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CASE

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COURT OF GENERAL SESSIONS, Part III.  
The People of the State of New York against  
Mary Dunne.

Before

Hon. Frederick Smyth and a Jury.

Indictment filed November 8th, 1893.

Indicted for Murder in the First Degree.

New York, March 14th, 1894.

APPEARANCES.

For the People, Assistant District Attorney James W. Osborne.

For the Defendant, Mr. Levis S. Chanler.

The jurors were called, examined and sworn.

Mr. Osborne opened the case on behalf of the People.

EDWARD J. DONLIN, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Osborne:

Q Dr. Donlin, you are a Deputy coroner? A Yes, sir.

Q And a physician? A Yes, sir.

Q You made an autopsy upon the body of George Dunne? A Yes, sir.

Q On the fifteenth day of October, 1893,?

A. Yes, sir. I superintended the autopsy.

Q What date did you make the autopsy?

A. The fifteenth of October.

Q 1893?

A. Yes, sir.

Q Where? A At the New York Hospital.

Q Who assisted you or who made the autopsy?

A. Dr. Briggs.

Q Dr. Briggs under your supervision?

A. Yes, sir.

Q About what time in the afternoon did you get there, Doctor, A Around about three o'clock.

Q Three o'clock?

A. Around about that.

Q You made an examination of the body?

A. Yes, sir.

Q Go on and state in your own way what you found?

A. Let me have those papers. On an inspection of the body it appeared to be well nourished. There was about a dozen small wounds, about the left eye, the forehead, in the left temple parietal

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region.

Mr. Chanler: I object to his reading from the autopsy unless he states he cannot recollect without it.

By the Court:

Q Shut that up, Doctor, and see if we can start you off right. I understood you to say that you superintended or assisted at this autopsy which was held on the body of a man at the New York Hospital?

A. Yes, sir.

Q The autopsy was really performed by Dr. Briggs?

A. Yes, sir.

Q In your presence?

A. Yes, sir.

Q About 3 o'clock that afternoon?

A. Yes, sir. about that time.

Q Can you state without reference to those minutes what the condition of the body was when you first observed it. You made a superficial examination of it?

A. Yes, sir, I made a superficial examination.

Q State what you found on the superficial examination?

A. I cannot recall the facts, I make so many autopsies.

Q Can you state the condition in which you found that body?

A. The body was in a well nourished condition, as far as I can recall, about a dozen small wounds on the left temple

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parietal region. I found a depression or fracture of the skull beneath there, after removing the scalp.

Q Have you stated all the superficial appearances of that body?

A. I don't think I found any other marks on the body.

Q Go on, doctor, and tell the rest of it?

A. As to the condition of the other organs, I think they were in a healthy condition.

Q After making a superficial examination of this body, what was the next thing you did?

A. I removed the scalp.

Q After removing the scalp what did you find?

A. I found a depressed fracture on the left temple, parietal region, a fracture of the frontal bone, the parietal bone and the temporal bone.

Q What was the next step?

A. The next step was to remove the top of the skull, the calvarium.

Q On removing that what did you find?

A. I found a hemorrhage beneath the fracture, a depression or pressure on the brain tissue as the result of the depressed fracture.

Q Anything else, doctor?

A. That is about all I can remember of that.

Q Without reference to the notes?

A. Yes, sir.

Q What did you find to be the cause of death?

A. Fracture of the skull.

By Mr. Osborne:

Q What did you find was the condition of the other vital organs?

A. I believe they were in normal condition.

Q How many wounds did you say you found on the head?

A. About a dozen I should say.

Q Could those wounds have been produced by a hatchet or a hammer, might they have been so produced?

Mr. Chanler: I object to that as incompetent, irrelevant and immaterial.

Objection overruled; exception.

By the Court:

Q In your opinion, doctor, how were those wounds caused?

A. By violence.

Q What kind of violence?

A. I should say they were from blows struck with a hammer or the back of an ax, or anything of that kind.

Mr. Chanler: I object to that last question and I ask that the answer be stricken out.

Motion denied; exception.

Mr. Osborne: It is conceded by the defense that the body upon which this autopsy was performed was the body of George Dunne, the person mentioned in the indictment.

The Court: That, may go upon the record.

CROSS EXAMINATION by Mr. Chanler:

Q Doctor, do you remember what the condition of the stomach was as to ulceration?

