

No. 11.
TRIAL

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OF

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Trials.*

ANDREAS HALL:

Indicted for the Murder of

MRS. AMY SMITH,

AT PETERSBURGH,

ON THE EVENING OF SATURDAY, THE

FIRST DAY OF JULY, 1848.

T R O Y

1849.

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TRIAL OF ANDREAS HALL.

First Day--Morning Session.

THURSDAY, Jan. 18, 1849.

Nine o'clock, A. M.—The Court opened at the hour to which it was adjourned, and Hall was arraigned for trial.

Judge WRIGHT enquired of Hall if he had succeeded in procuring Counsel.

HALL replied that he had not. He desired to have Counsel assigned to him, who would make a proper defence, and requested that JOHN B. GALE, Esq., might be one of them.

The Court assented, and assigned Mr. Gale as one of the Counsel for the prisoner.

HALL then mentioned Gen. GEORGE R. DAVIS as another Counsel desired by him.

The Court assented, and Gen. Davis was sent for.

For the People, appeared Attorney General AMBROSE L. JORDAN, District Attorney ROBERT A. LOTTRIDGE and LELAND FAIRBANKS, Jr.

After a delay of about half an hour, the Court informed Hall that it had assigned his counsel JOHN B. GALE and MARTIN I. TOWNSEND, Esqrs.

Judge Wright thereupon announced that in order to give the prisoner time to consult with his Counsel, the Court would stand adjourned till half past two, H. M.

[The prisoner is a robust man; about five feet 8 or 9 inches in height; dark hair; eyes rather light; high forehead, and to-day his face was considerably flushed. He has gained several pounds in weight, since his examination in July last.—The expression of his countenance is certainly not bad, though great resolution and determination of purpose can be read in it. He has lived in this region for many years and at the time of the murder of Noah and Amy Smith, in Petersburg, in July last, his home was at the house of a sister in West Troy.

The prisoner this morning appeared wholly self possessed and answered the inquiries of the Judge in a firm, clear tone of voice.

The attendance of witnesses is very large, including a large number of females, from Females from Petersburg and West Troy, and some from this city. The trial must occupy several days, as the circumstances on which the Prosecution rely for conviction take a very wide range—and as a matter of course, the circumstance which in the opinion of the Counsel identify Hall with this murder, will be traced with the greatest particularity.

The Post will contain a full and accurate Report of the trial.—REPORTER.]

Afternoon Session.

Two and a half o'clock P. M.—At the opening of the Court, the spacious Court Room was a perfect jam, and hundreds were turned away who could not gain admittance. For the convenience of counsel, and of all parties to the trial, Sheriff Cropsey had made admirable arrangements for keeping the bar perfectly free from the presence of the assembled and pressing throng. It was perfectly evident, the moment we reached the steps of the Court House, that the case had taken a very strong hold upon the public mind. The Prisoner evidently lost much of his usual equanimity, in view of this demonstration. [REPORTER.]

The District Attorney moved the trial of ANDREAS HALL, on an indictment for the murder of Noah and Amy Smith.

Mr. Townsend signified that the counsel for the prisoner were ready for trial.

Empannelling the Jury.

James McChesney was called—said he had formed an opinion. Dismissed.

Mr. JORDAN preferred to take the oath of jurymen who were questioned. He thought that if any further challenges were interposed, the juror should be sworn.

Ansel Chapman, another juror, was called and sworn. He said he guessed he had not formed any opinion. He had no opinion against finding a verdict of guilty in a case of capital punishment. Sworn.

William Lansing called and sworn. He had formed no opinion. Sworn as a juror.

George Shibley; had formed an opinion.—Dismissed.

Spencer Wickwire. Had doubts of the right to take life for life, but should feel bound to bring in a verdict according to testimony; but a verdict of guilty would be against his feelings.

Mr. JORDAN argued that his alleged feelings resulted from his conscientious opinions.

Mr. TOWNSEND thought the application of the rule, was to exclude those whose opinions would prevent them from bringing in a verdict of guilty, in accordance with the evidence.

The COURT. Do you entertain any opinions to prevent you from bringing in a verdict of guilty?

WICKWIRE. No further than I have related. He entertained no opinions to induce him to go contrary to evidence, yet a verdict of guilty would be against his feelings. Dismissed.

Counsel for Prisoner excepted to the decision of the Court.

Jacob Jacobs, sworn:

John M. Miller called; sworn.

Jonathan Burdick. Had formed no opinion; thought he had expressed some, upon the rumors he had heard. Thought he had not expressed any opinion as to the guilt or innocence of the prisoner.

By the COURT. Same question.

Didn't think he had fully. Dismissed.

Benjamin Vars. Had formed an opinion.—Dismissed.

Alviro Traver: Had formed no opinion.—Thought he had conscientious scruples against a verdict of guilty. Sworn.

Philander Wells: Had formed an opinion. Dismissed.

Augustus Lester: Had formed an opinion. Dismissed.

Allen Cleveland: Formerly entertained conscientious scruples against capital punishment; but did not now entertain them.

Mr JORDON thought the People, under an act of 1846 or 2847, were entitled to two peremptory challenges.

The COURT thought not: but was not positive. Law sent for.

The COURT decided that in its opinion the People were not entitled in this case to a peremptory challenge. Juror sworn.

John Austin: Challenged peremptorally by the defence. Dismissed.

Henry Harvey: sworn.

Nelson J. Gardner: Had formed an opinion. Dismissed.

Benjamin Austin, 2d: Challenged peremptorily by the Defence.

Daniel M. Brimmer: Had formed an opin-

ion—dismissed.

Warren Cox: Had formed an opinion—dismissed.

Erectus Powers: opinion—dismissed.

Russell Sage: opinion—dismissed.

Joseph Stackpole: opinion—dismissed.

William R. Jones: opinion—dismissed.

Leonard B. Whyland: sworn.

Peter Tift: opinion—dismissed.

William C. R ymer: didn't know that he had formed an opinion, said he lived where he had heard a great deal of the case. Peremptorily, challenged.

George Rice t peremptorily challenged.

Garret J. Hollenbeck: peremptorily challenged.

The counsel immediately withdrew the challenge—stating it was made under a mistaken apprehension of the wishes of the prisoner.

The Court ruled that the matter had passed it was too late.

Sohn S. Tift: peremptorily challenged.

Alphonzo Bills: opinion—dismissed.

Thomas P. Hewett: opinion—dismissed.

Daniel L. Hitchcock: sworn.

Manning Lansing: opinion—dismissed.

John Ralston: sworn.

Riley Potter: Opinion—dismissed.

Orrin Sherman: Sworn.

Henry P. Strunk: Opinion—dismissed.

Milton Hastings: Sworn.

The PANEL was now complete, and is as follows:

Ansel Chapman,	Henry Harvey,
William Lansing,	Leonard B. Whyland,
Jacob Jacobs,	Daniel L. Hitchcock,
John M. Miller,	John Ralston,
Alviro Traver,	Orrin Sherman,
Allen Cleveland,	Milton Hastings,

Mr District Attorney, LOTTRIDGE, opened the case for the People. He commenced by reminding the jury of the responsibility resting upon them, arising from the importance of the case to the Prisoner. The prisoner was to be tried for the murder of Mrs AMY SMITH—though also indicted for the murder of Noah Smith.

The prisoner was a young man, apparently about 24 years of age, with a countenance and appearance that indicated intelligence. Mrs. Smith had lived in Petersburg for her whole life of about 72 years, and had not an enemy in the world—was beloved and respected by everybody. Mr. Smith, her husband, (who was also murdered,) occasionally loaned money—a few hundred dollars to his neighbors.

He remarked upon the atrocity of the murder—that the prisoner, if guilty, will be found to have been rioting before the bodies of the murdered were cold. She was murdered at about dark on the evening of the 3d day of July, 1848.

The bodies were found on Sunday morning. Mr. L. gave the particulars of the discovery of the dead bodies. He went on to show that the money known to have been in possession of Mr. Smith, was the inducement to the murder,

by whomsoever committed. He also traced the course of the prisoner immediately prior to the murder, and immediately thereafter.

The Prisoner, on Thursday prior to the murder, gave out that within a week he would have \$400—that it had fallen to him from a grand father. That on Friday afternoon, he left West Troy for Petersburg, and returned on Sunday morning about sunrise. Before this, he seldom had any money—owed several small debts.—When he returned on Sunday morning, Hall told his brother-in-law that he was very tired, as he had been helping a man through the 16 Locks. He had a roll of bills—said he got it of a man on the canal—and told his sister again that it was none of her business where he got it. He paid a bill he owed William Hydorn. He let his sister have a \$5 bill in exchange for a \$3 bill. On Sunday, the prisoner paid several bills he owed, and drank at Groceries with every one who would drink with him.

On Monday, he came to Troy, and exchanged some specie for bills, and took the cars, saying he was going to New York; and asked his sister what he should buy for her as a present. We next find him on board an Albany boat for New York, and asked them to drink.—Prisoner exhibited his money to them; paid \$7 for a fancy shell box, said he had \$277 in his pocket. Late in the evening, after their arrival in New York, Hall went to the store of a Mr. Millet, in Broadway, and bought a violin; had a large roll of bills. Hall enquired for a jeweller's shop; he wished to exchange some gold beads that belonged to his sister for a Bracelet; left his violin while he made the latter trade with Mr. Fisher. On his return, he gave the Bracelet to his sister. The beads were of 2 sizes; 1 size as large again as the other; and it would appear that the beads were those Amy Smith had worn for many years. He purchased a gold watch, chain and slide, of the same jeweller. The gold watch, chain, slide, box, violin, would all be identified as the purchase of Hall, and they were found in his possession. The beads were composed of a string, the property of Mr. Smith's first wife, mixed with a part of a string owned by Mrs. Amy Smith at the time she was married. Parts of both strings, made the one Mrs. Smith wore.—Parts of both strings were in the house, unworn; and those, with the beads sold by Hall in New York, would be exhibited to the jury, who could judge of their identity.

The fancy box Hall gave to Mrs. Hydorn, his sister. The bracelet would not open, and the crystal to the watch was broken. Both were repaired in Troy. He put money in the box, locked it, and put it in charge of his sister. During Hall's absence in Troy, on Wednesday, an officer called for him at West Troy—and after that, untill after Hall was confined in jail, the watch was not to be found. The prisoner appeared excited and alarmed, when he found out the officer was in search of him. He was at William Hydorn's and wished Wil-

liam to go after his brother Jacob, which he did. Hall took his sister and her husband, Jacob Hydorn, in the kitchen, and said to his sister that if she and Jacob would swear that he was in their house the whole of Saturday night, the 3d of July, he would be cleared of the charge, should it be made against him. They told him they could not, as it was not true.

The district Attorney, continued: The evidence in this case is circumstantial—in these cases, it almost invariably is. He went on to comment upon the force of circumstantial testimony. He referred to the trial which had just closed. It was stronger than the testimony of any one person who might have seen the blow struck. He had given the main circumstances upon which they relied. The possession of money by the prisoner immediately after the murder—the fact that Smith had money in his house—the beads, which Hall sold in New York, immediately after the murder—these circumstances, as they would be presented to the jury, could not fail to convince them that she came to her death by the hands of the prisoner at the bar, and by no other man.

The district Attorney took his seat, after informing the jury that the prisoner was entitled to the benefit of any reasonable doubts which might exist in their minds after hearing the testimony, as to his guilt in the transaction.

Adjourned till to-morrow morning, at nine o'clock.

Second day--Morning Session.

FRIDAY, Jan. 19, 1849.

9 o'clock, A. M.

SILAS W. WAITE, sworn: resides in Petersburg: knew Noah and Amy Smith: saw the bodies after death; the old gentleman was frequently passing my house, drawing lumber about the time of his death. On Sunday morning, the 2d of July last, a report came that Mrs. Smith was probably murdered. It was about 8 o'clock, as we were harnessing a team to go to church. We immediately went to Noah Smith's: found several of the neighbors there: they said the door was fast; found it so myself; went round the house, opened the window and stepped in; opened the door and let others in. I think I was the first person in the house that morning. The door was bolted with a piece of board, laying in hooks across the door. Those who were present with me, were Billings B. Hewett and wife, a Mr James Brown, Asenath Thurber and Hannah Main, and Juliette Wait. Others were at the door, Daniel T. Main, George West, Benjamin Babcock, and a boy named Lorenzo Brown. In the room I saw the dead body of Mrs Amy Smith. She was lying across a chair, nearly upon her back, her head upon the floor upon one side of the chair, and her feet upon the other. Her throat appeared then to have been cut, though farther inspection shewed differently. There was blood upon the floor, where it had run from the head, towards the North. I have known Mrs Smith as long as I can re-

collect anything—she had lived in that house to my certain knowledge more than 40 years.

A diagram of the house was here produced. Mrs Smith's body had on her usual day clothes. There was a milk pail standing in the house, upon the floor by a table a little North of the body, and appeared as if the milk in it was milked the night before. The pail of milk stood in front of a table at the side of the room. There was no outside door to that room. The road by the house runs nearly North and South; the house was on the west side of the road; entrance on the South-West corner of the house. I entered at a window on the North side of the house. I saw the dead body of Noah Smith that morning. My impression is that James Brown, or Abel Lewis first found the body; I was a few rods off, and was called by them, and I went immediately. The body was lying in the grass near a barn, and near a path. The body was about 8 paces from the path.

By Mr. Jordan: What appearances indicated that the body had been dragged?

Question objected to.

Mr. JORDAN insisted that everything which shed light upon the tragedy of that night, was pertinent. If a sheep had been killed, evidence in reference to it, would be pertinent. It might be alleged that Noah Smith killed his wife.

Mr TOWNSEND said one man might have killed Noah Smith and another Mrs Amy Smith. He did not understand that evidence in one felony could be given to procure conviction on another indictment. There is no pretence for connecting the murder of the two.

Mr JORDAN said it was a question to be determined by the jury, whether one man killed both or not. The two old persons were the only residents in the house. It might be alleged that Noah Smith killed his wife, and then himself. But if it should be shown that after his death he was drawn through the grass, it would rebut the presumption that he committed suicide.

Question overruled.

Witness continued: The barn was on the same side of the road about 12 rods South of the house; the well was North of the house; the front door of the house was towards the barn; the water for the family was from a spring stoned up. There were fruit trees, but no woods or brush land about the house;—corn fields, but the corn was very small. Had seen a pocket book in Noah Smith's possession; never saw but the one.

Cross Examined.—Lives about a mile from Smith's house; Smith's house is on the road leading from Petersburg village to Williamstown; Smith's house is a mile and a half East of Petersburg village, and 22 miles from Troy. There are 6 houses besides mine on the road from Smith's to the top of the mountain, or Williamstown line. Smith's house is 8 rods from the highway.

The window by which I entered was up a little; how it was held up, do not recollect. The window was of the room in which Mrs Smith's body was found. There were as many as six rooms on the ground floor, including stoop or entry-way, which was about 10 or 12 feet square. Kitchen 20 feet square—might not be so large; found the body of Mrs Smith in this room.—The barred door I spoke of was the door of the entry way. Thinks there was a window with shutters, and without glass which led from the entry outside. Thinks the shutters were closed.

The nearest inhabited house at that time, was 20 or 25 rods, it was occupied by Daniel T. Main, a tenant of Smith. The house was towards Petersburg. It was on the opposite side of the street. The next house was 20 or 25 rods from Main's, on the road to Petersburg.

Direct resumed.—There were two windows to the kitchen, with half curtains. The house was longer one way than the other—longest from east to west—the entrance was at the entry, on the south side; the kitchen was on the north side, opposite the entry way.

DANIEL T. MAIN, Sworn: Lived 25 or 30 rods from the house of Noah Smith, on the first of July last, North, on the opposite side of the road. Knew Mr. & Mrs. Smith. Last saw Mrs. Smith on the Thursday before she was killed. Saw Mr Smith on the Saturday evening he was killed—milked with him, after sun down a little before dark. It was dusk—it was not dark nor daylight. Mr. Smith went towards his house. That was the last I saw of him. I was at Smith's house the next morning—it was Sunday morning, I saw the dead body of Mrs. Smith that morning. Her throat was cut: the body was lying across a chair, on her back; the body was not in the same position when the inquest was held: it was on a bed. There was a Doctor there in the evening. Don't know whether there was anything in the barn. There was hay and straw in it. Saw the body of Noah Smith on Sunday, 2 or 3 rods South of the barn, east of the path leading from the house to the pasture. The body was upon its back. There was blood at the edge of the path some on his face, and blood between the path and the body. The back part of Smith's vest was drawn up under his neck: he had on his every day clothing. I have a family, at that time consisting of a wife and six children. I was at home on the Saturday night here spoken of. Don't know of any pocket book of Mr. Smith.

The sheep to be sheared were confined in the milking yard. The house and the barn were on the west side of the road. The milking yard was on the east side of the road, in plain sight of the house—The milking yard was about 2 rods square. I was at Noah Smith's on Monday previous to seeing the dead bodies of Mr and Mrs. Smith, and Perry Hall and the Prisoner were shearing sheep; was there at one o'clock; the sheep-shearing was completed

at about sun-down, Thinks Perry Hall was not there all the time; he was sowing buckwheat a part of the time. I saw Smith and Andreas Hall together in the sheep-yard when Perry was absent. I saw an axe in the kitchen on Sunday morning in a chair, the first time I went there.

Cross examined.—I was 60 rods from where Perry Hall was sowing buckwheat—the wheat field was in sight of the sheep yard. I saw Perry shearing in the afternoon. Saw him sowing at 3 or 4 o'clock, upon Mr Smith's land. Perry lived about $\frac{3}{4}$ ths of a mile south of Smith's, at some distance from the road. I was first at Smith's on Sunday, at about sunrise. Went to the front door; it was closed. Had been up some time, and milked my cows, cut some wood, and dug some potatoes for breakfast; could not say whether I had breakfasted. On Saturday, I hoed corn in the forenoon. I went to Smith's on Sunday morning to get his horse to work amongst corn. Saturday evening I told Smith I wanted his horse Sunday forenoon to plough out corn; he said I could have it in the forenoon, but he wanted it in the afternoon to go off with. Did not see any person moving about Smith's house on Sunday morning. The first time I went there, I took hold of the door, found it was fastened, thought they were not up, and went away again. Do not mean to be understood as saying that I saw an axe in the kitchen the first time I was there. Went home, and after awhile returned, knocked at the door and shook it, and heard no answer. Then I called for Mr Smith. No answer. I went round and looked in to the window on the North side of the house. One window was up an inch or two or three inches with a shingle or a board under it, edgewise. There was a curtain over the bottom of the window—moved the curtain with my fingers and looked in; discovered Mrs Smith; the axe was in a chair pretty near Mrs Smith. The mountain to the East is pretty high; did not rise on Sunday morning until it was light. My oldest child is 14 years old.

Direct Resumed.—The mountain runs all along East of Petersburg, about 2 miles East of Smith's—and is generally woods. Worked some of Smith's land upon shares, and some for Smith by the day.

An axe was exhibited, which the witness thinks was Mr Smith's axe—the one he saw on Sunday morning—recognizes it by the helve being split, and thinks he split it himself driving stakes. The axe was usually kept in the entry-way.

The last time I saw Andreas Hall was on Tuesday morning after the sheep were sheared, on the road towards Troy. It was about sunrise, and he had on pantaloons, hat and shirt, and a bundle under his arm—a straw hat.

DR. ALEXANDER H. HULL sworn:—I was at the house of Noah Smith on Sunday, the 2d July last; knew Noah and Amy Smith; was there at about 11 o'clock, and on entering the house, at my right hand lay the body of

Mrs. Smith, in the kitchen, the second room I entered. (The witness gave a description of Mrs. Smith's position, the same as given by Judge Waite.) Did not disturb the body. On the front part of the neck, was a wound made by a thrust, which severed the front part of the wind-pipe. This wound may have severed the large jugular vein upon the right side of the neck.

Another wound was upon the left side of the head behind the ear, apparently by a blunt instrument, by a person in front striking back: the skin was broken, but the skull not fractured: the blow was apparently a glancing blow. The wound was an inch and a half in length, and the integuments upon the skull were driven back a half an inch to the bottom of the wound: it might have been made with the poll of an axe.

Another wound was on the left side of the head, commencing just forward of the ear, and running forward and downward, severing the angle of the jaw, and was about 3 inches long; the bone severed about three quarters of an inch. The wound was about half an inch deep but did not cut into the neck.

Witness would suppose the wound back of the ear would produce insensibility. Thinks the wound in the front part of the throat would produce death. There was blood enough shed to produce death. There was another wound made with a cutting instrument upon the right side of the neck, about 3-4 of an inch from the right angle of the wound made in front. Was evidently made by a thrust. Has no doubt the wounds on Mrs Smith caused her death. The axe now exhibited is the one I saw at Smith's, I think; there was dried blood upon the head and sides. The blood in the room appeared as though it had been shed the evening previous. There were no evidences of decomposition about the body of Mrs Smith.

I saw the body of Noah Smith the same morning. The wounds on him were not such as could have been made by himself—not all of them. There were wounds about him that would produce death, that he could not have inflicted with his own hands.

Lives 2 miles from Smith's. There is a piece of wood land about 100 rods distant, a little South of the house, within sight of the house and barn—from which woods a person would get a good view of Mr. Smith's premises.

Did not discover any evidence of decomposition about the body of Noah Smith; I think both bodies were in the State they would have been if life had been taken the evening previous.

[The Court here ruled that the counsel for the people could not show that it was a fact of public notoriety, that Noah Smith usually had money in his possession. That proof showing that Hall knew of such a reputation would be legitimate.]

Cross-Examined.—Could not tell whether the bodies had been dead from 6 or 12 o'clock

the previous night. The time was so short that it could not be determined.

DANIEL T. MAIN recalled : Noah Smith and his wife constituted the whole of the family.

Cross-Examined.—The old gentlemam used to work some, putting up fences. I have seen him drawing boards, the fore part of last summer.

Direct Resumed.—I have worked for Mr Smith by the day, and took my meals there ; Mrs Smith wore a string of goldbeads ; when there on Sunday morning did not see any, but did not think of the matter particularly.

JAMES PERRY HALL, sworn :—Am a brother of Andreas Hall, the prisoner. Live 3-4 of a mile from Noah Smith's, and have lived there for nearly 2 years previous ; the prisoner was at my house the fore part of June ; I sheared sheep with him at old Mr Smith's a week or ten days after he came. The shearing was on the Monday before the death of Mrs Smith. Andreas came to my house to work ; asked me if I wanted he should help me thro' the haying. I told him I did. He said he would help me. No terms were agreed upon. The haying season would commence about the middle of July, and close the latter part of August. I think there was an understanding that Andreas was to work prior to the haying. He worked for me at hoeing corn ; he did not work for me all the time. He worked for Joseph Clark, Porter Randall, and Noah Smith ;—sheared sheep for all of them. When he came to my house, he brought clothing in a trunk.—I believe he had a fiddle. In the trunk was a black broadcloth coat, a pair of pantaloons, besides every day pantaloons. The spare pants were black broadcloth—had a vest—a black fur hat, and an every day cap or hat, and an extra pair of boots. I think he had one fine extra shirt ; don't know whether he had any money with him. Immediately before he came to my house to live, I met Andreas at Petersburg, and brought him to Troy, and while at Troy, he asked me for half a dollar, to get him a pair of summer pantaloons. While at my house, I let him have a five franc piece. When I let him have 50 cents in Troy, he said he had not quite money enough with him to buy some summer pantaloons. I let him have the five franc piece about a week after he came ; he asked for a dollar, as he was going to Troy—nothing was said, as to whether it was given, lent or paid. He never paid any portion of this money back. His labor for me at this time was worth at least two dollars—cannot tell exactly, as I kept no account of his labor. He left my house on Tuesday, the day after the shearing at Noah Smith's ; had not told me he intended to leave. Did not take his trunk or spare clothing. I afterwards took the trunk to Troy to the Jail—after he was imprisoned.—I think the suit the prisoner has on, was the spare suit at my house. I sheared sheep at Noah Smith's on Monday before the murder. I left an hour or an hour and

a half during the afternoon, and returned before the shearing was completed. Andreas worked that morning for Porter Randall, and took dinner there. The boarding place of Andreas was at my house. He was at my house on Monday, at supper. Do not know whether Andreas ever took any meals at Smith's. Andreas was at work for me, in shee shearing, as I sheared them by the job. Andreas has no trade ; is a common laborer at farming ; is about 24 years old ; was brought up in Petersburg, about 2 miles from Smith's : For the last four years Andreas has, he says, been in Hoosick, Bennington, Troy and on the canal. He has no property that I know of, except his clothing. Parents are dead, and left him no property. Grand-parents on his father's side are dead. Grand-parents on mother's side living. Grandfather on father's side, died some five or six years ago, and left property to be divided among his children, and it was divided last summer. The share of my father, has been divided among 4 children—no money—the whole amount for the 4 children, about \$20 in personal property. The share of Andreas, is now at my house. Do not know of Andreas having acquired property in any way except by his labor, and do not know of any other mode he has had of obtaining money.

After Mrs. Smith was found dead, the first time I saw Andreas was on his examination at the Court House. Before that I started for Troy, upon a verbal request. Jacob Hydorn brought it from Andreas. Got 4 miles before I stopped—Then returned back to my house. It was after the 4th of July, that I started for Troy, and before the examination, but I cannot tell the day.

Cross Examination—I was sowing buckwheat the hour and a half I was absent on Monday. I was in sight of Noah Smith and Andreas.

Dr. EMERSON HULL, sworn : I was at Smith's the day before the murder, at 11 in the forenoon. I noticed that Mrs Smith had beads on her neck. Did not observe their shape or size particularly. Do not know that I could describe the beads. [Gold beads were exhibited, and the Dr. said ; I don't know whether I could say they were larger or smaller. Cannot point out any difference in the size of her beads and those exhibited.]

The Dr. continued : Had attended on Mrs Smith a short time before her death, as a physician. My attention was called to her beads by a conversation with Mrs Smith. Cannot say that I noticed any difference in the size of the beads. Could not say that there was no difference in the size.

