in particular tell the appearance of her bosom. Her countenance was pale and sickly. I did not observe her bosom. She said she was much out of health. I never saw her before or since. She took off her spectacles and looked different with them off. She looked very unwell.

Cross examination. I observed she was pale, before she went into the inner tent. Her eyes were black. I have known many females look pale that were not pregnant. From her pale face, dull eye, and not being very well, I judged she was pregnant. Many women do not appear so without being pregnant. Her bosom was rather full. I don't know she was any fuller than usual. I first informed the Rev. Mr. Jennison of these facts.—There is a great difference in the appearance of the bosoms of women who are not pregnant. I never told any person that some one inquired at the tent for Miss Cornell. I was not examined in Bristol. Mrs. Waters is in this town now.

Almira Waters. I was in the Muddy Brook tent with Mrs. Bacon when Miss Cornell passed through. *I* saw her and looked over the partition at her when she was changing her dress. *I* thought it possible that Miss Cornell was pregnant, but *I* did not know. She had a pale countenance.

Cross examination. *I* should have thought nothing about her being pregnant if Mrs. Bacon had not made the remark. *I* did not know Mr. Avery.

Polly Horton. *I* reside in Woodstock, and saw Miss Cornell at the Thompson camp meeting. On Tuesday she asked me if *I* knew where she could get a place to board. A young man came up to her, she patted him thus on the shoulders, and said she would have to go to Elliot's to board. He had on light colored pantaloons, palm leaf hat with green lining, and blue coat. Not a tall man; thick set and full face. I do not know the man if *I* should see him. That was improper conduct.

Cross examination. *I* had nothing against the girl before she patted the man on the shoulders; *I* then left her. The young man asked her if he should carry her trunk to Elliot's. I don't know Mr. Avery. I have seen Mr. Rawson of Woodstock. *I* live a mile and a quarter from where he does. *I* have seen Miss Cornell at meeting with his family.

TUESDAY MORNING, May 21, 1833

Milton Daggett. *I* reside in Weston and was at Thompson camp meeting last August. *I* first saw Mr. Avery on the camp ground about 7 o'clock. *I* invited him to board with me. *I* again saw him at noon and at 4 or 5 o'clock, at Weston tent, where he remained about half an hour. He took tea at that tent. *I* again saw him on Thursday morning about 9 o'clock: he took dinner with me at 12 and staid about half an hour. Saw him again about half past 5, at Weston tent, where he remained about 15 minutes; he went out before tea and returned a little before 6 and opened a prayer meeting which continued *I* should think from half to three quarters of an hour. *I* did not see him leave the tent that evening until after the horn blew. *I* do not know for a certainty that he was in the tent every moment of the time, from the prayer meeting until the horn blew. Mr. Mayo and his wife, my wife and Miss Whitney were there present. The last *I* saw of him, he was assisting me to fix the tent. *I* don't recolleet seeing him after that, until Friday morning, when he came to the tent and bid me good bye; he then went to his chaise and went off the ground alone, towards Mr. Elliot's.

Cross examination. *I* ascertain the time by the regulations of the meeting; tea hour was half past 5; but *I* cannot say that the time of taking tea on Thursday was precisely at half past 5. We came as near that hour as

we could. *I* do not recollect seeing Mr. Crandall on Friday morning with Mr. Avery. *I* did not know Miss Cornell and have no recollection of hearing of her at all during the camp meeting, either from Mr. Avery or any other person. *I* am acquainted with Mr. Avery; he was stationed in Weston 20 months; he came there in 1827. *I* cannot recollect who was tent master. *I* was notified there were bad characters on the ground; it was known in the tent. Mr. Avery was while at Weston found of good horses.

Direct examination. The horn blew for the evening service at the Thompson camp meeting, a little before half past seven. *I* am not a clergyman. *I* was the tent master of the Weston tent.

Louisa N. Whitney. *I* reside at Waltham, Mass. and was at the Thompson camp meeting last August. *I* resided at Weston tent. *I* was there on Thursday afternoon. Soon after preaching Mr. Avery came to the tent and remained there until near tea time; he went out to tea and was gone from 20 to 30 minutes, he then returned and remained in the tent until after the horn blew. When he came back after tea, there was a prayer meeting, which *I* think he opened. He conversed with Mr. Mayo. After the horn blew he went to the preachers tent. *I* saw him at that tent, but don't know that he went into it. On Friday morning he called to the tent and bid us good morning.

Cross examination. *I* did not see any one with him on Friday morning. *I* do not know Mr. Crandall. *I* remember that Mr. Avery was in the tent all the time, as before said, because I sat next or near to him, and he took a part in the meeting. Mr. Benton was there and I think he made one prayer; I judged from his voice. Mr. Daggett either made a prayer or exhorted; I do'nt know that he remained all the evening; I cannot recollect who else exhorted or prayed at that meeting. I did not see which way Mr. Avery went after he bade me good morning on Friday morning; I do not know whether Mr. Avery opened the prayer meeting by singing or praying; I heard in the tent that Mr. Merrill was very much tried by the appearance of a girl on the ground who had been expelled from the church in Lowell.

Abby Hathaway. I reside in North Providence. Between 10 and 11 years ago Maria Cornell came to the Lyman mills and called herself Maria Snow; she said she was very poor and appeared much distressed; she had no clothing; she told me that her mother died of typhus fever at Norwich, Con. and they had taken all her clothes to pay the doctor's bill; she left the place before we heard her real name. Soon after she left I ascertained her name was Maria Cornell; it was but a few weeks

after. She told me she had a sister in Providence by the name of Lucretia. With the money she made at the factory she purchased a suit of mourning for her mother. I have seen her since at the methodist meeting in Providence, about 6 years ago. She then went by the name of Maria Cornell.

Cross examination. I do not mean to say that I know of any criminal act of hers, or that she confessed any to me; her conduct was very unbecoming.

Direct examination. She appeared to be very intimate with a gentleman who called on her occasionally. Once when he called she put her arms round his neck; I knew the young gentleman, he was in the habit of calling there; shortly after he went up into the new country. He was a respectable man; I do not know whether he is how living or dead.

Josiah H. Ormsbee. I reside in Providence, and knew a young woman by the name of Cornell, a sister to the lady who married Mr. Rawson. About 10 years ago I detected her in stealing a piece of muslin, and she confessed the fact. I lived at the time as clerk with John R. Carpenter. She told Mr. Carpenter not to expose her as she was about joining Mr. Wilson's church.

Nathaniel Chadwick. I reside in Providence, and drove the mail from Bristol to Providence. On Monday or Tuesday of the four day meeting in Providence last November, I carried Mr. Avery from Bristol, and left him between 4 and 5 at Mr. Jilson's in Providence. Mr. Jilson resided nearly opposite Wilson's meeting-house, on west side of Providence river on broad-street, about three quarters of a mile from the bridge.

Pardon Jilson. I live in Providence, opposite Wilson's meeting-house, a little over a half a mile from the bridge. Mr. Avery staid at my house during the four day meeting last November; he came on Monday evening just at night. This was the 26th of November. After tea he went to prayer meeting with me, and when it was over we returned together, and he staid at my house that night. He did not go out after we returned; he came down stairs a little after daylight on Tuesday, and said he was going to prayer meeting. About sun rise he went out to go to the prayer meeting. I saw him cross the street; chesnut-street leads to the methodist meeting-house. I saw him turn the corner of that street. I went down the street and returned a little past 8, say 10 minutes past 8; when I passed the Universalist meeting-house it was 5 minutes past 8. That is a short quarter of a mile from my house, When I got home Mr. Avery was at my house; my family was there; also Mr. Ireson and his wife; Avery remained I should think until a few minutes after half past 8. He took breakfast at my house; a few minutes past half past 8 he left my house alone, observing he had an errand at brother Fuller's with brother Halloway, and that brother Ireson would attend prayers with us. I believe I did not again see Mr. Avery until evening at prayer meeting; he staid at my house that night and left I think next morning for Bristol. I on reflection think it was on Thursday he left my house. He left my house the day before thanksgiving, and it must have been Wednesday; he left in the afternoon. He preached in the forenoon of that day as I understood.

Cross examination. I first thought he left on Wednesday morning,

but it was in the afternoon; I know it was 5 minutes past 8 when I passed the Universalist meeting-house on Tuesday; I passed on Wednesday morning about the same time; I cannot say whether 5 minutes earlier or later; I cannot tell what time I passed the Universalist clock on the Friday following. A week ago last Friday I passed that clock at 11. I noticed it because I was coming to Newport in the boat. A week ago last Monday I passed it at half past 7. I cannot name any particular day two months ago when I passed and noticed the time of day by that clock. I certainly think it was half past 8 when Mr. Avery left my house on Tuesday morning.

Direct examination. The Fall River boat usually lays a quarter of a mile below the bridge. I should think it near a quarter of a mile from my house to the methodist meeting-house; Mr. Fuller does not live more than 200 feet from the meeting-house, and about the same distance from my house that the meeting-house is.

Cross examination. It would be further to get from my house to the Fall River boat over the ferry than round by the bridge; I mean the lower ferry; the upper ferry would have shortened the distance about one third, but I think the ferry boat was not running at that time of the year.

Samuel Boyd. I live in Providence, and first saw Mr. Avery on Tuesday of the four day meeting about sun rise, in chesnut-street, near the methodist meeting-house going towards it, and about two thirds of the distance from Mr. Jilson's to the meeting-house. I merely said good morning to him as I passed him. I next saw him about 9 o'clock in the fire room in the methodist vestry; I was there before the meeting commenced, and my impression is he come in after I got there. I will not be positive. The meeting began about 9 o'clock; I cannot say exactly at 9: it was appointed for 9. I saw Mr. Avery during that meeting in the altar, sitting near Mr. Merrill, the presiding elder. The prayer meeting broke up about half past 10, and immediately after there was preaching. I did not see Mr. Avery leave the house; he was there when I left, about 20 minutes before 11 o'clock. The meeting was held in the vestry. The preaching in the forenoon was in the vestry. Mr. Avery was present in the altar when the prayer meeting broke up.

Cross examination. I can say it was not 10 minutes after 9 when I saw Mr. Avery at the prayer meeting. I know when I went there, and the meeting commenced soon after: it was but a little before 9 when I left my house for the meeting-house, and I am quite sure it was not more than 5 minutes before 9. I looked at my time before I left home. I thought I arrived at the meeting-house about 5 minutes before the services commenced; but that is so short a time I would not be positive. There is frequently a variance of 5 minutes from the time meetings are appointed. I attended the meeting on Wednesday afternoon. I left home for the meeting-house about 15 minutes after 2. I looked at my time. I got to the meeting house while they were singing. I attended the meeting on Wednesday evening about half past 6. I am not so particular as to time in the evening as in the morning on account of my business. I think when I first saw Mr. Avery in the meeting house on Tuesday morning they had given out the hymn, which was the first exercise. He sat on the right side of the altar by the side of Joseph A. Merrill, the presiding elder. My watch was very near the Baptist clock,

I did not remark that day whether it differed 5 minutes from the Baptist clock; I have known her to differ as much as that.

Direct examiaation. I carry on the baking business, and deliver, when I am at home, bread myself to my customers: in November I generally start to deliver my bread a little before sun rise.

Question by the Court. Is there any thing in particular which makes you remember looking at your watch that morning. Answer. No; but I usually did during that meeting.

Jotham Horton.—I reside in Providence and preach in the Methodist church there. By previous invitation Mr. Avery attended the four days meeting held in Providence the 26th of November last. Mr. Avery attended the meeting in the evening of that day. I remember he sat with the congregation; he was present during the meeting, which was a prayer meeting. The next morning (Tuesday) he was present at the sunrise prayer meeting, which closed about five minutes past 8. I then requested Mr. Avery to be present at 9 o'clock and take charge of the prayer meeting which was then to commence. I asked him because I was engaged on private business of my own at that hour. I know it was five minutes past 8 by my time-piece, but don't know that I looked at my watch. I usually do; my impression is I did look at my watch. The regular time for closing prayer meeting was 8 o'clock, and I have a distinct recollection that it ran over that day as much as five minutes. When I left Mr. Avery, I went to the packet wharf, where the packet that had a box of books for me lay, and engaged for the books, stopped about three minutes and returned directly back to my house; might have been in house two minutes, did not sit down: from my house I went directly to the prayer meeting. I know I arrived there about five minutes past 9, not varying two or three minutes from that time. Mr. Avery was there; the meeting had not commenced, and I took the charge of it. The meeting closed soon after 10. My eye did not rest on Mr. Avery during the whole of the meeting, but if he had gone out I should have known it. The packet I went to, lay all of a quarter of a mile below the Fall River steamboat; I walked with more than ordinary expedition, and have no recollection of stopping anywhere except as I havebefore said. The route I took is the same I should have taken to have gone to the steam-boat. I took from the bridge the direct road to the steam-boat and saw nothing of Mr. Avery either going or returning. My house is about a quarter of a mile below the meeting-house, and about 200 feet from the foot of Chesnut-street. The road I took from the bridge to my house made it about a quarter of a mile further than from the bridge to the meeting-house. I have been acquainted with Mr. Avery 8 or 9 years; his general reputation has been good; I have heard him highly spoken of.

Cross-Examination.

The packet was from New-York; I do not recollect her name or that of the Captain. I do not recollect what I went to my

house for. I found Mr. Merrill at my house when I got there. The prayer meeting on Tuesday broke up about five minutes past 10. I do not distinctly recollect looking at my watch; the regular hour was 10. I remember more particularly about the time the morning prayer meeting broke up than the one after breakfast, because it encroached on the breakfast hour. I had breakfasted, but I knew others had to get theirs. I have a distinct recollection it was past 8 when the sunrise meeting broke up, but cannot say how long after. I do not distinctly recollect who else was present when I got to the meeting-house at 9, but Mr. Avery; I think Mr. Emerson was present. The congregation had assembled; a few came in after I got there; Mr. Avery was sitting in the altar at the right of the pulpit. I began the worship a minute or two after I got in. The sunrise meeting closed on Wednesday morning, 3, 4, 5 or 6 minutes after 8, according to the best of my judgment, which is formed on my usual practice of being punctual in closing the morning prayer meetings.

I should think the Methodist meeting-house was three quarters of a mile from the bridge in Providence; all of that if you went up Chesaut-street round by Mr. Wilson's meeting-house. The wharf the packet lay at was but a few rods from Fuller's the block-maker—as much as six rods. I was at the Thompson camp meeting last August; saw Mr. Avery there, but heard nothing of Miss Cornell.

Direct Examination.

When I arrived at the 9 o'clock meeting on Tuesday, I observed Mr. Avery, more particularly because I had asked him to open the meeting for me.

TUESDAY AFTERNOON.

Mr. Horton requested to correct that part of his testimony which related to the distance from his house to the meeting-house. It was but the eighth of a mile, and not the quarter of a mile as he said in the forenoon. Also he said the prayer meeting that commenced at 9 o'clock on Tuesday lasted until within 6 or 7 minutes before half past 10. He recollects this fact now from the circumstance of the meeting for preaching commencing that day at half past 10, and he gave an intermission of 6 minutes. He had forgot the fact when he testified in the forenoon.

Joseph Ireson.—My family reside in Douglass (Mass.) I was at the four days meeting in Providence last November. I was at the sunrise meeting on Tuesday; I left the meeting after it closed, which was about ten minutes past 8 o'clock. I did not know the precise time. From the meeting I went to Mr. Jillson's in company with Mr. Avery. I heard Mr. Horton tell Mr. Avery to take the charge of the 9 o'clock meeting, and he said he would. We went directly to Mr. Jillson's in our ordinary walk. Mr. Jillson came in soon after we arrived. We breakfasted there; there was some inquiry as to the time after breakfast, and some one said it wanted 20 minutes of 9. Avery left

immediately after breakfast, observing he had to call at Mr. Fuller's and to open the 9 o'clock meeting. I did not look at a watch to ascertain the hour. I did not know which way Avery went. I did not go to the 9 o'clock meeting that day. I next saw Avery at the half past 10 o'clock meeting.

Cross Examination.

I judge of the time when I left the sunrise meeting from the number and length of the exercises. I know of no circumstance that fixed the time in my recollection. I should not think it was more than five minutes after we got to Mr. Jillson's before we set down to breakfast. I do not form this opinion from the recollection of anything in particular. Mr. Jillson and his wife, Mr. Avery and some one or two others were in the room when the inquiry was made about the time. I am not certain that it was Mr. Avery who inquired, or whether it was answered by him or some one of the family. I saw Mr. Avery at the Thompson camp meeting last August.

Abraham Holway.—I am a preacher by profession and live in Warren. I was at the four days meeting in Providence last August. On Monday night I stopped at brother Fuller's. I have no opinion about the distance from Fuller's to the meeting-house. I went to the sunrise prayer meeting on Tuesday, I think, but don't remember it distinctly enough to swear to it. I breakfasted on Tuesday at Mr. Fuller's. I do not know about what time it was I breakfasted. I saw Mr. Avery that morning at Fuller's, I should judge 20 or 30 minutes before 9. He said his object was to see if he could return with me to Warren. I should judge Avery remained there between 20 and 30 minutes, from what transpired while he was there. I shaved myself and we had an argument on a subject from the Bible after I had shaved. The argument commenced after I had finished shaving. I did not go out with him to prayer meeting. He said he must go, as he had to superintend the morning prayer meeting. It was about 9 o'clock when he went out from Fuller's. I went out shortly after Mr. Avery and directly to the meeting-house. I do not recollect whether Avery was in the meeting-house when I got there, or whether the meeting had begun. Mr. Fuller was in the room a part of the time at his house when Mr. Avery was there. I cannot say whether any one went with me from Fuller's to the meeting-house. I may have remained behind Mr. Avery three minutes. I should not like to say positively that it was more or less than ten minutes. While on Rhode-Island attending a four days meeting last November, I had a conversation with Mr. Avery about having an excursion on the Island at some future time, to be determined by circumstances, to the coal mines. We went into a blacksmith's shop to examine the quality of the coal. I also heard him inquire about the coal at another place. We conversed about the scenery of the Island. W visited the Fort called Butts' Fort. I believe he stated there o soon after, that in the revolution his father was a soldier on

Cross Examination.

The prayer meeting was appointed at 9. I judged as I have before said, that Mr. Avery was at Mr. Fuller's 20 or 30 minutes, and therefore concluded that he came there 20 or 30 minutes before 9. I had no other means of judging. I know it was Tuesday from the circumstance that I did not sleep at Mr. Fuller's any other night but Monday. I cannot recollect whether I went to prayer meeting or Tuesday sunrise meeting. I do not recollect what time we breakfasted, but I suppose at the usual time. I don't know the usual time for breakfasting in Providence; I presume it was between 8 and 9 that we breakfasted, but I have no distinct recollection as to the time or how long it was after breakfast before Mr. Avery came to Fuller's. At the four days meeting on Rhode-Island, I stayed at more than one place, but don't recollect any other place where I stayed but at Mrs. Cooke's. Mr. Avery staid with me at Mrs. Cooke's. I think I staid at Brownell's and Mr. Avery was with me. I think Avery was at Fuller's 20 or 30 minutes. I should not like to say it was under that time. I saw Mr. Avery in Warren about the 1st of November. I also saw him there another time in November, before the four days meeting in Providence, but do not know at what time he was there; I think it was in the morning. He said he came to get a stove, but could not find one.

Joseph Fuller.—I reside in Providence and live on Friendship street, between 18 and 20 rods from the Methodist Meeting-house. On Tuesday morning of the four days meeting, Mr. Avery came to my house, from 30 to 35 minutes before nine o'clock in the morning and remained until nine o'clock. When it come 9, he said he must be going as he had to open the meeting for Mr. Horton. I looked up at the clock and saw it was 9. My clock keeps good time and is seldom more than a minute or two out of the way. I went to the 9 o'clock meeting that morning. I probably went about 10 minutes after 9. I do not recollect what part of the services were performing when I got there. I have no recollection of seeing Mr. Avery there.—I should think it half a mile from the bridge to my house through Broad-street but not so far over the new land.

Cross Examination.

I am not certain as to the time by the clock except 9 o'clock.—Mr. Holloway was shaving while the conversation he refers to in his testimony was going on. I judged it was from 30 to 35 minutes that Mr. Avery was there, from the circumstance, that took place while he was at my house, and not from knowing the time when he came there. The meeting was from the time usually set from 5 to 10 minutes. I cannot say positively that it was not 15 minutes after nine when I got to the meeting that morning. It is half a mile from the bridge to the New Market.