A. I think the stomach was congested, I think so, yes, sir.

Q I ask you if you recollect finding that the stomach was ulcerated, showing evidence of the deceased being a drinking man?

A. Now that you recall it, yes, sir.

By Mr. Osborne:

Q That ulceration could have been caused by something other than drinking?

A. Yes, sir, the ulceration could be from other causes.

Q Other causes?

A. Yes, sir.

By the Court:

Q That ulceration which you observed was not the cause of this man's death, was it?

A. No, sir.

FRANK E. TOWLE, JR., a witness called on behalf of the People, being duly sworn, testified as follows.

DIRECT EXAMINATION by Mr. Osborne:

Q Mr. Towle, you are a city surveyor?

A. Yes, sir.

Q You have been engaged in that business several years?

A. Yes, sir.

Q Did you make that survey (handing witness a map)?

A. Yes, sir, I made this survey.

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Q What premises does that map represent?

A. No. 106 West 26th Street.

Q What part of those premises? A The second floor.

Q Now, is that a correct diagram?

A. Yes, sir.

Q What did you make it?

A. March 7th, 1894.

Q Does this survey also contain a diagram representing the staircase leading from the second floor up to the third?

A. Yes, sir.

Q And of the platform or hall of the third floor?

A. Yes, sir, it does.

Q Now, did you look to see or find out whether a person standing on the third floor and looking through the banisters could see into the kitchen if the door of the kitchen was open?

Mr. Chanler: I object to that as incompetent, irrelevant and improper.

The Court: Will you tell me why. it is not proper?

Mr. Chanler: It was done in the absence of the defendant, and it has no bearing on the case.

The Court: I don't know about that. It is simply proving the fact that a person standing in a certain position indicated on that diagram, and looking in a certain direction could see to a certain point. I think that is perfectly proper, although

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I don't know what it may load up to.

A. By leaning over the banisters on the third floor at the street end, of the opening which goes to the ----

Q Just indicate where you would stand?

A. By standing at this point here (indicating) Just up there and bending over the banisters so that my eye would be there about (indicating) and looking down through the well hole of the opening between the banisters as cut there in the staircase I could see from this point (indicating) to a point ten feet from the side of the wall into the kitchen.

Q You could see into the kitchen?

A. Yes, sir -- to a point ten feet in, somewhere there; and also from a space from this wall about two feet in this direction, so that the eye standing at that point could see that much of the kitchen floor.

Mr. Chanler: I ask that all the evidence of this witness regarding what he saw or could be seen be stricken out.

The Court: I don't suppose there is any question about the correctness of this diagram.

Mr. Chanler: That is conceded.

The Court: Then I will allow the District Attorney to put it in evidence.

The diagram referred to was then put in evidence and marked People's Exhibit I of this date.

The Court: You have already objected to what the witness Bald in reference to that kitchen.

Mr. Chanler: I ask that it be stricken out.

Motion denied; exception.

MALANIA SOMMIEL, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Osborne:

Q You live at 106 West 26th Street, in this city?.

A. Yes, sir.

Q You and your son-in-law keep a restaurant there, do you?

A. Yes, sir.

Q Are you the housekeeper too?

A. Yes, sir.

Q Now, you remember the 14th of October, 1893, do you not?

A. Yes, sir.

Q Did this defendant Mary Dunne and her husband occupy apartments in your house?

A. Yes, sir.

Q What floor did they occupy?

A. The second floor.

Q For how long did they occupy it?

A. For about six months.

Q On the afternoon of the 14th of October, 1893, did you see Mary Dunne, this woman?

A. Yes, sir.

Q Where did you see her?

A. In the window.

Q Of her apartments?

A. Yes, sir.

Q Did you notice anything about her at the time?

A. Yes, sir.

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Q You saw the defendant in the window of her own house?

A. Yes, sir, she was in the house where she lives.

Q Where is your restaurant, is it on the ground floor?

A. No, sir, two steps.

Q Is there a basement underneath?

A. Yes, sir.

Q Just above the basement is your restaurant?

A. Yes, sir.

Q Is that right?

A. Yes, sir.

Q Where were you when you saw this defendant on this day?

A. In the yard,

Q You were in the yard of those premises?

A. Yes, sir.

Q You saw her in the window of her house?