Cross-Examined.—I resided about 7 miles by one road, 5 or 6 by another. Had made but 3 or 4 visits, within a short time before the murder. Was there on Thursday previous to the murder. Did not notice the beads on Thursday. Cannot say that I saw them on Thursday.

JOSHUA W. HAKES, sworn : I am acquainted with the prisoner, and have been for 8

or 9 years. I was a witness on examination of this case. I had previously seen the prisoner at Petersburg, $3\frac{1}{2}$ or 4 miles from Smith's, at the late residence of Weeden Hakes. This was on the Tuesday before the murder of Mrs Smith.

I was sitting on the side of the road in company with Ira D. Hakes and Ephraim Hall, (Cousin of the prisoner) As we were sitting there, I saw Andreas coming up the road with Manser Hines. Andreas shook hands with his cousin, Andreas said he was going to Troy, from there he thought he should go to N. York, and from there to New Bedford, and there ship on board a whaler. Presently a one horse waggon came along, and Andreas said he could ride in it. He asked the driver for a ride and got into the wagon. When he had got 3 or 4 rods, he swung his hat, and said, "Here is my old hat, boys, if I never come back." I think it was an old straw hat—one that had been worn—probably cost 4 or 5 shillings.—He had a black or dark colored coat on his arm—think he had a small bundle with him.

Cross Examined—Andreas came up with Mr Himes.

Mrs NANCY MAIN, (wife of Daniel T Main,) sworn:—Mrs Smith wore gold beads, on a string. I never discovered them but once and did not examine them. This was the week before her death, and they were on her neck. I was at the house on Sunday morning.

Did not see any beads. There was no search for any while I was there.

Cross-examined.—I had known Mrs Smith for three months. Am the wife of Daniel T. Main. I was never in the house of Mrs Smith till three weeks previous to her death. Was there afterwards every day excepting Sundays, as long as she lived. Mrs Smith was at home all the time.

Direct-resumed.—Mrs Smith wore a handkerchief snug about her neck over her beads, on account of her health, so that her beads could not be seen.

Afternoon Session.

3 o'clock, P. M.

JACOB HYDORN, Sworn: Am a brother-in-law of Andreas Hall; Married his sister. Her name is Anna Miranda Hall. In July lived in West Troy, on Green Island. The prisoner was at my house on Friday before the 4th of July last. I saw him at Peter Clarke's on Tuesday before the 4th. I am pretty sure it was on Tuesday in the latter part of the afternoon. Don't know that I saw him on Wednesday or Thursday. At Peter Clark's, Cornelia Clark and Mrs. Plumb were present.—Clark's house was 15 or 20 rods from mine. I spoke to him, and said "How do you do?" and he replied in the same way. I think he stayed at my house that night. I could not say that I saw him on Thursday night. I don't know where he stayed on Thursday night. Think he left my house on Friday afternoon; I saw

him at noon. I was at my house at 2 or 3 o'clock, in the afternoon to get a drink of water—did not see him that I recollect. I did not know he was going, and do not know where he went. I did not see him from Friday noon till Sunday morning. I then saw him in the kitchen of my house. I was getting up. Our bed was in the kitchen. He was in the room; heard him open the door; saw him come into the kitchen. My wife was in bed at that time. This was about 3-4ths of an hour after sunrise. I asked him 'where he had been.' He said 'he had been with a canal boat captain through the 16 locks—that he was very tired and sleepy; that he had worked all that night.'

Nothing more was said at that time to my recollection. My wife did not ask him any questions to my knowledge. He did not tell the name of the captain or the boat. He did not tell me where he was going. I do not know where he went. He went away. I do not know how long he was at my house. I went to see to my horses, and while I was out he went away.

[Proceedings were here suspended for some minutes, on account of the "noise and confusion" on the front stair case of the Court House—the militia, posse comitatus, and other remedies being proposed.]

He came back to my house that morning and breakfasted; saw him again before breakfast; before breakfast he laid down on the bed.

I occupied the 2d story only. The entrance was on the North-west side, towards the railroad track. My house consisted of a front room, kitchen, two bed-rooms, and a pantry. The entrance from the outside of the house was to the kitchen. The entrance to the bed-room was from the kitchen through the pantry; it is on the West side of the house. The entrance to the other bed-room is from the front-room.—There was a door from the kitchen to the front-room. One bed-room was called the North-east bed-room. Andreas laid down in the bed-room from the front room. He laid in bed till breakfast was ready. I don't know where he went from my house. I left for Waterford between 11 and 12, and left him at my house. I went to Waterford on a hand rubble, (hand car.) I think I left him at my house. I returned from Waterford at about 1 o'clock; he was at my house when I returned. I took dinner between 2 and 3 o'clock; he dined with me. He was at my house till dinner was ready, and remained till the edge of the evening—till 5 or 6 o'clock, till it began to grow dark. I do not know where he went to. He lodged at my house that night. I did not see him have any money or bills on Sunday. My wife got a three dollar bill from me, and she gave it to him, and he gave her a five dollar bill. He asked her if "she did not want money to spend on the 4th?" She replied that "she could spend money for better purposes." Don't recollect what he said then; believe she

gave him the \$3 bill, and he gave her the \$5. My wife showed me the money afterwards. She got a \$3 bill of me, and I saw her have a \$5 afterwards. I could not be positive as to which went to bed first. I last saw him going through the kitchen, after dark, without any light, going towards the bed-room in the north part of the house. That was the last I saw of him that night.

I next saw him the day after the 4th. I saw him on the 5th about noon. I saw him in the North bed-room. He was on the bed asleep.—Saw him again about the middle of the afternoon, in my house, in my house. I believe he was in the kitchen. Left him at my house about the middle of the afternoon. Returned about sun down sun down or about dusk. Did not see him that day again, on that day after I left my house in the afternoon. When I went into the house in the middle of the afternoon, I asked him "if he had seen Calvin Greene, in Congress-st., Troy." He said "he had." I asked him if he "had settled with Greene or paid him any money?" I understood him to reply that "he had paid him \$2." Green had seen me that afternoon and inquired about Andreas.

Green was a victualler. I asked Andreas "what scrape he and Nick Lewis had been into!" He replied, that they had been in some kind of a money scrape at the lower end of the town. (Troy,) That was all he said. I told him he had better go and see about it. Green had told me something about it. That was all that passed between us at that time; I recollect nothing else—I went away immediately with my team, and when I returned Andreas was gone.

[All this testimony of the afternoon conversation, was excepted to by the counsel for defence. The Attorney General said, all he desired was, to show that the foregoing was all that passed between Hydorn and the prisoner. It was agreed by the Attorney General that it might be struck out—and it was done.]

Question by the Att'y Gen.—Did you have any other conversation with the prisoner that afternoon?

Witness—I did not.

The Counsel for defence excepted to this.—He would have the conversation in or out.

Under instructions from the Court, the witness testified, in reply to counsel, that he had no other conversation with the prisoner that afternoon, except about a scrape in Troy about money.

Witness continued: I did not say to him that the officers were after him, only that he had better go and settle that scrape. I did not tell him that he had better leave my house to keep out of the way of the officers; not to the best of my recollections. I next saw him at my brother William's; I should think after dark on the same day. My brother lives in West Troy, about three quarters of a mile from

my house. I went down to see Andreas. I went to see him because my brother came after me, and told me that Andreas wanted to see me. When I arrived, Andreas, William's wife, William, and Eunice L. Hydorn, William's daughter. I think no one else. My wife and Cornelia Clark came in pretty soon; had conversation with Andreas before my wife came in. I first saw William and his daughter in the front door, and Andreas and William's wife in the front room. When I reached the front room, I said "good evening." Andreas said he wanted to see me; he took a light and went into the kitchen; we were alone except a child asleep; we were there two or three minutes before any other person came in. Before any other person came in, he said "it was in the papers that one Hall was suspected of killing Noah Smith and his wife, but that they did not say what Hall." My wife came in next; and we 3 were alone together. I then asked Andreas if he was guilty. He said he was not. I asked him where he was that night? He said he was with canal boat Captain going through the 16 Locks. I asked if he knew the Captain's name? He said he did not. I asked him if he recollected the name of the boat? He said he did not. I again asked him if he was guilty? He said he was not—he was not there.—He then asked me and my wife if we could swear that he was at my house on Saturday night? I replied, that if I was sworn I could swear to nothing but the truth. He repeated the question, and added—"If you will swear that I was at your house, you shall lose nothing by it. To which I answered that I could swear to nothing but the truth. He said if we would swear that he was at our house that night, it would save him. Andreas said he should like to see Mr Gilbert, and asked me if I would go after him. I told him I was tired, and would ask William to go, and William I believe went after him. Gilbert came—or a man they called Gilbert. He told us he wished to see Gilbert alone—and we left them together. I think I had no further conversation with him alone that evening. Before left him, he said he should like to see Perry [his brother.] I said, I don't know how you will get word to him. He asked my wife when she was coming down? She said, may be tomorrow. I went after Perry. My wife said Andreas wanted I should go, and she gave me a 5 dollar bill. He said that night that he wanted to see Perry, and if he could see him, he would give himself up; that if there was \$800 reward, he would give himself up to me and Gilbert, and we could get the reward. I believe there was a reward offered. I did not read the advertisement, as I cannot read. I went after Perry. I next saw Andreas when he was coming from Jail to his examination.—The morning I left for Petersburg, on Thursday, I saw a box on the bureau. Do not know that he gave my wife a parasollette, nor did I see a fiddle, or a gold watch. The box was a shell box—had apartments in the inside. Do

not know where it came from. Andreas had had a warrant. Mr Fairbanks took down my statement, with the exception of a few questions he asked me. I had not been in the justice's Court when Fairbanks was there.—He agreed to pay me when he got some work. Said he had no money, as the reason why he did not pay me. I did not see him have any money after he returned from New York. Never saw him have more than eighteen pence or two shillings in money, or something like that. He never said he was anywhere else on the night of the 1st, except going through the locks.

When he came to my house on Tuesday before the 4th of July, he had on a frock coat, straw hat, and summer pants. Did not understand where he had left his other clothes.

Did not say where he was going. Had no business, beyond staying over night, as usual. Did not tell me why he left Petersburg. Did not do anything from Tuesday to Friday, so far as I know.

Cross-examined.—I found Perry Hall: he started to come with me to Troy; he came with me 3 miles or $3\frac{1}{2}$ miles this side of what is called Worthington's tavern. Mr. Battershall and Defreest, met us and arrested me: they are officers in Troy. I was in jail when Andreas was brought out to be examined. Mr. Fairbanks came to the jail and wrote down what I would swear to, before I was discharged. This was written down in the evening: about candle light, when he came in. I was not discharged till some days after my testimony was taken down. I was discharged after my testimony was taken on the examination. Mr. Fairbanks was counsel against Andreas, on the examination. Mr. Fairbanks left the jail at mid-night, when he took down my testimony in the jail.

Andreas came to my house, and went when he was a mind to. It was not usual for him to tell me where he was going when he left. I think he did not tell me he was going to Petersburg when he went to work for Perry. Do not recollect that I ever heard Mr Gilbert called Lyman Gilbert. Understood from Andreas and Gilbert that Andreas was at work for Gilbert, when I went over the river with them in a skiff last spring. I have known of Mr Gilbert living at Sandlake. I did not tell Mr Gilbert that I would swear that Andreas was at my house the night of the 1st of July. I think I did not tell Mr Gilbert that Andreas was at my house on that night—am pretty sure I did not. Andreas and myself had a little difficulty a little before this took place. I had no hard feelings towards him. I should not have spoken cross to him unless something occurred to make me. I think I did not, to my recollection, on the afternoon of the 5th, say to Andreas that the constables were after him. Told Andreas that afternoon that he had better settle the money scrape.

Direct Resumed.—Battershall and Defreest had no warrant to arrest me, that I know of, and they did not tell me by what authority they arrested me, and I do not know that they

had a warrant. Mr Fairbanks took down my statement, with the exception of a few questions he asked me. I had not been in the justice's Court when Fairbanks was there.—Did not know whose counsel he was to my recollection, when he was at the jail.

I do not know that he did any work from the time he came to my house before the opening of navigation till he went to work for Perry at Petersburg, except ferrying me across the river. Andreas and I quarreled; I believe we did not fight; we got angry. He spoke to me when I did to him after that. Could not tell when we made up; I think on Tuesday before the murder, at Peter Clark's, was the first time I had spoken to him. We had no hard words that week; he spoke to me when I did to him. I told my wife I would lose the day to go after Perry, if Andreas would pay for the horse and wagon. To my recollection, I did not know that any Constables were after Andreas left on the afternoon of the 5th to go down to William's.

Cross-examination resumed.—My father went after Mr. Hayner, for counsel, when I was in jail, and Hayner came to see him. Mr Fairbanks said he came to the jail, at the request of Mr Hayner. I have seen Mr Rose, of West Troy. I did not, to my recollection, tell Rose that I heard on the 4th of July, that Hall was suspected, and that the officers were after him. I did not tell Rose something to that purpose, to my recollection. Andreas, helped Vellie, load lumber two or three days during the summer—the man I was at work for.

Direct Resumed.—Did not know what charge I was arrested for. Battershall, told me that I was suspected of something in reference to this murder, because I had gone after Andreas' brother, or after his trunk.

Cross-resumed.—At the time I was arrested, I did not have Andreas' trunk with me. I was in jail 4 or 5 or 6 days.

WILLIAM T. MILLET, sworn: I live in New York; am a music publisher 329, Broadway; sell music and musical instruments. I sold a violin to a person on the evening of the 3d July; recognise the prisoner as the person to whom it was sold; it was a violin case and bow, for \$14; it was about half past nine in the evening; when he was paying for it he stood near the door and exhibited quite a roll of bills and I told him——. The door at which he stood was wide open. I told him he had better step farther back, as a great number of persons were passing, and he might be followed and knocked down and robbed if he exhibited his money in that way. He did as I told him, and came back in the store. He gave me a ten dollar bill of the City Bank of Troy, and two 2's, of what Bank I do not recollect. After he paid for the violin, he asked me where he could trade some beads for his sister? I directed him to Richard Fisher, next but one above me. He left his violin and went out of my store. When he returned, I asked him if he made the trade, and he said "yes," and left.

[A violin, bow and case, were exhibited to witness, and recognized by him.] I had no customer after this one, that evening: commenced shutting up the store while the prisoner was out.

RICHARD FISHER, jr., Sworn: A man made a bargain with me at my store in the evening before the 4th of July last, in reference to gold beads.

[Gold Beads were exhibited to witness who laid the beads taken by him on that evening, were the same, or like them. The box in which the beads are contained, is of the style of business box used at this Store.]

When I took the beads they were on a string, and in a piece of cotton cloth. I took them off the string. I do not know what became of the string. I weighed the beads, and put them in the scale-drawer. I afterwards delivered them to Mr. Philips, [constable of Troy, who was recognized by the witness,] and then took them back again, and put them in my iron chest, in which they remained, until I came here to testify at the examination. I forgot them and went back to New York after them. After I gave in my testimony on the examination, I delivered the beads to Mr Fairbanks. At the time of the trade, the person did not state where he procured the heads. I gave him a Bracelet, and one or two shillings.

[The bracelet was exhibited. Witness thinks it was the one. A watch, chain and key were exhibited, which the witness thinks he sold to the same person on the same evening.]

Witness continued: have no doubt the watch chain, key, and bracelet were the ones sold to that person on that evening. The watch has the private mark of witness upon it, and the chain and key were like the ones I sold with the watch. The man paid me \$59 for the articles. The money was Troy money, \$10 bills. The watch-box was such as I used at that time, and has my label upon it. The hour was well on in the evening. My shop is 331 Broadway, and is 2 doors above Mr Millet's.—Does not recognize the prisoner as the person who bought the watch. I sold the watch and bracelet to the man of whom I bought the beads and sold no other watch that evening.

Cross-Examination.—I understand from a private mark in the watch, that I sold it. I am able to say when I sold the watch, from my recollection of its appearance. I have no other watches of the same size and appearance; have never had any exactly like this. I am positive that I can identify the watch, from my own mark of the price, which is according to the cost, in dollars—the mark used, being two letters. I cannot swear that this Bracelet is the same that I sold on that evening, but think it is. I sometimes send out 40 such boxes as the beads are contained in, in a week. The bead-box, is simply the style of boxes I use in my business. I send out perhaps 20 such boxes as the watch box in a week. The labels are put on as we buy them—are an advertisement. There is but one person engaged with me in the store;

he was gone on the evening of the 3d, and returned on the 5th of July; he is a clerk. Mr Phillips came to my store I think during that week—am not positive—think it must have been the following week. The clerk made sales. The beads were put in the iron chest on the 4th. The clerk had not access to the safe; it was kept constantly locked. Leave my clerk alone in the store, and carry my safe key in my pocket. On the evening of the 3d, closed my store at about half past 10—usual hour 10 o'clock. When I was at the examination of this case, I left my clerk in the store, and brought my safe key with me.

Direct Resumed.—The person to whom I sold the watch said nothing about having been in Millet's store. The beads were not sold much. Did not observe whether one of the beads was cut or broken. I put up the watch in a box like that exhibited. I think the man had money, but did not notice as the store was full of customers.

Third day—Morning Session.

SATURDAY, Jan. 20, 1849.

9 o'clock, A. M.

SILAS W. WAITE, recalled: I have made a diagram of the residence of the late Noah Smith. [Witness, at request of counsel, went to the jury and explained the diagram to them.] Saw prisoner the Tuesday before the murder: at my son-in-law's, Billings B. Hewett; he was on his way to Troy: he left while I was there and came west, towards Troy. He talked of going to New York, and on a whaling voyage. He had on summer pants without suspenders, and shirt; should think he had a coat on his arm, and a small bundle; between 7 and 9 o'clock.

Mrs MIRANDI HYDORN, sworn: I am the wife of Jacob Hydorn. In June and July I was living on Green Island, at the place described by my husband yesterday. Saw Andreas Hall, at my house the latter part of June; he came on the Tuesday before the 4th of July; came about 3 or 4 o'clock in the afternoon; do not know where he stayed that night. Was at our house on Wednesday. He did not stay with us on Wednesday night; don't know where he did stop. He was at our house on Thursday, and stayed that night: and was there on Friday. He took his tea there on Thursday, and breakfast and dinner on Friday. I last saw him on Friday, between the hours of 4 and six in the afternoon, at my house, and saw him go out of the door, but do not know which way he went. Next saw him on Sunday morning, in the room in which myself and husband slept; I think I was asleep when he first came in. I saw him as soon as I awoke; asked him where he had been or where he came from. He said he came off the canal; had been to work all night, and felt tired. He said he was sleepy and tired, and should go to bed till breakfast was ready. I rose from bed soon after he came in; I saw him after I rose, before breakfast. I saw him before the glass, combing his hair. He said he was going to Wm.

Hydorn's, to pay him for a pig he had bought of him. He then went away; returned before breakfast, and lay down on a bed, where he remained a few minutes, and got up to his breakfast. I was at home all day, till 5 or 6 o'clock. I think he was there all day, till towards evening, at about 5 or 6 o'clock, when he went out, just before I did, and returned about 8 or 9 o'clock in the evening, after my husband and I had gone to bed, I believe. I saw money in his possession on Sunday; I had conversation with him about it. He had paper money: a roll of bills, rolled up in a paper; I did not see the amount, nor did he say the amount. The roll was half as large as the size of an ordinary sized tin sand box. I did not see the denomination of any of the bills that day. I asked him "where he got the money?" He said "he know'd," or something to that purport. I again asked him where he got it, and then he wished "to know if it was anything to me where he got it." He asked me if I did not want some spending money for the 4th of July, and asked me if I did not want he should give me a dollar. I said I didn't care; I did not wish the money to spend foolishly, for I needed the money for something more than to spend in that way. He said if I would give him \$3, he would give me \$5. I told him I would ask my husband for \$3; I did so, he gave it to me, and I exchanged the \$3 for \$5 with Andreas. I gave him \$3 lacking 5 cents; it was a 2 dollar bill and some change. I got of my husband. During the day, I again asked him where he got the money. He said he and Nick Lewis knew: that they had not been so long to work upon the Canal for nothing. Nick Lewis has been at my house twice. I have related all the conversation about money with Andreas on that Sunday, that I can recollect; or of what I saw about it. I saw Andreas on the next Monday morning, at about 4 or 5 o'clock in the morning when he and I went to get vegetables. We parted on the corner of River and Federal streets, near the Railroad Depot. He told me he was going to New York. I saw him go on board the Railroad Cars. I next saw him on Wednesday. When he started for New York he asked me what he should bring me as a present; I told him a pine-apple, if he was a mind to. He said he would; and asked me if I did not want he should bring me a parasol-ette; I said I did not care, he might if he was a mind to. He asked what kind he should get? I told him a green one with a fringe. I think there was nothing more said as to what he should get for me. There was conversation about changing money, at the market on River street. I had a \$5 bill, and got for it \$4 in bills and \$1 in change. He asked me if I would exchange my paper for silver, and I told him I would. He said the bills would be handier to carry, because the silver was heavier, I made the exchange. He gave me half dollars, two shilling pieces, and shillings; don't recollect any smaller change. He took the

change from a steel purse, which he drew from his pocket; I think he did not give me all the change there was in it.

He returned from New York on Wednesday; I first saw him between 9 and 10 o'clock, as he was coming through the back yard. When I first met him. I asked him why he came back so soon? He said every thing was so dear, he did not like to stay. I asked him what was so dear? He said his meals, & asked me what I thought he had to pay, and said he had to pay a dollar a meal. I asked him how he got his face hurt? he said in a fight at Albany. I think I have stated all the conversation at this time. He said he was going to Troy, to a jeweller's shop—nothing else. He left me then. He said he had a gold watch he bo't in York, and the chrystal was broken out. I saw a gold watch at that time. I also saw a bracelet, and a shell box. The watch had a chain and key. The watch I should think was gold. [A watch, chain and key were exhibited—the one found on Hall, and identified by Mr Fisher—and witness recognized it.] The bracelet was hair-braided, with a cameo top, and a gold locket. [Witness identified the one identified by Mr Millet.] Andreas gave me the bracelet at that time, but he took it to the jeweller's to have it unlocked. The watch and bracelet were in a box. [A box was exhibited—the same identified by Fisher—identified by witness.] He had a fiddle case at that time, a fiddle and a bow—a box done up in a newspaper. The box was in a paper box. The box was mahogany, with shells upon it; he left it at my house. He had also a parasol-ette, a paper fan, and two books—one with a red cover, and the other a novel. The books were on the shell box. Don't recollect any other things.

— Andreas had the watch in his possession on Wednesday afternoon, when he left my house. I went to look for the watch, afterwards and found it. He told me at William Hydorn's, on Thursday morning, that I would find the watch across the railroad track under some oak bushes. He told me to get the watch and deliver it to the sheriff or some of the constables; I told him I would if I could find it. I looked for it on Friday, but could not find it. I went afterwards to look for it, because Mr Cropsey, the sheriff, brought a paper from Andreas, requesting me to find the watch. I looked again, and found it, and gave it to Mr Rose, the sheriff in the jail: that was the last time I had it in my possession. I next saw the Bracelet, after Wednesday morning, at Mr Botsfords, a jeweller, on Franklin Square, Troy. This was on Friday or Saturday; it was after he was arrested. I carried it home, and gave it to Mr Philips, a constable.

Question by Mr JORDAN: What did you tell Mr Botsford or clerk as to the authority or order by which you came for this Bracelet?

Objected to by defence, as irrelevant, and ruled out by the Court.

Witness continued: I was not with my brother Andreas, when I got the Bracelet at

Botsford's. I had not seen it from the time he left with it on Monday morning, until I got it on Friday or Saturday. When I went for the Bracelet, I told them what I wanted. They got the Bracelet and gave it to me. Do not know who it was gave it to me. I gave it up to Mr Phillips, and have not had it in my possession since. [The shell box was exhibited to witness, and identified by witness.] The box was left at my house & stay'd till Thursday or Friday, when one of several Constables there took it off. I have not seen it since, except in Court. I saw the shell-box opened, while in my possession, on Wednesday afternoon; it was in the front-room on top of my bureau. Andreas opened it, and said he did it to get some money to pay Mr Green. There was money in it; paper money, in a book; in the red covered book; the bills between the leaves scattered through the book, 2 or 3 in a place; there were a good many bills, part of them ten's and 5's—there may have been some smaller. Don't recollect what bank they were on—did not look enough at them to know. I think he said he took out a 2 dollar bill—he took one out and gave it to Mr Green, who was there. He locked up the box, and put it either on or in the bureau; I do not think he gave me any directions about the box. The box remained there until the officers took it.—The parasollette has remained in my possession up to this time. I think that on that afternoon, he took the books out of the box and laid them on the mantelpiece, I saw no money in the book after that.

I understand that the \$2 to Greene was for board, two years ago this winter. Andreas took dinner at my house on Wednesday: this was the last meal he took there that day. I was over in Troy that afternoon: left him at my house, and found him there on my return: left home at from 2 to 3 o'clock. When he left, he did not say why he left or where he was going. Before he left, I had no conversation about his being suspected of murder: my husband came to the door and said something to him, I don't know what. This was after I returned from Troy. I didn't hear enough to know what it was about. I don't recollect as there was any thing said about the murder. I saw constables or officers about my house on Wednesday, after Andreas left my house. Had not seen or heard of any before he left. Do not know who those officers were. They entered the house: about 20 minutes or half an hour after Andreas left—it was before dark. They said they wanted to see Andreas—that he had got into a little scrape that they wanted to see him about.—They said nothing about the murder. I saw William Hydorn that evening, between 7 or 8 o'clock—it was about candle light. I was afterwards at William's house, that evening. I went down because my husband went down.—I thought I would go and see what was going on; Cornelia Clark was with me. At William's, I saw William and his wife and daughter, Andreas, Jacob and Miss Clark, and Mr.