Samuel Palmer.—Called again. I was at the four days meeting in Providence. I arrived in Providence Monday evening,

Nov. 26 and saw Mr. Avery at the prayer meeting that evening. On Tuesday morning some few minutes past 9, I went to the prayer meeting. The exercises had been begun when I got there. I saw Mr. Avery in the Altar when I arrived there. I sat near the entrance of the altar and must have moved to allow a person to enter or go out. Avery prayed at the meeting. The meeting closed about half past 10. I did not know the exact time, but brother Horton observed there would be an intermission of 6 minutes. Avery and myself passed up at the steps of the east door of the vestry and conversed a few minutes. Brother Hollaway was with us a part of the time. After staying perhaps 5 minutes we returned to the altar and sat near together during that exercise. As it closed, Avery locked arms with brother Merrill and I in company with them went to brother Hezekiah Anthony's where we dined. I was with Mr. Avery from the time I saw him at the 9 o'clock meeting with the exception of 2 or 3 minutes until 4 o'clock P. M.

Cross Examination.

I was sworn in Bristol but not called to testify; it was not 9 o'clock by my watch when I started from brother Anthony's on Tuesday morning for the meeting; on the way I heard the Universalist clock strike 9 when I was near Wilson's meeting-house; I heard the clock strike while I was in the main street; I think I had not passed Mr. Wilson's meeting-house when the clock struck. From these facts I think it was not more than 5 minutes past 9 when I got to the Methodist meeting-house.

William Pearce 2d —I reside in Bristol; I was at Mr. Avery's house on 25th December in the afternoon with several gentlemen; the Deputy Sheriff, Mr. Paul, said there was a considerable crowd from Fall River coming up the street and suggested whether they were not coming to take Mr. Avery from his house and to carry him to Fall River; at the request of his friends Mr. Avery retired up stairs. I soon followed him; I saw Mr. Orswell there with others; I heard Mr. Avery ask Mr. Orswell if he thought he was the man who handed him the letter on board the steam-boat. Mr. Orswell replied he could not certainly tell, but he thought his face bore some resemblance to the man; Mr. Avery asked what outside dress the man had on; M. O. thought he had a cloak on. Mr. Avery asked what color black or blue; Mr O. said some dark color as people did not generally wear white cloaks; Avery asked if the cloak had a cape or a collar; O. said he could not recollect, nor could he tell what kind or color of under clothes he had on; O. said he thought they were of some dark color; he could not tell whether he had a watch or a cane. Avery enquired whether the man handed him the letter on the wharr or in the boat; O. thought on board the boat and he remembered it because he was going towards his engine when the letter was handed him: he said he told the man there was a letter box; the man asked him to take the letter and gave him 9d. and he took the letter. Mr. Avery asked him what time of day it was; O.

said he thought between 9 and 10, drawing near the time for the boat to start as he had considerable steam up. He said he should not like to swear that Avery was the man, but as he had been told thatMr. Avery had dark hair and dark eyes and was tall, he thought he resembled the man. Mr. Avery asked him if he would swear he was the man. He said he should not like to. Mr. Avery asked if the man who gave him the letter had spectacles on. O. said he did not exactly recollect, but he thought not. Mr. Paul went out of the room and I told O. we had better set down, our minds were too much excited. Mr. Avery put on his spectacles and Mr. O. said he did not resemble the man with them, as much as without them. He then said he should not like to swear he was the man who handed him the letter. Mr. O. said he thought it was from two to three weeks since the letter was delivered him; he thought it was after the boat commenced making but one trip a day.

Cross-Examination.

O. said he did not feel confident enough in his mind to swear that Avery was the man. I am not sure that was the expression, but it was so in substance; I thought I recollected his words. O. said the man had on a black hat: the last expressions I heard Ors well make at Mr. A's. were those I have last stated. Mr. A. asked those present if they had ever seen him out in the street without his spectacles. Mr. Avery said he had not been out without them in 3 years: they said they had not; Mr. Paul, Benj. Tilley, Wm. Deman and a female were present during the conversation, Orswell appeared to be earnest but did not show any improper feeling; when Mr. O came into the house 7 or 8 others came into the kitchen. Mr. Paul and Mr. Tilley requested them to retire—they did, they frightened the women.—I was impressed that Orswell was not confident that Avery was the man; I might have said so in Bristol; that was my impression; my memory is not so good as some others, but I remember some things.

Direct Examination.

I do not recollect positively swearing in Bristol that I was impressed that Orswell was not confident that Avery was the man. The crowd come to the house at the same time with Orswell; they were all strangers to me but one that was Bradford Durfee; the steam-boat from Fall River had arrived before that time.

Cross-Examination.

I thought there were 50 persons that came up the lane to the house.

WEDNESDAY MORNING, MAY 22.

Elias Smith.—I reside in Providence and follow the boating business. I keep the ferry from the steam factory wharf on the west of the river to Capt. John Gladding's wharf on the East side. I think there was no other ferry kept up above that place the latter part of last November. My impression is that it was discontinued about the 1st of November, but I do not know. I attended my ferry on the 27th of November last. I knew Mr. Avery by sight; he did not pass the ferry that day. I have no knowledge of his having ever passed.

Cross Examination.

I had no particular acquaintance with Mr. Avery, but having seen him at the Methodist meeting-house I knew him. I remember attending on the 27th, from the circumstance of the four days meeting. I attended every day between meetings. Mr. Avery must have passed in meeting time without my knowledge. I left the ferry about 9, or a little before, on Tuesday. I have no means of ascertaining the time I left but from the time the meeting began. I went to meeting that morning, but don't remember whether the services had begun when I got there. I was also at the sunrise meeting. The upper ferry was an occasional one. I went from the sunrise meeting immediately home and took breakfast. Above the steam factory it is from 50 to 60 rods across the river. It takes three minutes to cross the river at my ferry. I did not attend the ferry all the time on Tuesday morning between the sunrise and 9 o'clock meeting. I should think the river was 30 or 40 rods wide at the upper ferry, which went from Butler's wharf to the old packet wharf, which is rather below where the Fall River boat lies.

Direct Examination.

My father attended the ferry in my absence. When I got to the ferry after the sunrise meeting on Tuesday, I attended it until nearly 9 o'clock.

Cross Examination.—There are two boats at the ferry; my father attended one and I the other. When one of us was absent, one boat did the business. I think it would be further to go from Pardon Jillson's to the Fall River boat by crossing my ferry, than by going round by the bridge; from the Methodist meeting-house the distance would be about the same.

William H. D'Wolf.—I reside in Bristol. On the 20th of December last, about half past 12 or 1, the weather began to grow milder than in the fore part of the day, and the wind continued to decrease until 9 or half past 9 in the evening. The wind was higher in the morning; it blew from about West, varying half a point to S. and N. of West. I noticed the fact because my brother was going to sea that day. At sunset it was more steady from W. by S. I was employed despatching a ship that day, and was taken sick that day and confined after it. The wind was light; about a four mile breeze. The weather was mild. In the shade the travelling was rough; it thawed a little in the sun. I am extensively engaged in the whaling business: I keep all my letters on file. On the 19th of November I received a letter charged with 6 cents postage: I have not got that letter: I have looked for it, but cannot find it. I find a bill of goods dated the 14th of November from Fall River, (bill produced by witness.) It was from Mr. Burden at Fall River. The goods arrived on the morning of the 15th of November, in the sloop Catharine: the bill was not brought by the sloop: the bill was not received on the 15th or 16th, unless at night on the 16th. From the appearance of the bill, I think it was enclosed

in a letter. I have no recollection when or how I received the letter. I received letters from Providence on 15th and 17th Nov. (produces one of the letters.) Letters from Providence are charged with 6 cts. postage.

Cross Examination.

The steam-boat King Philip stopped at Bristol last November every day on her passage from Fall River to Providence. I have received letters by her. I cannot swear positively whether the bill I have produced was received by packet or by mail. The bill is filed in Mr. Dearth's hand-writing. Of my own knowledge I do not know that I received any 6 cent letter on the 19th of November. I have a thermometer, but did not examine it on the 20th of December. I think the afternoon was unusually mild for that season of the year; it was not blustering; not very warm or cold.

Hopestill P. Dimon.—I live in Bristol and am attached to the Custom-House, and occasionally assist Mr. D'Wolf in getting his whale ships ready for sea. In November I was employed for Mr. D'Wolf; on the 15th of November he received a number of hoops from Fall River. No bill came with them and I had to pack them without one: I was two days packing them.

Susan Smith.—I live in Bristol. I saw Mr. Avery pass our house early one morning with a handkerchief wound round his hand. Mr. Lawless was with him; the ends hung down and swung as he walked; I have no recollection of the day or time I saw him. I do not recollect the month; I do not ever remember to have seen Mr. Avery pass with Mr. Lawless, except at that time. It was a cold morning, and I believe it was the day before I heard of the death of the young woman.

Susan Moore.—On the morning of the 21st of December I saw Mr. Avery pass my house early in the morning. He had a silk handkerchief in his hand; Mr. Lawless was with him. I should not suppose that anything was rolled up in the handkerchief.

Cross Examination.

I had no reason for noticing particularly whether there was anything rolled up in the handkerchief or not. I noticed Mr. Avery as he passed our second window.

Direct Examination.

I did not take particular notice of the handkerchief. It was not a bundle; I think there was nothing in it. My mother, Susan Smith, is 76 years of age.

Nathaniel Bullock. I reside in Bristol; I was present when Mrs. Jones was at Mr. Avery's house; I went there to see if she was a material witness. She said she had seen a stranger on R. Island the 20th of December. She spoke of him as being a tall man, dressed in dark clothes, having a large hat on, one larger than common. She said I think, it was not usual for strangers to pass that way. She made some such observation. She said she looked particularly at the person because she thought it

was her brother who had been absent some considerable time and lived down east. I made a mark with a piece of chalk on the floor to see how she stood in relation to the road or pathway and gate. She said the stranger was approaching her and passed through the gate. He came within 10 or 15 rods and went into a lot belonging to Mr. Brownell. Mrs. Jones said Mr. Avery was very much like the man she had seen on the Island, after he had gone out of the room to walk, as she wished to see him walk about the distance the man from the Island was from her when she saw him. She said he seemed very much like the stranger she had seen or that he seemed to be the same man. He walked like him a little stooping and the dress resembled his. She also said that when he stopped and looked round he seemed and looked very much like the stranger. After Mr. Avery came into the room she said she thought he was the man but she could not judge so well while he was in the room as at the distance through the window she had just seen him at. I then observed to Mr. Avery, that she was a material witness and that she must be examined. On account of her family she did not wish to come to court; but I directed her to come on a certain day and stop at Mr. Burges' house and that her stage fare would be paid. She said to Mr. Avery that the stranger passed a gate and asked Mr. Avery what the color of it was. Avery said one post or part of it was a light or white color and very different from the color of the other part. She looked at Mr. Avery and laughed and said "It is." I do not recollect anything further that passed. I heard no one ask the lady to keep anything a secret. The conversation took place down stairs in the south west room. I recollect we also conversed about the time of day; she said her impressions had been that it was in the afternoon while they were taking tea and dinner together and that she could tell when she could see one of the Miss Anthony's who was with her at the time. She was not asked to give any description of the coal mines or the local situation of the grounds or roads about them. The conversation might have occupied nearly an hour. I went away and left her at the house. Mr. or Mrs. Avery asked her to stay to tea. She testified before the justices at Bristol. She did not come at the appointed time, we sent for her. Her testimony before the court was as I have before stated, except as to the time of day. At the justice's court she said it was between 11 and 12 o'clock she saw the stranger. On 25th of December I was, in the afternoon, introduced to Mr. Borden and Col. Harnden; they wished to see Mr. Avery. In consequence of hearing there was a large number of persons around Mr. Avery's house I went there and saw a large number of persons in the lane a little distance from his house, within 80 feet of the house; might have been a hundred feet. There were something like 40 or 50 persons. I felt somewhat alarmed. Harnden stopped among the people; I requested him to, to prevent their doing mischief

When the Fall River boat bell rung they went away. I was present when Mr. Avery was discharged by the justices and I offered on behalf of Mr. Avery, that he should be continued in custody of the officer until such measures could be adopted for his giving bail in any reasonable sum for his appearance at the Supreme Court in Newport. Col. Harnden and many others from Tiverton were present. I made the offer publicly and told Col. Harnden that Mr. Avery did not wish to shrink from any trial. He said he could do nothing about it until he consulted the people of Fall River, but did not object to the bail because there was no process to found it on. I said, he, Avery, could be continued in custody until a Judge of the Supreme Court could be got there to take the recognizance. Directly after Mr. Avery's discharge I found a considerable excitement and told Mr. Avery that I did not think it would be safe for him to stay in his own house that night; he said it would be inconvenient for him to stay from home on account of the health of his wife. I do not know whether he staid at home that night or not. The last time I saw Avery in Bristol was Wednesday morning after his discharge. I advised him to go away and told him that under the circumstances it was fool-hardiness for him to remain. At first he objected and said he would rather stay and live down the prejudice. I told him he would again be arrested and would have to be committed as his witnesses had gone home. I advised him to go away and stay until within a week or a fortnight of the session of this court. He took a memorandum of the time the court set. He said his friends had assisted him and he must abide by their advice. He suggested the difficulties that would attend his absenting himself. I told Avery that by remaining his life was in danger. There were preparations made by the direction of Mrs. Avery for his defence before this court, after he left Bristol, and before his arrest. They were made both by me and Mr. Blake.

Cross Examination.

I asked Mrs. Jones in the first place how the road run and she told me. I took the position of the road from her; also the description of the house and gate and from no other person. I cannot tell what she swore to in court, but it was so different from what she told me, that I could not but remark it. In court at Bristol she said her first impression was that it was the forenoon when she saw the man pass and that it was between 11 and 12. She swore it was in the forenoon. I cannot state whether Mr. Avery said in presence of Mrs. Jones, that the post of the gate or side of the gate was white. The persons I saw near Avery's house did not attempt to move towards the house. I passed them as quick as I could; I feared violence on myself. There were no threats or attempts to stop me; I saw no violence. I received a communication from Mr. Staples Friday after Mr. A's discharge, stating that Judge Randall would take Mr. A's. recognizance. I

presumed at the time that Avery had left Bristol. I had private business, and could not attend to it at that time. I thought Mr. Avery would return and give bail. I don't recollect that I wrote to Mr. Staples that Avery was out of the jurisdiction of Rhode-Island. I think in my letter to Mr. Staples I expressed a doubt whether I ought to act as counsel to Mr. Avery. I did not know where Avery went to, but supposed he was in Boston. I advised him to leave Bristol and to put himself in some place where he would not be discovered, until a week or ten days before the setting of this Court. I thought he had gone to some place from which he might return at a day or two's notice. The evening before the decision of the Court was made, I advised Avery to offer bail if he was discharged. There were at the Court when Avery was discharged a number of persons strangers to me. I do not know where they belonged. I do not know that there were any Fall River men in Bristol on Tuesday and Wednesday, after Avery was discharged, except Col. Harnden. I knew there was an excitement in Fall River, and had heard that a meeting was to be or had been held by the inhabitants of that place. I advised Avery to leave Bristol before Wednesday morning. I heard a great many things said, such as that Mr. Avery ought to be hung without judge or jury. Col. Harnden wanted a copy of the Justices' opinion, to read to the citizens of Fall River, and asked me to get it for him on the Tuesday after Avery was discharged. I heard of the excitement in Fall River, before Mr. Avery left Bristol. Governor Collins told me that there was great excitement on the island. I do not know whether he told me so before Wednesday. I did not state to Col. Harnden that there could not be anything improper, as the people were coming out of the lane. I think Col. Harnden introduced me to a gentleman, but not in the lane. I think Col. Harnden did not return with him, but I am not certain; I was agitated. Col. Harnden did not appear to be. I do not mean to say that Col. Harnden did not say there was no process to found the recognizance on. I did not when I made the proposition to him hear him say anything about process. Had I not been busy when I received Mr. Staples' letter, I should have seen the Court and told them Avery would give bail in two or three days.

Direct Examination.

Previous to seeing Mrs. Jones, I had sent to her to know if she saw a person pass her house on the 20th of December. I think Mr. Avery was out of the room at the particular time when I made the chalk marks before referred to. I made them to ascertain the means of her knowledge as to the individual who passed her house. I first communicated to Mr. Randolph, the week after Avery's discharge, the proposition

of Mr. Staples. Randolph was at the time going to Providence.

Cross Examination.

I do not recollect whether there were any preparations made for Avery's defence between his discharge and when I knew there was a new process taken out against him, which was on Friday following. I attended the examination in Bristol as counsel for Mr. Avery. I am not counsel for him here. I have consulted here with Mr. Blake and Mr. Randolph about the case.

WEDNESDAY AFTERNOON.

The examination continued.—It was my intention to communicate to Mr. Randolph as soon as convenient the proposition of Mr. Staples. When I heard that the warrant had issued, I considered Mr. Staples' proposition at an end. I heard on Friday evening that the warrant had issued, but I do not know who I heard it from. I have since this examination advised with Mr. Blake relative to Mr. Avery's defence. I take no responsibility or labor in the case, but have advised with the counsel for Mr. Avery since this trial commenced. I have no recollection of stating to Mr. Howland that I had not advised Mr. Avery to go away and was not accountable for his absence. I do not recollect who was present when I advised Mr. Avery to leave Bristol.

Direct Examination.

I never consulted with Mr. Mason about this case.

Rev. John Bristed.—I reside in Bristol. On the 25th of December I went to Mr. Avery's house and found him in the custody of Mr. Paul. While I was there the house was surrounded by a multitude of people. The Deputy Sheriff told Mr. Avery he must go up stairs. I left the house. The day after the discharge of Mr. Avery I advised him to leave Bristol for a few days, until the excitement had subsided. I never saw him afterward until I saw him in Newport.

William Simmons. I live in Bristol. I went to Rhode-Island in pursuit of evidence. I went to Stephen Brownell, the father of Mrs. Jones, and saw her at the house; when I first saw her she said no stranger had passed her house; she said no one passed her house on the 20th who she did not know; she said Mr. Cornell of Newport passed the gate and went to the next house; afterwards when I told her Mr. Cornell had not been there she said she could describe the man. He was a tall slim man with broad brimmed hat, dark box coat with dark pantaloons—he stooped as he walked; she said she had not known Mr. Avery. Mr. Wm. E. Cook was present and said if Mr. Avery was present she could not give a better description of him. She said it was late in the afternoon when the man passed; her father told her she was mistaken, for it was noon; she then asked a woman up stairs what time it was, and she said about noon. Mrs. Jones disputed her and told her father he knew nothing about it, as he was at the

time gone to the mill. He then said I give it up. This conversation took place on Friday of the next week after the girl was hung.

Cross-Examination.

I went out for Mr. Randolph to look for testimony and went as far as Asa Freeborn's.

Direct Examination.

I was the first person who went to see Mrs. Jones; she said two other gentlemen had been to see her from Fall River.

Mary Davis—I live in Bristol. I was at Mr. Avery's when Mrs. Jones came there; Mr. Blake and Mr. Bullock came with her; Mr. Bullock asked Mrs Jones if Mr. Avery looked like the stranger who had passed her house on 20th December; Mrs. Jones said he seemed very much like the man. I think Mr. B. marked on the floor the situation of the road, her house and the gate. She asked Mr Avery what color the gate was; he said one side of it was white; she smiled and said it was: Mr Bullock made no reply. Mr. Bullock told her she must come to Bristol on Wednesday to appear in Court. She said nothing about the person's dress; Bullock and Blake left her there and she staid about an hour. I was present while she remained. She was not up stairs. I heard nothing said about keeping a secret; I was present when she went away, which was as soon as she had finished tea. Mr. Avery handed her to the chaise and no conversation passed between them in the entry. I think Mrs. Jones said more than once, that Mr. Avery looked like the man. I had been for a week before that time and then was, staying with Mrs Avery. My sister lives in the same house. I was there the 25th of December and saw a large multitude coming up the lane. Met a number in the back room where they had entered. I asked Mrs. Avery to go into the other room. We were all alarmed. Some of them told me they wanted Mr. Avery and would have him dead or alive. They came into the back door 12 or 14 of them; I asked them what they wanted, and they replied as before said. I staid with Mrs. Avery in the room with them. I was frightened. They staid in the house 15 minutes. I do not know who turned them out of the house; I should think they staid round the house half an hour.

Cross Examination.