A. Yes, sir.

Q What time of the day was that?

A. Near three or four o'clock, I don't know for sure.

Q Three or four o'clock in the afternoon?

A. Yes, sir.

Q Did she say anything to you when you saw her?

A. She says, she wanted to see me and she told me to go up.

Q To go upstairs?

A. Yes, sir.

Q Did she raise the window?

A. The window was open and I looked up.

Q The window was open so that you could look into it?

A. Yes, sir.

Q Did you observe anything about the woman at the time?

A. Well, I seen her in the window and she told me to go up.

Q Did you notice here

A. No, sir.

Q You didn't set anything peculiar about her at the time?

A. No, sir.

Q This woman was at the window and the window was open?

A. Yes, sir.

Q You were in the yard?

A. Yes, sir.

Q What did she say to you?

A. She says, "Mrs. Sommiel, come up."

Q She said come up?

A. Yes, sir.

Q What next?

A. "I want to tell you something."

By the Court:

Q What did she say?

A. I looked in the window and she told me, "Come up, I want to tell you something."

Q Did she say anything else?

A. No, sir.

Q What did you do?

A. I came back in my room and I did not go up.

Q You did not go upstairs?

A. No, sir, she called me to go up, that I should go, I don't say nothing and she don't do me nothing at all.

By Mr. Osborne:

Q Did Abrian go upstairs then?

A. Yes, sir.

Q Then did he come down again?

A. Yes, sir.

Q Did you go upstairs?

A. Yes, sir, afterwards.

Q Did you go to the door of Mrs. Dunne's apartments?

A. Yes, sir, I go to the door.

Q Tell the Jury whether you saw her or not when you got there?

A. I saw Mrs. Dunne in the hall.

Q Now, did you say anything to her, or she to you?

A. She told me, "I kill my husband." That is all she told me.

Q What did you do or Bay?

A. I came in the kitchen and I ran going in and I saw this man in the bed, I ran away.

By the Court:

Q You went into the kitchen of Mrs. Dunne's rooms?

A. Yes, sir.

Q When you got into the kitchen where else did you go then?

A. In the room.

Q In the bedroom?

A. No, sir, in the front room.

Q You went right to the front?

A. Yes, sir,

Q When you got into the front room, what did you see?

A. I saw one man in the bed, full of blood, that is all.

Q Who was the man, was that her husband?

A. Mr. Dunne.

Q Mr. Dunne?

A. Yes, sir.

Q You saw him full of blood, then what did you do?

A. I ran back.

Q You ran out then into the hall, is that it?

A. Yes, sir.

By Mr. Osborne:

Q Where was the room that you saw Mr. Dunne in, in this room here, the front room, Look at the diagram. There is the kitchen and there is the back room. Which room was it you saw

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Dunne in?

A. That is the kitchen?

Q Yes, and that is the hall you see there?

A. Yes, sir.

Q And there is the banisters right there?

A. Yes, sir.

Q This is a room with two windows in it?

A. Yes, sir.

Q Whereabouts Was the bed?

A. About there (indicating).

Q There is the closet there?

A. Yes, sir.

Q How many rooms did they have there in that house?

A. Three rooms.

Q Mrs. Dunne had three rooms?

A. Yes, sir.

Q This room with the closet in it?

A. Yes, sir,

Q And that room there?

A. Yes, sir,

Q Was it in the room next to the kitchen that the body was found?

A. Yes, sir, Mr. Osborne: I will mark that room A.

Q About where was the bed, do you remember?

A. About there (indicating).

Q Was the head of the bed in that direction, towards the wall, or was the head of the bed towards the kitchen?

A. The head of the bed was this side (indicating).

Q Was the head of the bed towards the kitchen?

A. There (indicating).

Q Is this the head of the bed?

A. Yes, sir, and the man had his head here (indicating).

Q The man was lying at the foot of the bed?

A. Yes, sir.

Q Was he lying across the bed?

A. No, sir, straight.

Q Straight on the bed with his head towards the foot of the bed?

A. Yes, sir.

Q I understood you to say that Mr. Dunne was covered with blood?

A. Yes, sir.

Mr. Chanler: I object to the expression "covered with blood".

The Court: Leave out that expression.

Q Did you see any blood?

A. I saw blood all over.

Q All over the bed was it?