Gilbert, who came afterwards. Don't recollect that Mr. Mckel was there. I recollect that myself, Andreas, and my husband, went alone together in the kitchen bed-room.—

— I went into the bed room of my own accord. Andreas told me he had read of the murder of Noah Smith and his wife, and that they suspected one Hall, and he did not know but it might be him they meant. I asked him if he know'd such folks? He said he did. I asked him if he had been out that way during the time of the murder, and he said he had not. I asked him where he had been, and he said he had been to work for a canal captain on the canal, either at the 9 Locks or the 16 Locks, I do not recollect which. I asked him if he knew the man he had been to work for, and he said he did not. I asked him if he recollected the name of the boat, and he said he did not. He then said that he had no evidence to show where he was that night, and asked me if I would not swear that he was at my house—I told him I could not so testify, as if called to testify, I must testify to the truth. Miss Clark came in then. When she came in, my husband, Andreas, and myself, went in the buttry and got some pie. The conversation on was on the subject of the murder, when Miss Clark came in. After we ate our pie, Andreas said he wished to see Mr Gilbert alone. At that time, my family consisted of my husband, myself, and three children. I did my own housework. Andreas said in the bed room, that he should like to see Perry Hall; he did not know how he should get word to him. If he could see him, he would give himself up. In the bed room or in the kitchen, it was remarked to Andreas or me, that the officers were after him. I think this was after Miss Clark came in. Andreas did not state what he wanted of Perry; he spoke of seeing him after his request to me to swear. Do not recollect of hearing any conversation in the bed-room between my husband and Andreas. After we got the pie, my husband, Cornelia Clark and myself went into the front room, and soon after we 3 went home together. I saw Andreas the next morning, (Thursday) at William's. I told him that my husband sent me down to tell him that if he would furnish money for a horse and wagon, he would go after Perry. He said he would and took out a \$5 bill out of his pocket and gave it to me, and I took it home and gave it to my husband. My husband started on foot, with his coat on his arm; saw no wagon or horse. The next time I saw my husband was the next week, in the Court House. Knew of a quarrel between my husband and Andreas; it was a week or fortnight before this murder.—I think they had about settled the difficulty before the murder. I told my husband they had better settle it up, as it was not very agreeable for them to have hard feelings towards each other. Knew of no difficulty after that. When Andreas came to my house on Tuesday preceding the murder, he had on a coarse straw or chip hat, flat crown and black ribbon, rather

yellowish color; spotted summer pantaloons, black and white, boots, coat on his arm, and a white shirt on—no vest, and I think no suspenders. He brought a pair of spotted pantaloons and a shirt—pantaloons like those he had on. I put the pantaloons to soak, and hung the shirt over my bed-room door—the pantaloons were dirty, and the shirt had been washed and not ironed, and was damp. I washed and ironed the shirt and pantaloons on Wednesday or Thursday. He put them on before he left my house on Friday evening, and left those he took off, but took his coat. He said he was going away, but did not say where. I washed and ironed the shirts and pants he took off on Friday afternoon, on Saturday, and ironed them on Sunday. He put them on, on Monday morning. I washed the clothes he took off on Monday that week, and observed nothing peculiar about them. I washed them myself;—got them myself in my bed-room, and picked them up with the dirty clothes of the family, to wash; did not examine them particularly. I picked up the clothes on Monday morning, and put them in the clothes basket, and set them away. When I washed I separated the clothes, before they were put in the tub. No one was about when I washed, except Miss Clarke, who was up stairs in my room—I washed in the yard. After they were washed and ironed, I took them to Andreas at the jail. I left William Hydorn's on Wednesday evening, at about ten minutes before 12 o'clock. Andreas has never said in my hearing, that he was at any other place than the Locks on Saturday night. He has not at any time stated to me or in my hearing, where he got the money. When he returned from New York I asked him how much money he had, and he said about \$50. While he was gone to New York, I believe he got a vest and a linen coat, and a pair of white pantaloons. The vest was black satin, the coat brown linen—he had them when he came back. I never saw his trunk afterwards, which was at Petersburg. On Sunday morning, when he returned, I think he had his hat on. He had boarded with us before the murder—do not know of his paying anything for board. Do not know of his paying any debts except Green and for the pig—the pig was \$4 or \$4.50. He bought the pig about 6 weeks or two months before the murder. The pig was brought to our house alive, and my husband took it.

Cross Examined.—Andreas came to our house certainly two months before the murder. He was there, on and off, and stayed as long as he pleased. He remained constantly at our house, from the time he came in the spring, until he went to Perry Hall's to work.—During that time he left and stayed a day or two. He did not often tell where he was going, when he left. I should think he went to Perry's, at Petersburg, a fortnight or three weeks before the 4th of July. He said he was going to Perry's, and went off. I saw him have money a short time before he went off;—paper money, rolled up: the roll was

not very large; I should think as many as five or six bills,—I did not see of what denomination the bills were. I think my husband did not see this money. Andreas returned on Tuesday afternoon between 3 and 5 o'clock. Did not take tea at my house that evening. I think the first meal he took there was Thursday night—supper: that was the first night he slept there after his return. Took dinner at our house on Friday. I last saw him on that day, between 4 and 6 o'clock—should think it was between 4 and 5. He had the straw hat on, on Sunday morning. On Sunday morning when he returned he had on the same pantaloons he had on, on Friday when he went away, and took them off on Monday morning. He wore through Sunday the pantaloons and shirt he had put on Friday. He wore no vest or coat on Sunday. I do not know where his coat was: think it was in the house; had the same coat on when he came home on Sunday morning, that he took with him on Friday. Do not know that he had any other hat on Green Island, after he carried his trunk to Perry's. I heard him say something about letting Mr. Rose have some money: it was last spring, or middle of summer. The prisoner stood at the battery door, at William's, while I was eating a piece of pie. I went there half an hour after my husband left our house. Before I went down, I knew the officers were in pursuit of Andreas; knew it before Jacob left: I think Jacob knew it also. I was present when Andreas paid Green \$2: Andreas told me it was for board two years ago this winter. I am not able to tell the boxes in Court from any others of the same description. I have heard my husband say, since they made up at my request, that he could not forget it of Andreas: it might have been a week or two after they had made up: think it was as long as that. Don't recollect whether my husband has said to me within a week, that notwithstanding he had he had made up with Andreas, at my request, the same hard feelings towards Andreas that any man of spunk would have, who had had a quarrel with another.

Direct Resumed.—The quarrel between my husband & Andreas was about 2 weeks before the 4th of July. He did not eat at our house, after his return on Tuesday, until Thursday night, and then he took tea after we had done. Andreas and my husband were civil to each other. Ate at the same table on Friday. The quarrel was about a fortnight before the 4th of July. Miss Clark does not board at our house—usually came as a visitor to stay a day or two: lived near by. Came in every day or two. When Andreas came on Tuesday, he said he was going to have some money on the next Wednesday: think he did not tell me where he should get it: did not tell how much he was going to have. I did not have the five or six bills in my hands; did not see the face of the bills: do not recollect that he did how much there was. He took the money out of his pocket, unrolled the bills so that the bills could be seen, and told me to look at it. I never had any money of his in my hands, except the \$5 spoken of: he never left any money in my charge. I am the only sister: have three brothers: Perry, Andreas and Albert: Perry and Albert married. He never left any money in my care. I handed the pie and cheese to Andreas at William's; we stood at the battery 10 mi-

minutes. We were in the bed-room 15 minutes: the conversation was addressed to my husband and myself. I heard Andreas say, that if Jacob or myself would swear that he was at our house, as he had not other evidence, he would be safe.

Fourth Day--Morning Session.

MONDAY, January 22, 1849.

11 o'clock, A. M.

[The attendance of ladies was very large, and the Court House was filled with spectators.]

Mrs. AMY JONES. was the first witness called; Reside at Petersburg; knew Noah and Amy Smith; had known them for a number of years: lived a quarter of a mile from them, for 14 or 15 years: often visited them. I knew of Mrs. Smith's having two strings of gold beads; she had one string of beads before she married Noah Smith, and after she married Mr. S., she had a string that belonged to his first wife. She wore both strings around her neck separately, when she first got them. She afterwards mixed them together and wore them on one string: had them strung upon one string two or three weeks before her death. Had them on one string for a year and a half before her death. For the last 4 or 5 years visited Mrs. Smith twice a week, often, and was seldom absent over a fortnight. Have had frequent conversations with her about the beads, and examined them often particularly; we often spoke to each other about them. She wore the same beads at the different times I was there, during the last 4 or 5 years. There was a difference in the size and form of the beads upon the two strings. One was a small bead with a neck to it—the other was a larger size. The last time I saw them was about two weeks previous to her death. Noah Smith and wife composed the family. [The N. Y. beads exhibited, and think they resemble Mrs. Smith's beads very much, particularly the small ones; witness had a string just like the small ones, of the same man's make: made in the same mould. The large ones resemble those of Mrs. Smith very much.] I have had my own small beads altered over into larger ones. I often compared my small beads with those of Mrs. Smith, and they were alike; my beads were made for my grandmother. I should think Mr. and Mrs. Smith had been married about nine or ten years, I don't know but more. I was not at Mrs. Smith's at the time the beads were put upon one string.

Cross-Examination.—Russell Wilkinson, who lived at Petersburg, made the small beads; Mr. W. has been dead from 3 to 5 years—about 4 years, I think: was an old man when he died; had lived in Petersburg, as long as I could remember. He carried on the business of a jeweller, ever since I had any acquaintance with him.

WILLIAM H. ROCHENSTYNE, sworn: reside in Watervleit, about 3 miles from the Hudson river. On the 3d of July last, I was on board the steamboat, going to New-York; it was on Monday; a cousin, Jacob Miracle,

went in company with me, and we returned together on the 4th, on the Hendrick Hudson. Went down in the same. Saw the prisoner on the 3d; saw him first on board the boat; he went to New-York; he went in the same boat we were on; he returned with us in the same boat. We had not been acquainted with prisoner, before we saw him on the 3d; I had never seen him before to my knowledge; did not know his name when I first saw him on that day; I became acquainted with him some. He came up with some kind of a joke, I don't recollect what it was; we smiled in reply, and he asked us up to the bar to drink. After some hesitation, we went up. He paid for it, and we stayed round awhile and went off; we drank punch; there was liquor in it; this was soon after dinner. We were about together all the afternoon; don't think we drank together again that afternoon. Don't recollect whether I learned his name that day. I first learned his name in New-York; he bought a set of type and frame to mark his name; that type contained the name I know him by now, and that was the way I came to know his name. We left the boat first, and he came to us in the street; the name spelled by the type, was Andreas Hall. We three walked around some time to find a place to stay over night: I have forgotten the name of the Hotel and street, it was not over a half a mile from the Steamboat landing; it was a public Temperance House; we stayed all night; my cousin and myself were not acquainted in New York; I think it was Dunning's Hotel; I think we were in Broadway before we reached the Hotel; the hotel was on the corner, on the left hand side of the street as you go to Broadway, and was between the Steamboat and Broadway; it was on the east side of the street running north and south past it. He engaged lodgings between 6 and 7, just before sunset. I do not recollect whether he bought the type before that or not. We walked round together afterwards, and stopped in at two places to buy a fiddle: did not buy one while I was with him. He bought a parasollette, a pair of white pantaloons, a vest, bosom and collar, while I was with him on the morning of the 4th of July. I saw him have a fiddle on the evening of the 3d, he told me he had bought. The same night he shewed a gold watch, chain, key, and Bracelet, which he said he had purchased there. (Watch, chain and key exhibited: The key I should think was the same: I never saw one like it before: I took it off the chain twice coming up: The watch and chain appear like the same, though I could not be positive. Bracelet exhibited: Nothing about it which appears different from the one he showed me: could not identify it.) He told me he paid \$49 for the watch: I think he said he paid \$4.50 for fiddle. Could not point out any difference between the fiddle and case (exhibited) and the one I saw in Hall's possession in New York: only I think the things were whole then. (A general laugh, in which the prisoner joined

said if he had done such a thing he would have been off; he would not stay around here he should feel so guilty, he should feel as though every body knew it, and he should bring himself out. Believe he asked me if I had seen the reward that was offered. Told him I had: told him I thought it was a very small reward—meaning what the Reynolds had offered—considering they were so wealthy people. He said he thought so too: that they were very tight, stingy sort of folks. Don't remember any thing more. Before this Andreas came in and shook hands with John Mickell, and said "How do you do?" "First rate, how do you do?" John had a large cane in his hand. Andreas said, "John, you must give me that cane." John said, "Why?" Andreas said, "If I had such a cane as this, I should not be afraid to go anywhere in the night." I remember that Jacob came there that evening, and Jacob and Andreas went out I suppose to the kitchen, before Miranda came. They were out 10 or 15 minutes, I should think, before Miranda came in. Miranda left the room, and said she was going into the kitchen. I was in the house when Andreas was arrested: the first I knew of his arrest, Andreas and the officers were in the bed-room off the kitchen.

Cross-Examined—This conversation with Andreas, occurred while my husband was gone after Jacob—before he came. I heard on Wednesday, the 5th, at dinner, that one Hall was suspected of the Petersburg murder; I learned it from my husband.

Direct Resumed—Don't recollect that I told Andreas that one Hall was suspected. I did not hear him say that night that one Hall was suspected. My husband told me at dinner that day, that he had heard it at the mill where he was at work, from Abraham Smith; the mill was in West Troy.

Cross Resumed—Dined that day, the 5th, between 12 and 1 o'clock. I or John Mickel asked Andreas if he had heard of the Petersburg murder. He said he had.

Direct Resumed—Andreas said he had heard of the murder, and that was all he said in answer.—Said nothing that one Hall was suspected, that I recollect. William had gone after Jacob. I have stated all that was said about the reward so far as I recollect.

Afternoon Session.

Three o'clock, P. M.

[The attendance of ladies was greater than at any former stage of the trial—the number not being less than 250 or 300. The public interest in the trial obviously increasing, as it progresses.]

The first witness called this afternoon, was DAVID G. MAXON, sworn: reside at Petersburg: about three miles from the late residence of Noah Smith. Know the prisoner at the bar. I saw the prisoner, I think, the Sunday previous to the murder: I am quite positive it was that day. Nick Lewis was with him: he resided at his father's, about a half a mile west of my residence. He was off at Troy some part of the season. When I returned from church, I saw prisoner & Lewis sit-

ting by the side of the road, some 60 or 80 rods from my house. I went home to my dinner, and after dinner came out into my front yard, and saw they were there yet. I then started towards them: I got within ten rods of them before they discovered me; they set with their heads down. As soon as they discovered me, they got up and passed towards and by me.—They stopped at about the same distance east of my house, and stopped, and I should think sat down by the side of the road. I passed on a little farther, and went into a lot where there were some cattle, and stayed a few minutes. I then returned to the house, and they were still sitting by the road. This was about three o'clock in the afternoon. I was at Noah Smith's house on Friday, the 28th of July, at about 12 o'clock. I examined the bar to the outside door: discovered blood on the ceiling or plastering, when the bar would be taken hold of to slide it: a spot about the size of the thumb.—The staples which held the bar, were about two feet from the floor: the blood was on a level with them, or a little down; one or the other. The bar was probably three and a half feet long. The blood was where one would not naturally rake hold of the slide through the staple.

Cross-examined—I live about one mile this side of Petersburg on the road to Troy. The Sunday before the murder was a pleasant day. There is no town ordinance against a man sitting down by the side of the highway, on Sunday. Nothing disreputable in being seen in that part of the town.

Direct Resumed—Nick Lewis' father resides about 3½ miles from the residence of the late Noah Smith. I don't know that the prisoner was intimate with Lewis at the time. I don't know that he was previously intimate with Lewis.

Cross Resumed—I am not positive that it was the Sunday prior to the murder that I saw them together; think it was.

LEWIS SMITH, sworn: reside in Brunswick, about 8 miles from Troy, on the Grafton turnpike, which leads from Petersburg to Troy. I recollect that Mr Rufus Parks was last summer often at my shop. I think Parks was at my shop on Tuesday before the murder; Mr Parks left the shop about 20 rods, when a man on foot passed by towards Troy, at about noon. Mr Parks said he saw him; Parks was in the road on his horse, and met the man before he reached the shop. Do not recollect seeing any other man pass by, while Parks was in the road. I did not know the man. I was at home on Saturday night, the 1st of July. Saw a man pass about 12 o'clock at night; I had occasion to get up twice in the night; the second time saw a man pass in the road. I had been asleep before. I got up the first time. I was indisposed that night. I went out the first time I got up. I went out in consequence of that indisposition. When I got up the second time, I went out. A man passed by, when I was up the second time, along the road

towards Troy. I was within 8 or 10 feet of the road. I observed his dress. He had on a light pair of pantaloons, no suspenders, no coat, black hat, and a coat or something on his left arm. He was walking fast. It did not occur to me at the time that I had seen that individual before. I now think I saw him before; but I could not tell when or where I had seen him. I don't know that I had seen him before he passed there that night. Witness repeated the same answer. Did not think he bore any resemblance to any man I had seen before.— The individual who passed on the Tuesday before, had on a pair of lightish pantaloons, no suspenders, no vest, no coat. I do not know as there was any difference in the size, and I do not know but there was. Could not tell exactly; did not notice them so particularly as to tell the size. I could not tell, for my part, how the size of the two individuals compares. I have frequently seen Mr Parks since that Saturday night. I recollect enquiring of Mr Parks since that time who the man was who passed on Tuesday. Cannot point out any difference between the dress of the man seen on Tuesday and the one seen on Saturday night.

Cross Examined—The hat worn by the man seen on Saturday night was of a dark color: it might have been black.

Direct Resumed—The hat on Saturday night might have been black: it was dark.

Cross Resumed—Had no time piece; inferred the time from the state of my feelings, having slept.

CORNELIA S. CLARK, Sworn—In July resided on Green Island. Know the prisoner at the bar; am a little acquainted with him. Saw him on the Thursday before the 4th of July, at my father's house: did not see him that week before Thursday. I did not see him again that week. Next saw him on the next Sunday evening. On Thursday, heard him say he was going away; did not say where—I don't recollect that he said anything of his going to have money. On Sunday evening, he said he was going to have \$100 in about a week. Don't recollect that he said where he expected to get it: nothing was said as to where he was on Saturday night. He said he had been walking all night, and was tired and sleepy, this was about 9 o'clock, on Sunday evening: it must have been Saturday night to which he referred. He said he got back on Sunday morning; don't recollect as he said at what time. Don't recollect as he said anything about getting back about daylight. I asked him where he had been? He did not make any answer. Nothing further was said on the subject. Don't recollect as he said anything about the distance he had travelled, when he said he had been walking all night.

MARY PLUMB, sworn: I know the prisoner: saw him on Thursday afternoon preceding the 4th of July, at Mr. Clark's; father of Miss Cornelia Clark, on Green Island. Had some conversation with him. Said I, you have gone

away from Jacob's. He said, yes. Said I, where have you been? He said, I have been out West. Said I, thought you had been at Petersburg. He said he had been, and stayed one night, but did not say what night. He said in about a week he was going to have about \$400 in money fall to him from a friend or relative, but did not say who or where. I don't recollect any thing more. I next saw him going down the road on Friday afternoon: saw his back, and took it to be him. I think he said the money was to fall to him. I next saw him on Thursday evening.

Cross-Examined—His language was, I think: "In a week I expect about \$400 from a friend or relative:" think he used both words, from a "friend or relative." Jacob Hydorn's house is nearer West Troy than Mr Clarke's. When I saw Andreas on Friday, I was at the front door of Mr Clark's house. Mr Clarke's house is a few rods north of Jacob Hydorn's: I was in the door and saw him going down street. Don't recollect ever seeing Andreas there at any time except on Thursday and on Sunday night.

NATHAN NOLTON, Sworn—I am a magistrate in Petersburg, and know the prisoner. Had a conversation with him in jail soon after his arrest: I think on the day of his arrest.— Silas C. Eldred and myself went in to see him. I told Andreas that it was the easiest thing in the world to clear himself, if he could show where he was the night of the murder. (He had said the people of Petersburg were against him) As only a short time had elapsed, it would be fresh in the minds of those who knew where he was. He said he could show where he stayed that night. I then asked him where it was? He said he stayed at his sister's across the river; Mrs. Hydorn's. I asked him if he took supper there Saturday night. He said he did, and ate his breakfast there on Sunday morning, told Andreas that one ground of suspicion was his having so much money: having purchased things in New-York. He said he had had \$100 laid up for six months. He said he had bought a watch in New-York. I asked him where he kept his \$100? He said his sister had kept it for him.

Cross-Examined.—My business in Troy that day I cannot tell; not in relation to this matter: was not a witness at the examination. I did not communicate any thing about the conversation to the public prosecutor until after I was subpoenaed. I was subpoenaed about a week before the sitting of the Court.

ALMIRA C. ROSE, sworn: reside at West Troy. Am some acquainted with the prisoner. My husband, Emerson M. Rose, in June and July, kept Grocery and Boarding House. I saw prisoner on Sunday morning, 28th of July, at my house, before breakfast; we generally breakfast about 6. He came up stairs, and enquired for my husband. I told him he was in bed. He then asked me to go into the grocery with him. He went where my husband was. I went down into the grocery with him. He took out a bottle and asked me for some of the

best gin. I drew a pint of the best gin, and first wife. She wore both strings around her neck separately, when she first got them. She put it into the bottle. It held some more, and he told me to fill it, and I did so. He paid me afterwards mixed them together and wore them two shillings for it. He took a bill out of his pocket: it was rolled up: he told me it was a five dollar bill. I said, "Andreas, where have you been?" He said, "shearing sheep." I said, "where?" He did not answer me, just at that instant, and I spoke "Hoosick," and he spoke "Petersburgh": we both spoke at one time. He said, "yes." I spoke about folks going to shear sheep for Reuben Clark. He danced and sung about the floor, and I said, "There is a good deal of old Jim about you"—meaning his father. He also got some pie, and cake and cheese—paid all but a few cents—I could not change the bill. He said he owed my husband fifty cents—I could take it out. I did not change the bill: he said he would call in the afternoon and pay. Do not how long he had owed the bill. I had not seen him before in several days—perhaps a fortnight—at the grocery.

Cross Examined—Previous to that fortnight, I had been in the habit of seeing Andreas frequently. I knew Andreas when he was a child: saw him once or twice when he was a lad: knew his parents. It was true that his manner at the grocery that morning—dancing, &c.—was like his father. I first learned on Monday, that Andreas was suspected of this murder. When I first heard that Andreas was suspected: a Mrs Clark was present. Jacob Hydorn was at my house the day he went to Petersburg. Mrs Clark was Labin Clark's wife—a woman that boarded with me. My house is on the Canal, just above the weigh lock: it is designed to accommodate persons upon the Canal.

Direct Resumed—Mr Labin Clark, was on the Canal, and did not board with me at that time. Calvin Green told me on Monday afternoon, that Andreas was suspected; he was on the packet, fixing for the 4th of July. He asked me if I had seen Andreas, and I told him when and where. He asked me if I was Almira Brodt, when I was a girl? I told him I was. He then asked me if I did not know him, and I replied that I did. Now, said he, I will tell you that Andreas is suspected of murdering Noah Smith and his wife.

Fourth Day—Morning Session.

Monday, January 22, 1849.

11 o'clock, A. M.

[The attendance of ladies was very large, and the Court House was filled with spectators.]

Mrs. AMY JONES, was the first witness called; Reside at Petersburg; knew Noah and Amy Smith; had known them for a number of years: lived a quarter of a mile from them, for 14 or 15 years: often visited them. I knew of Mrs. Smith's having two strings of gold beads; she had one string of beads before she married Noah Smith, and after she married Mr. S., she had a string that belonged to his

Cross-Examination.—Russell Wilson, who lived at Petersburg, made the small bead. Mr. W. has been dead from 3 to 5 years—about 4 years, I think: was an old man when he died; had lived in Petersburg, as long as I could remember. He carried on the business of a jeweller, ever since I had any acquaintance with him.

WILLIAM H. ROCHENSTYNE, who reside in Watervleit, about 3 miles from Hudson river. On the 3d of July last, I was board the steamboat, going to New-York; I was on Monday; a cousin, Jacob Miracle went in company with me, and we returned together on the 4th, on the Hendrick Hudson. Went down in the same. Saw the prisoner on the 3d; saw him first on board the boat; he went to New-York; he went in the same boat we were on; he returned with us in the same boat. We had not been acquainted with prisoner, before we saw him on the 3d; I had never seen him before to my knowledge; did not know his name when I first saw him on that day; I became acquainted with him some. He came up with some kind of a joke, I don't recollect what it was; we smiled in reply, and he asked us up to the bar to drink. After some hesitation, we went up. He paid for it, and we stayed round awhile and went off; we drank punch; there was liquor in it; this was soon after dinner. We were about together all the afternoon; don't think we drank together again that afternoon. Don't recollect whether

I learned his name that day. I first learned his name in New-York; he bought a set of type and frame to mark his name; that type contained the name I know him by now, and that was the way I came to know his name. We left the boat first, and he came to us in the street; the name spelled by the type, was Andreas Hall. We three walked around some time to find a place to stay over night: I have forgotten the name of the Hotel and street, it was not over a half a mile from the Steamboat landing; it was a public Temperance House; we stayed all night; my cousin and myself were not acquainted in New York; I think it was Dunning's Hotel; I think we were in Broadway before we reached the Hotel; the hotel was on the corner on the left hand side of the street as you go to Broadway, and was between the Steamboat landing and the Hotel. The same night, he shewed a gold watch, chain, key, and Bracelet, which he said he had purchased there. (Watch, chain and key exhibited: The key I should think was the same. I never saw one like it before: I took it off the chain twice coming up: The watch and chain appear like the same, though I could not be positive. Bracelet exhibited: Nothing about it which appears different from the one he showed me: could not identify it.) He told me he paid \$49 for the watch: I think he said he paid \$4.50 for fiddle. Could not point out any difference between the fiddle and case (exhibited) and the one I saw in Hall's possession in New York: only I think the things were whole then. A general laugh, in which the prisoner joined with a smile.) He purchased a shell box going down for \$7. This is all his purchases that I recollected. I did not take any meals at a hotel. We all three took breakfast at a qualling house; did not give a dollar for a breakfast, and I think not a half dollar. On boat going down, they charged my cousin myself 50 cts each for dinner; Have no recollection that Hall paid more than a half dollar for any meal while in New York. I believe drank once or twice together while in New York! he paid once; I do not know as we drank more than once. Saw him pay for the box going down; saw money in his hand. He had a large roll of bills; quite a roll of them; don't know how much there was of them. Hall said he had \$277 when he left for New-York; don't know when it was he told me; he lodged in the hotel at which we stopped that night. Don't know of any other business he had or did in New-York, except purchasing those things, did not speak of any other; said he intended to stay a week when we started; did not tell why he did not stay a week; did not hear him say why he did not stay; said he was going back when we did. I think he said he paid \$4 50 for the Bracelet—did not say how he paid for it. We separated from him at Albany. I think he said he had spent a \$100 or \$150, going to New York and back. Did not tell of any other purchase. We did not dine on board the boat. Hall drank 18 or 20 times, we drank with him sometimes, he paid for it generally when we drank with him; we paid for some of the drinks; we returned on the 4th. He was gone from us on the evening of the 3rd, about an hour and a half, and returned not far from 9 o'clock—9 or 10, could not tell, not noticing the time. Do not recollect as he told where he purchased the box, or fiddle or watch—neither the place or street.—[Shell Box exhibited—witness said it resembled the one he had there.] Think he paid \$2 for the pantaloons—think the man asked \$3.50 for the vest—black satin; did not see Andreas after the 4th of July, till I was called to the examination. Think he had a pocket book, in which he carried the bills; think it was calf-skin, with a clasp on it; do not know what became of that pocket-book. He said coming back, that I must not say anything to the folks up home or up to West Troy about his going to New York; think he said it more than once, but don't recollect.