I do not recollect seeing Judge Pearce in the house. Mr. Paul and Mr. Tilley were there. Mr. Orswell was not with the people in the back room. I have never stated the conversation with Mrs. Jones to any person until I came to Newport; then I mentioned it to Mr. Blake. I stated a part of the conversation that took place at Mrs. Avery's to Mrs. Dimon. Mr. Avery did not while Mrs. Bullock was there go into the street for Mrs. Jones to see how he would look walking. Mrs. Jones, Mr. Bullock and Mr. Blake came into the room where I was where the chalk marks were made and from the front door. I do not know how or when Mr. Avery left Bristol. I was at his

house on Wednesday afternoon after Mr. Avery was discharged; he was not at home, I did not see him in Bristol afterwards. Mrs. Avery was not well on the 20th of December Mrs. Avery also said her children were not well. When Mr. Avery went to the door with Mrs. Jones, I sat by the window. Betsey Hills left Mr. Avery's family the 20th of Sept. 1832. She was a middle aged woman, and lame. Mr. Avery never to my knowledge had but one cloak, and that was black camblet. The entry that Mr. Avery passed through with Mrs. Jones was not more than six feet long; I sat by the door that led to it.

Direct Examination. When the crowd collected around the house as before said Mr Avery went up stairs. Judge Pearce was not down stairs; he was up stairs with Mr Avery. Mrs Jones, Mr Bullock, and Mr Blake, might have been in the other front room before they came into the room where I was. I never saw him have any other surtout but the one he has on now. I never saw him have a cap.

Cross Examination. When Mrs Jones, Mr Bullock, and Mr Blake, came into the room, Mr Avery entered at another door at the same time. I have no recollection of hearing any thing said about Mr Avery's having been out for Mrs Jones to look at him. When the multitude came to the house as aforesaid I did not call for help. I think I spoke to Mr Paul. I do not know whether the persons in the back room before mentioned went out of the house by force or voluntarily.

Peter Gladding. I reside in Bristol. About a week before the death of Miss Cornell, I put varnish on Mr Avery's knuckle where a piece of the skin had been knocked off, for the purpose of curing the wound. That was done at my house.

Cross Examination. After I put the varnish on Mr Avery's hand I saw him in the pulpit, and he had not a handkerchief round his hand.

Direct Examination. Mr Avery slept at my house the Monday night after his acquittal.

Clarissa Munroe. I reside in Bristol, on the Main-street opposite the residence of the late Richard Smith. I saw Mr Avery pass my house near sun rise on the 21st of last December; he was alone and I saw nothing in his hand.—He passed the bottom of the lane as Mr Lawless was coming down the lane.

Cross Examination. I did not see him have any thing in

his hand. He had on a dark surtout. I did not notice whether it was buttoned, nor did I notice whether he had a handkerchief tied round his hand or not.

Andrew Brownell. I live in Portsmouth near the coal mines. I saw Stephen Brownell, father of Mrs Jones, coming from mill after I had returned from mill and been to tea, on the 20th of December. It was after three o'clock. I had conversation with him which lasted not more than two or three minutes. I met him between Thomas Brownell's and where I live. He was on foot, and had with him a grist of meal on his back. When I started from my house before I met him, it was three o'clock. I heard my clock strike three. We had dinner and supper together that hay.

Cross Examination. The coal mine gate is a mile and a half from Bristol Ferry, and it is wood color. There is another gate about twenty rods from the coal mine gate; that gate was white washed on the side next to the road on the 20th of last December, if not on both sides. I did not see Mr Avery there on the 20th of last December. I was at home from two until after three o'clock. The mill I went to was Samuel Dennis' towards Bristol Ferry; I saw no stranger that day. I never saw Mr Avery until I saw him at Bristol court. If any stranger had passed while I was at home, I think I should have seen him. I saw no stranger in my road that day. My house is not more than two feet from where Mrs Jones lived.

Sally Swan. I reside in Bristol. I had a conversation with Miss Annis Norton two days before the government finished the examination of their witnesses in Bristol; she said she had come over to testify against Mr Avery; she thought he was the man who passed her house, and she thought it was the same man she had seen in Bristol between day-light and dark, and that she said he ought to be hung, and if she could do any thing to help it, she would; she described the man she had seen as a tall, slim man, with a dark surtout on, and a broad brimmed hat, with dark eyes, dark complexion, and large black whiskers, and a shirt collar up which looked dirty; she said she had been told Mr Avery had altered his appearance in every particular; that he passed her house between two and three, she thought half past two. Miss Charlotte Norris was present at this conversation.

Cross Examination. This conversation took place before Miss Norton was examined as a witness in Bristol.

Jane A. Sprague. I reside in Bristol. On the morning before Miss Norton was examined in Bristol, I had at my house a conversation with her; she said she saw such a looking gentleman come over the bridge on the 20th of December; she described his dress, and thought he had whiskers on, and that he looked like a minister, either the one in Bristol, or for Rhode-Island, and said he had on a dark box coat.

Cross Examination. She said he had on a broad brimmed hat.

David Davol. I reside in Portsmouth, and follow in the winter season blacksmithing. Last December I worked in Tiverton, about twenty rods from the bridge. I quit work on the 20th of December, a few minutes past eight in the evening, by Mr Hambly's watch. I crossed the bridge and went round the bank, and thus avoided the toll gate. My shop did not stand to exceed three rods from the road leading from the bridge to Tiverton. I did not see Mr Avery pass there that afternoon. I knew Mr Avery, having seen him a numbers of times, and been in company with him. I don't know that I should have seen Mr Avery if he had passed that day. I saw several persons pass that day, two of whom I knew particularly. I did not get down the bank to avoid paying toll; it was more convenient for me; I paid the toll keeper by the week. I had a conversation with Mr Cranston on the 25th of December; I understood him that he knew Mr Avery; he said he had passed the bridge once with Anthony Steward, the stage driver, and at another time with Mr Wm. Earl Cook, by appointment, to a meeting where Mr Avery was to have preached, but that he did not preach; he said if Avery had passed on the 20th of December he should have known him, and that he had no idea he passed over that day. (the 20th.) Mr Avery, myself and Mr Holway, went on the top of Butts' Hill on the 7th, 8th, or 9th of November; it was during the four days' meeting in Portsmouth; we started to go there from the widow Cook's; the weather was clear and pleasant, pretty cold; Mr Avery proposed going; Mr Avery and myself arrived together; the hill was but forty or fifty rods from Mrs Cook's.

Cross Examination. I went round the gate every eve-

ning but one while I worked at Tiverton; that one was on the 18th of December. No one was present at the conversation I had with Mr Cranston; it took place between Mr Cranston's and Almy's; I inquired of him, thinking he would probably know if Avery had passed on the 20th; I think the conversation took place on the 25th of December; it was the same day the boat went to Bristol; she frequently goes to Bristol; I am satisfied it was the 25th; I have no other reasons for knowing it was the 25th; I was down there to receive money of Mr Hambly; it was in the forenoon I had the conversation; Hambly does not live there; his shop is a little North of the bridge. I have stated as near as I recollect what Mr Cranston told me; I don't know that Mr Cranston told me a man passed the bridge on the 20th of December. I first told John B. Cook of this conversation on the day it took place either at his house, or at Mr Drake's. I knew at that time that there were charges against Mr Avery, but I do not know whether Mr Cook knew it at the time I had the conversation with him. We were talking about Mr Avery, but I do not know whether he or I had heard of the charge of murder having been made against Mr Avery; I believe that I did hear that Mr Avery was charged with the murder, on Saturday night, the 22d of December. I don't know whether I crossed the ferry that day, or whether I went to Bristol the 24th or 25th; I went to Bristol after I had the conversation with Mr Cranston; I cannot tell whether on the same day or not. I told Mr Humphry that I did not recollect going round the gate the evening of the 20th December. I now recollect that I did commence work on the 17th by looking at my book; it stormed, and I went over the bridge before sun down; on the next evening, the 18th, a young man went over with me. I don't remember telling any other person. I did go round the bank on the 20th of December. I have had no conversation with any one wherein I said I was not certain of the conversation I had with Mr Cranston. I did not state to Mr Cranston that Mr Avery had crossed the bridge with the stage driver, or with Mr Cooke. I have never said I saw a person cross the neck that night. At the four days' meeting Mr Avery staid, I think, at Mr Cooke's, near Greene's Tavern. He was at the widow Cooke's once; I was with him. My shop has one window in front, one small and two large doors; the window was shut, the small door

open ; the lage door was shut except when I was shoeing some oxen on the 20th of December. I cannot see a person in the road from the glass window in my shop when I stand on the floor. You can see the coal mines from Butts' hill. I had no particular business in Bristol when I went there as beforesaid ; I go there often. I wont be certain which I told first, Mr Cook or Mr Drake, of the conversation I had with Mr Cranston; I told Mr Drake of it about a week after I had the conversation. I did not go to Mr Avery's in Bristol the first time I went there; I went afterwards; the first time I went there I heard that Mr Avery was taken up; I heard that Mr Avery was taken up on Sunday before I went to Bristol, after my conversation with Cranston; went to Bristol about a week afterwards. I cannot say whether I went to the Court House the first time I went to Bristol. I had no conversation with Mr Avery until after I saw him in the Court House.

Direct Examination. The steam-boat does not usually go to Bristol the same time of day that she went on Christmas. I began to work on Monday, and two Mondays had passed before Christmas day came. When I went to Bristol first, I did not know that Cranston was to be a witness against Mr Avery. I saw the steam-boat going to Bristol on the day I had the conversation with Mr Cranston, in the afternoon. I worked for Edwin Hambly at journey work.

Cross Examination. I have no recollection of seeing on the 20th a tall man with a cloak, or surtout, or spectacles, pass my shop. Except the first night, I worked in my shop every evening after I commenced working, up to the 25th of December, excepting also Sundays.

Thursday morning, 23d May—Court met.

Rev. Daniel Webb. I reside in New Bedford, Mass. On Saturday, the 19th of last January, I had a conversation with Mr Cranston relative to Mr Avery, in front of the toll house, at Howland's Ferry Bridge. Mr Benjamin Tilly, of Bristol, was with me; we were in a chaise, and stopped to pay our toll; Mr Tilly gave him a bill, and while Cranston was changing the money he said this is a sad affair relative to Mr Avery, but I cannot think Mr Avery crossed here on that day; (the 20th of December;) I said, if you had so testified in Bristol, it would have helped Mr Avery; he said, well, I cannot think Mr Avery passed that day. That was all the conversation.

Cross Examination. The words were, I cannot think he passed here on that day. Our conversation was very short. Mr Tilly and myself were going to Bristol. I know it was on the 19th of January, because I preached in Bristol on the 20th, and from other circumstances. I did not at the time ask Mr Cranston if such a person as he had described in Bristol, had passed the bridge on the 20th of December. I never was intimate with Mr Avery, but have seen him as often as once a year for the last ten years. Mr Avery was at my house on a visit last October or November; he came, as I understood, to purchase something to cover the pulpit cushions with; I have not seen him from that time until I saw him in this Court House.

Benjamin Tilly. I reside in Bristol. On the 19th of last January, at the stone bridge, nearly opposite the toll house, I heard a conversation between Mr Cranston and Rev. Mr Webb; Mr Cranston stated to Mr Webb that he did not think Mr Avery passed the bridge on the 20th of last December. I do not particularly recollect whether he did or did not repeat his observation more than once. He said it was a sad affair that had taken place at Fall River; but few words were said, and we drove on. I was with Mr Webb in a chaise.

Cross Examination. I was intimate with Mr Avery in Bristol.

Gideon Gray. I live in Bristol. I saw Mr Cranston on Howland's Bridge the last of March; he introduced the subject of Mr Avery, and told me a man crossed the bridge between three and four o'clock on the 20th December, and as he passed by and raised his coat, he thought he had on a spencer; that he did not know Mr Avery, but thought the man who passed was either a lawyer, a doctor, or a minister; He walked a part of the way across the bridge with me, if not entirely over; Cranston returned; I went to David Durfee's. It was the 29th of March; I know the time, because I had to pay over some money on that day; it was Friday.

Cross Examination. I made a memorandum of the conversation in writing, and put it in my pocket book; I am not certain that I put the day down. [Witness examined his pocket book and found the paper; it did not contain the date.] Mr Cranston introduced the subject; I think he said the man had a surtout on; I do not recollect that he

said anything about the weather on the 20th of December. I knew Mr Avery.

Fanny Reynolds. I reside in Bristol. I had a conversation in Bristol with Amey Burden on Christmas day, at my father's, Mr John Manchester. [The Attorney General objects to the witness' stating any conversation with Amy Burden, for the purpose of contradicting her, unless she had been interrogated on the subject when she was examined. The witness, Amy Burden, said she had seen Miss Cornell, but was not asked if she had ever said she did not know Miss Cornell until she saw her after her decease. As that question was not asked her, the Attorney General contended that the witness on the stand could not be allowed to state the conversation. *Randolph* and *Mason* contended that it was legal testimony, as directly contradicting the witness. Mrs Burden swore that she had seen and known Miss Cornell before her death, and they wished to prove by the witness on the stand that she was told by Mrs Burden she did not know Miss Cornell until she saw her after her decease. The Court said the rule contended for by the Attorney General was founded in good sense, and ruled out the evidence. A witness cannot be allowed to contradict another witness, except on questions that had been asked and answered by the witness attempted to be impeached.]

Rev. Isaac Bounce. I reside in Lynn, Mass. I have known Mr Avery about ten years. Mr Avery's character has been good since I knew him; I have had a good opportunity of knowing his character, and it has been good for peace, and humanity, and continency, and I never heard a suspicion expressed against his continency.

Rev. Timothy Merritt. I reside in the city of New-York and have resided there since last July. I have known Mr Avery for eight or nine years. His character for peace, humanity, and continency, has been good; I never heard anything against him.

Rev. Timothy W. Wilson. I reside in Charlestown, Mass. I have been acquainted with Mr Avery for about eight years; his character has been good; very good for peace, humanity and continency; I have had opportunities of knowing.

Rev. Ebenezer Blake. I reside at Saugers, Mass. and have been acquainted with Mr Avery about twelve years; I knew him before he was admitted to the ministry; my par-

ticular acquaintance with Mr Avery was when I first knew him; I belong to the same conference with him; his character is good for peace, humanity, and continency; his character has been good.

Cross Examination. I received the impression that Mr Avery studied medicine before he engaged in the ministry; I don't know that I got that impression from him.

Nicholas Peck. I reside in Bristol. I think Mr Avery came to reside in Bristol last spring, but I do not recollect. Having known a man by the name of Avery in Col. Sherburn's regiment, I thought he was the father of the prisoner, and asked him. He said that the man was his father. I have conversed with Mr Avery on the subject of Rhode-Island coal. About the 20th of November, Mr Avery told me the R. I. coal could be got for three dollars a ton. I think he said he would go over to the mine and ascertain what it could be got for.

Lydia LeBarron. I knew Mr Avery in East-Greenwich, in 1826. His character was irreproachably good. I have frequently seen Mr Avery pass my father's house when I thought his object was pleasure, or exercise rather than business. He would sometimes be gone for hours. I have seen him walking North and East towards the shore.

Cross Examination. He went the usual walk that persons took who went for pleasure.

Isaac Alden. I reside in Bridgewater, Mass. I took tea on the 20th of December last, after 6 o'clock, at Mr Lawton's Tavern, in Fall River; one other person took tea with me; I don't recollect whether he got there before me or not; he was a man taller than I am; had on a dark colored box coat and spectacles; was from thirty to thirty-five years of age. A girl waited on the table; I did not know her name; I believe I have seen her here on the stand. I saw Col. Harnden in Stoughton when Mr Avery was in custody. I saw the man they called Mr Avery in the sitting room of Mr Capen's Tavern. I told Col. Harnden I had received a letter from Nathaniel Borden relative to my taking tea at Lawton's Tavern on the 20th of December, and wished him to communicate to Mr Borden what I knew on the subject. I saw Mr Avery, and told Col. Harnden he was not the man I took tea with. I do not know who the man was I took tea with. I distinguished at once that Avery was not the man I took tea with. I am of that opinion now.

Cross Examination. Mr Borden's letter informed me that he had heard I knew Mr Avery, and that I drank tea with him at Lawton's on the 20th of December. I had no conversation with the man I took tea with. I was then engaged in vending clocks. After tea, I went into the bar room. I noticed no stranger there after I took tea. I do not know what the color of his glasses was, or if he wore a cap or a hat.

Thursday Afternoon, May 23d—Court met.

Reuben Smith. I reside in Providence and have for the last five years been attached to a ferry. During the four days' meeting in Providence last November the ferry was attended by myself and son. The ferry is across the river from the Steam Factory wharf, to Capt. John Gladding's wharf, on the east side of the river. My son attended be-

tween meetings after getting his meals. No other person attended at that time. I should not think Mr Avery passed that week but I am not positive. I do not by any means recognize the man I think if he had passed I should have recognized him. I feel under an obligation to the clergy and carry them across my ferry free of charge. I have no recollection of any person I carried across the ferry that week.

Cross Examination. I did not know Mr Avery last November, although I had seen him before that time. There was no other regular established ferry at that time but the one I kept.

Direct Examination. It would be a quarter of a mile further from Pardon Jillson's to the Fall River boat round by the bridge, than from the same place to the same across my ferry. There would be five chances to one against finding a boat ready to cross the river other than at the ferry I think it three quarters of a mile, from new market to the bridge, and a quarter of a mile from the bridge to the Fall River boat wharf.

Luther Chace. I live in Troy, (Fall River.) I remember hearing Mr Avery preach in Fall River, at the Annawan block, on Saturday, the 20th of last October. The meeting was in the evening and broke up not far from nine o'clock; but a few minutes either way from nine It was a cloudy night. I don't recollect seeing any moon or star. After the meeting, Mr Avery came up with me near the four corners and walked with me a very short distance. The four corners are in an easterly direction from the Annawan block. I parted with Mr Avery at the four corners; I went East and he went towards Mr Bennet's stable North. To have gone to Mr Bidwell's he would have taken the opposite direction from the one he did. It was a dark night.

Cross Examination. I was at meeting on the Tuesday evening previous to that time, but don't know how the weather was. I remember more particular as to Friday, because we had a stranger to officiate for us at the meeting. I did not see Mr Avery when he came out of the meeting house on Saturday evening. I never informed Mr Lorden or any one else that I was not positive I saw Mr Avery on the evening of the 20th of October, after meeting.

Joseph Smith I reside in Warren. I recollect from circumstances how the weather was on the 20th of December last. The wind at from one to half past one, was West a little southerly. When the sun was about setting, the wind was about W. S. W and it was remarkably pleasant It blew hard the day before. I do not know that it was very blustering in the morning of the 20th. I think it was not. On the 21st in the morning, there was but a little wind from the North; in the afternoon the wind came in from the S. W.

William Carr, Jr. I reside in Warren. On the 20th of last December, the wind was fresh in the fore part of the day; it moderated about eleven and was mild and pleasant in the afternoon. [The witness gave his reasons for recollecting.]

Fitz Henry Homer. I live in Bristol. On the 20th of last December, the weather was pleasant. I sailed from Bristol that day about one o'clock. Off Prudence I observed to the captain or mate, that it was calm behind us and we should not get out. We arrived off Newport, and came to anchor off the lower ferry a short time after seven o'clock.

Martin Bennett. I reside in Bristol. The weather on the 20th o

December last, was pleasant and quite moderate. The wind was light in the afternoon.

Martin Bounce. It was moderate and pleasant weather on the 20th of last December. I rode from Providence on the outside of the stage, and found it very comfortable.

Hezekiah C. Wardwell. I reside in Bristol. In the afternoon of the 20th of last December it was pleasant for the season. The wind did not blow hard nor was it very cold.

Samuel Wright. I live in Warren. The weather was moderate and pleasant in the afternoon of the 20th of last December

Thomas Thurston. In the morning of the 20th of last December the wind blew fresh. It moderated about eleven o'clock and became quite mild in the afternoon

Benjamin Harding. I live in Bristol. In the morning of 20th of last December I went in a packet from Newport to Bristol. The wind lulled at about eleven o'clock. It was cold in the fore part of the day.

John B. Cook. I resided in Portsmouth on the 20th of last December, about two and a quarter miles from Bristol ferry. I now live about two miles and three quarters from the ferry. The character of Jane Gifford for truth and veracity is bad. David Davol told me something that Cranston had told him, I believe he said on Christmas day. ['The Attorney General objects to his stating what Davol told him, to substantiate Davol's testimony as that had not yet been impeached. *Mason* concluded that it had been impeached by the cross examination. Attorney General reads Starkie on Evidence, page 147. 'To substantiate a witness impeached by cross examination or otherwise, it may be shown that he made the same declaration to another person when he had no inducement for so doing, no greater interest than when he swore. Question was for the present waived.] From my knowledge of the character of Jane Gifford, I would believe her under oath if there was no possibility of her being mistaken, otherwise I would not. I mean she is liable to be mistaken.