A. Yes, sir.

Q Was there any on the floor?

A. Yes, sir.

Q Some on the floor also?

A. Yes, sir.

Q Did you see blood anywhere else but on the floor and on the bed?

A. I seen some on the ceiling.

Q On the ceiling?

A. Yes, sir.

Q On the wall you mean?

A. Yes, sir.

Q Did you see any on the ceiling?

A. Yes, sir.

Q You know what the ceiling is?

A. Yes, sir, I mean on the wall, I made a mistake.

Q When you got upstairs did you see the little boy?

A. Yes, sir.

Q You saw him when you got up there?

A. Yes, sir, I seen him by the door downstairs.

Q When he upstairs when you got upstairs?

A. Yes, sir.

Q Did he follow you up, or did he go upstairs before you?

A. I went up with the boy.

Q You went up with the boy?

A. Yes, sir.

Q Now, did Mrs. Dunne say anything to the boy when he got upstairs?

A. Yes, sir, she told him, "I killed your father, Tody."

Q She said, "Tody, I killed your father?"

A. Yes, sir.

Q When you went into the room where Dunne was lying upon the bed, did. you see anything else on the bed besides Dunne, anything else?

A. No, sir.

Q The little girl, was she on the bed?

A. She sat down near the father.

Q She was in the bed with her father?

A. Yes, sir.

Q Did you notice any blood on the little girl?

A. Yes, sir, there was blood on the baby's face, all over.

Q What did the little boy do when he got upstairs?

A. He is going in the room to fetch the baby.

Q At this time when he came up there?

A. Yes, sir.

Q After you got upstairs did you see the little boy do anything?

A. I seen the boy get the girl by the arms and he came down with it.

Q He got the little girl in his arms?

A. Yes, sir.

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Q Was this defendant there?

A. Yea, sir.

Q She was there?

A. Yea, sir.

Q And she saw this thing take place?

A. Yes, sir.

Q What did you do then?

A. I was so surprised at myself I done nothing.

Q The little boy took the girl, do you recollect that?

A. Yes, air.

Q He took the baby, as you call her?

A. Yes, sir.

Q What was the next thing that was done. What did you next see?

A. I commenced to wash the baby.

Q Did you commenc\*\*\* to wash the baby in the room?

A. No, sir, in my room.

Q Did the boy take the baby downstairs to your room?

A. Yea, sir.

Q Did you go down to your room?

A. No, sir, he came down to my room with a policeman.

Q You also vent down?

A. Yea, sir.

Q Did you leave this woman in her own room?

A. Yes, sir.

Q Did you go up into the room the next day?

A. Yes, sir.

By the Court:

Q Is that all you saw this day?

A. Yes, sir.

By Mr. Osborne:

Q Did you notice this hammer lying by the bed or not?

A. No, sir.

Q You didn't touch anything in the room when you went into it, did you?

A. No, sir.

Q Did you or not examine the bed the next day when you went upstairs?

A. No, sir.

Q The next day when you went up to clean up the room did you see the bed - when you got upstairs was this woman in the house, in her own house?

A. No, sir, she is arrested that day.

Q When you went up there the next day did you see the woman's bed?

A. Yes, sir.

Q The bed where you saw Dunne lying the day before?

A. Yes, sir.

Q Will you tell me what was the condition of the bed?

A. I seen only \*\*\*

Mr. Chanler: I object to this.

The Witness: I seen only blood, that is all I saw.

The Court: Unless you show there was no change made in the room you cannot get that in evidence.

Q When this woman was arrested where were you?

A. Home.

Q Downstairs?

A. Yes, sir.

Mr. Osborne: Will you please remain in court

When you leave the stand. I just want to shorten the time.

The Court: I don't want to shorten anything in a ease of this kind. I want to get at the facts.

By the Court

Q I heard you say something about a little boy, whose boy was that?

A. Mrs. Dunne's, I think,

Q Mr.\*\*\* Dunne's boy?

A. Yes, sir.

Q What was his name?

A. She called him Tody.

Q You spoke about a little girl you found in the bed?

A. Yes, sir.

Q How old was that little girl?

A. About 17 or 18 months,

Q A mere baby?

A. Yea, sir,

Q That was lying in the bed?

A. Yes, sir.

Q That was her baby too?