Cross-examined—The last time I was in New York was in September, 1847. Have not been to New York since the 3d of July. Had no business there then—went for pleasure; my cousin is a young man like myself. We were on board the boat when Hall spoke of our not mentioning his visit to New-York, coming up, I think it was. In New York, he said we must not tell the folks we had been to New-York, and could not find a place to put up, for they would laugh at us. At the time he spoke of the matter on the boat, I did not make the same request. I drank 8 or 9 times coming up from New York; I think I and my cousin did not pay half the time, he paid the most of it. Hall was lively, from drinking, as he was all the while.

Direct resumed.—Hall had a linen coat with him; said he bought it at Troy, on the morning of the 3d.

Mrs. SARAH ANN SMITH, Sworn: I reside at the late residence of Noah and Amy Smith.—Was intimately acquainted with Noah Smith and his wife. I married Noah Smith's son, and am now a widow. Knew during the life-time of Mrs Noah Smith that she had gold beads. She had two strings. They were of different sizes; one that belonged to his first wife, and one that was her own before her marriage to Mr Smith. I do not know that I ever saw the beads after they were put upon one string; had not seen Mrs. Smith for some time before she died. The beads upon one string were larger than those upon the other; one size had necks to them, and the other had not.—[Beads in the New York box, exhibited; thinks both kinds are of the same size and shape as those Mrt. Smith had.] I arrived at the house of Noah Smith at about 2 o'clock in the afternoon of Sunday, the day the dead bodies were found. I did not examine the house on Sunday. Came to Troy on Tuesday the day of the funeral, and the Surrogate told me to take the most valuable things from the house and deposit them for safe keeping. I returned on Wednesday, I went to the house on Thursday in company with the Administrator and examined the house. The house was fastened up at 11 o'clock on Tuesday morning, when they

left the house for the church, at the funeral, and remained fastened until Thursday. I found 12 gold beads on a string, in a bureau drawer; there were two sizes on the string, 9 large ones and 3 small ones; the small ones appeared to be the same as those exhibited in the box; when I first saw them I readily identified them as a part of the two strings Mrs. Smith had formerly owned. [A dozen beads exhibited on a string: witness thinks they are the ones she found.] When I found them, I left them with Mrs. Billings Hewitt. In my examination of the house, I found \$25.07 in money. I found it in two upper short drawers, in the same bureau in which I found the beads; found the money in several different places in the drawers—I think about 7 or \$8 of silver which was tied up in a piece of black silk; the paper money in two or three parcels done up in pieces of paper. That was all we found that day. After that, when we were preparing things for sale, we found money in several different places: \$6 in bills among some bed clothes. Mrs. Barber washed some pillow-cases and sheets, and in the rinsing-water found a piece of paper; I undid it, and found in it a \$3 bill, I afterwards found specie, small silver change, to a small amount, in among the paper rags. I undid everything myself, I found a 2 shilling piece in a tin dish on a shelf on top of a cupboard, in the kitchen, with nails, &c., the dust on the piece was thicker than the silver. I afterwards found about a dollar in specie in a work-basket. I found money in other places, but they do not occur to my mind, I found some in a stand drawer; two 25 cent pieces. The whole amount of money found was \$411; I did not find it all. As I understood, about \$370 was found on Sunday, and was handed over to me. I never saw any tin trunk there and none was found after the murder, that I know of.

Cross-Examined.—I started from Williamstown on Sunday before the 1st bell for church, which went in at half-past 1. When I arrived at Mr. Smith's the house was as full as they could stand, and a great many outside could not get in. I think Mr. and Mrs. Smith were married in 1832, the year previous to my marriage. Mr. Noah Smith lived in Williamstown at the time of his last marriage, and moved to Petersburg soon after, where Mrs. Smith previously lived.

Adjourned to 3 o'clock, P. M.

Afternoon Session.

MIRANDA HYDORN: I did not send to New York by my brother, to have gold beads exchanged for a Bracelet. Never let him have gold beads for any purpose.

Cross-Examined.—A pair of summer pants exhibited witness says they are one of the two pairs of pantaloons he had when he went away. I first learned that Andreas was arrested on Thursday. The officers were at my house Thursday searching.

Mr. BILLINGS HEWETT, sworn: I recollect Mrs. Sarah Ann Smith giving some gold beads to me. I know Mrs. Smith: she gave me 12, the Thursday after the 4th of July.—I gave them to my father. [The 12 beads exhibited this morning, she thinks are the ones.]

Judge WAITE recalled: I heard my daughter, Mrs. Hewett, testify. [The beads on the

string were shown to witness. Think they are the same beads given me by my daughter.] There were 12 of them. I was at the house of Noah Smith on the Sunday, 2d of July; examined the house some on that day; found money there; after the brothers got there, and the bodies were laid upon the beadstead, it was thought best to search the house for money; I did the searching pretty much myself, the assistance by others was chiefly in counting; I did not take the trouble to count.

Mr. TOWNSEND did not see the pertinency of this testimony, and would object to any proof as to the finding of money in the house. He did not see that it had any bearing.

Mr. JORDAN thought it was proper to show what there was in the house, and if there was money how it was kept. Money was the motive, or one of the motives, for the murder.

The COURT thought how he kept his money could be shown.

Mr. TOWNSEND could not see how this proof could go to show that the prisoner took money from the house. The testimony proposed—to show whether there was one or one thousand deposits of money in the house—was of no consequence so far as the fact that Hall murdered Smith, was concerned. The object was to show that money was kept in such queer places, that the prisoner was aware of its existence. He did not conceive the testimony to be irrelevant. **Mr. T.** objected to the proof that Judge Waite searched the house and found money in it.

Mr. JORDAN said it would be competent for them to prove that at the time of his murder, Mr. Smith had a large sum of money, as constituting the motive to the crime. If we show that money was found about the house in such a shape as to require a careful and deliberate search, such as a man committing murder would not be likely to make; the money in the house does not do away the supposition that the money was the motive of the murder.

Mr. TOWNSEND reiterated his arguments.

The COURT wanted to know if it was necessary to press this point.

Mr. JORDAN thought it was. Suppose the money had been found in an open drawer: Would not the inference be, that the murder was not for money?

The COURT desired the question to be stated.

Mr. LOTTRIGE: About how much money did you find there, Judge Wait?

Mr. TOWNSEND: To that question I object: not to the form, but to the substance of the question.

COURT allowed the question.

Witness: Don't know how much was found. I did not find it. I found it in several parcels, paper and silver. My opinion is there was considerable more than \$100 in silver.

Question—Where did you find the money? Objected to—and allowed.

Witness: The largest portion of the silver, near \$100, was under bedding, in a chest and drawer; the bedding and money was at the bottom of the body of the chest, under the bedding. Pretty much the balance of silver was found on and in and about a stand; there were three tin cups, some in tea cups, some in saucers. The tin cups were in the stand-drawer. There was in several other places change found, tied up in handkerchiefs, and otherwise; in a work basket was some tied up in a silk handkerchief. One portion in bills, \$42 was found in a chest where the larger portion of silver was found; the \$42, was on the Farmers' Bank of Troy. I found it in one of the drawers: it was rolled up snug in a piece of paper, and, I think, laid into the fold of some cloth. In the drawers of a bureau there were several parcels of paper money; the amount I do not know. It was generally done up snug in brown paper, or in a newspaper, and generally seemed to be put under or in something. I knew of Mr. Smith receiving \$1,00 in the month of March.

Cross-examined—I have resided in Petersburg something over 50 years, I knew of Russell Wilkinson's residing there from my earliest recollection, till he died. I did not continue at the house all the time till the inquest was held; I stayed till very near night. The citizens kept coming there all day after my arrival. House open all day, and citizens in and out. I believe I was not there on Monday, but was there on Tuesday, to the funeral; there was a large number of people; the house was open, and a great number of people in and out of the house.

Direct Resumed—Did not find a tin trunk in the house on Sunday.

Mrs ANNY JONES, recalled. I am a married lady. I lived at my father's at the time of the murder; about a quarter of a mile north from Mr Smiths; not on the main road. Was in the habit of being at old Mr Smith's family; Mrs Smith was an aunt of mine. Mr Smith had a small tin trunk in his life time. It was a small Japaned trunk, of a dark color, with a lock and key to it. Have seen it stand in two different places. I have seen it on a stand in the room east of the kitchen. It was a sort of parlor or spare room, and was so used. The stand and trunk were on the north side of the room under a looking glass. The other place, was on a bureau, or chest of drawers' in the same room. I should think uncle Noah Smith, usually kept the key.

Question: What was usually kept in this tin trunk? **Objected to:** Allowed.

Witness: Mr. Noah Smith usually kept his writings and pocket-book there. Could not tell at what time I last saw the trunk; it was within a few months. This is as near as I can come to it. There were smaller tin trunks about on the table in the kitchen, without locks. There were other places about the house kept locked. The bureau drawers were kept locked; don't recollect whether the chest to it was kept locked. Do not know that any

other places were kept locked. I have seen uncle Noah Smith open the tin trunk, and take out a pocket-book, and take money out of it. I could not say how long ago it was; I should think within the course of a year. I have seen the inside of the trunk, and know there were writings and papers kept in it; the trunk was 8 or 10 inches long. There was only one outside door to Mr. Smith's house; there was a window in the entry or stoop, with shutters and no glass; it was near the outside door. a person of common size could not go through the window conveniently; it fastened with a slide inside. Should not think a common sized person could go through the window. It was about as high as you could conveniently look out of, when standing on the floor. There are 3 windows in the east room, and a window in the pantry.

Cross-Examined—I am certain I saw the tin trunk within a few months.

Judge WAITE re-called: I did not observe windows fastened; I observed one in the east room that was not. The window by the side of the front door was shut; do not know whether it was fastened, or how it was fastened.—The beds were observed by me. The bed where they usually slept, and the beds in the house were not tumbled on Sunday morning. There was an out-house between the barn and house, some 20 by 26 feet. The first out-house east of the house is used for wagons, harnesses, grain, &c.; probably 20 by 25. The next is a corn-crib; the next a pig-pen.

Cross-Resumed.—Did not observe anything peculiar about the windows of the East room. There was nothing peculiar about the out-houses connected with Mr Smith's premises. **LELAND FAIRBANKS, Jr.,** sworn: Heard Richard Fisher testify to giving me gold beads; the beads shown to him on his examination, were the beads he gave to me; they were the only beads delivered to me by Mr Fisher. Witness exhibited a string of 12 beads, at various times identified. They were the beads and the only beads delivered to me by Silas W. Waite; the same string shown to-day, to Sarah Ann Smith and Mrs Amy Babcock to-day, on the stand, in court. The shell-box shown in court on this trial was delivered to me by John B. Townsend at the time of the preliminary examination. It was surrounded by the paper box, which was on it here. It contained a red covered book which is now in the box. I contained a roll of bank bills, amounting in all to \$58. \$5 bills on the Agricultural Bank, Pittsfield; one \$5 bill on the Chicopee Bank, Springfield; one \$5 bill on the Adams, [Mass.] Bank; one \$5 bill, Bank of Troy; one \$5 and a \$3 bill on the Farmer's Bank, Troy; one \$10 bill, Troy City Bank; one \$3 bill of the Merchant's and Mechanic's Bank, Troy; one \$5 on the Kingson, N. Y. Bank; one dollar bill on the Cabotville, (Mass.) Bank; one \$1 of the McIntyre Band, Essex Co.; this was all the money in the box; it had a few loose shells in it. The violin, case and

bow were delivered to me; I cannot tell by whom without referring to my minutes at the examination; they were delivered to me at the examination. The watch, chain, key and slide, were delivered to me on the examination, and the box and cotton around them; together with the bracelet—the same articles shown to witnesses on this trial, and they have been in my possession ever since. I kept them in my possession until they were brought into court on this trial. They were in a room that I locked, and were brought into Court by officers.

Cross-Examined.—I kept them in my office from the time I received them to the commencement of this trial. The box containing the watch, chain, key and bracelet, and the beads in the box and the 12 on the string, were kept in an iron safe. I believe Mr. John B. Gale had access to the safe; Mr. Potter also, most of the time—Mr. George J. Potter: I know of no one else who had access to it. The safe was generally locked when the office was left, but not always.

[The beads in the box, and the beads on the string, were exhibited to the jury for their particular examination.]

WILLIAM HYDORN, Sworn: Live in West Troy; am brother of Jacob Hydorn; my daughter's name is Eunice L.; my wife's name is Sarah. I know Andreas Hall. I saw him on Wednesday evening, 5th of July, at my house. He came at 7 or 8 o'clock; I don't think we had a candle lit; I was in the front room when he came in; he said, "How do you do?" I said, "Well as common; how do you get along?" He replied "First rate." He then asked me where Elisha (my son) was? I told him he was at Harris's, the other side of the river, where he was at work. He then said he wanted to see me a minute. He then opened the door and went into the hall. He then asked me if I would go up to Jake's for him. He wanted me to go up and tell Jake to come down—he wanted to see him. He said he had heard there were 3 or 4 constables after him. He wanted to see Jake, to see if he knew what they were after him for. I told him I could go, but I did not care about going.—Says he, if you will, I will do as much for you some time or other. He then asked me if I had heard of that murder in Petersburg? I told him I had just seen it in the papers. Says he, does it say who it is? Does it mention any names? No, says I; it says any person or persons, says he, they supposed me and Nick Lewis to be the ones; said he, God knows I am not guilty of it, says I, it is a bad job, whoever did do it. I then went after Jacob; saw him, and he came down. I returned a minute or two before Jacob reached the house; I was near the front door; I think Hall was in the front room. I did not see him again till next morning. He was at my house at night, and the next morning—(this was in answer to a question whether he stayed all night.) The next morning I opened the bed-

room door to call him to breakfast, and said to him, "you are here yet." He said, yes, I am here yet. He said that Gilbert had told him to hold on a day or two, until the reward got up to \$700 or \$800, and then give himself up to some one. He took breakfast with us. Don't recollect any conversation at the breakfast table. Did not see him until I saw him at the examination. I took the Troy Commercial Advertiser. The advertisement was in that paper of the afternoon of the 5th. Don't know whether Hall saw it or not. He bought a pig of me in the spring, and a fortnight afterwards paid me a dollar. The pig was \$4.50. He paid the balance to my wife, I believed I was not present when he paid her. He brought no property or bundle with him, on the evening of the 5th, that I know of. He asked me if he might stay, but gave no reason. The advertisement offered a reward of \$300: but whether for arrest or conviction, or both, I cannot tell.

[It was proposed to show by the witness, what the advertisement contained—but it was waived for the present.]

Witness continued: I saw Mr Gilbert come into the house. I went after him at Jacob's request. I did not see Andreas on the Sunday previous; did not see him the week before.

Cross-examined.—Jacob lived above the railroad bridge, perhaps 80 or 90 rods. I lived in West Troy, about 20 rods north of the Exchange Hotel, on the main-street. On the evening of the 5th, the hall door was open, so far as I know. I don't remember as Andreas complained of being unwell. There was no attempt to concealment of Andreas that night or the morning, that I saw. When I went away, next morning, I left him at the breakfast table. I don't think I told him Battershall would be after him.

Adjourned till 9 o'clock, to-morrow morning.

Fifth day—Morning Session.

TUESDAY, Jan. 23.

9 o'clock, A. M.

EUNICE L. GRIFFIN, sworn: Am the daughter of Wm. Hydorn. Was sworn at the examination, under the name of Eunice L. Hydorn; have since married. In July last lived at West Troy, at my father's. Know Andreas Hall; knew him for two or three months before July; now live at Little Falls. On the night and afternoon of the 5th of July last, I was at home. On that evening, I saw Andreas Hall, at my father's house. He came I should think between 6 and 7 o'clock. It was after sun down: It was not dark yet; it was not light enough to read by day light; this was on the 5th of July. I was standing in the front door when he came; I think I was alone; there was none of our family in the door; I think no one. He passed directly by me into the house, without saying anything. I remained in the door a few minutes; I then went into the front room, and found there my mother and Andreas.

I think they were not in conversation. I think my mother went out in a few moments afterwards. I think he then asked me if we took the papers; I told him we did. I paid no attention to the question, and he asked me again. I then got the paper, and he appeared to read it—I do not know whether he did or not. I went and got a light, after I got the paper, and set it down on the mantel piece. He appeared to read, and laid down the paper; I think he then told me that Jacob Hydorn, had told him the officers were after him. Shortly after that, he said, "there was great doings going on." I thought he referred to the 4th of July: I said "there was nothing done here on the 4th of July." Said he, no, no, I do not mean that: they have got three or four constables out after Nick Lewis and me, suspecting us of the Petersburg murder. I don't recollect any thing more that evening: shortly Jacob came in. I think my mother came in soon, and I went out: Jacob Hydorn also went in soon after her. I went into the back room, or kitchen. I gave Andreas the Troy Commercial Advertiser:—don't know what the date of it was. Had not read the advertisement for the murderers myself. Andreas made the expression, "there are great doings going on," after he had appeared to read the paper. I saw him once after that, in the kitchen. I think Miranda, Jacob's wife, was with him. I went in with Miss Clark, and stayed but a minute or two: Andreas asked if we had any thing to eat—that was all that was said; saw him next morning at breakfast at father's; said he had a very bad headache, and would lay down again. He went into the bed-room. Next saw the officers have him, on the back piazza of father's house, in the forenoon. Said he, 'Well, Mrs Hydorn, they have got me now; go and tell Miranda where I have gone. Mother said she did not know where to tell her you have gone. Mr Battershall said he would be back in a few minutes, and tell her where he had gone. Saw Andreas on the Sunday morning previous, at our house. He came between 7 and 8 o'clock in the morning, and sat down, and said to mother, 'Where's William,' she said he was gone out, she did not know where. My father did not come in while he was there. Andreas said I have come to pay for that pig—I think it is about time. He then paid her a 2 dollar bill and the rest in specie. I did not see where he took the bill from. He said 'he was tired and sleepy; he had been up all night coming through the locks; he was going up home and going to bed.' He then went off. I had not seen Andreas for 5 or 6 weeks before this. I think there was no other conversation passed between him and me on Sunday morning. On the evening of the 5th of July, I saw at my fathers, my father and mother, Jacob Hydorn and his wife, my brother-in-law John Mickel, Miss Clark, Andreas—these were all I saw. I think Andreas and John Mickel talked about the murder, but don't recollect any thing that was said by them.

Gross-Examined.—The front door of my father's house opens upon the main street, above the Exchange Hotel. House on west side of the street; it is one of a brick row; there are six in the row; my father's house in the middle; the front stoop to my father's house, joins to that of the next house. The street is the great travelled stree of West Troy from north to south. The Exchange Hotel, is the hotel right by the Ferry, at the foot of Ferry street. I don't recollect as Andreas complained of being unwell, or of having the headache, on the evening of the 5th.

EDWIN BROWNELL, sworn: I was the Proprietor of the Troy Commercial Advertiser in July last. [Copies of the Commercial Advertiser shown Mr, Brownell, and he was asked if they were issued from the office.]

Mr. TOWNSEND objected that there was no state of facts raised, which would justify the introduction of the contents of newspapers in evidence.

Mr. JORDAN said he had only proposed to show by the witness, that there was but one edition of the dates respectively. Mr. J. then asked witness, if the papers in witness' hand, of July 3d, 5th and 6th, were of the regular and only edition of their repective dates?

Objected to—and objection overruled.

Witness: They are. There was only one edition issued on each day. There was no paper issued from my office on the 4th.

RICHARD ROSE, Sworn: I resided in Troy in June and July last. I was then jailer. I know Mirandi Hydorn. I was not present at the examination at the Justices' Court.—About the time of the examination, received from Mirandi Hydorn a gold watch, chain, box around them, key. I delivered them to Mr Fairbanks. [These articles exhibited—witness thinks they look very much like the same.]

Cross-Examined.—I was at the jail when Hall was brought there, on the 6th of July.

Question.—Was it generally, among the people with whom you associated in the city, for two days previous to his arrest, suspected that Hall was engaged in the Petersburg murder?

Objected to.

Mr TOWNSEND went on to state, that he had no concealment as to the object of the testimony. It was to show, that prior to the evening of the 5th, when Hall first spoke of the murder, there was a suspicion against him current among the whole community in Troy and West Troy: and that Hall, did not, on the evening of the 5th, made up the suspicion existing against himself, of his own head. That it was reasonable to suppose, that if the whole community were impressed with the suspicion, and warrants were issued, and officers on the alert, it is not just to suppose that his own statement that he was suspected, arose from his own mind.

The DISTRICT ATTORNEY contended, that it was not competent to introduce general rumor.

Mr TOWNSEND went on to say, that a large portion of the time of the Court was taken up in undertaking to show that the first statement by Hall, that he was suspected, arose from his own imagination. It was proper that the defence should have the privilege of showing by competent testimony, the contrary presumption. He should have the right to answer. The public prosecution makes an allegation that because the prisoner knew he was suspected, that therefore he was guilty. We shall show that there is no good ground for such a conclusion.

The DEFENDANT offered to show that it was commonly talked in Troy, among the persons with whom the witness associated on the 4th and 5th days of July last, that a man by the name of Hall, was suspected of the murder of Amy Smith and Noah Smith; and that several constables were actually after a man by the name of Hall on both of those days.

Mr JORDAN, insisted that it should be shown that the knowledge that he was suspected, should be brought home to Hall—either by a printed or written publication, or by a verbal statement to him, or in his presence. The issue was, did Hall know he was suspected? If he did, how did he obtain his information?

The COURT ruled that the Defence might show that the officers were in pursuit of a man named Hall, on the 4th, and 5th of July; but that the Defence might not show that it was commonly talked among witness associates in Troy, that one Hall was suspected, without bringing the act home to the knowledge of the prisoner.

Witness says—

Officers were in pursuit of Hall one day certain, before he was arrested; Troy constables. Had not been out myself looking after Hall, previous to the 6th. I can name Henry Phillips, Joseph F. Battershall, Ezra Defreest, as constables in pursuit of Hall.

Direct-Resumed.—The constables informed me they were after prisoner on the 5th. I was with them on the 6th.

Cross Resumed. I saw Phillips, Defreest and Battershall, on the 5th. I was not with them: I do not know that they were after Hall, of my own knowledge. I am Deputy Sheriff. My impression is that I advised the officers to arrest Hall. I claim no share in the \$800 reward offered. Did not go to see the Governor previous to his offering a reward of \$500.

Direct Resumed.—Don't recollect positively that I advised them to go after Hall. I had a conversation with them on the subject. I had conversation with Mr. Phillips, one of the constables, and with Mr. Stephen Reynolds. I think I probably advised them; but what particular thing, I don't know. I have no distinct recollection of advising either of them on the 5th to arrest Hall. I saw Mr. Phillips and Mr. Battershall on the 5th July. First saw Mr. Phillips on the corner of Congress and Fifth Street, and Mr Battershall at the office; don't recollect that I saw Mr. Battershall afterwards on that day. Mr Reynolds and I were standing on the corner of Congress and Fifth, and Mr Phillips came along. Mr Battershall and Mr Phillips were at the office.—They talked about the murder while they were

there. Don't know where they went. Don't now remember that I saw them again that day. Don't now recollect anything further on that day. I knew Andreas on the 5th; did not see him on that day.

JOHN B. TOWNSEND, Sworn: On the 1st of July last, resided in the City of Troy. About that time I received from constable Henry Phillips a paper box, enclosing a mahogany shell-box: Mr Phillips resided in Troy. [The shell-box, &c. exhibited to witness, Thinks the same one he received.] The shell box was locked when I received it. I opened it, with a key. It contained a red morocco bound book, and money—bank notes. [Book shown witness—identified.] I think there were \$57 in money, made a memorandum: [shown] there were \$58. I locked up the box and contents, and gave it back to Mr. Phillips: he brought it to me to open. At the examination, I received it from Mr Phillips, and gave it to Mr Fairbanks. The contents were the same on the examination, as when I first saw it.

HENRY PHILLIPS called.

Mr. TOWNSEND objected to the competency of the witness, on the ground that witness claimed an interest in the reward of \$800 offered for the conviction of some person for the murder.—Insisted that the witness be sworn on his *voir dire*.

Sworn accordingly: I claim an interest in the reward offered for the prisoner, in case of his conviction.

The COURT ruled that the testimony of interest was sufficient to exclude the witness.

SARAH HYDORN, Sworn: I am the wife of William Hydorn, saw Andreas Hall at my house on Sunday, the 2d day of July last, at about 7 o'clock in the morning. He paid me some money for a pig he bought of my husband, I should think in the month of April previous. He asked me where my husband was, as he wanted to pay for the pig, as he thought there had been fuss enough about it. He said he ought to have paid it before according to agreement, but it had not been convenient. He said he had just came into West Troy. I think he said he had come off the canal—am not positive. I took the money for the pig, and went out, and was gone ten minutes, and when I returned, he and my daughter were talking about boating. He said to me that boating was very bad, ugly business, and did not amount to much after all. He said he was very sleepy and tired, and he believed he would go up home & go to bed. I had known Andreas by sight ever since he was a boy, I have seen him frequently within the past two or three years. I thought he looked rather dull and fatigued; that his conversation was rather quicker: he spoke quicker than usual. My husband, myself and Mrs. Griff

Sixth day—Morning Session.