Cross Examination. I am a methodist. William E. Cook also belongs to the methodist society. Wm. Earl Cook lives fifty or sixty rods North of Green's tavern, North of the Turnpike fifteen rods. My brother is now on probation On the 20th of December, he lived about two and a half miles from Bristol Ferry, on a cross road from the Turnpike. His name is Thomas W. Cook. If he is on probation now, he then was I was at home on the 20th of last December; so was my brother. I did not see Mr Avery in the afternoon or evening of the 20th of last December Jane Gifford was dismissed about a year ago from the Methodist Church. I have known her several years. When I first knew her, her character was good; it became otherwise over four months before she was expelled the Church. About four weeks before she was expelled, I heard her character for truth impeached. The charges before the church affected her character for truth. I have been a member of the church for about three years.

Levi Shearman. I reside in Portsmouth, about a mile from Bristol Ferry. Jane Gifford's character for truth and veracity is bad. I should be loth to believe her on her oath.

Cross Examination. I have known her character for about three years, and it has not been good any part of the time. I live on the

Nancy Shearman. I am the wife of Levi Shearman. Jane Gifford's character for truth and veracity is not good. It was not considered good before she was expelled the church. I have known her five years. West road. I went to, and returned from Westport, on the 20th of Dec and got home about sun-set. I crossed the neck and came over Butts' Hill. In the morning it was cold and blustering, and mild in the afternoon. I was with an ox team. I saw nothing of Mr Avery that day.

Oliver Brownell. I live in Portsmouth, a mile and a quarter from Bristol Ferry, on the West road, North of the Turnpike. My house stands on high land. From my door I can plainly see the meadow and gate of George Brownell. I was at home on the 20th of last December. I saw a man the latter part of that week, passing from that gate South; I am not positive of the day, or the time of the day. A number of circumstances have occurred of late that make me believe I was at home on the 20th of December, until about three o'clock in the afternoon. When I was at Bristol I thought I was not at the mines on the 20th, but from what I have heard since, I think I was. I was at home when Mr Cook came to my house and went to the mine. I do not recollect seeing a man there that day. The last of that week I saw a man with dark surtout and black hat on; he was a quarter of a mile from me; I saw him passing out of the gate of George Brownell, towards the South; he was a tall man; he was in the meadow, about fifteen rods from the road that leads to the coal mine, and about eighty rods from the mine; he had passed the mine, and was going South. I do not recollect whether it was or was not the day I went to the mine with Mr Cook. It is uncommon to see strangers passing in that direction; I do not recollect seeing any other stranger pass that way since or before. It was pleasant on the day I saw the stranger there. I may have been one third of a mile from the stranger, and I only looked at him for a moment. It was a few days before I heard of Miss Cornell's death; I heard of her death on Sunday. I was not near enough to have known the person, had he been an acquaintance. I went to the mine with Mr Cook, about three o'clock.

Cross Examination. In Bristol I was examined before the Court, and said it was some day in the latter part of the week of the 20th December. Mr Avery drank tea at my house once at the four days' meeting in November, and went to meeting that evening. Mr Avery knew that I sold coal, and asked me about it when he took tea at my house. I knew Mr Avery on the 20th of December.

Sarah Brownell. I live in Portsmouth. I was on the 20th of last December, at the house of Robert and Daniel Wilcox. I was in Daniel Wilcox's part, and saw a man passing through George Barnwell's meadow, about three o'clock. He had the appearance of being a stranger. It was not long before we took tea after I saw the stranger. I cannot describe the man. He was about two rods from the gate, passing in a southerly direction. I took tea there. I thought he was a stranger because he was passing the meadow. I cannot describe the color of his clothes or hat, or whether he was tall or short.

Cross Examination. It was the Thursday before I heard of the death of Miss Cornell, which was on Saturday. I do not know the distance from the gate to Brownell's house; it is about a quarter of a mile from Wilcox's. I think I went there between one and two. I have

mentioned these facts to a number of persons before and since the Court at Bristol. I believe brother *Drake* asked me about it, but I don't recollect. I don't recollect anything about my conversation with Mr Drake, or when it was, or whether I had more than one conversation with him. I believe I conversed with Mr Drake at my own house. I saw and heard Mr Avory preach at the four days' meeting. I never saw him before. I was about a quarter of a mile from the person I took to be a stranger. I saw Mr Dennis on the Island, collecting poultry; he had on a cap and coat I think.

Sally Brownell. I am the wife of Oliver Brownell. I saw a stranger, a tall man in dark clothes and dark hat, in the meadow of George Brownell; I said to my husband, I wonder what stranger it was; I think he had on a surtout, but cannot tell. I do not know what day of the week or month, or what time of the day it was. I saw the stranger few days before I heard of the death of Miss Cornell. When I heard that some ether person had seen a man in the meadow, I said I expectad it was the same man I had seen. I do not know when I heard of the death of Miss Cornell. It was pleasant when I saw the man.

Amy Anthony. I live in Portsmouth, on the West road In the afternoon of 20th December, I was at Andrew Brownell's. I left there when the sun was about an hour high, and went to John Cook's store, where I staid an hour and a half, and went from thence to George Hall's I left there a little past eight. Returning home, I overtook and passed a man on the West road, going very slow. I passed but a few feet from him; he was going towards Bristol Ferry I overtook him between Levi Shearman's and the school house; he was dressed in dark clothes and a black hat; was a tall man; I overtook him about three quarters of a mile from where I lived, and over a mile from the Ferry. It was nearly nine when I got home. We had no time piece in the house. I mentioned the circumstance when I got home to my sister. I did not know the man. It was a star-light night.

Cross Examination. I was not out that week to spend the evening except that night. I knew the hour from recollection that I had to come home alone. We had no time piece to fix the hour by. I have never said that I got home that evening about sun-set, or that I knew nothing about the case. Before the Bristol examination some person came to know what I knew about the case; it was Mr Simmons; I told him nothing about it. No one else came to see me about it, and I do not recollect mentioning it to any one but to my two sisters. I saw no time piece that evening except at Mr Cook's store, and I did not ascertain the time by that. I never told Benjamin Greene that I saw a man in the road that night. I do not recollect having told any person that I did not know what I had to swear to in the case. I have talked to my sisters about my testimony since I came to Newport, but not to any other persons before or since. I got to Andrew Brownell's about noon. I had never at that time seen Mr Avery to know him. I saw Mrs Jones that afternoon and was in the same chamber with her. I saw no stranger in the meadow that afternoon, and heard nothing about it.

FRIDAY MORNING. MAY 24.

Patience Anthony.—I live in Portsmouth in the house with Samuel Brownell. On the 20th of December last I

lived in the house with George Gifford, on the west road, about half a mile from Bristol Ferry. My sister, Amey Anthony, went from home not far from 12 that day, and returned not far from 9 in the evening. I was at home that day. I know it was the 20th of December, because my sisters both left home in the morning; I went to Mr. Sherman's; we had some meat come to the house that day. It was cold and blustering in the morning, and mild in the after part of the day. I was sitting up when my sister got home; she told me when she left the house in the morning that she did not think of returning that night. I washed the next day, which was on Friday, and the next day, Saturday, I heard of Miss Cornell's death. My sister Amey told me when she came home that evening, that she had passed a man in the road. I told Mr. Avery of it last March. Mr. Blake and Mr. Bullock enquired of me since I have now been in Newport, what my sister Amey had told me about the man she saw in the road. I first made the communication to Mr. Drake. I saw Mr. Stephen Brownell that day in the afternoon, about 2 o'clock, going to mill, and I saw him returning with a grist of meal on his back, about a half an hour after.

Cross Examination.

I have read a part of the trial of Mr. Avery which has been published. I read it at Mr. Smith's and Mr. Williams', in Warren. I went to Warren the lsst day of December and remained there all the winter. It never occurred to me that my sister's having seen a man in the road on the 20th of December was important to Mr. Avery, until last March. I did know that inquiries had been made about a stranger's being seen on that road. I introduced the conversation to Mr. Drake the last of March, at Mr. M'Currie's. I had no conversation with my sister on the subject after the 20th of Dec. until I had made the communication to Mr. Drake My sister told me it was the first evening she was out. My sister Amey was out on the evening of the 20th, and came home about 9 o'clock; she was also out on the evening of the 21st, and came home about sunset. George Hall lived about a mile from my house. I was summoned to Bristol, and before I went there I heard Mr. Drake converse on the subject. I do not know that Mr. Drake told me before I went to Bristol that Mr. Avery was at the windmill when the Bristol bell rung for 9 o'clock. I have frequently heard it remarked that it was very strange no one had seen Mr. Avery on the Island that afternoon or evening.

Direct Examination.

After Amey told me what she did, I told her I thought it would be of use to Mr. Avery, and I told her not to communicate it to any person. Jane Gifford's character for truth and veracity has not been considered good.

Cross Examination.

I belong to the Methodist church.

Mary G. Anthony.—On the first part of the evening of the 29th of December, I was in company with my sister Amey Anthony, at Mr. John B. Cook's store. I left the store an hour or an hour and a half after candle-light, I think about 7 o'clock, and my sister and myself went to Mr. George Hall's, which was about half a mile off. Amey left George Hall's for home, I think past 8 o'clock. She went alone. It is about a mile from George Hall's to where my sister lived. I recollect it was Thursday, as I went from home on Thursday, stayed at Hall's on Friday, returned home on Saturday, and that afternoon heard of Miss Cornell's death. We had company on Wednesday. I judge we were at Cook's store an hour and a half. I also judge it was past 8 when Amey left Hall's. I stated to Mr. Blake the facts, and my sister Patience stated to him what Amey had said on her return home. Amey was present at the time, and said she did see a man. This took place at Mr. Perry's in Newport.

Cross Examination.

I never to my recollection heard the subject of my sister's seeing the man in the road mentioned until last March. I talked to Mr. Drake about it. It was after my sister Patience had returned from Warren.

Direct Examination.

The statement Mr. Blake wrote down came from myself and my sister Patience, and was assented to by my sister Amey after it was written down.

Elizabeth P. Hall.—I live in Portsmouth, about half a mile from Miss Anthony. I am the wife of George Hall. Mary G. and Amey Anthony were at my house the 20th of December. Mary came in the forenoon and Amey came in the evening. Mary towards evening went to Mr. Cook's store and returned to my house in the evening with Amey, I do not know what time they came, it was considerable after candle-light. Amey left after 8; as I judge from the circumstances. She knew, (from circumstances which she mentioned,) that it was the 20th of December. I

think the Miss Anthonys have correctly stated the time they came to and left my house. I do not consider Jane Gifford's character for truth and veracity good.

Cross Examination.

My mother staid at my house on the night of the 20th of December: we had no time-piece in the house, nor did I examine any that day.

Amey Anthony called again. I wish to correct my testimony of yesterday. I did not state myself the facts to Mr. Blake. My sister stated them, and I assented. I meant yesterday to say that I had told Mr. Blake by assenting to what my sister said. My brother advised me not to come to Court and disgrace the family, and said if I testified that I had seen a man by the coal mine, it would be disputed.

Cross Examination.

I thought it more proper for my sisters to state to Mr. Blake what I knew and for them to assent to it. I discovered the mistake I made yesterday after I went home, being reminded of it in conversation with my sisters. I told my sister Mary on Saturday 22d of December, that I had seen the man in the road as I was returning home

Robert Hicks. I reside in Portsmouth about 6 rods from Mr. Gifford's. I was at home on the night of the 20th of December. After I had retired I was waked up by a knocking at the door. I heard my son say to the person that was at the door, the next house was the ferry house. I know nothing about the time of night. I went to bed early; I should think as early as 7 o'clock.

Cross Examination.

I do not know Mr. Avery nor did I see such a man on the road or elsewhere on the 20th of December. I was in and about the house that day. I cannot be very particular about the weather; it was blustering and cold. I have heard a number of witnesses testify on that subject and I agree with them. *Attor. Gen.* Did you hear the witnesses say it was cold and blustering? *Witness.* I don't know that I did. It is now my opinion that it was cold and blustering; more so in the morning than in the afternoon.

Crawford Easterbrooks. I live in Bristol. In the fore part of August last Mr. Sweet set Mr. Avery's ancle at my house. Sweet said the bone was broke. Mr. Avery walked quite lame. After it was set Mr. Avery was able to walk better; Mr. A. nearly fainted under the operation.

Cross Examination.

Avery walked lame some time after it. He was that day visiting at my house. I understood that his leg was injured in Lowell. I saw Mr. Avery on the 21st of December at my house a few minutes before he went into Mr. Gladding's. I heard on Saturday night after, that Miss Cornell was dead and that Mr. Avery was suspected of being concerned in her death.

Direct Examination.

On Friday Mr. A. appeared cheerful. He staid but a few minutes at my house that day; he merely came on an errand.

Mary T. Borden, called again by the prisoner. I have not at any time, said to any one, that I did not know Miss Cornell until I saw her a corpse. I have said I was not acquainted with her. I have said nothing different from what I testified to, when on the stand before.

Fanny Reynolds called again. I reside in Bristol. On Christmas day at my father's house in Bristol, I had a conversation with Mrs. Mary T. Borden and she said she never had seen the woman who was hung, before she saw the corpse. I think she told me she saw the body before it was taken down. I asked her if she knew the girl and she said as I have before stated.

Cross Examination.

I am confident she said she saw the body before it was taken down and told how it hung. No one was present during the conversation. The conversation took place in the kitchen. I think she introduced the conversation. I have always been acquainted with Mrs. Borden. I don't know when I first told of the conversation. I told Miss Parks of it and also Mr. Simmons. I told him last week. My father's name is John Manchester. I don't know where the rest of my family was that day; a part was at the court house and a part at church.

Nancy Perkins. I live in Bristol. I have had a conversation with Mrs. Borden relative to Miss Cornell. It took place on Christmas day in Bristol at her father's house. I asked her if she knew the girl; she said she did not and had never seen her until she saw her after she was hung. She said she took from her pocket a linen handkerchief and a silver case pencil. She stated how she hung; she was stooping forward. She stated nothing more particular about it. I told what she had said, in my family immediately.

Cross Examination.

My daughter enquired what Mrs. Borden said and I told

her. I think I also mentioned it to Mrs. Parks. Her mother, her sister and husband were present and heard the conversation. Her mother's name is Waldron.

Betsy E. Hills. I live in East Hartford in Connecticut with my brother. Mrs. Avery is my aunt. I resided seven years in the family of Mr. Avery. Eleven years ago I lived in his family two months. I lived in his family in Lowell. In June 1830 I went with his family to Lowell, and lived with them 4 weeks. In June, 1831, I went back to his family and lived with them until last Sept. Miss Cornell was not in the habit of visiting Mr. Avery's family in Lowell. I never saw her at his house but twice, and then she had her bonnet on. It was in June 1831 I saw her there. She came to him appearing to be penitent, and requested to be again received into the church, as she told me. It has been Mr. Avery's usual practice to destroy letters. I frequently have seen him after reading letters, destroy them, or give them to his children. The letters I received while I lived in his family have been directed to Betsey D. Hills, to the care of the Rev. Ephraim K. Avery. I received no letter after I left Lowell, while in Bristol. It has been Mr. Avery's habit to ramble about. I have frequently known him to leave his home and be gone half the day, without telling any one where he was going. He often did this at Saugus and various other places. In Bristol he once went with his wife to Mount Hope, and did not return until after dark. At Eastham, on the Cape, he indulged a great deal in rambling about from place to place; sometimes he rode, sometimes walked. In Bristol, Mr. Avery had but one black camblet cloak, one surtout. I never knew him to have a cap. It was the same surtout he now has on. I always thought Mr. Avery to be a remarkably kind and affectionate man in his family, as much so as any man I ever knew. He has ever lived in harmony with his wife at all times. He injured his leg in Lowell about a week before he came to Bristol. It was broke or put out. I was told that Dr Sweet set his ancle in Bristol. He walked better after it, but complained of its hurting him when he walked. He said it was weak; the strength of it was not restored before I left Bristol.

Cross Examination.

Miss Cornell when she called at Mr. Avery's house in Lowell shed tears as I thought and appeared to be penitent. From what I afterwards heard I thought her penitence was not sincere. I do not know that I ever had a letter addressed

to me as Betsey Hills. I saw at Mr Avery's in 1831 at Lowell a letter which was said to have been written by Miss Cornell to Mr. Avery; it was in the hands of Mr. Merrill; I never knew him to write a letter to Miss Cornell. In June 1831 I heard Miss Cornell tell Mr. Avery that she had been a bad girl and asked his forgiveness and to be received again into the church. He told her she had put the church to a great deal of trouble and that he could not receive her back into the church. Mr. Avery at Lowell first lived 4 weeks in Mr. Lamb's house; another family lived in the house. He afterwards removed to Mr. Abbott's house and occupied the upper part of it; Abbott lived in the lower part. Mr. Avery lived there two years. It was the usual practice in the Abbott house for them to leave the front door open for him and his family. He usually returned home at 10. He was sometimes out in the evening without his family. Mr. Avery generally brought me my letters; I have received them from other persons. Mr. Avery had a study, but was not in it a great deal as he was very busy while in Lowell. Visitors might have gone to his study without going to other parts of the house. He had a bed in his study; he had shells and minerals in the house. I do not know that I have in particular heard him talk of the subject of shells and minerals. Mr. Avery studied medicine before he studied divinity; his father was a farmer named Amos Avery. Mr. Avery was fond of horses. I have heard Mr. Avery say, that before he studied medicine he attended store and kept school. He said he did not practice medicine, because he thought it his duty to preach the gospel.

Direct Examination.

The Mr. Merrill who had the letter of Miss Cornell in his hands, was not the presiding Elder of that name.

John E. Green.—I live in Fall River. In Oct. last on the 20th in the evening I was at the meeting in the Amazon block when Mr. Avery preached. It broke up about nine o clock; it was a very dark night; I know the fact because I could not see the steps which I had to go down in order to cross the stream on my way home. Mrs. Bidwell came to my house that evening after I had been home 15 or 20 minutes; she came to enquire for Mr. Avery. I went immediately home from the meeting and got there 5 minutes past 9 by my clock. Mrs. Bidwell staid at my house but a few minutes not long enough to sit down; some of those who went to meeting that evening carried lanterns. It did not storm.

Cross Examination.

I told Mrs. Bidwell that I thought Mr. Avery had gone somewhere else to lodge. I am inclined to think my clock was too fast on that evening. Last December I think but one bell struck the hour of the night in Fall River. The Baptist bell when it rings for evening meeting commences soon after the factory bells ring to dismiss the hands from work.

Levi Haile.—I live in Warren. I was one of the examining magistrates in Bristol; John Durfee was sworn before me; he described the manner the knot was placed on the stake and to the best of my recollection he described it as a slip noose placed over the top of the stake, (witness describes how) William Durfee was also examined before me. He produced a piece of cord which he said he took off of the neck of the deceased, and that he had cut off a piece of it which he gave to some one. Mr. Peleg Cranston was also examined as a witness. He said that 11 persons passed the bridge on the 20th of December; that between 2 and 3 o'clock a gentleman passed the bridge; that he had no great coat or cloak on; he complained of the cold. After he passed the gate, the wind blew up his coat and he thought he had a spencer on. I think he also said that the gentleman was a stranger, or that he did not know him; not positive as to the precise expression. Also that on the morning of the 21st of December he discovered tracks on the beach leading towards Portsmouth. Mr. Avery was present while Cranston was testifying. Mr. Cranston did not attempt to identify Mr. Avery as the person he saw on the 20th of December. George Lawton was examined as a witness; he represented that an individual passed the bridge and described him, and said if he should see the man as he saw him on the 20th of December, under the same circumstances, he should know him; otherwise he should not. He did not attempt to identify Mr. Avery as the man. Abner Davis was also examined, but did not undertake to identify Mr. Avery as the man he saw at Tiverton the 20th of December; (states the substance of his testimony.) He said it was from 25 to 30 minutes after sunset when he saw the stranger, dressed in dark colored clothes, thought he had on a surtout, &c. He said when the rock exploded the air was filled with stones. He did not attempt to identify Mr. Avery as the man. Benj

min Manchester was also examined; he did not attempt to identify Mr. Avery as the man he had seen. Dorcas Ford was examined as a witness. She said rash violence had been used towards the deceased. Meribah Burden was also examined. The ladies were examined privately. The question was put to her whether the violence was produced in an attempt to commit a rape or to produce an abortion. She thought to produce an abortion. (He refers to his minutes of his testimony to refresh his memory.) She said the appearances led her to the opinion that the deceased had been abused. Margaret B. Hawley was examined: she was asked to point out the person she saw at the hotel in Fall River on the 20th of December. She on being asked if Judge Drury was the man, he having rose from his seat at the moment, she replied he was, but soon retracted the opinion, and said she believed she was mistaken.

Cross Examination.