A. Yes, sir.

Mr. Osborne: I offer to show that when the woman was arrested---

The Court: I won't take any offers, Mr. Osborne: I will prove it by another witness.

The Court: If you prove it it will be all right. I will take no offers.

Mr. Chanler: With your Honor's permission I will defer my cross examination of this witness until the direct examination is completed.

The Court: I should think that is the proper

course. The District Attorney can withdraw this witness and call another.

EDWARD BUCHANAN, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Osborne:

Q Officer Buchanan, you are a police officer attached to the 19th Precinct in this city?

A. Yes, sir.

Q Do you remember the 14th day of October, 1893?

A. Yes, sir.

Q Did somebody come to you while you were on beat that afternoon, the 14th of October?

A. Yes, sir, about half-past three or a quarter to four o'clock.

Q Was it a man that came to you?

A. Yes, sir, Adrian Forin.

Q Is he a man?

A. Yes, sir, he is a man.

Q He had a talk with you, did he?

A. Yes, sir, he told me ----

Q Don't tell what he said, that is all I want to know, the fact that he did have a talk with you -- after he had the talk with you what did you do?

A. I went down to No. 106 West 26th Street.

Q Did you go upstairs?

A. Yes, sir, I went upstairs.

Q To whose apartments?

A. To the Dunne apartments.

Q Whom did you see there when you went there?

A. Mrs. Dunne.

Q Where did you see her?

A. In the hall room, or kitchen.

Q Was it a kitchen?

A. Yes, sir.

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Q You saw her in the kitchen?

A. Yes, sir.

Q Did you go into any other room than the kitchen?

A. I did.

Q What did you see in there?

A. I saw a body.

Q What room did you go into?

A. The bedroom.

Q You went into the bedroom?

A. Yes, sir.

Q When you went in there what did you see?

A. The room was mused, the furniture was overturned, there was a bed in this room and across the bed lay Mr. Dunne unconscious.

Q What did you do?

A. I asked the lady What was the matter.

By the Court:

Q What lady do you mean?

A. I asked Mrs. Dunne what was the matter.

By Mr. Osborne:

Q Kindly tell me what else you saw there?

A. A bed, bedding, and the walls and floor were covered with blood -- the side of the bed.

Mr. Chanler: I object to covered with blood.

The Witness: There was blood on them.

The Court: Change it to "there was blood on them.

The Witness: On the floor beside the bed lay a hammer.

Q Is that the hammer (handing witness a hammer)?

A. Yes, sir.

Q Was there blood on the hammer?

A. Yes, sir, that is the way

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the hammer was when I found it.

Q Was there blood on the hammer?

A. Yes, sir.

The hammer referred to was offered in evidence and marked People's Exhibit 2 of this date.

Q What else did you do then?

A. I rang up for an ambulance and conveyed the patient to the New York Hospital.

Q Did an ambulance come from the New York Hospital?

A. Yea, sir.

Q What did you do then?

A. I put Mrs. Dunne under arrest and conveyed her to the hospital also.

Q You conveyed Mrs. Dunne and George Dunne to the hospital?

A. Yes, sir.

Q Did you lock the room door at the time when you left?

A. Yes, sir, I locked the room door and the keys were brought to the station house by Officer Brown or Officer Scully.

The rooms were looked up and the keys brought to the station house. CROSS EXAMINATION by Mr. Chanler:

Q When you went to the room, officer, who else was there besides the defendant, if \*\*\* anybody?

A. There was a baby on the bed.

Q Were there any more people there?

A. No, sir, not at the time.

Q What did Mrs. Dunne say to you when you went upstairs?

A. I asked her what was the matter.

Objected to; objection overruled; exception.

Q What did she say?

A. She told me that her husband came home and abused her, and kicked her and that she hit him with the hammer.

Q Anything else?

A. That is all she said to me, sir.

Q Nov, officer, from the kitchen you walked into the bedroom, did you not?

A. Yes, sir.

Q Whereabouts did you see the blood on the walls?

A. The walls were ----

Q I understand you to say that that is the bed (indicating) -- this is the big room in which the bed was?

A. Yes, sir.

Q Now, I understand you came out of the hall into the kitchen and through this door here?

A. Yes, sir.

Q And into the large room?

A. Yes, sir.

Q And that is about where the bed was?