WEDNESDAY, Jan. 24, 1849.

9 o'clock, A. M.

WILLIAM H. ROCKENSTYNE, called and did not answer.

JAMES BARBOUR sworn: In July, resided in West Troy. Know the prisoner by sight: did not know him then by sight. On the Sunday morning before the 4th of July, he was there. I keep a vaulting cellar in West Troy. He was there about noon. A man by the name of Fleming, and others, were with

him. They ate oysters, and Hall paid for them. I saw the prisoner have paper money that day in a roll of bank bills. The roll was about an inch through. He spent \$1 at my place that day. I did not see him have any other money that day.

Cross-Examined.—My grocery is a few doors above the covered bridge of the side-cut: a short distance above the weigh-lock, on the east side of the canal. My place looks out, or fronts, on the canal.

WM. H. LEWIS.—In the latter part of June, I resided in Petersburg, about a mile from the late residence of Noah Smith, on the road from there to Petersburg village. I know the prisoner, and have known him for 10 or 12 years. I saw him not far from the 15th or 20th of June, near my house.

The PROSECUTION offered to prove by the witness, that shortly before the murder, about the 15th or 20th of June, witness met prisoner first at dusk within one mile of Noah Smith's house. Prisoner had a gun upon his shoulder, and a large table knife in his hand. Prisoner showed the knife to witness, and asked him if he did not think it was good stuff; told the witness he was going to break off the point, and have it ground sharp on both sides, and to a sharp point, and said he meant to carry it about his person. Witness told him he ought not to carry it; the authorities would interfere. Prisoner said he did not care for the authorities; he had a right to carry such a knife, and would do it. Witness asked what he was going to do with the knife, and the prisoner laughingly replied, to 'skin wood-chucks.'

The PROSECUTION stated further, that they intended to show that prisoner was at about the same time, repeatedly seen in the evening in the same neighborhood with a loaded gun on his shoulder.

The DEFENCE insisted that it was not competent to go into circumstances of the life of prisoner, which have no sort of bearing upon the murder. The knife was not a pointed one; there were 20,000 knives in Rensselaer county, as sharp as that. There was nothing suspicious or improper in his position and appearance that evening. The counsel stated that his experience as a public prosecutor, was, that where there was doubt as to the propriety of testimony, it was to be excluded when a man was on trial for his life. Then there is the gun. What has the gun to do with this business, when Mrs Smith was killed with an axe. The counsel said the object of this testimony was to attack the character of Hall indirectly; to show that he was a bad or suspicious fellow. This was the only object of this testimony.—They had no right to go into it.

The ATTORNEY GENERAL insisted in a long and ingenious argument, upon introducing the testimony.

Mr TOWNSEND repelled the idea, that the Defence could properly be placed in a position where they must be compelled to show

that every position, capable of suspicion, for time or times previous, in which they were placed, was devoid of suspicion. It was not right or just, that at this stage of the trial, the prisoner should be thrown in such a position. He claimed that there was not a doubt that the testimony was irrelevant.

The COURT sustained the objection to this testimony, and the witness left the stand.

PERRY HALL, re-called: On my first examination, I said the prisoner came to my house 8 or 10 days before the sheep shearing. He boarded with me. I do not know of his going out any night with a loaded gun. I think he was gone one or two nights. I cannot tell what nights they were: I think one was Sunday night: I think the first after he came. It could not have been the last Sunday, as on that day, he and I sheared sheep all day together. I know Giles S. Odle:—think it probable I may have talked with him about Andreas being out nights. Do not know that Andreas ever had a gun or knife with him at night. I know George J. Potter, of Troy. He came to my house soon after the murder was committed; some time in the fall, about the time we were harvesting corn. This was the only time I saw him there. We went into Sanford Hewett's woods, hunting squirrels and partridges: that was all the object we had. I had seen Mr. Potter before, in Troy, after the murder was committed. I asked him at my house to go a hunting. He did not come out on my invitation. He said he came out to see if I could not raise some money to pay counsel, he was one of them. He did not go hunting after money. He did not find any. There was nothing said between us about the trunk or money-box: nothing of the kind mentioned. We started at eight or half-past eight in the morning, and returned at about half-past 12. It was a week day: I was engaged in corn harvest. I had been hunting before during that corn harvest: frequently went hunting.

Cross-Examined.—Mr Potter arrived at about dusk the evening before: stayed at my house all night. I don't know that he had any other business than getting money for counsel. I think he was counsel for the prisoner at the examination before the justice. Shot 5 grey squirrels: Potter shot at them, but killed none. He left my house at about 2 or half-past 2 in the afternoon. He had a horse with him.—I was with him all the time he was there. We sheared sheep on the last Sunday Andreas was at my house, at Joseph Clarke's.—Commenced work at about 8 o'clock in the morning. Joseph Clark lives in the east part of the town, between 3 and 4 miles from David G. Maxon's. I worked with Andreas all day. We got through when the sun was an hour or an hour and a half high. Andreas then went home with me; this was the day before we sheared at Noah Smith's. David G. Maxon's house is more to the west part of the town. My residence is at the south east part of the town. Joseph Clark's house is

about three miles from mine. To go from my house to Clarks, do not go in the same direction as when we go to Maxon's house.

Direct Resumed—Did not shear sheep the Sunday before. Do not know where I spent the day. Do not know where Andreas was that day. Did not shear sheep that Sunday after I was at Clark's. Did not raise any money for Mr Potter; did not attempt to raise any. He communicated his errand in the evening. I told him I was not able. There were other conversations at that time; after he started for home; there might have been something said about it the next morning, and there might not. I let Andreas have money a year ago last winter; I think it was \$5. Don't recollect letting him have money at any other time. Five dollars was the largest sum I ever let him have at any one time.

Cross Resumed—I have not let Andreas have any money since the murder. Have not raised any money for the defence of the prisoner in this case. Mr Potter has since requested me to raise money for the defence of the prisoner. One reason why I did not raise money, was, that I was not able: I am owing money, and those I owe, are prosecuting me.

Direct Resumed.—I did not think I was able to furnish any money. Rensselaer Stewart prosecuted me: I owed him \$2,50. A note of hand for \$7 was also prosecuted. These were all the prosecutions. Sanford Wells prosecuted the note. I do not know the prosecutions were commenced to prevent me from raising money, but think they were. The note had been due a year, and the \$2,50 for three months. I was prosecuted again after the murder, for the sum of \$6 or \$7, by Harry Stillman. It had been due for some 5 or 6 months, or more. I think I had not been prosecuted before the murder. The stories that had been told me by my neighbors, make me believe that I was prosecuted to prevent me from raising money. Giles S. Odle told me that he had heard that I had bound myself to the lawyers for \$100. He asked me if it was so: I told him it was not. I do not know that I owe him any thing. Do not recollect any other stories.

Cross-Resumed—In that conversation with Mr. Odell I told him I was not able; that I owed; and that if I did, those I was owing would come upon me, and take all I had from me. I think Mr. Odell told me that he would not bind himself if he was in my place: don't recollect that he said it would ruin me if I did. I don't tell what I should have done, if the prosecution had not been commenced.

Direct Resumed—I told Mr. Odell I could not raise the money, and he said he would not do it, if in my place.

Cross-Resumed—I heard the story told me by Mr. Odell from Joseph D. White, and from Justice Nolton. I think Mr. White told me that the reason why I was prosecuted on a demand or demands, was, that it was understood I had bound myself to the lawyers for \$100.

I was otherwise in debt, than I have here mentioned; debts that were due.

Direct Resumed—Justice Nolton and Mr. White told me that it was understood that I was bound for \$100. I told them that I was not able and could not raise any money.

ELIZABETH HAMER, Sworn: In July, I resided on Green Island. I recollect seeing the prisoner at my house on Sunday, the 2d of July last. He paid me a small bill he owed me, in the forenoon, between 9 and 11 o'clock. I saw him have a roll of bills, some silver. He had his money in a steel purse, I think: he took the bills and silver out of the purse, and threw them on the counter. He asked me if I wouldn't like to have it. He said he had a hundred, or over a hundred dollars. He took the money out and looked at it, and was paying me a small bill.—He had owed the bill to me for five or six weeks. I did not know the man's name. The amount of the bill was 6 pence or 7 pence. The man was the prisoner at the bar.

SYLVIA C. GILBERT, Sworn: In July, resided in West Troy. My husband's name is Lyman Gilbert. I have known Andreas Hall since a year ago last spring; saw him on Tuesday before the 4th of July last, at about 6 o'clock. He stayed that night at my house, and left on Wednesday forenoon. During this visit, on Wednesday, at breakfast, I had a conversation with him in reference to a legacy. He said, I am going to have money from my grand father's estate: my uncle has come down to settle the estate. The next time I saw him was at about 1 o'clock in the afternoon of Thursday, the next day, at my house.—was not at my house after Thursday, that week, to my knowledge. I recollect Sunday morning, 2d July last: Prisoner was at my house, at about 7 that morning. Do not know what his business was: I did not see him: I heard him speak.

Cross Examined—I formerly resided in Sand Lake, what is now called Poestenkill; four years ago last December, Andreas had been employed in boating for my husband before July last; the last time, in June last, at the upper skiff ferry at Troy. They were running in opposition to the other Ferry; They sometimes had controversies with the men of the other ferry. The business was not stopped because it was unprofitable, but on account of the contention. Andreas before July had boarded in my family; he was there several weeks since the 1st of March last. He boarded in our family the year previous. Andreas left 50 dollars at our house in my possession in March last. I remember William Hydorn coming after my husband in July, just before Andreas was arrested.

Direct resumed—The prisoner, I think said his brother paid him the 50 dollars. Did not give the name of the brother. I don't recollect that he said anything more. It was about the middle of March. The money was in silver. He came into the house with it, in a red silk bandana handkerchief; he laid it on the man-

tel shelf, and went away and left it there for an hour or so; then came in and took it down and counted it. I know the amount only by judging by the quantity, and what he said. Dollar pieces were piled 5 in a place; there were half dollars, and some small change. Prisoner said on that day, that he had worked for his brother through the winter.—[counsel added, brother Perry.] I saw Andreas take the money away from my house; I next saw him towards night, he had a suit of clothes with him; a whole suit, throughout; A black fur hat; a black broad cloth coat; a black satin vest with blue stripes; black broadcloth pantaloons; black silk cravat; a pair of new boots; a pair of socks; a gold ring, a silver ring, and a breastpin. All these garments were new. This was on Thursday, the day before St. Patrick's day. Said nothing about having paid for these articles. I don't recollect his saying what he paid for any one article. I saw him have money after that Thursday; the Sabbath following; don't know what amount. I saw it; it was in bills. I did not pay attention as to the number; should say there was more than one; they were loosely in his hands. Before that Thursday, I have seen him have money; could not say what amount; sometimes in bills, and sometimes in specie; frequently saw him have money when he was at work for my husband; frequently saw my husband pay him money when he was at work for him, in small amounts. Before this Thursday, saw him have trifling amounts of money; no great amount. A shirt was one of the articles brought home on Thursday; a new one, and a new pocket handkerchief. Don't know what wages Andreas had when he worked for my husband; think he had a dollar a day on the ferry; don't know how often he had his pay; saw my husband pay him several times. He worked for different wages, at different times. Boarded with us most of the time, when he was at work for my husband. I can't say how long he worked for my husband in 1848; should think about 2 months; think he worked at other business besides ferrying. I don't recollect whether he was on the lock with him last spring, or the fall before; don't know as he worked at any thing except ferrying last spring. I think the dollar a day was over and above his board; derive my knowledge from what I heard them say. Frequently heard them talk about the wages; heard no particular agreement. Andreas was to have a dollar a day and board. He did not commence as soon as the river opened; commenced about the 1st of April, 1848. My husband must have quit ferrying in June but cannot tell what time in June. It might have been the middle, and might not have been as late. My husband was not on the ferry himself. Andreas remained with my husband till he gave up ferrying. After the ferry was given up, Andreas took one trip on the Canal, I think. I don't know of his doing any thing else. I knew he was engaged in ferrying, by seeing him and going across with him. I

probably saw him every day; every time I went to the door, I could see him crossing the ferry.

Cross-Examined.—Don't recollect an arrangement that season, by which Andreas was to have my husband's boat, and ferry on his own account. There was an arrangement by which the hands were to have what they could make after 9 o'clock, at night. The lock my husband had charge of, was four or five rods from our front door. I have lived there a year and a half: have been there through two summers. In locking boats through, the hands have to get out upon the paths each side, and see about the lines, &c. I had heard that Hall was suspected of the Petersburg murder, before William Hydorn came after my husband to go to his house; I heard of it that day, about noon.

Direct Resumed.—I am the wife of the Mr. Gilbert who was sent for by Andreas to go to William Hydorn's. He was appointed Lock Tender a year ago last spring, and was lock tender during 1847 and 1848. I think Andreas was not employed on the lock, last spring. The arrangement that the hands were to have all they made after 9 o'clock at night, I did not hear made: I heard it talked of. I frequently heard Andreas say he would work so and so: did not hear my husband say whether he would do it. I do not know of my own knowledge how much money my husband paid Andreas for work.

Cross resumed.—My husband lives in West Troy, and is now I believe in the Court House.

ALBERT HALL, Sworn: Live in Petersburg: am a brother of Andreas, and the only brother except Perry.

Question: Did you ever let Andreas have \$50?

Objected to.

Mr. JORDAN said an important point in the case was the possession by Andreas of a large sum of money for him, and which he was called upon to show where he probably got it. It was shown that the day before St. Patrick's Day, he had \$50, which he said he got of his brother. It is also shown, that he received money for his earnings. I wish to show that he lied, when he said he got \$50 of his brother.

Mr. TOWNSEND insisted that the prosecution called out the testimony of the possession of \$50 in March, and were not entitled to re-but that testimony themselves. This is not an ecclesiastical trial against lying. If Andreas be found guilty of lying in this instance, it does not illustrate the question as to whether Andreas Hall murdered Amy Smith on the 1st day of July last. Even if we were undertaking to show the good character of Andreas, the prosecution would not be entitled to show that in an isolated instance he had told a lie.—

Mr. JORDAN fully agreed with the counsel, as to the rule of evidence in regard to character. They prove that in March he had \$50: and in the spring he worked on wages. If not material, why did they prove it? It was a strong

point for them to show that he had money, by which he came honestly, that he might spend for the trinkets he bought. They seek to show that the prisoner had the \$50 in addition to his earnings. Andreas says he got it of his brother.—We wish to show that he did not. If not, where did he get it? Was it, or was it not, a part of his earnings?

The COURT remarked that the answer would not illustrate whether Andreas obtained the money of Gilbert for labor, as Andreas commenced work in the April following the March in which prisoner had the \$50.

Objection sustained.

SILAS W. WAITE, recalled: I was the first person that entered Noah Smith's house, on Sunday morning. I examined the wounds of Mrs. Smith as she lay upon the floor. Did not at any time see any gold beads. I think I first entered the east room. I did not see any tin trunk. My impression is I saw a table under the looking glass. There were traces of blood—tracks—that had gone from the body on the floor, made after a person had stepped in the blood, into the east room, and through it into a bed-room in the south-east corner of the house. There was the appearance of blood on the top of a trunk which stood under the east window on the north side of the east room. It was a wooden trunk, with either paint or paper on it. It was probably a two foot trunk. The appearance on the top of the trunk was as though a person had stepped upon it with nails in the heels of a shoe or boot, & the heel had been screwed round on the trunk, as was observable by the print as though the person had turned a little upon the heel. The window under which the trunk stood was not fastened. There were tracks of a person outside of the window, which went to the bank towards the north. There was a field of oats in the south end of the lot in which the house and barn stood: the path near which Mr. Smith's body was found led towards the field of grain. The pasture was adjoining the grain field. No weapon was found in the vicinity of Smith's dead body: strict search was made.

Cross-Examined.—Went into the east room, almost immediately. I opened the door to let the others in before I stopped at the corpse: then returned and examined the corpse: others came in.

Direct Resumed.—My opinion is, that I was the first who entered the East room.

Cross-resumed.—My attention was probably first called to the question of the tin trunk, at about 2 or 3 o'clock.

SUZAN ODELL, sworn: I was at Perry Hall's in the month of June last. Saw Andreas Hall there. He left there the 27th of June. I saw him take a shirt from the clothes line; it had been washed, and was hung there to dry. It had not been ironed.

Cross-Examined.—It was between 8 and 9 in the morning.

Adjourned to 3 o'clock, P. M.

Afternoon Session.

Three o'clock, P. M.

[The number in attendance was larger than yesterday. The number of ladies this afternoon, was not as great as yesterday—tho' still large. The Court House containing even more spectators than could be seated. All the doors of entrance have been closed throughout the trial.]

LELAND FAIRBANKS, recalled: The watch, chain, key, and box and cotton, exhibited here, were handed to me by Richard Rose: they are the same as were handed me by him.

THE PROSECUTION rested; announcing that they were through except testimony which might be introduced as rebutting evidence.

THE DEFENCE.

Mr. TOWNSEND, of counsel for prisoner, said they would not make a formal opening—as both counsel on the Defence would sum up.

The first witness called by the defence, was GILBERT CROSEY, Sworn: Am the Sheriff: reside at the jail. Was not at the office when prisoner was committed. Have known a hat there, that was called Hall's hat, it was kept in the office. It was worn off by: off the prisoners: by William Stansell. The brim was 6 inches wide, certain. It was a straw colored.

Cross Examined.—The hat was the color a straw hat would be, a little worn. Do not know what hat the prisoner had on when arrested: I was not at home.

ISRAEL S. MATTHEWS Sworn: Reside in Troy: am engaged in the Ready Made Clothing business. I saw the prisoner before he was arrested last July. He left some money in my hands in March or April last, a my store, the 2d door above Congress street on River street. He left between \$40 and \$60 I rather think it was April: don't know certain. He left the money in the afternoon, and took it away the next forenoon. He carried away over \$20. The balance he paid to me for a suit of clothes.

Cross Examination.—A coat, vest, and pantaloons, were comprised in the suit of clothes, no boots, shirt, bosom, pin, or a gold or silver finger ring; and I think not a cravat, socks or pocket handkerchief.

Direct resumed.—Think prisoner never offered to lend me any money.

Cross resumed.—The money left by prisoner with me was in April or March. I thought once that it was longer ago, but from a change of clerks in the store it was about that time, I am certain it was in March or April.

LYMAN GILBERT, sworn: I am the husband of the lady who was sworn here this morning. I know the prisoner. He was in my employ last year; a year ago last summer, a part of the time. He was in my employ a

part of last season. Last season, he was rowing a skiff ferry. I believe he did not last season hire a boat of me, and run it on his own account. I think he was not employed any upon the lock in 1848. During the last days of June, and the 1st and 2d of July, I do not know that there were more than two ferry companies between West Troy and this city. They started from the other side—(West Troy.) The boats were kept on the other side. There were no regular ways of crossing at that time, except by these ferries and the bridge. I was a lock-tender by appointment in 1847—but not last season. I tended lock last season. In passing a boat through a lock, the assistance of the hands is necessary, in order to carry a boat safely through. The hands have to get on shore—on the lock. I remember that on the 5th of July, William Hydorn came for me to go down to his house. This was about 11 o'clock at night. I had previously heard a man named Hall was suspected of the murder of Mr Smith and wife—learned it some time that day; had been engaged during that day on the lock near near my house; am not positive whether it was before or after dinner. I heard Andreas Hall was suspected. I went down to William Hydorn's. I saw Jacob Hydorn there and his wife; there were several other persons there I did not know. My residence was at the side-cut in West Troy; about a quarter of a mile perhaps a little more, from William Hydorn's. I was not in the house of Jacob Hydorn the next day; it was about a half a mile north or north east from my residence—making it about $\frac{3}{4}$ ths of a mile from William's—I think it was over $\frac{3}{4}$ ths of a mile. I do not recollect that I had any conversation with Jacob Hydorn at William's; directly, I had a conversation in which Jacob took a part. Jacob Hydorn said that Hall stayed at his house that Saturday night; I suppose he meant to tell it to me. He said he would swear to it, if he was called upon. I stayed nearly half an hour, perhaps quite. I next saw Andreas in the Court House, after his arrest.—When I went to William's that night, the front door was open.

Cross-examined.—I said I did not have any conversation with Jacob Hydorn, directly; there were others talking. Andreas Hall, his sister, and some others, I don't recollect who. His sister was Jacob Hydorn's wife. The conversation was in the kitchen. I did not then know Eunice L. Hydorn, now Mrs. Griffin. I could not tell whether she was in the kitchen at that time. I knew Wm Hydorn then. I don't recollect whether he was in the kitchen when that conversation took place. I don't know that I should now know William's wife, if I were to see her. I think there were several women in the kitchen besides Jacob Hydorn's wife at the time of the conversation—am not certain.—I think there were two or three, going in and out. I knew none except Mrs. Jacob Hydorn. I know Cornelia Clark, by sight, I think. I did not know her at that time: think I should know her now. I could not tell whether Cornelia Clark was or was not one of the females in the kitchen at that time. I could not say whether William's wife

was or was not one of the females present. I think there were about three females besides Jacob's wife—am not positive—should think there were as many as that: can name none of them except Mrs. Jacob Hydorn. I don't recollect that there were any male persons present, except Andreas and Jacob: can't recollect whether William was in the kitchen at the time of the conversation. It is possible that William was there. I don't know as I saw any male persons in that house that night, except William and Jacob and Andreas. Saw no females in the house that I knew except Mrs. Jacob Hydorn. Cannot be certain as to the number of females in that kitchen, besides Jacob's wife. Don't recollect any persons engaged in the conversation, except Jacob's wife, Jacob and Mr. Hall. I mean Jacob's wife, by Mrs. Hydorn. I believe I was not in the bed-room off the kitchen. The story about Hall's being suspected of that murder was talked over, and Jacob said it could not be so, as Hall stayed at his house Saturday evening, the first of July. Jacob said he could not be guilty as he stayed at his house that night, and he would swear to it. I don't recollect who was speaking at the time Jacob made this remark. I don't recollect whether I said anything to Jacob before he made the observation; don't recollect as I made any answer to it. William Hydorn went to call me down. I learned after I got there, from the conversation, that Andreas was suspected of the Petersburg murder, and was in a fight, and got his face marked; and I understood that I was wanted to advise with him. The matter was talked over by Jacob, Hall, and his sister: they did most of the talking; I was mostly a hearer. I went first through the hall, into the kitchen. Andreas and I were in the kitchen alone, a spell. This was after this conversation; believe we were not alone together before the conversation. Don't recollect that I heard any conversation between Andreas and Jacob or between Andreas and Jacob's wife, in the bedroom. Did not go into the front room before I went home, after the conversation with Jacob. William found me at home, that night, in bed. I had been out on the lock all the evening, and had just got into bed. I don't recollect whether I was in a tavern or grocery that evening, before William came to my house. I was employed by Mr Adams, Superintendent, the last of June, and by Mr Peck, the first of July; George W. Peck. He was appointed lock-tender for those two locks. I think likely I had been drinking that evening; generally drink when I am dry. Don't recollect of going into any grocery or tavern that evening.—William walked down with me, from my house to William's; think no one went home with me. When I went into William's house, the persons there were standing principally. I think Andreas Hall when we were in the kitchen made a remark that he wanted to see me alone. I think he did not propose going to any particular place, or make any motion to go in-

to the bed-room; I believe those who were in stepped out of the room; think some of them returned while I was in the kitchen—it is my impression; am not positive. It is my impression that the conversation with Jacob was before they left the room. I think there was conversation between Andreas and myself after they left I should think it continued five or ten minutes; may be not more than five. Don't recollect whether there was any conversation in reference to the suspicions, after they returned; guess not. I don't recollect how long Andreas rowed for me on the ferry last summer; think it was about two weeks; he did not do anything else for me that I recollect last year. I don't recollect that Jacob's remark was in reply to any particular question. He, and Hall and Mrs Hydorn, were all talking immediately before that; and several other ladies in another part of the room were talking. I don't recollect that I had said anything. The reason why I supposed Jacob meant I should understand it, was that I was sent for; that they wished to convince me that he was innocent. I think Andreas requested me to lend him money in May or June; it must have been some weeks before, say 5 or 6. He asked me 4 or 5 weeks before, to lend him a dollar or two; and 2 or 3 weeks before he asked me to lend him 50 cents. Hall boarded with me some when he was not at work, not regularly, and none for which I charged him anything. I did not see the prisoner from Friday afternoon at 5 o'clock, till Sunday morning; was about my work during that time.

JACOB HYDORN, recalled. I lived on Green Island 6 or 7 months; when I came this side of the river, I crossed the bridge. I have passed the bridge in the night, and have seen what was called a watchman; kept there for that purpose. Don't recollect having seen Andreas' straw hat in the Sheriff's office. Did not observe his hat at the examination.

Cross Examined—I remember Lyman Gilbert being in William's kitchen the day after the 4th. I believe I saw him when he came in.—Did not, to my recollection, say on that occasion, that Andreas was at my house on Saturday night, and that I would swear to it. I believe Gilbert came in after my conversation with the prisoner in the bed-room. If I recollect right, when Gilbert came in, Andreas said he wanted to see Gilbert alone, and I left the kitchen; don't recollect whether my wife came out. There might have been something said after Gilbert came in and before I left, but I did not bear in mind what it was. My wife and Cornelia Clark, are all the females in the kitchen that evening; that I recollect; the only other females in the house that I saw that night, were William's wife and daughter.

Direct resumed—Think I saw Luther Sweet when I went to Petersburg. Can not recollect whether I said to Luther Sweet, that I would swear that Andreas was at my house on Saturday night. Did not say to him that An-

dreas did stay there, according to my recollection.

LUTHER SWEET, Sworn: I know Jacob Hydorn. Saw him on Thursday next after the 4th of July, at Petersburg, between Dr. Moses' and my house. He staid where Andreas Hall staid on the Saturday night before; he said he stayed at his house.