There were several witnesses examined as to the knot round the stake. John Durfee was asked if there were four ends hanging down from the stake; that is my impression (witness refers to his minutes.) I find no mention of it on my minutes. The witness said it was marline twine doubled; so I have it on my minutes. Williams Durfee described the knot round the neck of the deceased as a clove hitch.

FRIDAY AFTERNOON.

I do not recollect that Mr. Cranston was asked to identify Mr. Avery. John Durfee represented the cord round the stake and said there were four ends hanging down after he cut it.

Direct Examination.

Williams Durfee said he cut off a small piece of the cord, which according to the best of his recollection was but about 4 inches long. Mr. Cranston said he did not know the man, or he was a stranger. I do not know that John Durfee was asked how many ends hung down; he was asked to describe the end, which he did as I have described.

John Howe. I reside in Bristol, and was the magistrate that issued the warrant against Mr. Avery. Mr. Haile and myself attended the examination. John Durfee made the complaint; Seth Darling was with him. It was made after church on Sunday. Darling first said the name of

the man they were going to complain of, was Daniel Everett; he said it was Everett or Everald. I think Mr. Blake said the name was Avery. John Durfee represented in Bristol the manner the knot was tied round the stake: [here the witness showed how John Durfee represented the knot.] Williams Durfee said the piece of cord he had cut off and given away was 4 or 5 inches long. Mr. Cranston did not undertake to identify Mr. Avery as the man who passed the bridge on the 20th of December. He thought the man had a spencer on. *George Lawton* thought he could identify the man if he saw him under like circumstances;—he said the wind was blowing heavy. *Abner Davis* said he did not take particular notice of the man's face, as he had something else to do. *Benjamin Manchester* saw the man; thought that Davis might have seen the man a moment first. (Witness states testimony of Margaret Hambly and facts as stated by Mr. Haile.)

Cross Examination.

I think Lawton said the wind on the 20th of December was blowing from the north or northerly very heavy when he saw the stranger pass his house. I took examination of Mr. Avery (here witness produced the examination of Mr. Avery, which he said was handed him at the Court of Examination by Mr. Blake, in presence of Mr. Avery, and it was read in the presence of Mr. Avery by Mr. Blake; it was not signed by Mr. Avery nor in the hand writing of witness.) Mr. Avery was told by me if he wished to make a statement he might, and the one I have produced was handed me. I think Williams Durfee said the string he exhibited had stretched and was then about as long as before the piece was cut off by him. Mr. Avery was a stranger to me and when Durfee made the complaint I knew he meant the Methodist minister, but did not then remember his name. When Mr. Avery was first arrested, he told me that he went on the Island the 20th of December to take a ramble. I told him he had better say nothing to me on the subject. He said the truth would not hurt him. Said something about going to the coal mine. I think he said he met a man out a gunning, and that he stopped at the house next to Gifford's, not knowing but that it was the ferry house. I saw Mr. Avery the Tuesday after his discharge. He said nothing about his

having been overtaken by any young woman on his way towards Bristol ferry.

Direct Examination.

He told me he had been lame, and that it sometimes occasioned him to walk very slow.

Cross Examination.

Mr. Avery waived all exceptions to misnomer in the complaint or warrant. Mr. Harnden asked a copy of my opinion. I at first refused but afterwards allowed him to take a copy.

Waldron Potter I have kept the ferry in Providence between Butler's wharf on the west of Providence river and Thompson's wharf on the east side of the river. It was discontinued last October, since which time there has been no ferry kept at that place.

Eldridge Gerry Pratt. I reside in Wrentham, Mass. I was in Iram Smith's store at Fall-River on Saturday afternoon of the first week of the sitting of the court of examination of Mr. Avery in Bristol. I think Mr. Harnden came into the store and asked Mr. Smith for all the letter paper he had in the store. It is my impression that Harnden went behind the counter and took the half ream of paper down from the shelf. As he laid it on the counter a half sheet of paper slipped from the ream; I could not see from what part of it. Mr. Harnden picked it up and said, take notice this is the half sheet, I will write on it that you may know it when you see it again. It was near night when this took place. I I had been in the store about two hours when Mr. Harnden came in. Just before Mr. Harnden came in, there was a stranger dressed in a cap and cloak in the store; he went behind the counter, went up to Mr. Smith, who was writing at the desk and appeared to whisper to him. He passed by where the paper stood, but I did not see him touch it. He remained but a very short time in the store. I did not know the man. I first mentioned these facts to a young man where I boarded in Wrentham.

Cross examination. I am a travelling merchant. I should not think the man staid at the desk with Mr. Smith more than a minute. I cannot tell who besides Smith and myself were in the store when Harnden came after the paper. I think some other persons were present. I left Fall River the following Monday. Last week or week before I mentioned these facts at Mrs. Cory's in Fall-River, where I boarded. I do not recollect that Mr. Smith made any remark when the half sheet was found. I was in the store for the purpose of trading with Mr. Smith. The circumstance of Col. Harnden's coming in so soon after the man, made an impression on my mind. I said nothing either to Smith or Harnden at the time about the man. I did not calculate to be a witness and therefore kept the fact to myself. The man appeared to be a stranger in the store. As he went behind the counter he rolled his eyes round at me. I recollect a man in Fall-River who boarded at Mrs. Cory's, by the name of Briggs; he was not in the store when the stranger or Harnden was there, at the time before referred to. I do not know how Mr. Harnden was dressed when he came into the store. I think Mr. Smith mentioned the man's name before Harnden came in.

Direct examination. I asked Mr. Smith what the man's business was; he made no reply. I did not wish to be a witness because I thought there were others who knew as much as I did, that might be examined.

Mr. Randolph, offers to read the first verdict of the inquest. The attorney general objects to it. *Randolph* offers it to contradict the testimony of the coroner and to show that Williams Durfee signed it. *Mason*, we wish to use the verdict to contradict the testimony of Williams Durfee and the coroner. He does not offer it as evidence of suicide. Att. general, replied he admitted that the coroner's proceedings were irregular. He contended that the verdict could not be used to impeach the testimony of the juror who signed it unless he had sworn that he did not sign it. The irregularities of the coroner have nothing to do with this case. The attorney general admits that the first verdict was not one of murder. *Mason* does not contend that the verdict can be used as evidence of suicide. Mr. *Randolph* did not insist on reading the verdict after the admission of the attorney general.

Elbridge Gerry Pratt called again. The man I saw as beforesaid had I think a cape to his cloak. The paper when Harnden went to take it down, was on a shelf about as high as my shoulder. I know Luther Case, but do not recollect that I saw him that day or eveniug.

Lucy Hathaway called again. I did not when I was examined before intend to say, that I knew Miss Cornell's situation before her death. She asked me one morning, if I did not think a girl might be innocently led away by a man in whom she placed confidence and looked up to. And said what can a poor weak woman do in the hands of a strong man who is using all kinds of arguments. I knew before Miss Cornell's death that she was unwell, but did not suspect her situation.

Samuel Randall, was examined for the state, it being necessary for him to leave town. I am post-master in Warren and have been for a number of years. (The yellow letter is shown him.) I have no doubt it has the Warren post mark on it. The figure 6 is in my hand writing as I think. I believe it to have been made by me.

SATURDAY MORNING, May 25, 1833.

Dr. Walter Channing. I reside in Boston. I am the Professor of Midwifery and Medical Jurisprudence in the University of Cambridge. The length of a fœtus at 2 months is about 2 inches; at 3 months about 3 inches; at 4 months between 4 and 6 inchs; at 3 months and 20 days between 3 inches and 3 quarters, or between 3 and 4 inches. It would arrive at 8 inches over 5 months The weight at two months would be about 2 ounces; at 3 months, between 2 and 3 ounces, nearer 3; at 4 months, between 4 and 5, over 4 ounces. The weight is not relied on to ascertain its age, being much less certain. At birth fœtus varies from 4 to 16 onces. My information is derived mostly from books, and partly from observation and measurement. I have not been familiar with measureing fœtus in cases of abortion. I have practised midwifery a good deal and think my own observation accords with the information I have got from the books. I have not made the measurement of fœtus a particular study. I should not think it possible that a fœtus should arrive to 8 inches in 3 months and 20 days after conception. I have seen from 10 to 14 persons who have been hung and I have been surprised to find so little difference in their appearance, from persons dying in the ordinary way. Many of them were pale as in ordinary cases. The ap-

pearance of the lungs would depend on the slowness or rapidity of the death, and that appearance would be the same whether a person is strangled in a horizontal position or hung. It is very common for persons of both sexes dying a natural death, to exhibit dark appearances about the private parts, so as to strike a person not accustomed to it strangely.

I have examined females dying a natural death and found the vagina and the mouth and neck of the uterus more or less discolored. The vagina is naturally red, more so in the young than in older persons. This color is increased after death from the red living color, to the dark color of the blood after death. Those who die a natural death soon exhibit dark spots on the parts that lay lowest. They are dark and contrasted with the white appearance of the body, appeared very dark and discolored. If a person had hung 10 hours I should expect to find the abdomen and region round the pubis discolored, and think they might be mistaken for bruises by unskilful persons. If a bruise before death, the center of it would be darker than in any other part. If a body should die on Thursday, and I examined it on Monday without discovering bruises, I should not place the least reliance on an examination made 83 days afterwards. I know of no such circumstances as would render me able to discover bruises on a body 36 days after death unless there were severe lacerations. Operations on a body accelerate putrefaction. The washing a piece of flesh from one of the dark places and from one that was not dark 36 days after death would not satisfy me of bruises. Blood will coagulate after death After a body has been buried 36 days that had been previously opened, I could not form any satisfactory evidence of bruises from the appearance of dark spots on the back. I should think that washing would not prove them to be bruises. The situation of the body in the coffin would occasion the blood to settle in the back on each side of the back bone, and also on and about the abdomen. (Here the witness entered into a full explanation of his views of the subject.) The appearance of coagulated blood 36 days after death would not satisfy me there had been bruises during life. Indentations in a body by fingers could not have been made before death. Hanging is a very common mode of committing suicide; but uncommon mode of committing homicide. I have found persons who have hung themselves with their feet touching the ground. (He refers as to the appearance of the faces of the young man and woman who a short time since hung themselves in Boston.) A blow on the abdomen makes a deeper mark on the inside of the muscles than on the outside. (States a case of a man in the Massachusetts Hospital, over whom a wheel had passed, where there was no external mark, after death the inner muscles very much bruised and the liver was broken. States two other cases and gives the names. Refers also to David Lambert's case.) If I found a bruise on the outside of the abdomen, I should expect to find a correspondent one, much larger, on the inside.

I have known women to have appearances of menstruation after pregnancy, 3 or 4 months; and it is a fact on record that some women are never regular in the menses except during pregnancy.

The neck of a person hung by a small cord would swell so as to enclose the cord. I have observed a similar appearance where persons

have been hung with a handkerchief. The indentation would appear deeper where the cord was small. This is owing to the vital action of the blood in the neighborhood. (He illustrates his idea by a comparison with tying a string round the finger.) When there is suffocation without suspension I should expect the mark below the thyroid cartelege. A person suspended I should expect it above. I should expect to find the countenance of a person who committed suicide, more tranquil than if murdered. The expression depending on the sufferings previous to death. I believe women of bad habits are more irregular in their monthly sickness, than virtuous females. The missing of the menstruation would admonish a woman of her pregnancy, but it would not be satisfactory of the fact at first. The children, of parents, either father or mother, that have been afflicted with venereal, are feeble; the mothers rarely go their time; the children are weak. Prostitutes rarely become mothers. I should not think a person in health could be strangled by another, without there being marks on the body, other than that made by the string. A person to strangle another must be much stronger than the person strangled.

Cross examination. I have been in practice 20 years. The majority of authors agree with regard to the length of fœtus, or do very nearly. Bellard makes the length of a fœtus at 4 months, 8 inches. He made his experiments on 50 different subjects at each age. Carperon had much experience; he made the fœtus at 3 months, 3 inches; and at 4 months, between 4 and 5. Carperon is professor of midwifery. Bellard is a professor of surgery, &c. Denman expresses the great uncertainty of depending on the length of a fœtus to determine its age. I do not know that the writers on the subject generally express such an opinion. The works mentioned are the standards on which I rely for my opinion, together with my own experience. There is a great diversity in the length of the fœtns at the time of birth. I should not think that a fœtus 6 inches long at 4 months would be likely to be larger than one 4 inches long at 4 months. The sex of a fœtus can be discovered at 3 months; plainly I should think at 5 months; but even at that time from the appearance of the organs the sex might be mistaken at first view. The nails of a fœtus may be discovered at 5 months. A woman can generally tell when the blight of the fœtus takes place. The same woman frequently has children of the same size at birth, at different times. One writer has confined his measurement to the skeleton. The expression and color of persons hung differ as in cases of common death, according to my observation. Beck is an author of standing and says persons hung appear different with blood in the face.

Experienced women, those who have been in the habit of seeing and laying out dead bodies, would not be likely to mistake the ordinary marks I have described on dead bodies, for bruises. The blood will settle in the lowest part of the dead body. If it lay on the left side it would settle on that side. If I were examining a body I should be governed by the state of the body and the length of time the person had been dead. A body undergoes a total change in 3 or 4 months in ordinary cases. There are situations in which bodies are buried without undergoing a change at a great length of time. I should place but little, or no reliance on an examination of the abdomen 36 days after death.

I should think a person taking down a corpse would be likely to make

impressions or marks on the body with the hand. I do not recollect seeing any marks on the abdomen produced by external violence during life. It is not usual to see such marks. There was a case in Paris where a man was killed by a horse; there was a slight appearance on the outside of the abdomen, but a bad bruise within. The man died. In cases of suicide by hanging, the indentation is deepest on the side opposite the knot. There have been cases of death by blows on the abdomen without any bruises on the outside or inside. In such cases some vital part must have been affected. The blood is very dark after death and its constitution is soon afterwards destoyed. It continues to settle some time after death. The mark of the cord in cases of suicide is oblique. I should think that a person after drawing a cord round her neck so as to make an indentation $\frac{3}{8}$ of an inch, would not be able to fasten the cord to a stake. It would stop respiration, but not circulation. An attempt to produce an abortion externally, or by instruments, would if it affected the pit of the stomach, produce exhaustion; if on the abdomen less; but it would depend on the degree of force and the continuance of it. There are various modes to produce abortion—such as rupturing the membrane of the uterus, or applying medicines to the stomach internally. Menstruations after conception are regarded as exceptions to the general rule and happen to women in good health. There is a great difference in the constitution of women; some more likely to faint than others. The two persons in Boston that hung themselves, were entirely suspended. If I should find coagulated blood in the sheath of a muscle and no other mark about it, I should consider it strange, and account for it by some tearing of the part during life, or the rupture of some vessel after death and the blood settling there. It would be a very unusual appearance,

Direct examination. If I should see such an appearance I should think if it was produced during life that there would have been a mark on the outside, unless it was in a part where it might have been produced by a strain. Sometimes the heart beats after the breath is stopped, death first taking place in the lungs. I saw a person once who hung himself to a low post bedstead with a towel or handkerchief; there was a horizontal mark across the windpipe which did not extend around the neck. If the hand was up I should think the individual had attempted to reach the rope or cord. The direction of the arm would or might depend on some object during sensation. I saw once a case of suicide by hanging 4 or 5 feet from the ground, where the arm lay across the heart.

Seth Darling called again by the prisoner. I acted in the capacity of deputy post master six months at one time, beginning in October, 1831, I think, and from that time; I was pretty much all the time in the office. On the 19th of November, 1832, I was there all the time. I took no charge of the office last November but on that day. I recollect clearing the letter box as I stated when examined before, after bell rung, a few minutes after half past 7. The stage left at 8 o'clock, and the letters were dropped in between half past 7 and the departure of the stage. It was the Newport stage. My impression was that one of the letters was for Bristol and the other for the westward. I thought at Bristol that I had had something to do with a letter directed to Mr. Avery, but could not satisfy myself until I examined the post office books at Bristol to see if he received a letter on the 19th of November, and also the books of the Fall River. I cannot say that the letter I received at

the Fall River office on the 19th, was directed to Mr. Avery, but I am impressed with the belief that it was. I went to Mr. Howe's with Mr. Durfee, and at that time I did not recollect about the letter. I gave Mr. Howe the name of Daniel Avery and no other. I took it from a memorandum made by Mr. Coggeshall. I knew the name of Avery but not his given name. I know that the name I gave was Avery and not Everett or Everell. The first time I knew that the methodist minister in Bristol was named Avery, was at the inquest.

Examined by the government. Mr. Coggeshall's name is William.

Louisa Whitney examined again by the prisoner. She shows a harness knot; the same as a clove hitch; shows how she makes it; it takes one for every eye of the harness; I have made it often; the witness made the knot round her own neck.

The prisoner's counsel informed the court that the testimony for the prisoner was now closed for the present.

SATURDAY AFTERNOON, May 25.

The following witnesses were examined for the Government.

Benj. Greene. I live in Bristol; I know Amey Anthony; she came to work with me the 12th of last March as nearly as I can recollect, and was there until the 23d of March. During that time I conver ed often about the walk Avery had on Rhode-Island, and once with her part cularly; she said on the 20th of December she went down to Brownell's in the afternoon; that Brownell lived near the coal mines on the west side of the Island, and that she saw no stranger that day about the coal mines: she said she got to Brownell's about noon and went home in the evening; she had seen no man that was a stranger but what she knew. A fortnight from the last Saturday before this court commenced a carriage drove up and Amey Anthony was called out; she told me her sister Patience and Mr. Smith's wife of Warren was in it, and they told her she must go to the Island a fortnight from that day to attend court in this case. I asked her what she knew about it; she said she met a man on the road the night of 20th Dec. between Brownell's and her house, and told me where she lived, that they thought she had met Mr. Avery; she told me she overtook the man on the east road; she said there were three roads from the Island to Bristol ferry, but when I had described the roads to her she said it was the west road; she said she overtook the man near the school-house on the other side of Mr. Sherman's; she said she didn't know the man she overtook, or whether he was black or white; she told me he was not very tall or very short, but about middling; I have conversed with her at two different times since the carriage came to my house; I recollect that I left my work to ask her when it was she overtook the man on the road; she said it was the night after she had been to Mr Brownell's. I then told her I thought her evidence would contradict what Mr. Avery had said; she said she had conversed with her sister Patience about it, and that the conversation commenced by her sister Patience saying to her, that if they could find any one who saw him that day, it would help Mr. Avery or save him, and that Patience asked her if she saw any one, and she told her she did, a man that walked slow and had a cane; she said that Wm. Simmons came to Mr. Fish's to inquire of her if she saw a man that day; she afterwards told me that Nath. Munro came and asked her the same question. The first time Amey and I talked about this matter, she told me she got home about 8

o'clock; the next time she told me it was half past 8, and might be nearly 9 o'clock. She told me she didn't believe there was any man about the coal mines that day; that she was in the chamber in a house near the coal mines, and there was a number of houses round; I recollect asking her if she spoke to the man or he to her; she said neither of them spoke. No conversation was held about the man she saw in the road until after Amey came back from the island where she had gone to help her sisters move. After her return, on my remarking to her that her statement rather conflicted with Mr. Avery's account of himself; she replied, "O dear! I wish I had never gone to help my sisters move, and then I should not have said any thing." She came down stairs one Sunday when I was about shaving, with her bonnet on, and sat down in a chair and sighed; some tears fell from her eyes, and she said she must go to court or her sisters would never forgive her; she said the man and she passed very near each other; that she walked the fastest, and that the man was dressed in dark colored clothes.

Cross examination. The first conversation I had on this subject was between the 12th and 23d of March. Nothing was said then but about the coal mine, and her seeing no man about them but what she knew; the second conversation was after her return from helping her sisters to move; she returned to my house on the 29th or near it, I think, and the second conversation was after the 20th of April. I had three conversations at least with her at different times, and the third conversation was between the 20th of April and the Saturday next before the present sitting of the court. I have stated part, it may be, of all these conversations to John Boyd, who lives in Portsmouth and comes often to Bristol to market. I have mentioned some part of them to Mr. Borden. I came to Newport on Wednesday last; I was summoned here; I think I have never stated to any one but Boyd, (unless I may have done so to Howland, the officer who summoned me,) what was said about a stranger's being seen round the coal mine. I questioned Amey about the matter because I had heard that Wm. Simmons had gone to Fish's to inquire of Amey about what she had seen that day when she was visiting near the coal mines, and because the carriage stopped at my house; my motive was curiosity; Fish told me that Munro brought paper to take down what Amey might say; I am not aware how the government ascertained what I know about this matter.

Direct examination. At the first conversation she told me she had seen no man in her travels and expressed her opinion thereon.