A. Between the two doors, yes, sir.

Q You call that the bed?

A. Yes, sir.

Q I understand that the man's head was towards here. When you came in was the man lying lengthwise on the bed or across the bed?

A. Across the bed.

Q Which way was his head, in that direction or in this direction?

A. in this direction (indicating).

Q That is where his head was, lying across the bed?

A. Yes, sir.

Q Whereabouts was the blood that you saw?

A. On this wall here

Q On this partition wall here?

A. Yes, sir.

Q Between the kitchen and the room?

A. Yes, sir.

Q Did you see any blood on the floor?

A. Yes, sir, on the floor along here (indicating).

Q On the floor along here?

A. Yes, sir.

Q And about the bed?

A. Yes, sir.

Q Nov, officer, did you notice any chairs upset or anything of that kind?

A. Yes, sir.

Q Now, will you describe a little more fully, if you can, what you mean by that -- did you see signs of disturbance?

A. As you enter the kitchen here there was crockery, delf, broken on the floor, the sink was there, the things in there were all turned upside down, some of the furniture and kitchen utensils.

Q Cooking utensils you mean?

A. Yes, sir, the sink was here.

Q Was there anything in the sink?

A. There might be two or three pots and pans.

Q Was there any furniture here at all?

A. It was all overturned.

Q It was overturned in the kitchen?

A. Yes, sir.

Q What did you find in the other rooms as far as the furniture was concerned?

A. That was all turned over also, there were two or three chairs in there turned upside down.

THE COURT: This officer says he came in there from the hall--you see the hall marked there--and entered the kitchen where you see "kitchen" there, and from the kitchen he entered, through that door, into the large room, and he said that the man was lying across the bed. Now, then, he says that on that partition wall, between the kitchen and the large room, that he saw marks of blood; he also saw blood at that mark there, in the large room. He says that, in that large room, there were some chairs over-turned, and he says that, in the kitchen, there was a chair or so over-turned, and some crockery. That is about the substance of what he says.

A JUROR: Does that bed stand entirely free in the room, or is it up against the partition? THE COURT: Yes.

THE JUROR: You can walk around the bed, you can go around the bed?

THE WITNESS: The head of the bed was Close against the partition.

THE COURT: This witness say a it was close against the partition.

By Mr. Osborne:

Q I understood you to say you took this defendant and her husband

to the New York Hospital?

A. Yes, sir.

Q What was the name of the ambulance surgeon?

A. Dr. Judd.

Q Were you present when Dr. Judd examined her?

A. I was present; yes, sir.

Q Did you hear what he said to her -- please tell us what kind of an examination the doctor made of her?

A. At the hospital, the doctor examined her.

Q They were both taken in there?

A. Yes, sir.

Q On, the ambulance?

A. Yes, sir.

Q What was the first thing that was done, while the defendant was present?

A. Mrs. Dunn was taken in the side room there, with one of the nurses of the hospital, to undress her, and see if there were any marks upon her.

Q Were you present at the time that performance was going on?

A. No, sir; I was not.

Q One of the nurses made an examination?

A. Yes, sir.

Q Now, was the defendant present when you heard Dr. Judd say anything about her?

A. I asked Dr. Judd a question.

Q In her presence?

A. Yes, sir; was there any marks of any violence upon this woman, and he said there was a slight abrasion on the left arm.

BY A JUROR:

Q Was the child in bed with Mr. Dunn when you were in the room?

A. Yes, sir.

Q Had the child been removed?

A. I had taken the child off the bed, and given it to its mother.

Q You gave it to the mother?

A. Yes, sir.

Q Where was the child lying, what part of the bed?

A. The child was sitting on the bed there, and its fathers-----

Q It was not asleep?

A. No, sir.

BY MR. CHANLER:

Q Now, Officer, did anybody come up attains, any of the other inmates of the house come up stairs, while you were there?

A. I brought this Adrian up stairs, to show me where the place was.

Q Was Mrs. Sommeia in there while you were there?

A. No, sir; nobody was in there.

Q Did you take Mrs. Dunn away with you?

A. I took her and

Mr. Dunn to the hospital.

Q Took her away yourself?

A. Yes, sir.

Q In the ambulance?

A. Yes, sir.

Q You are quite sure that no one came into the room, while you were there, excepting Mr. Adrian?