Cross Examined—I did not ask him any question: we were talking about Andreas' being guilty; Hydorn said Hall can't be guilty, or couldn't be guilty, as he stayed at his (Hydorn's) house that night. Mr Rose, the jailor, Perry Hall and two or three others, were present.—Don't recollect that he said anything about swearing to it.

EMERSON ROSE, sworn: Reside in West Troy. I am husband of Almira Rose, who was examined yesterday. I know the prisoner; he had some money sometime in June. He offered to lend me some, and I took it, and gave it back to him. It was \$23 or \$25: two 10's and a 3 or 5—I think a 3. I guess he let me have it one day, and I let him have it the next: I think that was it.

Cross-Examined.—Gave no note, nor made any memorandum of it. Don't recollect what bank the money was upon: don't know whether the money was good or not. Gave the money back. I did not want to use it: did not offer to pass it. I do not know the day of the month. Think it was the forepart or the middle of the month. It was before the 4th of July; am not certain of that. He was at my store. Cannot tell by any date or event, when it was he let me have the money. Cannot tell whether it was the week before the 4th of July or not: it was before the middle or about the middle, as near as I can recollect. It was before he went to Petersburg to stay. The last time I saw him, he said he was going out to Petersburg to work: the money was loaned before that: I cannot tell about how long it was before that. He did not after that apply to me to borrow money: after he loaned me the money, I let him have two or three shillings when he was in a suit, and said he had not money enough. Did not show the \$23 to any body: put it in my pocket-book. I might or might not have taken it out before I gave it back: my own money was in the drawer. I generally take notice of money to see what bank it is on. I don't recollect what bank the money was on.

Direct resumed—I kept a victualling establishment. Was in the habit of taking in money every day, and paying it out. Supposed the money to be good when I took it and paid it back.

Cross-resumed.—The 2 shillings I let Hall have, were to pay for some bonds.

Question.—What bonds?

Objected to.
Witness: Presume it was to pay for the drawing of the bonds. It was to be paid to the justices for fees. I let Hall have the money—he said he had not enough into so much. This 2 shillings I lent Hall was before he went

to Petersburg. When we were going across the river, he said he was going the next day to work somewhere. It was no part of the reason why I did not use the money, that I understood there was any difficulty about it. I knew of no difficulty at the time I took the money; I heard of it, about the time I lent him the 2 shillings.

Direct resumed—Hall was suspected of the murder a few days before he was arrested.

Cross resumed—Heard it at a good many places—on that side of the river, and on this side. I heard of it more than a day before he was arrested; perhaps it might have been a week; don't know as it was a week, couldn't say.

RICHARD ROSE, recalled: I do not know that Bill Stansell wore away any hat. Hall had on a palm leaf or straw hat, when he was committed. It was put in the office, and remained there until I left for the east the latter part of August. The hat and Bill Stansell were gone when I returned. Mr. Walker stayed in the office while I was gone. There was no other hat there they called Hall's hat.

CORNELIA CLARK recalled: I saw prisoner have some money in April. I was at father's house: it was paper money. It was unfolded and laid out on his knee. There were quite a number of bills: it was a 5 dollar bill. He took the money out of his pocket. He carried all the money away with him. I saw the size of only one bill.

Cross-examined.—Did not count the bills; should think there were 4 or 5 or 6, if not more I did not ask him what he had it out for; do not know. I don't know in what employment he was; it was before he began to ferry; it was shortly after Hydorn moved on to the Island. This was not the last time I saw him have money. He almost always when I saw him had money; not a great deal; sometimes he had bills, sometimes silver; I did not look to see how much it was. Sometimes he would have one bill, sometimes two. I was in the kitchen at William Hydorn's, the night Lyman Gilbert came in. I heard Andreas speak to Mr. Gilbert, and ask him if he had heard the stories they had got about him. Andreas said he knew he was not guilty of that, for he was not there at that time. I don't recollect of anything else. He did not say where he was. I left the room then, and Jacob Hydorn and Mrs Hydorn left with me. I don't recollect that Jacob or his wife had any conversation after Gilbert came in before I went out; was not paying attention to what was said. I should have heard it, if any thing else had been said. Mrs Griffin asked me if I would not like to go in and see Andreas.—She went in with me; did not come out with me; came out before. My motive in going in was not particularly to hear what was said; went in partly to see Andreas. I don't recollect how I came to go out, nor that anything was said that Andreas wanted to see Gilbert alone. Don't know why I went out when I did. Did not hear Jacob say anything about

Andreas having been at his house the Saturday night before.

Mr TOWNSEND said he believed the testimony for the defence was now through.

Mrs WILLIAM HYDORN and daughter were re-called by the prosecution. They were not in the house. It was then agreed by counsel on both sides, that the testimony was closed.

The COURT especially enjoined upon the jury their duty in refraining from conversation with themselves or others, and hearing conversation on the subject—and the testimony had been brought to a close.

Adjourned till 9 o'clock to-morrow morning.

Seventh Day-Morning Sessoon.

THURSEAY, Jan. 25, 1845.

9 o'clock, A. M.

JOHN B. GALE, Esq. opened the case for the defence by remarking that he would, inexperienced as he was, have left the summing up to his learned associate, if he could have believed that his whole duty to the Prisoner would have been thus discharged. He insisted that the case was in itself a doubtful one, or the able public prosecutor of this county would not have called to his assistance, the ablest advocate in the State of New York. The case is one of that peculiar character, embodying such a mass of testimony that a master mind can mould, shape and color to his will.

He went on to speak at large upon the disparity of counsel, and referred to the testimony and the persecutions of Perry Hall in Petersburg, as showing the advantages of wealth, and the misfortunes of poverty.

Gentlemen: The only question in this case is, whether the prisoner killed Mrs. Smith. He is presumed innocent until proved guilty and that presumption is to remain in your minds until forced out by contrary presumptions of the prisoner's guilt.

At the opening you were informed that the evidence was circumstantial; and that in cases of this kind it must of necessity be circumstantial—for the perpetrator does not take a witness with him. He would make a remark or two under this head. The counsel went into an examination of the character and circumstantial evidence worthy of legal consideration; that a greater degree of certainty is requisite on a criminal case—the jury being bound to acquit the prisoner in all cases of doubt. Lord Hale laid down the rule that he would not convict a man of felony, even if the property were found upon him, and he could not account for it, unless the loss of the property was proved. Several cases were quoted by the counsel, showing the necessity of caution in the action of a jury. He went on to remark upon testimony of the appearance of a suspected person: as of doubtful character. These suspicions, especially in the minds of those pre-disposed to believe them true, gath-

er fearful strength, until at last they become thoroughly convinced.

I shall examine the question in the following order.

1st.—As to the Prisoner's conduct before the murder.

The first testimony in the order of time was that of David G. Maxon, testifying that Hall and Nick Lewis were in conversation together on a Sunday prior to the murder. They proved nothing else; but the object was to get a simple innocent circumstance, upon which the counsel might hang a picture of horror of his own creation. But the fact that Hall was shearing sheep all day on the Sunday prior to the murder, dissipates all that could possibly be inferred by the counsel, or any one else.

We next find prisoner shearing sheep for Noah Smith, on the Monday prior to the murder. No evidence of guilt can be inferred from a circumstance so entirely innocent. It has been said by the District Attorney that the prisoner probably then learned that Smith had money. This presumption is not necessary, nor to be entertained; for it is insisted that the fact was a matter of public notoriety in Petersburg.

We next see prisoner suddenly leaving Petersburg, going towards Troy, and on his way saying he was going on a whaling voyage, &c. The history of Prisoner shows that this conduct is no strange for him. It furnishes no presumption of his guilt in this instance.—They point far more conclusively to the supposition that if the prisoner possessed money, or beads, the property of Mr and Mrs Smith, they were stolen on Monday.

We next find him at West Troy, on Tuesday, the day he left Petersburg. As to the whole matter of money; his saying that he was to have money and his having money, prove nothing. The most the opposite counsel can do, is to infer that he came by it wrongfully; but this cannot be evidence in his case.

Again; It will be argued against him that when he left West Troy on Friday, he did not tell where he was going. But this was in accordance with his uniform course of life, and does not bear against him.

Here the prosecution leave him; and his whole conduct thus far, is as presumptive of innocence as of guilt, and does not connect itself with this murder.

Then his absence from Friday to Saturday morning. That of itself shows nothing—it barely shows that possibly he might have been at Petersburg. Until there is a legal presumption that he was at Petersburg, the prisoner is not bound to show where he was. The prosecution have not shown where he was in all other times—even during the week at which the murder was committed.

2d.—The possession of money by the prisoner. The possession of money is presumption of ownership. When a felony has been com-

mitted, and the property stolen has been found in the possession of any one, a legal presumption is raised that he is guilty of the felony. It has been shown that the prisoner was afterwards in the possession of money, and that he would soon again be borrowing of a friend fifty cents or two shillings. Such was his whole course of life in regard to money. For the purpose of this argument we will concede that he came by this money dishonestly; if he stole the money he could not show where he obtained it; but it would be no evidence that he committed the murder. The prisoner is not bound to show where the money came from; the most that can be inferred from it, is the bare possibility that he came by it dishonestly.

As to the manner in which he expended the money. It is shown that he always spends money freely, when he gets it. As to the next point of testimony.

3d.—The possession of beads on the 4th of July. I do not pretend to deny the fact, that Andreas Hall on that day, sold beads in the city of New York, which were exhibited here. But the possession here again, is presumption of ownership. Mrs Babcock testifies that several months before the murder, Mrs. Smith had beads similar to those exhibited. Dr Hull saw a gold necklace upon her neck. This is very indefinite and unsatisfactory proof. Similarity is not enough; identity must be established, and in this case it has not been done. This identity must be shown; as though it was an isolated fact. It must be done, for this point is the first on which we depart from the presumption of the prisoner's innocence. You, gentlemen, have no right to regard any circumstances relative to the beads as of any weight, until the identity is first established. The opposite counsel will attempt to prove the identity of the beads, by arguing in a circle; that is to say, to show that the identity of the beads is the only fact necessary to establish the guilt of the prisoner, and then claiming that the identity of the beads is established by the presumptive guilt of the prisoner as shown by other facts. This may be very ingenious; but it not sound, or safe. It is also shown, that the same kind of beads were manufactured in the neighborhood for 50 years, and were worn by great numbers of ladies. The counsel stated the argument thus; the proof of identity of the beads in this case is impossible—while establishing the identity of the beads from the presumption of the prisoner's guilt, is out of the question.

4th.—The manner of the prisoner's return to West Troy on Sunday morning, affords no argument that he returned from Petersburg.—He is not bound to show where he was, until they bring some proof affording presumption that he was at Petersburg. He says he was tired; but working in the locks is fatiguing work. The testimony has not been such as to call for any proof from the prisoner to show where he was.

Next, as to the suspicions prisoner entertained that he was suspected. An attempt is

made to show that he conceived the fact in his own mind. They wish to do it on the principle that the thief thinks every bush an officer. It would have been a strong point, if the proof had been such as was desired by the prosecution—to wit, to show that he must have had no information on the subject.

They introduce the testimony of Jacob Hydorn, to show a declaration by the prisoner that the papers said one Hall was suspected, whereas the papers said no such thing. William Hydorn testifies that before Jacob Hydorn saw Hall, he (Hydorn) told Hall the papers spoke of "person or persons." It is not probable that the prisoner went immediately and stated falsely the contents of the paper.—The fact that the Commercial Advertiser did not refer to Hall, does not prove that he had not derived the information before this conversation with Jacob, from some other source.—We have shown that Mrs Rose heard of it on Monday, that William Hydorn heard of it on Tuesday, that Gilbert heard of it at noon on Wednesday. We were not permitted to show that the fact was notorious in Troy and West Troy, on Tuesday and Wednesday—and the prisoner was in both places—but enough has come out to establish the fact. The counsel argued, that as the prisoner and Nick Lewis had a difficulty about a money transaction; and as he heard the officers were after both; the prisoner, knowing he was suspected, might have supposed the officers were after both on the charge of the murder—and would, go to establish the innocence, rather than the guilt of the prisoner.

Lastly—The prisoner's request of Jacob and his wife, that they should swear he was at their house. As to the testimony of Jacob Hydorn: he was himself arrested and confined several days in jail at the time Hall was arrested.—This is a threat which might move such a man as Jacob Hydorn. He was arrested, and counsel employed to clear him from arrest. Mr. Hayner was employed: and Mr. Fairbanks, at his request, called on Jacob, at the jail, and Jacob gave to him such testimony as he thought would contribute to his release. In one portion of his testimony, I feared that he was extemporising. He swears that when Andreas asked him to swear that he was at Hydorn's on Saturday night, he indignantly answered that if called upon he must swear to the truth. Out of the mouths of two witnesses, we have shown that he declared Andreas was at his house, and that he would swear to it. He was imprisoned, because the prosecution were afraid of him then, and we are now. We therefore cannot believe that Andreas ever made any such request of Jacob; and it is not asking too much, to ask you to look with suspicion upon the whole of Jacob's testimony.

But suppose we were to concede that Hall requested his sister and Jacob to commit so high a crime, it does not follow that the prisoner was guilty of this murder. The counsel went on to comment upon what was legally to

be inferred from the conduct of a person suspected or arrested; and read from cases, showing that great caution should be used: And quoted a case, in which an uncle was beating a child, who was heard to say, "dear uncle, don't kill me," and could not afterwards be found. And the uncle produced in Court a child resembling the one lost, for the purpose of exculpating himself, but the deception being discovered the uncle was condemned and executed; and afterwards, the child, when she became of age, presented herself as his heir. She had fled, and concealed herself at a stranger's. The counsel argued that the confirmation of Jacob's testimony by his wife, was to be taken on the principle that a man "will forsake father and mother and cleave to his wife." Jacob's course in going to Petersburg, at Hall's expense, is no offset to Jacob's ruling desire, after he was arrested, to clear himself.

I have thus endeavored to show that none of the sets of circumstances to which I have referred, are sufficient to destroy the presumption of the prisoner's innocence. They do not establish a legal presumption of the prisoner's guilt. Some leading fact must establish that presumption, or the other facts are to be regarded only as suspicious circumstances. If any one of these facts establish nothing alone, they all establish nothing multiplied. No fact has been established, which requires the prisoner either to prove where he was, or where he got the money.

—There are two other facts to which I will refer. First—the tin-box. There is no sort of proof about the tin box, which connects it with this case. At some time within a year, a witness saw Mr. Smith take money out of the tin box; and it was not seen for some months before the murder. The counsel commented upon the failure of identifying Hall as the man who passed through Brunswick towards Troy, late on Saturday night. Mr. Gale held the attention of the jury two hours and twenty minutes.

Mr LOTTRIDGE, District Attorney, said he did not intend to detain the jury any great length of time, as he was to be followed by a gentleman far more able than he was or pretended to be. He remarked in opening, that if there was a reasonable doubt in the mind of a jurymen, of the guilt of the prisoner, he was entitled to the benefit of it. But it must be a doubt that the prosecution have succeeded in producing testimony conclusive as to the guilt of the prisoner. I think, unless I deceive myself, that the evidence must place in your minds a conviction of his guilt, beyond the reach of a doubt. The prisoner possesses a countenance of intelligence. The counsel paid a high compliment to the ability, zeal, and eloquence of the prisoner's counsel.

Before I proceed with an examination of the testimony, I will notice some remarks of the counsel who has preceded me. And first, as to my remark, in opening, concerning the wealth, respectability, and family connections

of the deceased. The counsel says, Mr and Mrs Smith were as I had stated, in affluent circumstances, but that the prisoner was poor and friendless, and that the power of this family influence was brought to bear upon the prisoner to crush him. This conclusion, the counsel felt bound to repel. Referred to the prosecutions of Perry Hall, as developed by his testimony. The counsel examined the proposition that the rule of evidence in criminal cases was different from that in civil cases. I claim the rule to be the same in civil as in criminal cases. Did not deem the matter of Hall and Lewis being together on Sunday near Maxon's, of any particular moment. As to Jacob Hydorn, insisted that the danger of the prisoner was the same, if Jacob's testimony was wholly stricken out.

He would now proceed to give his views of the testimony.

There can be no doubt that Mrs. AMY SMITH came to her death by violence. The blood from her body was tracked about the house. No one can have a doubt upon this point. The evidence also shows that Mr. Smith was murdered, and that Mr. Smith could not have been the murderer of his wife. He deemed the probable time of the murder of some importance as connected with the prisoner at the bar. Mr. Smith was last seen going towards his house with a pail of milk; there was not a bed tumbled in the house; both had on their day clothes; the milk was unstrained. The testimony of Dr. Hall was, that the appearance of the bodies was such, as to indicate that they were murdered early in the evening. The only motive must have been plunder. The prisoner himself so stated to William Hydorn. The \$40 found in the house, shows that this presumption is true. This money was so securely hidden, that it could not readily be found. Referred to the testimony of Mrs Amy Babcock to the fact that a tin trunk, from which she had seen her uncle take money, was kept in the east room, and which was found when the bloody tracks to the east room were made. The counsel gave his idea of the manner in which the murder was committed; that it must have been committed by one well acquainted with Mr. Smith. That he must have called at the door, and told Mr. Smith that the cattle were in his oat field; and upon Mr. Smith's leaving the house, volunteers to assist him, and taking the axe in the entry, follows Mr. Smith on the path, knocks him down with the axe and leaves him dead. Then goes to the house and despatches Mrs. Smith—goes and drags the body of Mr. Smith into the high grass; returns and despoils the neck of Mrs. Smith of her gold beads; bars the door for his own safety, makes a hasty search for plunder, blows out the candle and decamps through the window with his plunder.

The prisoner left West Troy on Friday afternoon. He could not go out in one night, commit the deed, and return. During the day, he was probably secreted in the woods near by,

or in some of the outhouses, from which he could observe who were at the house, and what was going on.

The counsel commented upon the circumstances under which the prisoner left Petersburg on Tuesday, as extraordinary, if he did not contemplate the murder. His leaving without notice to his brother or the family; his saying he was going on a whaling voyage, &c. His object was to prepare the public mind to believe that the murder could not have been committed by him, as he had stated his destination, and had not again been seen in Petersburg.

At West Troy he was doing nothing, the remainder of the week, except to furnish proof that he was away from Petersburg; he was not there even to visit his sister's family.

On Wednesday, he tells Mrs. Gilbert that he was to have some money from his grandfather's estate, and that his uncle had come down to settle the estate. People there knew he did not usually have money—and he was thus preparing the minds of the people there, for his reception with money. On Thursday, he told Mrs. Plumb that within a week \$400 was to fall to him from a friend or relative.—The testimony in the case, shows that that was not true.

The prisoner's leaving his sister's on Friday, without saying where he was going, the counsel deemed remarkable. When he went to work for Perry, he informed his sister and others. The testimony shows that it was not usual for him to leave without notice of where he was going.

We have not shown where he was from Friday afternoon till Sunday morning, but it was only because we could not. It is what the prisoner and his counsel might show.

The prisoner on his return commenced a series of falsehoods, designed to cover up his connection with this murder. No one believes, that if his statements about aiding the canal boat through the 16 locks was true, the prisoner would have failed to produce some one of the men belonging to that boat, even if not one of them knew his name. On his return he tells Miranda, that he was tired and sleepy, had not slept any in all night, and would go to bed and sleep till breakfast but he could not rest even till breakfast, but goes to Williams' to pay for a pig. Mrs. Rose testified that his appearance was unusual; he had his bottle filled with gin, and producing a 5 dollar bill offered to pay a bill of 50 cents.

The Counsel remarked upon Hall's paying bills exhibiting his money, &c., immediately on his return on Sunday. He told his sister that he and Nick Lewis knew where he got the money; that they had not been on the Canal so long for nothing—meaning to convey to her mind the impression that he obtained the money wrongfully upon the Canal. Prisoner told Miss Clark, that he had been up all night, and had been walking all night—that he was tired and sleepy.

Counsel presented the fact of his liberality, to his sister in giving her two dollars on Sunday, and his exchanging Silver for paper money with his Sister in Troy on Monday, immediately before he

went to New-York and his asking his Sister what present he should purchase for her, a present, in New-York—having become Suddenly rich.

The circumstances of the trip to New-York were commented upon. On his way down, we find for the first time any evidence of the amount of money—\$277—he had with him of the money of Noah Smith. He said he spent \$100 or \$150 in New York.

Counsel commented at length upon the purchases made by prisoner in New York, on the evening of the 3d of July. He insisted that the identification of the prisoner, as the person who sold a string of gold beads to Mr. Fisher, and who purchased a bracelet, gold watch, chain and slide of him; and who purchased a violin, case and bow of Mr. Millet, was complete. Prisoner is proved to have been in New York on that evening, by Mr. Rockenstyre, and that prisoner left Dunning's Hotel to make purchases, in the evening. Mr. Millet identifies prisoner as the person to whom he sold the violin produced in court. On that evening Prisoner told Miller that he wished to trade a string of beads at a jeweller's shop, for his sister, and when he returned to Millet's store, a few moments after, he said he had made the trade. Mr. Fisher identifies in court, a watch he says he sold on that evening, to the man of whom he purchased the beads exhibited in court.

Counsel noticed prisoner's request to Rockenstyre, not to tell at home, or in West Troy, that he (prisoner) had been at New York—as affording evidence, that prisoner thought his movements in disposing of the property in New York, had been too sudden.

Counsel insisted that the prisoner's statement that he and Nick Lewis were suspected, affords proof that his statement was not derived from information—as nobody had suspected Nick Lewis, or charged him with any participation in the murder of Noah and Amy Smith. Money was the only object of the murder. We have not been able to show that the money in prisoner's possession, was the property of Noah Smith. The counsel then reviewed the testimony of Mr. Gilbert—that in March, prisoner had \$50, a new suit of clothes—money left—\$50 left with Mathews in March or April—a suit purchased of Mr. Mathews—counsel is of opinion that the two transactions were at the same time; and that the money happened by Mr. Rose, and seen by his sister and Miss Clark, was the same. Certainly no one believes that any of all three sums was the money prisoner expending on his trip to New York. Just before he left for Petersburg, he borrowed 2 or 3 shillings of Mr. Rose, and the day he left, 50 cents of his brother, to complete a payment for clothing.

The COURT requested counsel to suspend his remarks, in order to take a recess for dinner.

Adjourned to 3 o'clock, P. M.

Afternoon Session.

3 o'clock P. M.

Mr. LOTTRIDGE continued: When I left off in the morning, I was speaking of the manner in which the defence attempted to account for the money had by the prisoner. I maintained that the money found upon the prisoner after the murder was not the money proved to have been in possession of the prisoner in March and April, or before the murder. The Coun-

sel adduced the debts he owed before the murder, and which were paid on Sunday, as confirming this view. The evidence is conclusive that he was destitute of money at the time of the murder, and for a time before. Further, the account rendered by the prisoner in jail to Knowlton, was, that the money he expended in New York, was a part of \$100 he had laid up, and had been in the hands of his sister six months. Miranda swears that this is not true.

I come now to the question of the beads, as the beads of Mrs. Amy Smith. Referred to the testimony of Amy Babcock, a niece of Mrs. Smith, was intimate with her; had beads like one kind possessed by the old lady, had compared them; knew that two kinds were put together; Mrs. Sarah Ann Smith also knew both strings of beads; in a drawer in the house were found 12 beads, left over unquestionably, in making one string of two; Mrs. Smith delivered these 12 beads to Mrs. Hewett; Mrs. Hewett to Judge Waite, and by Judge Waite to Mr. Fairbanks, and by him produced on the trial. These beads compare perfectly with the beads sold by the prisoner in New York, and the beads in New York, as testified by Mrs. Smith and Mrs. Babcock, were like those owned by Mrs. Smith. It is testified by Dr. Emerson Hull, that Mrs. Smith had gold beads on her neck upon the day of the murder, and Mrs. Main Hull saw them that week upon her neck. No man can doubt that the beads sold by the prisoner in New York, were the beads taken from the neck of Mrs. Smith by the assassin.

I now come to the appearance of prisoner on Wednesday evening. He told his sister if she would swear that he was at her house on Saturday night it would save him. They were talking about the murder of Noah and Amy Smith. The counsel referred to the insinuation that prisoner's sister was influenced against him in her testimony, through fear of her husband, or to favor his wishes. He thought it inconsistent with nature, as well as with the appearance of the witness herself, and the further fact, that there is no conflict with her testimony. It also corresponded with the statements of the prisoner himself, who repeatedly said he was not at his sisters on Saturday night. The counsel spent sometime in reviewing the testimony of Jacob Hydorn. Jacob's declaration that prisoner was at his use, was wrong, but was made and of peculiar circumstances.

Mr. L. commented at length upon this attempt to induce Jacob and Miranda to commit perjury.

The evidence is as clear to my mind of the guilt of the prisoner, is as clear as the sun at noon-day. He charged him with the murder of Mrs. Smith on the 1st day of July last. He left West Troy on the day before, under suspicious circumstances; we prove that beads upon him and large sum of money the day after the murder. He was absent from home at the time of the murder, and they have not shown where he was. Where was he?—where was he during the day on Saturday? Was he where no being on God's earth could see him? An attempt is made to account for his possession of money; but none as to his whereabouts. The counsel concluded by remarking that the pris-

oner's counsel might have give testimony as to the prisoner's former good character.

Sixth day—Afternoon Session.

Mr TOWNSEND interposed.

The COURT stated that the presumption in this case, from this course, was in favor of the prisoner.

Mr. TOWNSEND, (for the Defence) said the counsel who had just sat down, had repeatedly called upon us to explain the circumstances under which he was situated. At the opening of the trial, all the property in his possession was placed in care of the District Attorney's Assistant. He thus had no means for procuring testimony. The counsel said he would send messages by telegraph, and bring forward witnesses. But should we send to Utica, Syracuse, Oswego, Watertown, Sackett's Harbor, Ogdensburgh, Geneva, Rochester, or where should we send to find the captain of some one of the 3000 canal boats, when the prisoner had helped through the 16 Locks. Where were the funds to come from to produce witnesses, or to hunt them up? Mr. T. complimented the ability of opposite counsel. One came here, at the expense of the county; the other at the expense of the Treasury of the State. Besides, the deceased had rich and powerful relatives taking a part in the prosecution; and besides \$800 reward was offered for conviction. Against what fearful odds do we contend!