Joseph Fish. I live in Portsmouth; I heard Amey Anthony say at my house that she had seen no stranger near the coal mine the day she was at Andrew Brownell's; a gentleman came to my house and inquired if I knew Sally Jones; on my replying that I did not, he asked if Amey Anthony was in the house; I called her and inquired if see knew Sally Jones, and she said no! and I then asked her if she had seen a strange man near the coal mine when she was at Andrew Brownell's? and she said she did not.

Nathaniel Munro. I live in Bristol; I saw Amey Anthony at Mr. Fish's; she told me she did not see any man any where on the Island on the 20th December; I called to see her at the request of Mr. Bullock and Mr. Blake.

Cross Examination. I was at Mr. Avery's when Mrs. Jones was there; I told Amey Anthony that Mrs Jones said if she could tell her, she could tell what time of day it was she saw the man; I did not ask her if she saw any man that night; I described the man to her.

Direct examination. She said she did not see any man out that day; I heard Mrs. Jones say at Avery's house when he came into the room, that is the man I saw on the Island; she said she thought she saw him in the afternoon, but could tell if she could see Miss Anthony.

Joseph Childs. I am acquainted with Jane Gifford; I reside within 2½ miles of Bristol Ferry; I never heard any thing against Jane till after the Bristol examination; his family and mine are very intimate and have visited for years; she always appeared to be a sedate and well behaved girl, and I never heard any thing against her.

Stephen Thomas. I don't know Jane Gifford; I live about two miles from her father's; I never heard a word against Jane till after the investigation at Bristol.

Samuel Dennis. I live about half a mile from Jane Gifford's father's house; I never heard a word against her till after the examination at Bristol; her reputation is fair as any of my neighbors; I have lived for four years within half a mile of the family; I never heard any harm of the girl.

David Hall. I live in Portsmouth, about a mile from Bristol Ferry; I am acquainted with Jane Gifford and never heard a word against her, till after the examination in Bristol.

Jane Hall. I live in Portsmouth, about a mile from Bristol ferry; I have known Jane Gifford all her life time; never heard any thing against her character till after the Bristol examination.

Hannah Hall, Diana Dennis, Rebecca Brownell, Cynthia Brownell. All live in Portsmouth, and confirm the statements already made of the good character of Jane Gifford.

Mary Hicks. I live a few rods from Bristol Ferry, in Portsmouth; I should believe Jane Gifford under oath, and so I should if she was not; I am the mother of Geo.

Hall's wife, and was at his house on the evening of the 20th December last; Amey and Mary Anthony was both there; Amey left for home, it might be at half past 6 o'clock; it is a mile or three quarters, I should think from Amey Anthony's house to George Hall's.

Cross examination. The Miss Anthony's went to the store before it was dark. I staid at Hall's all night; there was no watch in the house; the sun set then by the almanac about 30 or 32 minutes after 4 o'clock; I think they were absent about an hour; It is about a quarter of a mile from Hall's house to E. B. Cooks store: we looked before candle-light; it was after sunset when they went to the store.

Direct examination. I calculated the time as I always do when I have no clock.

Content Parry I live in Fall River; I resided there in Dec. last; my husband's name is Elias Parry, he keeps a store .[Here a question was made whether the witness should be inquired of about the wafer Iram Smith came for to her husbands store on the 20th December, before the decision of the judges was given the Court adjourned.

MONDAY MORNING, MAY 27.

Bailey Burden called again. I heard on christmas day, in Bristol, my wife made some remarks relative to Miss Cornell in presence of myself, my wife's mother and sister. Mr. Peckham was in the entry and might have heard it. In answer to a question, my wife said, she was not acquainted with Miss Cornell that she had frequently seen her pass and repass from the factory, and that she had inquired her name and was told it was Sarah Cornell. She was asked how she was hung, and my wife told what she had heard, and said that she saw Miss Cornell at the house and took a handkerchief from her pocket and that Mr. Cook told her that she was there to take the things from her pocket, and took the silver case pencil, &c. The person I saw in Fall River when in company with my wife, on the 20th of October, she told me at the time, she knew, but did not mention her name until after we heard of Miss Cornell's death. Directly after we passed them I asked my wife if she knew who they were. She said she believed she knew the girl, but did not tell the name. (This has reference to Mr. Burden's former examination)

Cross examination. Directly after we heard of Miss Cornell's death my wife told me that the girl we passed on 20th October was Miss Cornell.

Mary D. Burden called again. I had a conversation in Bristol with Fanny Reynolds. I never told her I saw Miss Cornell before she was cut down; I told her I did not, but that I afterwards saw her at the house. I told Miss Reynolds that James Mann went with me to the stack and showed me how the girl hung, and gave her the particulars. I told her I was not acquainted with her, but did not tell her that I had seen her before; she did not ask me. I never said to her that I had not

seen Miss Cornell before she was hung. I have also conversed with or in presence of Nancy Parkers on the same subject. She came to my mothers on christmas day. She asked me if I saw the girl, I stated as before. Some one then asked me if I knew the girl; I said I had seen her passing and repassing, and knew her by sight. I told them I took the handkerchief and Mrs. Cook took the pencil case. I never stated to any one that I saw her hanging, for I did not get there before she was carried to the house, about 11 o'clock. I am positive I never told any person in the world that I had not seen Miss Cornell before she was hung.

Cross examination. Nancy Perkins asked me if I saw the girl and I stated as before, and that I had been informed of the manner she was hung; that I saw the body after the jury came out of the room; I was in the kitchen and Nancy Perkins stood by the entry door. I don't know that I mentioned the name of Mason to Mrs. Perkins. I think my husband, mother, sister and Lucretia Jones were present when I had the conversation with Mrs. Perkins. When she came in we were talking about the subject. When I saw the knot over the stake it appeared to be a hitch, (which she describes,) the knot was not drawn tight then, and I think, but am not positive, that but two ends hung down; I went to the stake first between one and two in the afternoon.

Lucretia Jones. I live in Bristol and am niece to Mrs. Burden: I was present a few moments during a conversation in Bristol between Mrs. Perkins and Mrs. Burden. I heard Mrs. Burden say she saw Miss Cornell's body after she was taken from the stake. I left the room. In the morning of that day she teld me she was not acquainted with Miss Cornell, but had frequently seen her pass in the street

Cross examination. Mrs. Perkins stood by the door during the conversation. I was but a moment in the room. It took place on christmas day.

Content Parry recalled. About the 8th of December last I was attending store when my husband was in Providence. Iram Smith came into the store in the forenoon and asked me if I had any wafers. I found a few broken ones in a box and took the largest and gave it him. The wafer was not of a common color, it was brick color. Soon after I saw Mr. Bidwell go out and return. I saw a man with Mr. Bidwell who I think had on a cloak. (The letter of 8th December is shown her, and she thinks the wafer looks like the one she gave Smith.) I did not see the person with the cloak come out of the store with Mr. Bidwell. My husband returned on 8th December. I have no recollection of Mr. Smith's ever getting a wafer from me but once.

Cross examination. I think my husband returned the 8th of December, but do not recollect whether he went to Providence that day or the day before. He came from Providence in the steam-boat; I am more particular as to the day from the date of my husband's bills. I think it was on Friday; I ascertained it was the 8th about a fortnight since. I asked my husband what day he returned, and he thought it was the 8th. I asked my husband because I expected to be called as a witness. (She describes the color of the wafers in the box from which she took the one she gave Iram Smith.) I had a conversation about the color of the wafer last winter. I told the color of the one I gave Mr. Smith, and I was then told that it resembled the one the letter was sealed with. I do not know who all the persons were I conversed with

about the wafer. Mr. John Orswell came after me to come to court on Tuesday, week before the last. The first I ever heard about the wafer after I gave it to Mr. Smith was an inquiry made by my husband.

John U. Smith. I live in Troy, Mass. I am a weaver, and worked in the Fall River Factory; I employed Miss Cornell. I have been a weaver 23 years. (A harness is exhibited to him) There are two parts of a harness; it is made with a different knot from what it is mended with. (Here witness describes to the jury the different kind of knots:) it is mended with a square knot entirely different from the one it is made with. The knot he describes is entirely different from a clove hitch.) The harness cannot be mended with the clove hitch; it may be made with that knot but is not usually. I have worked ten years at power loom weaving in different manufactories, and never knew any different way of mending harnesses from what I have described. They were so mended in the room Miss Cornell worked in. On the 20th of December between 2 and 4, Miss Cornell asked me for permission to leave the mill; I gave it to her. She appeared agitated as she always did when she came to me to ask any favor; it appeared from diffidence. She asked me if some other girls might tend her looms, as she wanted the web got out of one of them so as to have it repaired for her by Monday.

Cross examination. I have made harnesses; they are made in different ways; I do not know where the harness line here produced came from; a part of it appears to be made with a single knot. I never saw one made so before. I do not think any of the harnesses in our mill are made with a single knot; I do not mean to say it would be impossible to make a harness with a clove hitch. *I* saw the deceased in the stack yard; *I* saw the cord on the stake; it was marline; a three strand hemp cord; *I* am not able to describe the manner it was put round the stake. We used marline in our Manufactory of different sizes: it is used in the weaving room, but not in the room Miss Cornell worked in: we might use one bale in a year in our mill: we do not sow up our goods with marline: *I* do not know the length of a string that is used to bale up a piece of goods: *I* have said that *I* was suspicious Miss Cornell had hung herself with a string she got from our mill, but on examination my suspicions were removed: (witness produced three sizes of cord used in his mill, neither of which corresponded with the one the deceased was hung with.

MONDAY AFTERNOON, May 27, 1833.

Mr. Smith's testimony continued. I cannot say that the cord now produced was from our factory. I never have said that the cord with which Miss Cornell was hung looked like cord used in the factory.

Direct examination. The marline is kept in a draw that is locked and I keep the key.

Cross examination. The string was tied on the stake 4 feet 4 inches from the ground.

John Durfee, called again. The string was taken off the stake on Saturday, and put on it again afterwards. In taking down the body I took hold of the shoulders; I did not touch the body. I gave to Mr. Howe in Bristol the name of Daniel Avery. Said nothing about Everett, or Everell. No other name was given Mr. Howe in my presence, but Daniel Avery. The stake was of cedar, split from a log. It was about 6 inches in circumference, I should think. I told Mr. Howe the

name of the man myself. I cannot say whether Darling gave it to Mr. Howe or not, or told him the name.

Cross examination. I am sure I took hold of the shoulder to raise the body and endeavored to take the cord off the stake with the other hand. I did not put my hand on the body other than on the shoulder.

Lucy Hathaway called again. I have been a weaver 3 years; 1 year of the time not steady at the business. (She is requested by the Attorney General to break and mend a harness, and to show to the jury how it is done She describes the mode.) One is a single knot and the other a double square knot. I never saw the clove hitch used in mending a harness.

Cross examination. The last of November I saw Miss Cornell with a letter which she said she was going to send away by mail. It was the 28th or 29th of November. It was on pink paper. Att. Gen. asks if Miss Cornell told her to whom the letter was directed. Mason objects. The Att. Gen. says he cannot see the ground of objection particularly as the prisoner has examined into every look, word and action of Miss Cornell for the last 10 years. The question was withdrawn for the present by the Att. Gen.

Mary D. Burden, called again. I have been a weaver for 8 years. (She describes the manner of mending a harness in the factories where she has worked.) I never saw the clove hitch used in mending a harness. I never made a harness.

Amey Durfee, again examined. I have been a weaver about 3 years. (She describes the knot used in mending a harness same as last witnesses.) I never saw a clove hitch used in mending a harness, and do not think I could make one.

Cross examination. I never made a harness. I have seen them made, but do not know how the knots are tied.

Elias Parry. I am the husband of Content Parry. I went to Providence on the 7th of last December and returned on the 8th. I was not again in Providence during that month, before the death of Miss Cornell. I returned from Providence in the steam-boat, and think she left at 3 o'clock.

Cross examination. I know by my bills that I returned on the 8th of December. I examined them about 3 weeks since. I think I returned on Saturday. I know from memory I was in Providence about that time. On reflection I remember the boat arrived at Fall River about 1 o'clock and she must have left in the morning. I cannot be certain as to the time.

Harvey Harnden, called again. In the early part of January I took some note of time and made a memorandum of the result as follows. On the 1st of January by a lever watch which was right by a watch maker's time in Fall-River, I found Benjamin Hambly's watch 9 minutes faster than the watch. Mr. Chase's clock was 17 minutes faster. The Pocasset manufacturing company's time 12 minutes faster. Mr Child's in Warren, watch maker, I found 17 minutes faster than my watch.—Col. Cole's in same place 14 minutes faster. Mr Horton's clock in Bristol I found 14 minutes faster; the Bristol town clock 19 minutes slower. On the 2d of January I found Mr. Pearce's clock at Bristol ferry 14 minutes slower, and Jeremiah Gifford's clock 20 minutes slower and watch 17 minutes slower. Mr Crauston's clock at the bridge 10

minutes slower, and Capt. Lawton's 3 minutes slower. Same day found the Pocasset clock 5 minutes faster. (He gave the relative difference of the time at same places on 5th, 6th, 8th and 9th of Jan.) On the 6th of January he compared the lever watch with the time piece he had set it by, and found the lever 4 minutes faster. (Randolph objects to the preceding testimony going to the jury, as being irrelevant to the case. The Att. Gen. contends that it is competent and the jury must judge of its merit. The court admitted the evidence to pass as competent to be weighed by the jury.) I went up to Mr Avery's house with Mr Bullock, on Christmas day. Mr. Bullock said he hoped the Fall-River people had not come to Bristol with improper motives. I told him if he would tell me where the people were, I would get them to disperse. I told Mr Bullock that two men on board the boat wanted to see Mr Avery. When we got opposite to Mr H. D'Wolf's, Mr Bullock said, I don't think there is any need of our going, as people are walking leisurely out of the street. He proposed going back, I said, no. In the street near Mr. Avery's house there were 40 or 50 people. I told them they ought to see the impropriety of gathering at that place. They dispersed; I heard no noise. Mr. Bullock and myself returned arm in arm and I introduced him to Mr Burden, near Mr D Wolf's house. I did not go near enough to discover which was Mr Avery's house. The collection was 70 or 80 feet from Avery's house.

Mr Staples suggested to me at Bristol the propriety of getting the letter paper from Mr. Smith's Store; *I* went to the store as late as 7 o'clock, (witness described the store) there were eight or twelve persons in the store; *I* asked Mr. Smith to let me have all the letter paper in his store; Mr. Smith first threw down a part of the ream and then the residue, and said here is the half sheet (holding one in his hand) which *I* looked for before *I* went to Bristol; *I* know Mr. Pratt, but do not know whether he was in the store at the time or not; The half sheet was never on the floor to my knowledge, nor was *I* ever behind the counter until this morning; *I* had on a black hat and pea jacket of brown petersham and Russia dog skin collar; last July *I* attached the goods in Mr. Pratt's Brother's store, and was about a week taking the inventory; E. G. Pratt attended, and has more than ten times accosted me to know when the goods were to be sold, (describes the furniture of the room in which he arrested Avery in New Hampshire.

Cross examination. I might have stopped with the people near Mr. Avery's house from one to three minutes; I do not think Mr. Bullock left me nor let go of my arm all the time.

Enos Briggs. I was in Iram Smith's store on the 8th of December last; there were two gentlemen in the store; one of them was Mr. Bidwell, the other man I did not know; he had glasses on; I was informed it was Mr. Avery; I heard the name of Tripp, the editor, mentioned; I left the store and both of the gentlemen in it; I was gone fifteen or twenty minutes and when I returned, as I stepped into the store I met the gentleman with glasses going out; I was in the store when Col. Harnden came to get the paper; I saw the half quires counted; Col Harnden was outside of the counter; he said here is the half sheet, I will mark it that you may know it; I think the half sheet was found among the 14 sheets; I know Mr Pratt; it was about 7 o'clock in the evening; I do not know that I saw Pratt in the store that evening, or that he was in the village;

be boarded in the house with me; I might have been in the store ten or fifteen minutes before Harnden came in; I knew Col Harnden previous to that time.

Cross examination. Pratt had been absent and returned some time during the trial in Bristol but I do not know what time; I was often in Iram Smith's store; I have not been in Fall River since the 14th of January.

Iram Smith called again. Col Harnden was not behind my counter when the half sheet of paper was found; I found the half sheet myself; I have no recollection of any tall man, a stranger to me, in a cloak and fox colored cap coming behind my counter that day; I saw no stranger in my store and behind my counter that day; It was barely possible for a person to have come behind my counter and put that half sheet in the ream while I was at my desk without disturbing me; Col. Harnden did not take that half sheet from the floor; I found it between other sheets of paper; Col Harnden came in to my store according to my recollection between seven and eight o'clock; I think I had been to Bristol that day; I have some distant recollection of Mr. Pratt's being in the store that evening, but not certain; I had no conversation with him relative to the stranger with the cloak and cap.

Cross examination. Pratt was often in my store; he was a little concerned with me when I first commenced business; we had lights in the shop when Col. Harnden came in; I have no recollection that the half sheet projected out from the rest of the paper; I think it did not; I had searched twice before for the half sheet; I looked in my desk, on the top of the ream, and by the side of it, and whereever I thought it most likely I should find it; I never disturbed the ream before, in looking for the half sheet.

Direct examination. Dr. Hooper was in my store about that time and wrote a letter; I gave him the paper he wrote on; I gave him two other sheets of paper; I carried the letter and paper I gave him to Bristol myself.

Cross examination. I looked for the half sheet because I think some one had inquired for it.

Benjamin Hall. I live in Bristol Rhode-Island; I was in Portsmouth on the 13th of December last, near the coal mines between 11 and 12 o'clock, 80 rods from them; I passed through George Brownell's gate and meadow in a S. W. direction, first went in a direction leading towards his house; I had on a blue camblet over coat with a cap and a black hat; I was there but a very short time, say 20 minutes; I left Brownell's house and went in a S. E. direction, with the intention to call on Mr. Barker; I Called there between twelve and one, stayed a short time there, went to David Anthony's and returned to the ferry; I have travelled a part of the route which Mr. Avery is said to have taken, since that time; there is a brook a little north of Mr. Freeborn's house; I saw Sarah Jones when I went to explain the route.

Cross examination. The 13th of December was I believe on Thursday.

Louisa Whitney. Called again; (she is asked to break and mend a harness which she does, she also describes the knot as a clove hitch.) I first tried to make that knot around my own neck about five weeks ago; I have made harnesses; It is the knot used at Waltham; I always

make that knot in making a harness; About two months since I first heard it called a clove hitch.

Zenas Thomas. Sometime from 28th of November to the 12th of December, I saw in Bristol Mr. Avery, with a reddish color paper in his hand; he appeared to be reading it; I do not know whether it was a letter or not; it was in the street.

Cross examination. Mr. Nathan Warren and two or three other persons were standing with Mr. Avery; It was a little after 11 o'clock, in the main street a little above the market; I was two or three rods from him; I was carting potatatoes; the persons with him were near enough to have touched him; my attention was called to the letter by Mr Gray who said the person was Mr. Avery.

John Gray. I live in Bristol; I saw Mr Avery with a piece of pink paper in his hand; It was while I was drawing potatoes; the work is charged on my books the 5th, 6th and 7th December; *I* said to Mr. Thomas, our priest is reading his letter; *I* was with Mr. Thomas at the time.

Cross examination. At the time Mr. Avery was in the main street about 4 rods South of the Post office; Mr. Warren was at the time coming up pump lane; Avery met him and shook hands with him; *I* did not see him have the letter reading it more than a half a minute.

TUESDAY MORNING, MAY 28th, 1833.

George Lawton, called again. The first conversation *I* had with Peleg Cranston on the subject of Miss Cornell's death was on Sunday the 23d of December; he described the person who passed the bridge on the afternoon of the 20th as a tall man in dark clothes and broad brimmed hat, and said he thought he looked like a methodist minister; he said he was a stranger to him; at the time of the conversation we did not know that Mr. Avery was suspected; *In* the evening we heard that Mr. Avery was suspected; Cranston said he did not know Mr. Avery.

Gideon Hicks. *I* live in New Bedford; on the 20th of last December *I* was at my fathers, Robert Hicks, next to Mr. Gifford's at the ferry; I spent a part of the evening at the house of Mr. *I*rish; I left there after 9 o'clock and went to Wm. Anthony's about a quarter of a mile off; staid there some time and then returned home; Anthony lives about a quarter of a mile from our house; on my return *I* went up stairs and was going to bed, when I heard a knocking at the door; I inquired what was wanted, and the person said he wanted to find the ferry house; I told him it was the next house; the evening was chilly, pretty cold and uncomfortable to be out; I was at and about home all day on the 20th of December, but saw nothing of Mr. Avery.