A. Yes, sir; there were other officers cane in the room, because I sent for them.

Q Another officer was there?

A. other officers.

Q How many officers came?

A. Two officers besides myself.

Q What were their names?

A. Officer Brown and Officer Scully.

Q You sent for them?

A. Yes, sir.

BY THE COURT:

Q Was he dressed in his full clothes when he was on the bed, or did he have his coat off, or any portion of his clothes?

A. He had nothing on but an under-shirt.

Q He had nothing on but an under-shirt?

A. That is all.

BY MR. CHANLER:

Q Will you describe a little more fully, if you can, Officer, the position of the deceased on the bed; was he on his back or on his side?

A. Lying on his back, when I entered the room.

BY THE COURT:

Q Was he conscious or unconscious?

A. Unconscious.

By Mr. Osborne:

Q Officer, when you went up stairs, and found the defendant on the bed, did you go down yourself and ring for the hospital ambulance surgeon?

A. Yes, sir.

Q And, when\*\*\* you got back up there, did you see the little boy,

when you got back?

A. The boy came there about five minutes after I was there.

Q After you were there the second time?

A. Yes, sir; he came up stairs.

Q Was the child gone down stairs?

A. Ho, sir; I took the boy, when he came in, and brought him inside, took the child off the bed, and brought it down stairs to the restaurant myself.

Q Did the boy take the child down stairs?

A. No, sir.

Mr. Chanler: I object to that, as leading.

Q When you got into that room there was no one in that room excepting the defendant, the deceased, and this little baby; is that right?

A. Yes, sir; that is right.

Q The deceased lay on the bed, across the bed; is that right?

A. Yes, sir; that is right.

Q Where was the woman at that time, how near the bed was she, or was she in the kitchen?

A. She was in the kitchen when I went up stairs.

Q Was she sitting or standing?

A. Standing.

Q You went right into this room?

A. I went into the room; yes, sir.

Q What was the first thing you did? I understood you to say you took up the baby?

A. I took the baby off the bed

and gave it to the mother.

Q You gave it to the mother, in the kitchen?

A. She came right in after me, in the room.

Q You gave it to her in the room where the deceased was?

A. Yes, sir.

Q Now, then, after looking around the room, as you have already told us, and seeing what you did see, did you go down stairs to summon the ambulance?

A. Yes, sir.

Q Did you leave any one in the room other than this defendant and that baby?

A. Adrian Forian.

Q You left him in charge of the room?

A. Yes, sir.

Q At the time you went down stairs there was the woman, there was the deceased person, the baby, and this man Adrian?

A. Yes, sir.

Q How far did you go for the purpose of ringing up the ambulance?

A. Around 6th avenue, between 25th and 26th streets.

Q You went quickly, I suppose?

A. I was gone about three to five minutes, about. And then you returned; did you?

A. Yes, sir.

Q When you returned again to this room, whom did you find in the room then?

A. Only the parties I left there.

Q Was the baby there then?

A. Yes, sir, the baby was in

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the mother's arms.

Q Still in the mother's arms?

A. Yes, sir.

Q What was the next thing done, in reference to the baby?

A. This boy came up stairs.

Q What boy, the little boy, the son?

A. Her son came up stairs.

Q And then what?

A. I took the baby off the mother, and gave it. to the boy.

Q Gave it to the boy?

A. Yes, sir.

Q What did the boy do with this baby?

A. Brought it down stairs, into Mrs. Sommeia's restaurant.

The Court admonished the Jury, and took a \*\*\*races.

AFTER \*\*\*RECESS.

EMMA GRUBERT, a witness called on behalf of the People, being duly sworn, testified as follows:

Direct Examination, By Mr. Osborne:

Q What is your business?

A. I am a nurse.

Q At the New York Hospital?

A. Yes, sir.

Q Were you a nurse in the New York Hospital on the 14th day of October, 1893?

A. Yes, sir.

Q Did you nurse George Dunn?

A. Yes, sir.

Q Who was brought into that hospital?

A. Yes, sir.

Q What time did he die?

A. Between 3 and 4 in the morning.

Q Of the 15th of October, 1893?

A. Yes, sir.

Q Did you notice the size of the man?

A. I did; he was a very large man.

Q About how much do you think he would weigh?

A. About two hundred pounds or over.

Q About two hundred pounds or over?