Now what is the rule of law? It is, that the prisoner is presumed to be innocent, until proven to be guilty. The public prosecutor cannot come here with a single presumption.

There have been instances of a committal in this State, in which a great clamor was set up by the populace, at first, but which were acquiesced in by the public soon after. The counsel instanced the case of Freeman, the black man who murdered the whole family of Vannest. Also the case of Polly Bodine, who was convicted upon her first trial. A new trial was granted and held in Orange county, and Polly Bodine was acquitted—and the public judgment occurred in the verdict. The case of Phelps, one year ago in this county, was referred to. Mr Rundell, in this city, was on the jury; and to show the feeling in this city at the time, he would state that a son of Rundell caught a rat in a trap a day or two after, and looking at him, said, "You must die—no Old Hunker Judge can save you." The whole community was outraged; but no man can say, upon a trial like this, that the excitement in the community against the deceased should have any weight with the jury trying him.

The counsel alluded to the exasperation of the people in the case of Polly Bodine and Freeman.

In reference to the gold beads, the counsel admitted that it was proven that Mrs. Smith had gold beads: that on the 3d of July the prisoner sold gold beads similar to those of Mrs. Smith, in the city of New York.

[The counsel made an episode upon his own restiveness at the introduction of the testi-

mony of David G. Maxon; which had no connection whatever with the case. This man must be convicted; and for lack of good testimony, we must lug in that which is not pertinent.]

Two species of evidence were produced, upon which he would remark. It was proved that he was dull and sleepy—and you n u t convict him for that. Mrs. Rose showed that he was lively; that he danced; so that whether he danced or drooped, he was guilty. These things would never have been introduced, but for the absence of good and material testimony of direct circumstantial testimony, such as they desired. My friend Lottridge says, "It is not necessary to show that this was Noah Smith's money; it was only necessary show that he murdered Noah Smith. You must take these positions:—

1st. It was Noah Smith's money, because he murdered Noah Smith,

2d, He murdered Noah Smith, because it was Noah Smith's money.

Mr. T. contended that if this was a suit by the Executors of Noah Smith, to recover the money had by Hall, they would be nonsuited in a Justices Court. There is not a particle of testimony going to show that on the day of the murder, or for 6 months prior thereto, Noah Smith had in his house a dollar of money more than was found in the house. It was shown that at some time within a year, Amy Babcock saw Noah Smith take money out of a tin trunk. At 2 o'clock, on Sunday, after the house was full of people, Judge Waite looked after the tin trunk, and could not find any.—You are called on to say, not only that the tin trunk was there on the night before, but that if there was one, it was not taken that day before the search by Judge Waite.

I do not say it is impossible that the prisoner committed the murder; but I do say it is improbable. He was last seen at about 5 or 6 o'clock, in the open street on Green Island, from 3 to 4 hours before sun down. Where did he go that afternoon? I call upon the prosecution to show. Did he go to Troy, where every fourth man he met, would have kaown him. If he passed that bridge before 9 o'clock he must have been recognised. But where was he during that time? They can account for him, on supposition, all the time. He might have been in a field of oats all day. Oats are not high enough at that season. How did he get back? He could not return without crossing the river. He was well known on the river. He could not cross the bridge, that night, without passing the watchman. If across a ferry, he would have been known, and with the \$800 reward offered for his conviction, the fact would have been shown.

Again: when he went away on Friday, he had on Summer pantaloons, and a clean shirt, and had on the same when he returned. He must in all human probability have worn them during a walk to Petersburg and back, through the day on Saturday, and at the commission of

the deed and were worn all, day on Saturday, and it is proven by the prosecution that the clothing was without spot or blemish. There was a proof of blood near where the old man lay: and it was proven that the blood was scattered all about the house. It was shown by Mr. Maxon, that the murderer had blood upon his hands; and by Judge Waite that it was tracked about the house. If there was blood upon the clothing, it must have stiffened, and all know the difficulty of extracting spots of blood from garments. He had no opportunity to do this. The murder could not have been earlier than 9 o'clock, and with 24 miles to walk to West Troy. It was also dusty and if he had washed his clothing, the dust would adhere, and been noticeable. I say it was near an impossibility, that under these circumstances, Andreas Hall could have committed the deed.

Again. How did he pass this city without detection? He must have been seen by the Watch.

The counsel commented on the failure to prove that Hall passed through Brunswick. But how could he get through this city, and cross the river, without observation? Would not the vigilant police have found the man or men who saw him, if he had been seen? But I do not know as the learned Attorney General will attempt to make any thing out of the fact that a man passed Smith's, in Brunswick, in the night, with his coat off. I have often traversed the same ground, in the night time, with my coat on my arm, from Troy to Williams-town; and this may have been a young man in Williams town college; or it may have been some other young man who wished to make the journey on foot, in the night, as the coolest and most pleasant for such a journey on foot. Besides, the man who passed Smith's on foot, had on a black hat: whereas, the prisoner at that time, wore a straw hat, of straw color, with a brim six inches wide. I think that this view of the case, will dispel any suspicion that can be drawn from this fact.

But, forsooth, a foul murder has been committed, and the prisoner must be convicted because he lied, or wished to have Jacob and his sister lie in regard to his being at their house on Saturday night. The District Attorney told you that the prisoner's lying was an evidence of his guilt: but when Jacob lied to screen his brother-in-law, the District Attorney tells you that it was as all men would act under such circumstances. The counsel spoke highly of the prisoner's sister, and thought Jacob was as fair as men in general. He commented upon the absurdity of believing the prisoner guilty because he told a lie, or asked Jacob and his wife to tell one; but that it was all well, or natural, for Jacob to tell a lie, when it would tend to screen a brother-in-law from suspicion. If the evidence was strong enough, or near strong enough to convince him, without this lie, then it would be of importance. But is not so.

Is the prisoner the only man who ever lied when charged of crime? Counsel referred to the case of Bournes, tried for the alleged murder of Calvin, a brother-in-law. Calvin was taken with derangement, was missing, and there was a money difficulty between them. A bone was found in a potatoe hole. Stephen Burrows was a man of firm nerve, and denied his guilt. But Jesse could not stand it, and not only lied, but lied against himself. He made an affidavit that he and his brother killed Calvin, and gave all the circumstances. Both were convicted, and sentenced; and the Legislature commuted the sentence of Jesse, because he had confessed the deed; but Stephen was so obdurate that he was told to prepare for death. A man in New York heard of the case, had seen Calvin since the alleged murder, went to New Jersey, found Calvin and produced him, and Calvin testified that neither of the Bournes had ever raised a hand against him.

The counsel read a case from Cowen & Hill's reports, in which a man was killed by a fork, which bore the initials of the prisoner. The witness saw a man like the prisoner near; described his clothes; prisoner changed them: they were found concealed in a straw bed: they had blood upon them. The Judge pressed conviction: and all but one jurymen were for conviction. He held out, until all yielded, and he was acquitted; and afterwards, it was shown that he was properly acquitted. He read the case, to show that an innocent man charged with murder, shuffled and prevaricated in his answers, and shows that an innocent man pressed with strong suspicions, may often tell falsehoods. Let the prosecution meet the main fact, that the telling of the falsehood, by the one charged, is no evidence of his guilt.

The counsel went on to comment on the introduction of testimony that the prisoner drank occasionally, and to excess on the 4th of July. It was introduced, because without it, the case was as bald as Horace Greeley's head. It was no evidence of murder, that a man drank gin, or champagne, or good old cogniac.

But it was said that this man, if found guilty would be found to have been rioting suddenly upon his ill-gotten gains. If he had gone to a house of debauchery, and got drunk, it might have been an evidence that the money was obtained to gratify a coarse animal appetite. But we see him paying honest and small debts: and taking a few oysters with a friend. He next makes a present to his sister: and when he starts for New York, he asks his sister what present he shall purchase for her. When in New York, did he go to dens of debauchery? On his way down, he purchased a box for his sister; the very beads which it is alleged he took from his victim's neck, he exchanges for a bracelet for a virtuous, uncontaminated sister. Is this the heart of a murderer? Even in the expenditures for himself, he exhibited a taste and refinement: he purchases a violin. It is rarely, indeed, that a man who cultivates

a taste for music, plans and perpetrates such crimes as this. If he had planned that murder, he had planned the objects to which he was to apply his gains: he must have planned the presents to his sister, and the purchase of a violin, and have contemplated that the sweet strains from that almost divine instrument, would be mingled with the wails of his victims.

It was maintained that the prisoner was guilty, because he said he was suspected. We offered to show that the rumor was current all over Troy and West Troy, before he had a word to say, on the subject. But it is said, that it is evidence of his guilt, that he said that he and Nick Lewis was suspected. If any inference is drawn; it must be, that Nick Lewis is guilty also: if that one is guilty, equally that the other is guilty also. The inference that it is evidence of the prisoner's guilt, is one of the wicked inferences attempted to be drawn in this cause.

Again: It is urged that the prisoner must be guilty because that Mr. and Mrs. Smith were murdered for money. Why, the District Attorney in his summing up, twice declared that to have been the motive: therefore, to follow up the syllogism, Mr. Lottridge was guilty of the murder. The District Attorney closed with the matter of the beads: and this was well, for it comes nearer conclusive testimony than any thing else. But they have not proved what is necessary: and between that proof, and what is necessary, there is a gulf as wide and impassable as that between Dives and Lazarus. They have proved that the beads were like Mrs. Smith's; but they have not proved that they were her beads. This is the fatal point in their testimony. The fact that Mrs. Smith wore gold beads, is not one of a peculiar character. They were generally worn in that section of the country: and the man who made them, was a jeweller in Petersburg for 60 years, and died only 4 or 5 years ago. Amy Babcock had beads like them. It was shown that they were cast in the same mould. If so, of course, they were alike. I have two ten cent pieces and two twenty-five cent pieces in my pocket; they were cast in the same mould, and of course are alike: no persons can tell any difference. The most that can be inferred, is, that the beads sold in New York may be the beads owned by Mrs. Smith: but this is all that can be inferred.

After some conversation with the Court, Mr. Townsend gave way without concluding, and the Court adjourned to 9 o'clock to-morrow morning.

Seventh Day--Morning Session.

FRIDAY, Jay, 26, 1849,

9 o'clock, A. M.

Mr. TOWNSEND resumed: The danger, when a man is under accusation is, that while the tongue and mind repeats the idea that a man is innocent until he is proved to be guilty, that in making up a judgment, we are governed by the idea that if he is innocent, let him prove

himself innocent. The District Attorney has done the same thing over and over again in this cause. He says if the prisoner is innocent, let him prove himself so. They seek to have the jury forget that the prosecution is bound to prove the affirmative of the proposition. Their position in reference to the beads, is this: We cannot prove the identity of the beads; you must prove that they are not the beads of Mrs. Smith. The District Attorney speaks of the vindication of the laws. The laws are vindicated when fairly and properly administered. The main charge is, that Andreas Hall murdered Amy Smith, because he had the beads she had on her neck when she was murdered. I am free to say, that if the prosecution had proved that the beads had by Hall on Monday, were the beads of Amy Smith, you would be bound to convict him. When they reach a point in which we are called upon to prove ourselves innocent, to illustrate:—My coat is stolen from the bar, and next day I find it on the back of a man in Albany. I prove all these facts, and the man must be convicted. This is circumstantial evidence. He could prove himself innocent, by proving that an hour before he purchased it at the corner of the street. I must prove the coat was stolen, and that this identical coat was mine. Suppose I went to England: a brother should testify that the coat looked like Martin's coat: I am sure it is his: would you convict him of larceny? Suppose Hall was indicted for stealing Amy Smith's beads. We call Amy Babcock: She says she has known Mrs. Smith intimately for many years: she strung two strings upon one, and different kinds. I saw them a short time before the murder: one kind were peculiar: I had a string like them: they were made by Mr. Wilkinson, who made mine, and made them for a great many years, up to 4 or 5 years ago. The beads exhibited look like Amy Smith's. Sarah Ann Smith says she had seen the beads of Mrs. Smith: 4 or 5 days after the murder found 12 in the house similar to those found in prisoner's possession: that they were alike. Could they convict Hall of larceny? No; the first point is wanting. Property must be established. It has not been, and cannot be. The beads cannot be identified as the beads of Amy Smith.

If she were alive, possessed of all her intelligence, she could not swear that the beads found in the possession of the prisoner, were her own.

[The counsel here remarked upon the fact, in answer to the District Attorney, that if the prisoner were acquitted, he was still under indictment for the murder of Noah Smith.]

Counsel read from Starkey's evidence, that the rule of circumstantial evidence where the evidence is accumulative; going to show, that where a variety of different coins was lost, and the same variety found upon another person, it was not to be regarded as conclusive, if the coins could not be identified. It might raise a probability, but could not be regarded as conclusive. There is no proof that Mrs. Smith

had such beads as these, at any time later than 3 weeks before her death. I call on them to prove that she had not sold the beads to some one, and thus they came into the possession of Hall, or that she did not give them to Hall on Monday, when he was shearing sheep. To convict, the prosecution must prove a case, so that according to all ordinary possibilities, it could not be otherwise. For instance: If a man has his pocket-book stolen in a room in which there was but one other person, the case I insist upon is made out; But if there had been 20 persons in the room, the whole case is altered. Mrs. Smith had 14 days, at least, to charge off the beads. She may have taken them off at night, and some other person may have taken them. The prisoner is not called upon to show where the beads came from; for it has not been shown that the beads Hall had were the beads of Amy Smith.

The counsel remarked upon the rule allowing the prosecution the last summing up, as an outrage upon humanity and common sense.

There are several fables brought before the attention of the jury in this cause—a series of fables. The counsel went on to remark upon the proof of Hall's leaving Petersburg on Tuesday, and which was insisted upon as an evidence of guilt. It might be suggested, that he left because he had sheared sheep two days, and his back ached, not having been in the habit of hard work for many months previous; and he thought he would prefer a whaling voyage, or any thing else, to shearing sheep or any other such kind of work. He said he was going on a whaling voyage. Is that any evidence of guilt? But there is not a particle of evidence which furnished by the conduct of Hall, after this murder, which excites suspicion that he was the murderer. Was the fact that he went to New York on Monday and returned on Tuesday, are evidence of guilty. His leaving Petersburg, goes to show him a light-headed way, sick of work.

It is stated that prisoner said he should have money the next week. This may or may not have weight. If this boy was not on trial for murder, I should say that when he was talking to those women, he was doing what is called gasing. He said he should have \$400; if he contemplated the murder, would he have stated that sum? Besides, there is the important fact, that after the murder, \$411 were found in the house.

But there is one point on which I cannot be mistaken. The prisoner is not a fool. Could he possibly, if not a fool, have exhibited publicly on every occasion, immediately after the crime, the money he had obtained by murder.

Again: Men follow the canal and gamble; and show the money thus obtained. But it will be said the man was not on the canal, he said to all others, except Miss Clark, that he had been working on the canal, and that to her he said he had been walking. It was shown by Mr. Gilbert, that in locking through, the hands must get on shore; that they must walk as

well as work. When he had aided the Captain thro' the 16 locks he must of course have walked back to West Troy; so that the two stories hang together perfectly to a hair.

Others may have committed the murder. I do not know who were the heirs of the property of Noah Smith. The fact that \$411 were found in the house, might go to strengthen the presumption that the murder was committed by some one who was impatiently waiting for dead men's shoes. Daniel T. Main, a witness who saw Mr. Smith with the pail of milk that night, was a near neighbor of Smith, was poor, and who told a falsehood in this case, in an attempt to raise a suspicion against Hall out of a simple and innocent circumstance. He testified that Hall on Tuesday morning passed his house at about sunrise, when he could not have passed, as is shown, until about the middle of the forenoon.

The Counsel said he had thus gone through the facts of the case. He again referred to the Burrows case in Vermont to the case from Roscoe, of the uncle who was executed for the murder of a niece who was alive—to the case in the note to Cowen & Hill's Notes to Phillips' Evidence, in which the innocent prisoner suffered on the presumed evidence of his guilt—as all showing a man, under the pressure of circumstances, may be guilty of lying, and be innocent of the crime of murder. A man may, under excitement or temptation, commit an error, and at heart be a pure diamond. The conclusion that, because a man has committed one error in conduct he will commit another, is not justifiable.

To convict the prisoner, you must deem that it is proven beyond a reasonable doubt, that the prisoner twice passed by 40,000 inhabitants, from West Troy to Petersburg, leaving two hours before sun-down, and returning two hours after sun-rise, and was seen by no human being who can be brought to take cognizance of the fact: and that, too, among those who knew him. But when he went upon the canal, he went among strangers, where none could track him. You must believe he went where every body could track him, instead of going where he could not track himself.

You must find on your oaths that so vast a quantity of blood was shed: that he got it upon his hands and left the marks upon the wall, and tracked it about the house, and yet his clothes were without stain.

Your verdict has nothing to do with your belief for all the ordinary purposes of life: but a legal evidence. If not, the verdict should be—"not proven."

There is no evidence going to prove directly, that Andreas Hall was in Petersburg, or that his shoes were bloody. But they ask you to infer these mountain facts, from the inferred facts, that the beads had by Hall in New York, were the beads of Amy Smith. Strike the beads out of the case, and what circumstance of importance remains?

The circumstances do not keep the case and

but the beads are recognised to give force to circumstances. How does the case stand? On Saturday night, at 9 o'clock, Mrs. Smith had the beads; that Hall had beads like them in New York on Monday night, and that therefore the beads belonged to Mrs. Smith.

The counsel again gave a summary of the preceding points, which he thought was necessary for the jury to consider proven, before they could convict the prisoner.

The fact that the beads were of different sizes, was the only other important fact in connection with the possession of the beads. If prisoner had been seen about the premises near the time of the murder, would have added greatly to the importance of the matter of the beads. But you are called upon by the prosecution to say that the beads were Amy Smith's, because the circumstances were suspicious; and that the circumstances were suspicious, because the beads were Amy Smith's. And that the money prisoner possessed, was the money of Noah Smith, because the circumstances were suspicious; that the circumstances were suspicious because the money was Noah Smith's.

The counsel concluded, by stating the fearful weight of responsibility resting upon the jury, and alluding to the powerful and eloquent manner in which the case would be presented by the Attorney General.

MR. JORDAN, Attorney General, rose and said the case was truly one of momentous importance: of life or death to the prisoner,—and to the community, whether a man who had forfeited his life, should be suffered to retain it, and again prey upon society. It has been charged that the prosecution were desirous of convicting the prisoner, without adequate proof his guilt. If you believe the prisoner innocent, bring him in so; if guilty, discharge your duty firmly, and bring in your verdict accordingly.

The gentleman has done ample justice to the facts of the case, at least twice; and the matter of the beads at least three times. The subject seemed to trouble the gentleman very much; and I do not wonder at it. The gentleman had ably defended the prisoner, and I honor him for it.

The argument with which the gentleman set out, was, that the prisoner had no money to get witnesses with, because his brother Perry had been intimidated or persecuted. No application was made to Perry, for money for witnesses; it was made for counsel, and Perry did not furnish that because he had made up his mind that he was not able. Is not such a pretence absurd, that this is the reason why the prisoner at the bar, did not bring some witness to show where he was on the 1st of July. I have not heard the averment that a human being saw him upon the canal. I am at a loss to know what his counsel would say, if asked where he was. They say he was upon the locks, but don't recollect the name of the captain of the boat, or of the place where it hailed from. On the 5th, he did not

know any of these things. It is urged, there may be such a man, but out of the thousands we cannot find one. Now, if on the 1st of July last, the prisoner did as he alleged, did he do it without knowing the name of the captain and boat? and if he knew, could he so soon have forgotten? I address you, gentlemen, as men of common sense.

Let us see whether he could not have obtained testimony. The counsel went into an examination of the situation of the canals of the State, to show that every boat on all the canals in the state could have been examined. But this was not necessary. At the weigh locks at Albany and Troy, boats are weighed and registered. He knew the hour at which he helped the boat thro'; and he could have examined the register, and ascertained the name and destination of every boat that had passed, and by examining them, could have found men who would have recognized him. If they could not recognize him, they could testify that there was a man along helping them. The prisoner has not named a name which has not been produced in Court, as a witness or proposed anything in reference to testimony that has not been done. The counsel seemed to be impressed with the idea that we were bound to show where the prisoner was from Friday night to Sunday morning. We concede that a man is presumed to be innocent, until proved guilty. But that presumption can be overcome, and the prisoner be bound to show his innocence. If a man who had not a dollar, was traced to a spot where a robbery of \$1000 was committed and the prisoner was found possessed of \$1000, it would be a presumption of his guilt.

If the prisoner was where he ought to have been, he could have shown where he was, unless he was alone. But it is said that the prisoner could not have crossed the river without having been seen and recognized by some at the bridge or one of the ferries.

The case is an indictment for the murder of Amy Smith. The counsel here described the situation of the house, barn, and outhouses, of the premises of Noah Smith, and the yard in which the cows were milked opposite the barn, and not 150 feet from it. At about dark that evening, he was walking to the house with a pail of milk, and in less than fifteen minutes was a corpse. Did not the murderer know when to strike the blow? The man who did the work, must have been acquainted with the premises. Where was the murderer? It would not do to wait long after dark, for the door would be barred; it would not do, to do it before, for fear of detection. Who more likely to do it, than the man who left West Troy on Friday evening. The murderer must have been concealed in some of the out-buildings. Five minutes before, Mr. Smith was seen; in five minutes more, the door would have been barred, and an outcry would have been raised by the old people, and an alarm raised.

Old Mrs. Smith was foully murdered, and shall

the foul murderer be allowed to escape? We charge that Andreas Hall is the murderer. And who is he? He is a man 24 years of age, of intelligence, of taste, of a very peculiar kind. (I will not explain what I mean by this.) He was brought up in Petersburg, and when his brother met him recently, after not seeing him for four years, he met him, and asked him where he had been for that time?

[Mr. Townsend interrupted Mr. Jordon, and insisted that he had falsified the testimony, in saying that prisoner had been out of the knowledge of Perry for four years, and that Perry asked him where he had been. A very spicy and rough passage here occurred between Mr. Jordan and Mr. Townsend, in reference to these interruptions, in the course of which, Mr. T. stated that he should continue these interruptions—as long as the Attorney General continued to falsify the testimony.—which Mr. J. replied, to that he supposed he would, for

“Dogs would bark and bite,
For God had made them so.”]

Loud applause followed this quotation.

Mr. TOWNSEND replied that “some dogs had been thrashed for it.”

Mr. JORDON rejoined, pointing to Mr. Townsend, “And there are some young dogs that ought to be.”

Laughter and Cheers, and some hisses.

The COURT interposed, and remarked that this was too solemn an occasion for laughter and merriment to be indulged in; and although the law required such a trial to be public, the power vested in the Court would be exerted to suppress any further exhibitions of the kind, and if unsuccessful the Court House would be cleared of the audience.

I shall not ask you to convict the prisoner on any one circumstance, or any two. He left West Troy for Petersburg about the 18th of June, to work for Perry to the close of harvest, about the middle of August; and after remaining about ten days, hoeing corn and shearing sheep, and had not fairly entered upon the main business of his engagement, when we see him with his coat on his arm, suddenly leaving. Did he leave because his back ached? the Counsel informs us. Does any body believe that? On the Sunday after he arrived at Petersburg, he was in company with Nick Lewis, the man whom Hall said was suspected, with him, of the murder: in conversation by the road side. On the day after he arrived, he sought an interview with Nick Lewis. On his way to Troy, he said he was going on a whaling voyage; leaving his trunk, fiddle, and most of his clothing. Does he proceed on to New Bedford? No; on Wednesday he loitered about, and on Thursday, and on Friday, till 6 or 7 o'clock in the afternoon, he was loitering about. From Friday afternoon to Sunday morning he is gone, and nobody sees him. Up to that Friday night, when he left, he was as peniless as ever Lazarus was when he lay at the gate. He had just borrowed 50 cents to pay for

bail bond; contracted a debt of 6 or 7 cents with Mrs. Hamer; owed Gilbert \$2 for board for two years; owed William Hydorn for a pig; borrowed 50 cents of Perry before he left for Petersburg, and 7s and 6d after he got there, and before he returned. As soon as he returned on Sunday he was exhibiting \$300 or \$400, in 5 and 10 dollar bills! and immediately goes to paying these debts and taking oysters with his friends. He went into Barlow's at 12 that day, and treated F. Craig and another friend to oysters to the value of a dollar. He exhibits the money everywhere in a swaggering style. On Monday he goes to New York and pays \$49 for a watch, when three days before he could not pay the smallest debt, and in the meantime had not earned a dollar or had a debt due to him. He makes other purchases, and in the course of his transactions, fortunately for the cause of justice, he produces a string of beads. The Counsel tell us that the possession of money is presumptive evidence of ownership. If an honest man is seen in possession of a sum of money, the presumption is that the money is his own. The Counsel re-stated the case of his sudden possession of money and asked what the jury would infer? That was what he called presumptive evidence, what would be inferred from a given state of facts.

The mere fact that he was in West Troy on Friday evening, and could have been to Petersburg during his absence till Sunday morning, does not of itself furnish any proof of suspicion that he was the guilty party. But if he could have been there; if a crime had been committed, he was found in the sudden possession of money and beads which are believed to have belonged to the deceased, and these circumstances are themselves of a suspicious character, I think the law is that the prisoner is called upon to show where he was.

He would now read to the jury the law upon circumstantial evidence: and read from Cowen and Hill's Notes on evidence.

If you believe the prisoner committed the murder, and nobody else, you are bound to find him guilty. You are to base your verdict upon a rational belief in the guilt or the innocence of the prisoner. The Counsel dwelt upon the statement in the Note, that *weak* juries were sometimes alarmed by the cases of wrong conviction from circumstantial testimony. The opposite Counsel maintained that in finding the prisoner guilty they swore that he was guilty. A case was read to disprove this idea. A verdict is the conviction of the jury. The Counsel remarked upon the possibility of the conviction of an innocent person by circumstantial testimony; but the cases were rare. All we ask of the jury is their sober and rational judgment.