Cross examination. I did not look at the clock at Mr. Irish's; when we were coming away, some of the company said it was past ten, another person looked at the clock and said it was past nine; I may have stopped at Mr. Anthony's a quarter of an hour, perhaps a little more.

Direct examination. I went to Anthony's in company with a young lady; at Mr. Irish's there was considerable company.

Robert Wilcox. On the 20th of last December, I lived about 2 miles from Bristol Ferry, near Mr. Anthony's; when the sun was about one hour and a half high, I was at the coal mine; I did not see on that day Mr. Avery, or any person whe resembled him; between the sun 2½ and ½ an hour high, I went to the store near the coal mine; I went down the road across Mr. Anthony's and Mr. Brownell's ground; I passed through

Mr. George Brownell's meadow and out of his gate; last December the gate looked as if it had been white washed.

George S. Brownell. I live in Portsmouth, about ¼ of a mile from the coal mines, and was at the coal mine wharf the 20th of last December; I left home soon after twelve and returned home about four; I was engaged getting off some turkeys, I went directly down from the house through the gate to the wharf; I saw no person while going, returning, or at the wharf, that I did not know; I did not see Mr. Avery; from our house a person may be seen nearly down to the mines; a person standing 15 rods south of the gate could not be seen from the coal mine wharf; there were several persons with me at the wharf; it was quite cold that afternoon, and there was considerable wind; the wind was so high in the morning that Mr. Dennis did not dare to land at the coal mine wharf; he went to Bristol Ferry and returned in the afternoon; Dennis was collecting poultry for Mr. Dunbar.

Cross examination. At the coal mine I saw Russell Anthony, Seth Anthony, Mr. Freeborn, Mr. Dennis and a boy; I should not think I could from the wharf see any person at the mines that had been worked, I heard of the death of Miss Cornell on the Saturday morning following; It was so cold that we stood to the leeward of the wall.

George Brownell, 2d. I live in Portsmouth, about 60 rods from the coal mine; in the forenoon I was drawing sea weed from the shore, and at work round the house in the afternoon; I saw no person whatever pass my house that day; from where I was in the afternoon, I had a fair and full view of the white gate; I commenced working around my house about 2 o'clock, P. M. and worked until near sun set; in the afternoon it was steady winter weather; the wind was about W. S. W. or between W. and S. W.; in the morning it blew hard.

Cross examination. I was at work banking up my house, and from either side of it I could see the gate of the coal mine except from the south side; a part of the coal mine can be discerned from the part of my house which is the N. W. side of the house; persons acquainted with the ground pass my meadow to get to Asa Freeborn's; women pass through my gate and men generally get over the wall a little to the westward of the gate; I was not at work on the south side of the house more than ten or fifteen minutes; I was at work and stood a good chance of seeing any person pass the gate.

Russell Anthony. I reside in Portsmouth at my fathers house, Seth Anthony is my father; I went on the 20th of last December, between 12 and 1, from the house to the coal mine wharf, where *I* remained until about 4 o'clock; *I* then went to the house, remained there 15 minutes, and then went to the store in a S. W. direction; *I* did not see on that day Mr. Avery or any person resembling him; our house is half a mile south of Mr. Brownell's and about 50 rods W. N. W. of Asa Freeborn's; a person crossing from the coal mine to Asa Freeborn's would have crossed the road *I* took going to said wharf; *I* saw George Brownell and others at the wharf; *I* did not see Robert Wilcox there.

Christopher Barker, of Portsmouth. I know Sarah Brownell; have conversed with her, but never heard her speak about seeing a man near coal mines.

James Taylor. I keep a diary of the weather three times a day, at sunrise, at 2 P. M., and 9 o'clock in the evening. Last December on

the 20th, at sunrise the thermometer stood at 26 degrees above zero; at 2 o'clock 34; and at 9 in the evening at 29. The wind was west all day, and my general observation puts it down clear and pleasant.

Isaiah Simmons, 2d. I saw Mr. Avery pass our house on the 21st of December last. I live in Bristol, one mile north of Bristol ferry. I did not then see any thing in his hand. The day before when he passed going to the ferry, he had a bundle under his left arm. It was covered with a silk handkerchief, and about the size of a pair of pantaloons. I saw him pass about 2 o'clock, P. M.

Cross examination. I was within 6 feet of Mr. Avery when he passed me on the 20th. James Sanford was with me when I saw him. I mentioned it in the afternoon to Mrs. Sanford and her two daughters. On the 21st of December I only saw Mr. Avery's head and shoulders as he passed.

Dr. William Turner, called again by the government. I should not think the necessary pressure with the hands in taking down a person hung, would make marks on the body 10 hours after death. If I found marks on such a body, I should judge that violence had been used before death, or great violence after death. Violence before death would produce what is called black and blue spots. I consider a fœtus 8 inches at 3 months and 20 days, and menstruation after conception, both extraordinary circumstances. If I saw a fœtus 8 inches in 3 months and 20 days after the mother had menstruated, I should, to ascertain its age, examine the length of the spine, and the developement of the organs. I should think 8 inches at 3 months and 20 days, was an extreme length, but not beyond nature's limits. There is a great difference in the size of a fœtus at the same age, in different women, and in the same women at different pregnancies. This may depend both on the health of the mother and the fœtus. There is great uncertainty in the authors; they use the term in the third, fourth and fifth months, in describing the length of a fœtus without stating in what part of each month their observations would apply to.

Cross examination on part of prisoner. I understood by marks on the body, discolorations. Indentations on the body I should conclude were made after death. I think it possible that an exterior pressure might produce marks on the skin of the abdomen, without corresponding marks on the inner side of the muscles. I have known many instances of external violence producing no visible effect on the skin, when there were deep marks on the inner muscles. A severe blow on the abdomen may produce external marks, without internal ones, or vice versa, or marks on both the external and internal parts. Fœtus differ in size during pregnancy, as much as at parturition.

James Sanford. I live in Bristol a mile from the ferry. I know Mr. Avery by sight, and saw him going towards the ferry on the 20th of last December, with a bundle under his left arm about the size of a pair of pantaloons, tied up in a pocket handkerchief. I mean a pair of thin pantaloons. On the morning of the 21st of December, when the sun was about a quarter of an hour high, I saw Mr. Avery going towards Bristol; he then had the bundle under his arm. He passed the street as I came out of the yard. It was a small pack in a red and white silk handkerchief. Mr. Avery bowed to us as he passed. (Witness said, he gave us the time of day. Randolph asked what time it was. Witness said that

was good manners.) It was cold as the devil in the morning; but very pleasant in the afternoon. (Here the witness was told by the Court he might leave the box. Witness—I thank your honor.)

William Earle Cook. I reside in Portsmouth, about 2 miles from Bristol ferry. I was not at home on the 20th of last December, until between 6 and 7 in the evening. I got home about half past 6. I did not see Mr. Avery on that day or evening. I know Mr. Avery; he has staid two nights at my house; and generally, when on the Island, he makes my house his home. He was at my house most of the time during the four days meeting last November.

Cross examination. I once went over Howland ferry bridge, with Mr. Avery to a meeting. We crossed the bridge at dusk; paid no toll. At the time I saw Mr. Cranston through the window when I came back. Going over I saw no one at the toll house. Mr. Avery asked me if I was not going to pay toll. I told him I would pay it at another time.

Joseph Thomas. I live in Portsmouth about 2 miles and a half from the ferry. I know Jane Gifford, and as far as I ever heard, her character for truth and veracity was good. *I* never heard any thing against her character before the Avery examination in Bristol. *I* have always known her father and family.

Cross examination. *I* never heard anything for, or against, her character for truth and veracity.

Thomas Burden. *I* reside in Portsmouth about a quarter of a mile from the ferry; am a blacksmith. *I* worked in my shop a part of the time in the afternoon on 20th of December. *I* think it likely *I* was in my shop from 2 to 3 of that day. *I* was not away from home that day. *I* do not know Mr. Avery. *I* saw no person that looked like him pass my house or shop that day. *I* know Jane Gifford; her character for truth and veracity is good in our neighborhood.

Cross examination. *I* know by my books and memory that *I* was at home and at my shop on the 20th of December. *I* am seldom from home,

Dr. Foster Hooper, examined again. *I* could not discover the nails or the hair of the fœtus we found in the uterus of Miss Cornell.

TUESDAY AFTERNOON, MAY 28, 1833.

Rebecca Pike. I am a weaver and have been about three years. I learnt to weave in Lowell in the Hamilton and Merrimac corporations. (She is requested to show the manner of mending a harness in Lowell. She shows the knots used; they are not the clove hitch.) I have been in Fall River about a fortnight, and use the same knot there. I have also worked in North Uxbridge: the same knot is there used.

Cross examination. I have made harness, and know but one way to make them.

Direct examination. I knew Miss Cornell in Lowell; I did not hear any evil of her. She told me when she was about being turned out of the church in Lowell, that if she was turned out Mr. Avery ought to be, for he was as guilty as she was. I never heard any bad reports about Miss Cornell in Lowell. I have heard her say that Mr. Avery had been to her boarding house after her.

Cross examination. I do not know how long Miss Cornell lived in Lowell while I was there. I have heard that Mr. Avery called at the

boarding-house for Miss Cornell to go out with him, but I never heard that she went out with him. I did not know what Miss Cornell was turned out of the church for.

Dr. Thomas Wilbur. (The Attorney General asks witness what he has heard Miss Cornell say relative to her situation and the author of her seduction. Also what she said relative to taking certain medicine. Randolph objects. Objection was argued at length by Randolph and Mason for prisoner, and Pearce and Attorney General for government. The court decided that the government might prove any thing that went to rebut the presumption of suicide or of a vindictive disposition towards the prisoner or the methodist society.)

Witness. Miss Cornell, in conversation with me some short time before her death, showed a reluctance to taking medicine that was likely to produce death. She called on me about 21st or 22d of October to ascertain the propriety of her taking the oil of tansy to produce abortion. I told her it would endanger her life or ruin her health. She said, then I will not take it, for I had rather have my child and do the best by it I can, than do any thing to endanger my life or injure my health. Miss Cornell called on me at five different times and spoke of Mr. Avery at each time with feelings of tenderness and sympathy towards him and his family. She also spoke of the methodist society, but said nothing against it. The last interview *I* had with her was towards the latter part of November. The fœtus had no hair, I did not notice as to the nails.

William B. Fales. I live in Newport, and drove a stage to and from Bristol ferry last November and December. Gifford's clock at the ferry was in those months slower than Newport time. I never knew it as fast as Newport time: it was 10, 15, and sometimes 30 minutes too slow: it is *I* think a wooden clock. Gifford told me he set it every night. (The court ruled out what the witness said Mr. Gifford said about setting his clock every night.)

Cross examination. My watch was right by Newport time. She does not go now, she is out of order. Until lately she has kept good time. I told Mr. Randolph this moreing that Gifford's clock was generally too slow by Newport time, and he told me to say nothing about it; I have frequently spoken on the subject.

Rev. Ira M. Bidwell. I think I am acquainted with the hand writing of Mr. Avery. I have received letters from him but do not know that *I* ever saw him write; *I* had conversation with him about writing me, and received a letter from him afterwards. *I* have received three letters from him. One of the letters related to an exchange which did not take place: one of the letters contained a request to attend a meeting in Bristol, and *I* went. (Randolph objects to the witness swearing to the hand writing of Mr. Avery, never having seen him write or corresponded with him.) *Witness.* *I* received a letter from Mr. Avery in consequence of previous oral correspondence. He identifies the letter, (the signature and place of date were cut out; witness says it was done by himself.) The court ruled out the testimony, not considering Mr Bidwell as coming within the strict legal rules of law.

WEDNESDAY MORNING, May 29.

Ira M. Bidwell. I received a letter purporting to be from Mr. Avery on pink paper. Question by Attorney General. Have you ever received another letter on straw colored paper signed by Ephraim K. Av-

ery? (The question is objected to by Randolph. He contends that no question can be asked the witness about the letter until it is proved that it was signed by Avery. The Attorney General contends that the witness should be allowed to answer the question as it went to show, in connexion with other facts, the knowledge the witness has of the hand writing of Avery. The letter referred to was one of business; it related to an exchange between Avery and the witness, on which the witness acted, and afterwards Avery in conversation referred to the subject matter of the letter. Mason: This question was settled yesterday by the court; it was, as he understood the decision, settled, that the court would not step out of the track of the known decisions to allow testimony against the prisoner. The court allowed the question to be asked.)

Witness. I received a letter signed by Ephraim K. Avery inviting me to attend a four day meeting in Bristol the last of September. The letter is lost. I do not remember whether the letter was signed Ephraim K. Avery or E. K. Avery. In consequence of the letter *I* went to Bristol and there I saw Mr. Avery. I should have attended the meeting had I not received the letter, which was simply a request to attend the meeting. I also received a letter signed by Mr. Avery requesting an exchange. I do not remember how I received the letter or answered it. Previous to receiving the letter I had a conversation with Mr. Avery relative to the exchange. (On these additional facts the Attorney General asks the witness if he can identify the hand writing of Mr. Avery. The court allowed the question to be asked. The chief justice remarked that the facts disclosed brought the witness within the settled rules of law, and rendered him competent to express an opinion on the subject; it would belong to the jury to judge of the weight of the opinion.) A letter is produced by the Attorney General to the witness, and he is asked if, from his knowledge of Mr. Avery's hand writing, the letter is in his hand writing. Witness: I have seen the letter before, and have given it as my opinion that it was Mr. Avery's hand writing. I am of that opinion now. A second letter is shown the witness, and he says he believes the signature is the hand writing of Mr. Avery. I should not judge the superscription to be in his hand writing. I never saw Mr. Avery and Miss Cornell together. On the 19th of last October I saw them within 3 or 4 feet of each other. Mr. Avery and myself came out of the meeting, and after going a little way, I saw Miss Cornell a few feet behind us. I stepped a little forward of Avery; he was to stay at Mr. Mason's, and went up a pair of steps; the girl I took to be Miss Cornell followed him. I have seen persons go that way in going from the place of meeting to where Miss Cornell boarded; people often go that way. I did not know but what the girl wanted to speak with him, and stepped forward to give her a chance.

Cross examination. (Mason asks the witness) to state the conversation he had with Mr. Avery relative to Miss Cornell, which induced him to step ahead of Avery. The Government object; the declarations of the prisoner may be used against him but not in his favor. Attorney General. This court has decided that the declarations of Miss Cornell, relative to Mr. Avery, could not be given in evidence, and now the prisoner asks to be allowed to show by his own declarations the object of his interview with Miss Cornell. The Court decided that the witness may state what induced him to believe that Miss Cornell wanted to speak to Mr. Avery.

Witness. Miss Cornell was on probation in my church; I supposed Miss Cornell wanted to see Mr. Avery on that subject. I inquired of Mr. Avery on the afternoon of the 19th of October relative to the character of Sarah M Cornell; he said he did not know Sarah M. Cornell, but he knew a girl by the name of Maria Cornell who had been expelled from his church in Lowell, and described her person, and I told him that from his description, I thought it was the same girl; his description identified her except as to her glasses; I stepped forward to give her an opportunity of speaking to Mr. Avery that I might find out from him if it was the Maria Cornell he was acquainted with. I did not hear her speak to him; I went on my way; the steps were ten or fifteen rods from Mr. Mason's house; the first time I have any recollection of ever seeing Avery in Fall River, was the 19th of October, and I saw him there but once between that time and 7th of December; I dont remember the time he was going from New-Bedford to Bristol; he then staid only while the stage horses were changing; I never was at Warren's stable with Mr. Avery, except on the 7th of December; the evening of the 20th of October was very dark and cloudy; I was in Bristol that evening; (Witness states his reasons for remembering the fact) I saw Miss Cornell after she was hung, on Friday between eight and nine o'clock, A. M. after she was cut down; I understood she was not recognised until I got there; I was asked if I knew who she was, and after examing her, I said it was Miss Cornell; I examined the cord on the stake (witness describes how it was put on the stake different from all the other witnesses.) There were four ends hanging down, I thought the two longest ends were about a foot long; Mr. John Smith examined the cord and said it was just such cord as I hang up my harnesses with in our factory; I brought a quantity of it down a few days before into the room, and I will look on my return and see if any of it is missing; I was at Iram Smith's store on the 8th of December between 11 and 12 o'clock; we conversed about a piece that had been published in the Fall River Recorder, I referred to several other pieces; the paper (Recorder) was on the counter; I told him the publisher was a member of the methodist church; Avery said he ought to be talked to for publishing such a piece; I asked Mr. Avery to write me on the subject that I might have an opportunity to converse with the publisher; Mr. Avery put the paper in his hat; we left the store together; I did not see Mr. Avery write at Smith's store; I parted with Avery about a rod from the store; he turned off north and I went home; he staid at Fall River on the 7th of December at my request; he was going to New-Bedford to get branches for his pulpit in Bristol; I asked him to stay for the pleasure of his company; I have no recollection of seeing Avery behind Smith's counter; the pink letter is the one I received from Mr. Avery after my conversation with him in Iram Smith's store.

Direct Examination. I did not state at my examination in Bristol that I left Avery in Smith's store when I went out; I cannot tell how far I walked with Avery from Smith's store, I think it was 10 or 15 feet; I went home. The steps I spoke of lead up a bank from the road to a lane that passed Mr. Carpenter's house and one other house before you get to Mason's house; I was asked by John Durfee if our church would bury Miss Cornell, and I said I would enquire, I did not know the usage; Avery did not to my knowledge write in Iram Smiths store on the 8th of December, I did not hear him ask for paper to write on; He stood about

midway, in front of the counter, most, if not all the t me; I saw Avery in Bristol on the 20th of October, he left in the boat for Fall-River; I went to Fall-River on the Monday following, (22d October) Avery had not got to Bristol when I left and did not find him at Fall-River when I got there: At Bristol examination I gave no testimony as to the cord on the stake; I did not know it was material, I was not asked the question; the rope had not been taken off the stake when I first saw it to my knowledge; the two short strings that hung down were about four inches; I do not know what kind of a knot was tied round the stake I did not examine it; I should not like to state within two or three inches the length of the ends that hung down from the stake.

The Attorney General offers to read the letters proved to be Avery's, one of them to Rev. George Storrs Great-Falls, New-Hampshire; offers it to sh ow what Avery wrote about S. M. Cornell when she was about joining the church at Great-Falls; also to show that Avery spells the name of the d eceased in the same way in that letter as it is in the letters directed to Fall-River, (Connell) also to show a peculiarity in spelling certain words in both letters; *Randolph* objects on the ground that the evidence is on a new point.

The Attorney General. The Government could not in the open- of the case have used the letter at all: It is now offered to rebut the testimony of the Prisoner relative to the character of the deceased and to explain a transaction to which the testimony of the defendant above refers; the court overruled the objection; the Attorney General reads the following letter:

Lowell 6th June 1831.

Dear Brother,

It may appeare strange to you that I should address a line to you at this time, but it is from a sens of duty that I do it—Maria S. Connell called on me Saturday last, saying she had come to Lowell on purpose to make an ac knowledgement of her fault *&c. &c. &c.*—and after some time I gave her a writing saying that if *you* saw *fitt* to receive her on trial I should not object &c.—Br. Wilson signed the same & we were in hopes of haveing evidence of her penitence, but alas! alas!! alas!!! this morning derect information was brought me that she had told a *known willful falshood*—her standing being as it is, I have not taken any paines to anquire into the case, but thought prudent to direct this to you as your name is on the strips of paper she has—we should all of us here be opposed to her joining any where with this you will act your *judgment*.

Yours in the bonds of a peaceful Gospel.

(Signed) E. K. Avery.

Rev. G. Storrs.

The Attorney Gen'l proposes to read the yellow letter Post marked at *Warren*; Randolph objects because it is not traced to Avery in any way. *Attorney Gen'l.* The letter is a part of the correspondence and found in her possession and is offered to rebut the idea of suicide; the court ruled out the letter.

Isaac Fiske. I am a teacher of Penmanship.

Cross Examination. It has been a pa⁊ of my business to detect assimilated hand writing; I was employed in North-Carolina and Tennesse to detect and point out the difference between a counterfeit and a genuine signatures; they were not malicious counterfeits but made to ascertain if I could point out the forged from the genuine.

Direct Examination. I have devoted three years exclusively to teaching the art of writing and have been fourteen years in the business; I think I can distinguish between a natural and a feigned hand.

Randolph objects on the ground that the witness is not sufficiently skilled in the subject to testify—He is not what is called in England an Expert.

WEDNESDAY AFTERNOON, MAY 29, 1833.

The court overruled the objection and allowed Mr. Fiske to be examined.