Mr. J. commented upon the case of the man who was killed with a pitchfork, to show that a jury were not to be governed by startling cases; quoting from Judge Thompson, formerly of the Supreme Court of this state, showing that the

extreme cases were no objection to circumstantial evidence; and that fair and legal inferences are to be drawn from facts and circumstances; and that this testimony was often more reliable than direct testimony, as the witness might be mistaken. The case of the Bournes was reviewed. The Counsel then went on to show that the prisoner had stated a falsehood in regard to leaving \$100 in money with his sister, and attempted to induce his sister and her husband to swear falsely in regard to his presence at their house on Saturday night. He regarded this course as a deliberately devised means of escape from a just conviction for the commission of the crime.

Nothing can be made out of circumstances in themselves innocent, until they identify the accused with one in itself suspicious. The case of the coins was referred to. When a man confesses himself guilty of a crime it is strong, presumptive evidence of his guilt, as the confession is against his obvious interest. If a man steals a piece of cloth cut from a loom, and the thread of the warp of the two correspond, it is strong presumptive evidence that it is the identical piece of cloth. A connected series of circumstances, such as flight, concealment of the money, and false and fabricated statements, are strong presumptive evidences of guilt. But if he knew the old man had money, the prisoner was out of money before; had large and uncommon quantities of money the next day, and Mr. Smith's money was stolen; he is called upon to show how he came by the money. What hardship, for a man of his business, to show? Did he gamble for it? Why not call witnesses to show the fact? suppose he stole the money. Could he not show that the man of whom the money was stolen lost money at that time? Would he not prefer a conviction for larceny, and the States Prison for 3 or 4 years would be preferred to risking his life. Would not something be done to show that the money was obtained without wading through the blood of those old people? It is painful to bring ourselves to believe that any human being could perpetrate such a crime? Is there any modesty or delicacy in his character which would prevent him from doing it as readily as any other person. I was penniless the day before, was in possession of large sums the day after the murder; but I cannot condescend to show where that money came from. In the month of March, Mrs. Gilbert says—the tailor in March or April,—prisoner had \$50: but we find him purchasing a full suit of clothes, breast pin and two rings, which must have reduced his money to \$8 or \$10, and this was about the time Miss Clark saw him have a few bills upon his knee: and about this time, Mr. Rose saw him have \$23. After this, he had no money, except what Mr. Gilbert paid him for 8 or 10 days ferriage, and before he went to Petersburg to work, he was penniless. Are your hearts too soft, or your heads too weak, to believe that he came by this money dishonestly, when the prisoner fails to show any thing about it. He shows it to his

amiable and virtuous sister, and she asks him where he got it? No matter to her second enquiry, he told her, "none of your business." He desired to make his peace with Mirandi, and ask her if she does not want a dollar for the 4th of July; and finally gave her a 5 dollar bill for a 3 dollar bill; an expenditure of money, simply that his sister might in a suitable manner by a little frolic pay suitable respect to the birth-day of her country.

Afternoon Session.

3 o'clock, P. M.

[At the opening of the Court, and before, the Court House was crammed to its utmost capacity, not less than 400 ladies constituting a portion of the audience.]

MR. JORDAN resumed: I have shown that the prisoner on Friday, the last day of June, was destitute of money; that he knew that Mr. Smith had considerable money; that the prisoner had time to get to Petersburg and back; that the prisoner could have secreted himself during the day in the immediate vicinity of the house; that Mr. Smith was murdered and robbed on Saturday evening, and that on Sunday morning the prisoner had an abundance of money; are circumstances of themselves sufficient to call upon the prisoner to account for the manner in which he procured that money.

But there are other circumstances: the giving his money to his sister on Sunday morning, to frolic away on the 4th, as he proposed. On Monday morning he went to New York in company with two young men, inviting them to drink, and paying for it himself. It is the manner in which he spent his money. In those two days he must have spent more than the earnings of a half day in drink. He bought a watch for \$49---a gold watch. He could not lay up over \$10 per month: here are five months labor gone for this worthless bauble. Here is a fiddle: he already had one at his brother's: and we have no evidence that he ever played a tunc. Here were a month and a half's wages for a fiddle: making six and a half months' wages spent in the time it would take to eat a breakfast. The purchase of clothing was well enough. It is all inconsistent with the idea that he earned the money honestly. These facts are enough to raise a presumption against the prisoner, and call upon him to attempt to show where he got it. If he could explain where he got this money, I would be almost ready to yield all the other facts of the case. Under the head of circumstantial evidence, the counsel referred to the case of Col. Sharp in one of the southern villages. A beautiful and accomplished lady made advances towards Col. Sharp, with a view to a matrimonial connection, which were treated with cool politeness by Col. Sharp. This inspired the lady with an inextinguishable hate. A man named Beauchamp afterwards married her: but one of the prior conditions, on her part, was, that he should avenge her fancied

insult. Beauchamp went about twenty miles to Sharp's place of residence; called at a hotel; went to Sharp's house, met Sharp at the door, stabbed him with a dirk knife; went back to the hotel with no stains of blood upon his clothes; and returned to his residence without suspicion. But Mrs. Beauchamp afterwards dropped a remark which led to enquiry. It was found that he had purchased a dirk knife, and that his visit to the place of Sharp's residence was without any ostensible business. On these facts, he and Mrs. Beauchamp were convicted and sentenced, and they afterwards confessed the whole affair.

The case of Green, in this county, convicted for poisoning his wife, was briefly recounted. Green was the nurse of the deceased; he bought arsenic as he said, to kill vermin; he mingled a powder in her drinks; all these things were proper and innocent; but they were connected with the further fact, that in the stomach of the deceased, was found arsenic: and on these facts the prisoner was convicted.

The beads, in this case, form the keystone of the arch of the testimony. About these, there is one silent fact which speaks trumpet-tongued. It is conceded that the beads exhibited in court, were sold by the prisoner in New York. One of the beads was cut, as though with the knife of the assassin. But it is said, we do not identify the beads. In this, the counsel are mistaken. It is not shown, that another such a string of beads as Mrs. Smith wore, ever existed in Petersburg, or that any body else ever had a string of beads which like these were intermingled. None in this shape were ever seen in a jeweller's shop, or any where else. It is not pretended that Mr. Wilkinson ever made any but the smaller beads. So that the identity is to an eminent degree of certainty. It is almost impossible to identify any description of property, positively: but it can be identified to a reasonable certainty. The counsel referred to the case of O'Donnell, convicted last week upon the identity of an organ. Has another such a string of beads as Msr. Smith possessed, ever been heard of, in ancient or modern times? No. Amy Babcock knows that the two strings,---the one of larger, round beads, and the other smaller with a neck to them, and That the two were intermingled on the string, and worn so for a year and a half. Beads were seen upon the neck of Mrs. Smith up to the day of her death. The prisoner said he had them of his sister: that was an evidence of guilt. The jeweller in New York testifies that the beads were upon a string, and that the large and small ones were intermingled. Are not these facts sufficient to call upon the prisoner to show where he got them? and to afford a presumptive evidence that they were the beads of Mrs. Amy Smith?

These, gentlemen, are the facts of the case. The conduct of the prisoner has been a tissue of falsehood from beginning to end. He tells Jacob and his sister, that he was through the locks. He informs Miss Clark, that he was walking all

night. He told Nathan Nolton, in the jail, that he was at his sister's on Saturday night. He said he had the beads of his sister. He said the money was a \$100 deposited for six months with his sister. All these statements were false. When conversing with Jacob and his sister, about his being suspected of the murder of Noah and Amy Smith, he asked them to swear that he was at their house on Saturday night; thus attempting to induce them to swear falsely; they could save him. It is then true, that after all these instances of falsehood and prevarication, he attempted to suborn his brother-in-law and sister, to commit perjury. It is a case in which any explanation of the manner in which he obtained the beads and money, if by any crime short of murder, would dissipate all the evidence of his guilt.

Where was he from Friday evening to Sunday morning? Where take his tea on Friday evening? Where lodge? He was not in hell; he certainly was not in heaven; he must have been somewhere on the face of God's earth. If he had been struck by Heaven into non-existence, it could not be a more profound secret. He might have been kept thus secret by a great effort, but it must have been a great effort. Where did he breakfast, dine and sup on Saturday? Where could he have been, not to have been seen? The opposite Counsel tell us he was upon the canal. But how did he get there not to be seen? Where was he? He was where he got those beads; beads which were identified by a curious chain of testimony. No man stole those beads from the neck of Mrs. Smith, but the one who gave the mortal blow.

These, gentlemen, are the facts. I leave them with you. The Counsel went on in a strain of eloquent remark, in speaking highly of the ability displayed by both the Counsel for the defence, and in stating to the jury the duty they had to discharge.

Judge Wright's Charge.

The JUDGE, after remarking upon the responsibility resting upon the jury, went on to state when killing was justifiable; when it was manslaughter; and when it was murder.

His Honor then went on and gave a statement of the leading testimony in the case, which he had collated with great clearness, as to the following points:

1st.—The killing of Mrs. Amy Smith and Noah Smith.

2d.—As to the gold beads: and charged that the testimony left little doubt that the prisoner sold the beads in the city of New York.

3d.—As to the prisoner's whereabouts from the time he went to Perry's to work, until his arrest: and the Judge remarked that a satisfactory account was furnished of all that time, except from the Friday afternoon before this murder, to an early hour on Sunday morning.

4th.—As to the possession of money by the prisoner for a time before the murder, and immediately after.

5th.—As to the prisoner's accounting for the

expectation and the possession of the money, in different ways at different times.

6th—As to the conduct of the prisoner at the time he was first suspected of the murder.

Under these several heads, the mass of testimony was collated with a fullness, order and perspicuity, and was stated with a candor, which reflect the highest credit upon the ability and integrity of the Judge.

His honor charged, that if the Jury were satisfied that the beads produced were sold to Mr Fisher, by the prisoner, and that they were the beads of Mrs Amy Smith, it was strong testimony against the prisoner.

His Honor charged that circumstantial testimony must be received with great caution—that if there was a reasonable doubt in the minds of the jury as to the guilt of the prisoner, he should be acquitted—but that if, on a full view of all the testimony, they should believe the prisoner guilty, they must find their verdict accordingly without any regard to the consequences.

Mr. TOWNSEND, the Prisoner's Counsel, asked the Court to charge the Jury:

First, That the Defendant's character is presumed in all criminal cases to be good, unless it shall have been attempted by the defendant to be shown affirmatively to be good, and then alone can it be attacked by the prosecution.

Second, That the defendant is presumed to be innocent until he is proved to be guilty; and that the burden of that proof rests upon the prosecution; that a mere balance of probabilities against a defendant will not justify a conviction.

Third, The defendant cannot be called upon to account for the possession of the property of Amy Smith, or Noah Smith, until it be proved beyond a reasonable doubt, drawn from the evidence, that he has been found with such property in his possession.

Fourth, The defendant cannot be called upon to show where he was at the time of the murder until the prosecution have proved affirmatively by direct or circumstantial evidence beyond a reasonable doubt that the defendant committed the murder.

Fifth, That the money in the possession of the defendant is presumed in law to be the property of the defendant, and that the Jury are not authorized to find that it was the property of Noah Smith or Amy Smith, until it be shown by proof beyond a reasonable doubt, that such money was the property of Noah Smith or Amy Smith, and that the burden of such proof rests upon the prosecution.

Sixth, That the beads alleged to have been seen in the defendant's possession are presumed to be the property of the defendant, and that the jury are not authorised to find that those beads were the beads of Amy Smith, until the prosecution have proved affirmatively that those beads were the very beads of Amy Smith. That mere evidence that the beads were similar will not authorise the jury to find that they were the same.

Seventh, That the conduct of the defendant before and after the murder of Amy Smith, proved in this cause, will not authorise the jury to convict the defendant of the murder, unless the jury shall find that the beads or the money alleged to have been in the possession of the defendant, were the very beads of Amy Smith, or the very money of Amy or Noah Smith.

Eighth, That the Jury are Judges of both the Law and the Fact.

The Judge charged in substance as requested by the defendant's counsel, except upon the seventh Point. In regard to which the Judge declined to charge as requested, and the counsel for the defendant excepted to that part of the charge.

The jury then retired, and after an absence of 20 minutes, returned into Court.

The prisoner was immediately sent for, (he having been taken to the jail.)

Upon his return, the verdict of **GUILTY** was announced by the foreman of the jury.—The jury was then polled, and each juror answered as his name was called—**GUILTY**.

Some of the jurors were affected, even to tears.

The prisoner displayed no emotion whatever, but evidently took a livelier interest in the aspect of his case.

The Prisoner was then remanded, whereupon the Court adjourned to 9 o'clock tomorrow morning.

Eighth Day—Morning Session.

SATURDAY, Jan. 27, 1849.

9 o'clock, A. M.

The Court met pursuant to adjournment, and after the sentence of Barney O'Donnell, at about ten minutes to 10 o'clock, HALL was brought into Court by the officers. He was considerably affected and downcast.

The District Attorney then moved the sentence of ANDREAS HALL, for the murder of Mrs AMY SMITH.

Judge WRIGHT then said: Andreas Hall, stand up.

The prisoner rose, when the Judge asked him if he had any thing to say why the sentence of the law should not be pronounced?

HALL'S SPEECH.

HALL said he had something to say. He was satisfied his trial was a fair one. The testimony in general, he was satisfied with. He was also satisfied with his counsel, and he thanked the Court for assigning to him so good counsel, and of his own choosing. And he was also satisfied that the jury did not intend to bring in a verdict of guilty wrongfully.

I expect to die. I must die. It is not a light affair to enter into the hands of the ever-living God. [The prisoner was deeply agitated, and was incoherent here, as he was throughout his whole speech. No human power could give it as it was spoken; but some of the points we can give.]

I must now prepare to die. I must make a confession, to be prepared to meet my God—and I will confess in the presence of you all. My former character was attempted to be gone into. The court did all it could for me. I can never be blessed with again being in human society.

I must die. My true confession I will make. I cannot do as I would, if I had an education. I have had the fortune in my life to have 18 month schooling. I was bound to a man in Petersburg when I was 9 years old. I went to school two months in each winter; in the last winter I went to school six weeks.

I have read the Bible and some histories and other books. I have read the Bible from Genesis to Revelation. I do not find any place where I can screen myself. I am aware that the all-seeing-eye of God is upon me, and has ever followed me at every step of my life; and I thank earth and Heaven and God that such is the case. I am to die. The jury tho't me guilty. I am arrested, not for petit larceny, or for grand larceny. It was the beads that did me all the trouble. We all must die. I now declare before God and man, that I have never stepped foot in the town of Petersburg since the Tuesday before the 4th of July. It is said, how did you come by those beads? I have no doubt they were the beads of Amy Smith. It must be them, for there was a resemblance.—There was a mistake in Mr. Fisher's testimony. I don't think he meant to swear false: He said the beads were on a string when I sold them to him. They were not. They were done up in a piece of cotton cloth, and tied up with a string. The string was in a hard knot, and I could not untie it, and gave it to him to open.

I will come to the point. I was at Noah Smith's, shearing sheep on the Monday before the murder. On that day I committed the crime which has brought me here. While my brother Perry was gone, sowing buckwheat, there was a sheep, sheared on one side and not on the other, got away, and run about with the fleece hanging to it. Noah Smith had bro't out a pith of cider, and we had drank it up. Noah Smith went after the sheep to catch it, to save the fleece that was on the sheep, as the wool would catch in the bushes and be scattered. I took the pitcher and went into the house after some more cider. That was what I went for.—I found a string of gold beads lying on a stand near the door. There were other beads lying in a tucer, and in different places round. The old lady had been stringing them. As I went in, she was just going through the door into the east room. She did not see me. I first tho't I could take them, and then thought I would not. But I concluded to take them as she did not see me. I took them, and hid them under the peach tree where we sheared sheep. These are the beads that take my life:—and because I would not confess this crime, oh God! I am to suffer death. I must die, and if I lie about this, the worst is my own. I have searched the Bible, and find no place where I can look for

an escape. I implore God to pardon my sins.

The money. Where did you get the money? You have been idle a good deal of your life. I know that was wrong, and that I ought to be punished for it. But how dreadful the punishment! I have been on the canal. There are many Germans travelling on the canal, as every body knows, who have a great deal of money. There was a German on the canal last summer who was robbed of a box of money, and no account has been heard of it. I stole the money and hid it in the dust, where no light could shine upon it, and out of the sight of men. I borrowed 50 cents and other small sums of money, to screen me, and make people believe I had no money. Before I went to Petersburg, I hid the money, and searched the papers for any advertisement of the theft. I said to my brother, lend me 50 cents to pay on the pantaloons, so as to make them believe I had no money. Went home with my brother.

It was attempted to be shown that I was arrested on a money case. It was then argued that I had no money. I have got to die by the gallows, Oh! that I could die a natural death! But I must die by the gallows, and an innocent man was never hung. This is true.

As to Noah Smith and his property, I know nothing. He said nothing to me on that Monday, that he had any money in the world.—Jacob Hydorn has wickedly sworn false. Jacob Hydorn told me on Wednesday afternoon, that Green told him that the officers were after me, and that I and Nick Lewis were suspected of the Petersburg murder. Jacob advised me to go West, or some where, until the suspicions against me were over. I told him I was not guilty, and I would not run my country. This I never shall change. Jacob has testified falsely. I forgive him. I will forgive every man, and all the world.

Jacob came into the house, and said, did you see Green? I said I did. He asked me what he came for? I told him to get \$2, and that I paid him. He said that was not what Green came for. He said Green told him that the officers were after me, and that I and Nick Lewis were suspected of the Petersburg murder. I was in the house, with a fiddle in my hand, like an innocent man, not caring for these suspicions.

I was glad the court granted me good counsel, at my option. The court had done all it could. I must die. I shall die happy; but my soul is in agony. I must die in the vigor of youth and the bloom of health. It is agonizing to die for the murder of Noah and Amy Smith. Every body thinks I am guilty, and it is said that what every body says must be true. But what says that book, [meaning a small Bible prisoner held in his hand.] There is no way of escape left but by repentance. That is the only way of forgiveness. I must plead for mercy. I have no doubt that God will forgive my sins. No one who has read that book, can doubt that at the last day, the trump shall sound, and the dead shall

rise. That the righteous shall be separated from the wicked.

[The prisoner here quoted with literal accuracy, appropriate and beautiful passages of Scripture illustrating the destiny of the righteous and the wicked.]

I don't doubt these things. But I fear not. I fear there is prejudice against me in this very cause. This may not be so, but it is my opinion; and my opinion in this case is perhaps as good as anybody's.

It has been stated that I had no enemies in Petersburg. I think, from what I have seen, that I have about as many friends in Petersburg as there were righteous men in Sodom and Gomorrah, at the time they fled. Whoever is guilty of the murder of Noah and Amy Smith, must drink the wine of the wrath of God, which is poured out without mixture. Am I guilty of that murder? No! These hands were never uplifted to take, intentionally, the life of any human being. But I must die for this crime. I must endeavor to make peace with my God. I trust he will forgive me, for I shall come humble as a child. I never thought I was to die in this way. It never appeared to me that I could die so. Last night I could hardly believe that I was brought in guilty. Alas! I must die! I must give over and be willing to die.

The prisoner here sat down, whereupon Judge WRIGHT immediately requested him, addressing him by name, to rise. The Judge then delivered the sentence of the law, as follows:—

SENTENCE OF HALL.

ANDREAS HALL;—A Jury, almost of your own selection, after a full and protracted investigation; in which you have been defended by able Counsel, have found you guilty of the murder of Amy Smith.

For the crime of murder, the law justly forfeits your life. In the vigor of manhood you are soon to terminate your connection with all earthly scenes. Had you sedulously cherished pure moral principles, you might now have been a respected and honored citizen, and a source of joy and consolation to your friends. But Alas! unguided by moral feeling, in an evil hour you committed that crime which cuts you off from all hopes from men, and for which you are now to suffer. In the brief interval that will elapse before you bid adieu to earth, let me intreat you not to delude yourself with any vain hopes of pardon, or even a commutation of your punishment; but if you have never before thought of earnestly seeking the pardon of that Almighty Being, who vouchsafes mercy even to the most guilty of his creatures, that you set about speedily with a contrite and penitent spirit, to ask it, consult diligently that Holy Book, which you hold in your hand.—The law will give you time for preparation to meet your God although you gave it not to your aged victim. Let me then beseech you, that casting aside all hopes from men; you em-

ploy the interval that remains to you on earth in interceding with Him who is above all for his mercy and forgiveness.

The sentence of the Court is that on the fifteenth day of March next; between the hours of Eight o'clock in the forenoon, and four o'clock in the afternoon of that day, you be hung by the neck, until you be dead. And may God have mercy on your soul.

The following is the sentence upon Barney O'Donnell, found guilty of the murder of Antonio Ratto, at this Session of the Court.

SENTENCE OF BARNEY O'DONNELL.

As soon as Barney O'Donnell was brought into Court, at 9 o'clock, the District Attorney moved his sentence for the murder of Antonio Ratto.

Judge WRIGHT said:—Barney O'Donnell, stand up: Have you any thing to say why the sentence of the law should not be pronounced?

O'Donnell replied:—Nothing to say; but am not guilty: which he asserted two or three times.

The JUDGE then pronounced sentence, as follows:

BARNEY O'DONNELL:—After a full and impartial trial, in which you have had the aid of able Counsel in your behalf, and, on account of your youth, the sympathy of all, a jury of the country have found you guilty of the awful crime of murder.

It is not my intention now to harrow up your feelings by recurring to the frightful circumstances under which, with a premeditated design, you suddenly terminated the life of Antonio Ratto. If there be a spark of the better feelings of humanity in your heart, scarcely a moment has elapsed since the deed was committed, in which, as the memory recalled the circumstances of his death, you were not condemned by your own conscience.

The punishment which the law inflicts upon your guilty act is death, and it speedily awaits you. You will soon part with the scenes of earth forever. Indulge in no delusive hope of pardon from men, but let me implore you, that during the brief period that remains to you on earth, you earnestly seek pardon and forgiveness from that Almighty Being that you have so grievously offended, and in whose presence you are soon to appear. If your short life has been a guilty one, it would be terrible indeed that you should rush into the presence of your God with all your sins upon your head. I beseech you, therefore, whilst you may, to zealously implore in your behalf the aid and intercession of that blessed Being who graciously promised forgiveness even to the penitent thief upon the cross. Let not the short period that remains to you, of life, be wasted in the indulgence of impious thoughts or vain hopes, but strive to fix your thoughts and hopes, eagerly and intensely, upon the glorious realities beyond the grave.

The sentence of the Court is that on the fifteenth day of March next, between the hours of eight o'clock in the forenoon and four o'clock in the afternoon of that day, you be hung by the neck until you be dead. And may God have mercy on your soul.

[The prisoner seemed a good deal affected upon the delivery of his sentence.]

[The prisoner, when he came into Court this morning, exhibited none of his wonted composure and indifference. His first remark in answer to the question by the Judge, however, was made in a clear, firm tone. He soon gave way, however; was much agitated; was exceedingly confused, disconnected, and incoherent in his remarks. We could not possibly, in many cases, report his style; which, from his want of education, and from his habits of thought, and his confusion, was very bad:—So we have contented ourselves with giving all the important statements he made, using as far as possible, some of the words used by him in each statement. At the close of his

speech—and upon which we forbear comment, as it is accompanied by the testimony on the trial—during the sentence, and when he left the court, he shed tears, and his face was deeply reddened by excitement.

He quoted many beautiful passages from scripture with great accuracy and appositeness, and which from their frequency, we could not fully report. His skill in this particular, which must have astonished some, is explained when we state, that in repeated instances in the course of his life, he has been professedly a pious exhorter at religious meetings. The speech, at its commencement, had a prodigious effect upon the whole audience—exciting the sympathies of stout-hearted men, as well as bringing audible sobs from hundreds of ladies upon every side of the house. At that time it was supposed from his language, that Hall intended to make a clear confession: but the moment he made the statement that he stole the beads, an icy chill seemed to pervade the whole house. [

SENTENCE OF HALL

ANDREW HALL:—A jury, almost of your own selection, after a full and protracted investigation; in which you have been defended by able Counsel, have found you guilty of the murder of Amy Smith.

For the crime of murder, the law justly forfeits your life. In the vigor of manhood you are soon to terminate your connection with all earthly scenes. Had you sedulously cherished pure moral principles, you might now have been a respected and honored citizen, and a source of joy and consolation to your friends. But Alas! unguided by moral feeling, in an evil hour you committed that crime which cuts you off from all hopes from men, and for which you are now to suffer. In the brief interval that will elapse before you bid adieu to earth, let me intreat you not to delude yourself with any vain hopes of pardon, or even a commutation of your punishment; but if you have never before thought of earnestly seeking the pardon of that Almighty Being, who vouchsafes mercy even to the most guilty of his creatures, that you set about speedily with a contrite and penitent spirit, to ask it, consult diligently that Holy Book, which you hold in your hand.—The law will give you time for preparation to meet your God, although you gave it not to your aged victim. Let me then beseech you, that casting aside all hopes from men; you enter the grave.

It is not my intention now to harrow up your feelings by recurring to the frightful circumstances under which, with a premeditated design, you suddenly terminated the life of Antonio Ratto. If there be a spark of the better feelings of humanity in your heart, scarcely a moment has elapsed since the deed was committed, in which, as the memory recalled the circumstances of his death, you were not condemned by your own conscience.

The punishment which the law inflicts upon your guilty act is death, and it speedily awaits you. You will soon part with the scenes of earth forever. Indulge in no delusive hope of pardon from men, but let me implore you, that during the brief period that remains to you on earth, you earnestly seek pardon and forgiveness from that Almighty Being that you have so grievously offended, and in whose presence you are soon to appear. If your short life has been a guilty one, it would be terrible, indeed, that you should rush into the presence of your God with all your sins upon your head. I beseech you, therefore, whilst you may, to zealously implore in your behalf the aid and intercession of that blessed Being who graciously promised forgiveness even to the penitent thief upon the cross. Let not the short period that remains to you, of life, be wasted in the indulgence of impious thoughts or vain hopes, but strive to fix your thoughts and hopes, eagerly and intensely, upon the glorious realities beyond the grave.