Witness. I have examined the pink letter delivered to Mr. Orswell and the white letter of 8th december; from particular marks in the pink letter I think it written in a feigned hand; the other letter appears to be in a more natural hand; (the Attorney General offered then to show by the witness that in his opinion the yellow letter is written by the same person who wrote the pink letter and the one of 8th December. *Randolph* objects because the yellow letter has been ruled out by the court and was not now in the case, and if the witness was allowed to testify on that point it would be allowing a comparison of hand writing which had never before been allowed in this state; (*cites* 2 *Starkie* 657 *and* 4. 20*p Rep* 145. *King vs. Catu: Pennssylvania Reports* 1 *vol.* 160. *Bank of Pennsylvania vs· Jacobs etal* part read 180; the objection was fully argued by *Randolph and Mason* for and Pearce and the Attorney General against it; the court sustained the objection.)

Cross Examination. I should think the letter of 8th December to be in a natural hand, written fast; *I* Judge the pink letter to be in a feigned hand from the course of the lines; the first half a dozen lines are parallel with the top of the paper, the others decline on the right; a part of the letter discovers ease the other part stiffness.

James Sherman. *I* live in Fall-River; *I* know Luther Chace; He told me that he was impressed with the opinion that he walked with Mr. Avery from the meeting at the Annawon block on the 20th of last November to the four corners, where he parted with him and he Avery went towards Warrens stable. He said he was not certain enough to swear to it, but had that impression; he said he could not remember any conversation he had with Avery; that it was half past nine when Avery left him; he said nothing about Avery joining him or where it was he overtook him; Langworthy Almy was present a part of the time during my conversation with Mr. Chace. The conversation took place two or three days after the second arrest of Mr. Avery.

Cross Examination. Chace told me he was not confident that he walked with Avery that night. His impression was he did, but he was not confident enough to swear to it.

The Attorney General moves an attachment for Miss Hills which is ordered; the Attorney also informed the court that with this testimony he would submit the case for the Government, claiming the right to examine Sarah Brownell and Miss Hills when they came into court, attachments having issued against them.

Pearce read from the following books *Burnes Midwifery* vol 1. 149. *Denman* 105, 123, Sec 3. *Rees Cyclopedia* 13th vol. head of *Embryo. Hamiltons outline of Theory and Practice of Midwifery* 65. *Edinburg system of Anatomy*, 11*th* page; *Beck* 2 vol. 163 .4 6. exractts from *Beclard*; *Richmond* 485.

Witnesses for the Prisoner.

Cyrus Whipple. I assist in surveying; on Saturday last I measured the distance from Pardon Jilson's to the wharf where the Fall River steam boat lays in Providence, and found it to be 178 rods round by the bridge, From Pardon Jilson's to the Methodist meeting house 66 rods; from Pardon Jilson's to Fall River steam boat across the ferry 264 rods, from the methodist meeting house to said wharf by way of bridge 208 rods, and the same distance by way of the ferry; From Mr. Horton's to the meeting house is 38 rods, and from Fuller's to the same place 29 rods; It is 29 rods from the bridge to the steam boat wharf; we allowed 50 rods for the width of the river; I measured all the distances except across the ferry.

Ezekiel Luther. I have been accustomed to weave; for 50 years I have done more or less at it; *I* have made harness ever since *I* first began to weave (he describes the knot used in making a harness as two half hitches, or a clove hitch) *I* have followed the seas and know the clove hitch; *I* live in Newport.

Cross examination. *I* never knew anything about the harnesses that are used in cotton factories.

John F. Page. *I* reside in Providence; the first time the Fall River steam boat came to Providence after the death of Miss Cornell, Mr. Orswell stated to me that he thought he had carried a letter to Miss Cornell; that a person came on board the boat with a blue cloak and a broad brimmed hat, and gave him a letter for the girl which he delivered, and he thought he should know the man if he saw him again; he described the man as having no whiskers, and a bluish beard growing out of each side of his chin; rather a long face, and with a delicate hand and long fingers; he said it was currently reported that it was the Methodist minister in Bristol who had hung Miss Cornell; *I* described a man that was on board the boat when *I* was there on the 24th of December, and his description of the man who gave him the letter correspond with the description of the man *I* gave him. *I*, thought it might be the same man who gave Orswell the letter; the man *I* described *I* have since ascertained was a Mr. Arnold; *I* ascertained it since the session of this court; *I* heard Orswell say he thought Mr. Avery was guilty.

Cross examination. The person *I* described was Mr. Arnold, he has told me so himself, and *I* recognized him on our passage to Newport; Orswell described the man who gave him the letter, as being a tall man and as having a black beard growing out on his chin and large eye sockets and blue eyes; I live in Providence now but am a native of Liverpool; the description Orswell gave, answers very well for Mr. Avery; Orswell recollected the man being on board the boat, that *I* described to him; *I* concluded from his description of the man who gave him the letter, that he was the same person and told Orswell that *I* should know the man if *I* should see him again.

THURSDAY MORNING 30th May, 1833.

William Simmons, called again. *I* was in Mr. Bullocks office in the afternoon of Christmas day; Col. Harnden and Mr. Furden came in and shortly after retired. Mr. Diman came into the office and told Mr. Ballock that Mr. Paul wished him to come to Mr. Avery's house, as he feared that Avery's life was in danger. Mr Bullock said he was not a magistrate; *I* went up to Mr. Avery's and saw near there 40 or 50 per-

sons. Soon after *I* saw Mr. Bullock near there and he remained *I* think until after the steam boat bell rung, *I* went then to prevent mischief if possible. *I* did not see Col. Harnden after he left Bullock's office.

Cross examination. When the gentleman came after Mr. Bullock Mr. Harnden was not in the office. *I* did not see Bullock and Harnden together at all after Harnden left the office.

Samuel Thompson. *I* reside in Bristol; On Christmas day *I* saw a multitude of people in the lane near Mr. Avery's house; some of them asked me where Avery lived, *I* told them; they said Avery should not have his trial in Bristol, for the court house or the town should not be able to hold him. This came from 2 or 3; they said that he ought to be hung, and that he ought to be tried where the crime was committed; there were 30 or 40 persons; *I* was but a few rods from the house and saw some of the persons go into the house; saw Bullock standing back of Mr. Easterbrook's house; he went from where he stood towards his own house alone; He, Bullock, went away when the steam boat bell rung.

Cross examination. They were all strangers to me; *I* mentioned these facts to Mr. Bullock while he was on the ground.

Direct examination. *I* know James R. Sanford; we do not think in Bristol that his character for truth and veracity is good *I* do not think *I* should believe him under oath or otherwise.

William Diman. *I* live in Bristol; on Christmas day *I* saw a number of people in the street near Mr. Avery's; *I* lived in the same house and went home; some of the persons asked me where Avery lived, *I* told them; they asked me about Avery's trial or examination; *I* went up stairs; Paul told me that Avery's life was in danger, and requested me to go for Mr. Howe and Mr. Bullock; *I* went for Mr. Howe, and returning saw Mr. Bullock in front of Mr. Easterbrooks house and held some conversation with him; when *I* went into Mr. Bullock's office *I* saw no one there but Mr. Simmons.

Cross examination. When *I* came down stairs there were in the sink room as many as a dozen persons; *I* heard no threats and saw no acts of violence; *I* am intimately acquainted with Mr. Avery.

Samuel Thompson, Jr. *I* live in Bristol (testifies to the collection in the street in front of Avery's)

Benjamin Foster. (Testifies to the collection of persons in the street near Mr. Avery's house on the 25th of December;) *I* saw from 100 to 150 persons come up the lane; some of them from their dress *I* took to be the Select Men in Fall River; the others looked like workingmen in the Factories; there were 20 or 30 in Mr. Avery's sinkroom. Saw Mr Bullock alone about the time the people were coming up the lane. He was ahead of them, and walked to the east of Mr. Easterbrook's house, where he remained until the people dispersed; *I* took the men in long coats and tight pantaloons for the select men; there were 8 or 10 of this description; the rest of the men had round jackets on, or no jackets at all; some had their faces smutted up, say ten or eleven of them; those in the sink room were young men; eight or ten of them had long coats on.

Direct examination. James R. Sanford's character for truth and veracity is not good.

Allen Wardwell. *I* live in Bristol; (describes the collection near Avery's house on 25th December; thinks from 50 to 100.) There were from 20 to 30 in Avery's sink room; Tilley told them to leave the house

and they did without threats or tumult; *I* can swear to nothing that is distinct on the subject. *I* heard on Friday evening the 21st of December that Mr. Avery was suspected of the murder of Miss Cornell; (he describes the location of the street, &c. near Mr. Avery's house.

John G. Harding. *I* live in Bristol; James R. Sanford's character for truth and veracity is very bad indeed.

William Lawless, called again by Prisoner. *I* might have told Peter Gladding that when *I* saw Mr. Avery on the morning of the 21st of December he had on a box coat with an upright collar, and that it was a bottle green, that his hat had a broad brim and sugar loaf crown; *I* described the coat to Peter Gladding as one *I* had seen Avery have on before; one that he wore in a storm. *I* think *I* might have called it a bottle green box coat; but *I* did not say pea jacket.

Peter Gladding, called again. *I* had a conversation recently with Mr. Lawless relative to Mr. Avery's dress on the morning of 21st Dec. he said that Mr. Avery had on a bottle green Pea jacket with a *stand up* collar.

Cross Examination. We had a considerable conversation Mr. James B. White was present at the conversation; Lawless said that Avery had a bundle and that he conversed with him; I do not recollect particularly any other part of the conversation; I had no doubt that Mr. Lawless saw Avery on the 21st as he had stated; I asked him how he was dressed but I do not know why I asked the question; I have conversed with my father brother and wife on this subject, but I recollect no other person with whom I conversed on this subject, but I have conversed with others.

Direct examination. I saw Mr. Blake and Mr. Bullock after I was summoned, and communicated the conversation to them. The court asked the witness why he said the moment before, that he did not know to whom he communicated the conversation. Witness: I thought that it was known that I had conversed with those gentlemen. The court: You were sworn to tell the truth, the whole truth, and nothing but the truth, and yet you kept back that fact.

Cross examination. Mr. Bullock and Mr. Blake took notes of the conversation I related to them. Attorney General; Why then did you not say you had mentioned the conversation to them? Witness: it slipped my mind. I did not know that the Attorney General knew that I had conversed with Blake and Bullock on the subject, and thought the fact immaterial.

Mary Freeborn. I live in Bristol; I saw Mr. Avery on the morning of 21st December when he came home;

he had on a box coat with a handkerchief in his hand; he had no bundle in his hand; he used the handkerchief and put it into his pocket.

Cross examination. Mr. Avery was about 2 rods from me with his face towards me. I remember it was the 21st of December because my grand mother died that morning. Brother Avery had a bandanna handkerchief in his hand; I told these facts during the examination in Bristol. The circumstance came to my mind after *I* heard that it had been said Mr. Avery had a bundle in his hand. *I* saw Mr. Avery soon after the sun rise bell rung. *I* was summoned last Tuesday and have since conversed on the subject with Mr. Bullock and Mr. Blake.

Anna Cook. *I* live in Portsmouth, and was at Robert Wilcox's on the 20th of last December; *I* saw no stranger pass through Brownell's meadow that day; *I* saw Robert Wilcox when he returned home that day; it was about 3 o'clock. He had with him a pail or a basket of clams, and a gun; the gun was under his arm and the pail was on his shoulder. *I* thought he had a hoe, but *I* won't be certain whether it was a hoe or a stick. He came up to the bars and put the gun over, resting the trunk on the ground and the barrel on the bars.

Cross examination. *I* was at work at the house; *I* never saw Mr. Robert Wilcox except that time while *I* was there, and *I* went there on the 16th of December. *I* thought it was 3 o'clock by the sun; *I* had drank tea; it was the 4th day *I* had been at work there; *I* told of the circumstance after the Bristol trial; *I* had heard from my son John Boyd that Mr. Avery said he saw a man with a gun, and that brought the circumstance of seeing Robert Wilcox with a gun to my recollection. Mr. Drake was told of it by Sarah Brownell, and he came to me to know, and *I* told him the facts.

George P. Pearce. *I* live in Bristol; *I* had a conversation recently with Mr. Lawless in Bristol, relative to Mr. Avery's dress on the morning of the 21st of December. Lawless said Avery had on a green pea jacket and stand up collar; Mr. Gladding was conversing with him and *I* heard what he said.

Cross examination. Mr. Gladding contradicted Mr. Lawless, and said Mr. Avery never had any such outside garment or coat; *I* cannot give a reason for not remembering as well what Mr. Gladding said as what Mr. Law-

less said. Gladding told Lawless if he was going to Newport he had better take back something he had said. Lawless said he would not. The conversation took place about a fortnight since; *I* mentioned the conversation to Mr. Simmon's; *I* have conversed with Mr. Gladding on this subject since he was examined this morning; *I* came to Newport yesterday and was summoned this day; Gladding asked me if *I* heard the conversation that took place about a fortnight since between him and Lawless; *I* told him I heard Lawless say Avery had on such a coat.

Stephen Bartlett called again. I never knew Mr. Avery to be in Fall-River before the week before the four days meeting in October; Mr. Avery wanted me on the 19th of October to let him have a horse to go to Fall-River on the morning following; I told him the feryage and tolls would be more than the steam-boat fare; Bidwell urged Avery to go in the steam-boat that afternoon lest the congregation might think he were not coming and be disappointed.

John S. Brownell I live in Portsmouth about two miles from Bristol Ferry; Jane Giffords character for truth and veracity was thought bad.

Cross Examinaiton. She has had that character for 2 or 3 years before she was turned out of the methodist meeting; I belong to that meeting; she was turned out of the meeting about 5 months since; some people thought her character was bad before she was turned out; I partook of the communion with her for 2 or 3 years notwithstanding what I have said; I mean to say that before the Bristol examination some people thought her character was good and some thought it was bad; I have not until lately made up my mind that her general character was bad; I cannot say that before the Bristol examination the character of Jane Gifford for truth was bad according to the general speech of people.

Direct Examination. Since the Bristol examination her character has been bad; I never heard any one say before the examination that her character was good.

Cross Examination. I have heard that her character was both good and bad before the Bristol examination.

Luther Chace. Called again. *I* stated to Mr. James Sherman that I saw and conversed with Mr. Avery on the 20th of last October—I told him that I saw Avery about 9 o'clk; that he overtook me near the four corners

and mentioned the conversation I had with him—I told S. that I was as sure of seeing Avery that evening as I was that I was talking with him, but that I should not like to swear to it as I had so little conversation with him.—By saying *I* did not want to swear to it *I* meant *I* wanted to go through and be able to make others positive of it —*I* did not want to have anything to do with the case.—*I* was positive of the fact.

Cross Ex. *I* never told Mr. Burden that *I* was not positive enough to swear to it, or that it was only an impression on my mind.

Mr. Randolph stated to the Court that he had now got through wlth the testimony on the part of the Prisoner.

THURSDAY AFTERNOON, May 30.

Anna Cook, called again by government. I never told John Burington that I did see a man with a gun on the the 20th of Dec. I told Albert G. Cook, when he asked me about the gun, that I was not a going to tell him any thing about it; that I was not going to say any thing about the gun, *I* do not recollect that I have said to any one that I did not see a man with a gun on the 20th of Decemher last.

The Attorney General said that he wished to examine two or three witnesses to discredit the statement made by Mr. Cook; his witnesses were not in court, if they did not arrive before the opening Counsel finishes his remarks, he would not examine them. If they were examined, the prisoner might any time before the close of the case introduce rebutting testimony.

Randolph argued two or three points of the case, stating to the court, that Mr. Mason would not argue the points which he argued. He read the following authoritias. Beck, 2 vol. pages 10, 14, 25, 36 and 43. Ryan 172. Mecklin, 3 vol. 436.

The witness for the Government having arrived they were examined.

Albert G. Cook. I live in Portsmouth. Mrs. Anna Cook told me yesterday, that she saw Mr. Wilcox on the 20th of last December, but that she knew nothiug about a gun; that she saw no gun. She said all she knew about his having a gun was, the child told her he had gone a gunning. She said she did not see him with a gun. This conversation was in presence of Mr. Bnrington.

Cross examination. I asked her because *I* heard that she had said he had a gun, and also that he had not a gun. *I* have heard that Mrs. Cook was summoned to this Court as a witness. I think she told me so herself, within the last ten days, but *I* cannot state the day. *I* do not recollect who told me so. *I* cannot tell who told me, because *I* don't know. When I came into the court house *I* did not know what *I* was to testify to. *I* stated in my shop yesterday afternoon, what Mrs. Cook told me. The conversation was at the house of Col. John Burrington. Benjamin Green was in the shop when *I* told what Mrs. Cook said. Mrs. Cook is grand mother to my wife.

John Burrington. Mrs. Cook was in my house yesterday, and Albert Cook asked her if Mr. Wilcox had a gun on the 20th of December, and she said she did not see him with a gun; that his boy said, his father, Mr. Wilcox, had gone a gunning, and therefore she thought he must have had a gun. She said she did not see any man or gun, on that day; that she did not get up out of her chair as Molly Wilcox had said.

Cross examination. *I* heard her say something about being in Newport. She has been working in my family for two days before yesterday. Mr. Cook lives in the chambers of my house. The first person *I* told our conversation to, was Benjamin Greene, Greene said that he had understood, Mr. Cook had said Wilcox had a gun. *I* don't remember whether Albert Cook, or myself mentioned the conversation to Mr. Greene; it took place in Cook's shop. *I* did not talk with Mr. Anthony as to the testimony of Mrs. Cook. *I* do not know how the government knew what *I* could testify to.

Robert Wilcox, called again. *I* had no gun with me on the 20th of last December, when *I* went after my clams, as *I* testified before.

Andrew Brownell, called again by State. *I* saw Robert Wilcox on the 20th of last December, he had no gun. He had a pail of clams on his shoulder through the handle of which was a stick of wood, or a hoe.

Cross examination. *I* saw him returning from the shore with his clams. He had no gun then. *I* saw him with a gun on the 19th, and his boy was with him.

Mary Wilcox. *I* am the wife of Daniel Wilcox. Robert Wilcox lives in the house with us. *I* saw him going

with a pail towards the shore on the 20th December last; he had no gun with him. [Sarah Brownell saw a person passing the meadow, and asked me who it was; I told her it was Robert Wilcox. I knew him. The court ruled out this part of the testimony, it not coming within the argument of the attorney general.]

Elizabeth Brownell. I saw Robert Wilcox on the afternoon of the 20th of December going home from the shore He had no gun that I saw. *Cross Ex.* He was 20 or 30 rods from where I was. I saw him about 3 o'clock.

Mrs. Anna Cooke, called again for the prisoner. I dont reccollect exactly what conversation took place yesterday with Albert Cooke—I do not know what I did say to him—I have told the truth here—I thought he would make a handle of what I might tell him, and meant to give him no information on the subject—I meant to put him off from the enquiry.

Cross examination. I do not reccollect stating any thing about the boys telling me that his father had gone a gunning.

On this testimony the case was put to the jury for the State and the Prisoner.

This is the first verdict of the inquest.

State of Rhode Island and Providence Plantations.

Newport sc. An Inquisition taken at Tiverton in the County of Newport State aforesaid, the 22d day of December, A. D. 1832, before Elihu Hicks, Coroner of the town of Tiverton aforesaid, in said County of Newport, upon the view of the body of Sarah M. Cornell here lying dead by the oaths of Richird Durfee, Isaac Negus, Joseph Cook, Baulston Brayton, Daniel Shearman and Williams Durfee, all of said Tiverton, good and lawful men, who being sworn and charged to inquire for the said State, when, how and by what means, the said Sarah M. Cornell came by her death, upon their oaths do say, that the said Sarah M. Cornell on the 21st day of December, in the year aforesaid, at the town of Tiverton, to wit, in Richard Durfee's Stack Yard, was found dead hung up and confined with a small cord or rope about her neck to a stake inside of said stack yard and the jurors do further say that they believe the said Sarah M. Cornell committed suicide by hanging herself upon a stake in said yard and was influenced to commit the crime by the wicked conduct of a married man, which we gather from Doct. Wilbour, together with the contents of three letters found in the trunk of the said Sarah M. Cornell. And so the jurors aforesaid, upon their oaths aforesaid, do say that the said Sarah M. Cornell in manner aforesaid came to her death by the causes aforesaid. In witness whereof, we the jurors

aforesaid have hereunto set our hands to this inscription and on the day and place aforesaid.

Signed: Richard Durfee, foreman, Baulston Brayton, Joseph Cook, Daniel Shearman, Williams Durfee, Isaac Negus.

L. S. In witness of all the before written, I the said Coroner hath hereunto set my hand and seal the day and year aforesaid.

(Signed.) ELIHU HICKS, Coroner.