A. Yes, sir.

CHARLES McGOVERN, a witness called on behalf of the People:

Mr. Chanler: I object to the boy being sworn until your Honor examines him as to his qualifications

and as to whether or not he understands the nature of an oath.

By the Court:

Q How old are you?

A. Ten.

Q Where do you live?

A. 106 West 26th street.

Q What is your none?

A. Charles McGovern.

Q What I is your father's name?

A. George Dunn.

Q Is your mother alive?

A. Yes, sir.

Q What is her name?

A. Mary Dunn.

Q Do you go to school?

A. Yes, sir.

Q Do you go to the public school?

A. I went to the public-school; yes, sir.

Q What street is it on?

A. Twentieth street.

Q How long have you been going to school; about how long? (Ho answer)

Q Can you read?

A. Yes, sir.

Q Can. you write any?

A. Yea, sir.

Q Do you go to church anywhere?

A. Yes, sir.

Q What \*\*\*church do you go to?

A. 23rd street.

Q 23rd street; a catholic church?

A. Yes, sir.

Q Do you go to Sunday school?

A. Yes, sir.

Q Do you know what happens to people who tell lies, who swear to shat is not true?

A. Yes, sir.

Q What happens a boy who tells a lie and swears to it; what will be done to him?

A. He will be punished.

Q What happens to a boy who tells a lie; when he dies, what will become of him?

A. He will go to hell.

(The witness is sworn.)

Direct Examination, By Mr. Osborne:

Q Where are you now living?

Mr. Chanler: One moment, if your Honor

please. If it is possible that the defense, being ignorant of what this boy testifies to, if it is possible for the defense, by offering to admit what the prosecution expect to prove by this boy, to prevent this boy going on the stand, we will be very glad to do so.

The Court: This boy is a bright, intelligent little fellow; tells me his name and his father's and mother's names.

Mr. Chanler: That is not my ground, sir.

It is that he is the son of the defendant, and in order to prevent his having, in future years, to look back to this trial, we will admit, if we can, what the prosecution expect to prove by him.

The Court: That ought to have been agreed

upon long since. Have you got his statement in writing?

Mr. Osborne: Yes, sir; and I have submitted it to Mr. Chanler, in full.

Mr. Chanler: At the time I read this stipulation over, that, on other grounds, I might be able to prevent the boy going on the stand, or I would not have made this offer.

Mr. Osborne: I am perfectly willing to read his statement.

The Court: Unless the other side agree to it, it cannot be read. All this thing could have been settled before we got to this trial.

Mr. Osborne: I think it will save time to let Mr. Chanler read that again.

The court: Well, let him read it. I am in no great hurry in a case of this kind.

Mr. Osborne: I expect to prove by this---

The Court: Have you agreed upon a statement?

Mr.? Osborne: It is conceded that this boy will testify that his father came home in the morning-----

Mr. Chanler: We had better have him examined.

By Mr. Osborne:

Q Do you remember the day your father was killed?

A. Yes, sir.

Q What time in the morning did he come home?

A. 7 o'clock.

Q 7 o'clock?

A. Yes, sir.

Q Did he come in the room immediately, just as \*\*\*son as he got up stairs, or did he knock at the door first?

A. He knocked at the door.

Q About how many times did he knock at the door?

A. Ten times.

Q Would your mother let him in?

A. No, sir.

Q About how long was it after he came there that your mother did let him in?

A. An hour.

Q About an hour?

A. Yes, sir.

Q And, after he came in, what did he do?

A. He went and sat up until he had a glass of beer.

Q Before that did your mother send you out for the beer?

A. She sent me out for the beer.

Q Did you go out and get the beer?

A. Yes, sir; he

Q took a glass of beer.

Q And then what did he do?

A. He went to sleep.

Q Did he take his clothes off before he went to bed?

A. Yes, sir.

Q What did your mother then do with the beer?

A. She drank the rest of it.

Q She drank the rest of it; did she?

A. Yes, sir.

Q And then what did your mother do?

A. She sent out for another pint of beer.

Q Sent out for more beer?

A. Yes, sir.

Q Did you go out?

A. Yes, sir.

Q Did you get the beer?

A. Yes, sir.

Q Did you bring it back?

A. Yes, sir.

Q What did your mother do with the beer?

A. She drank it all.

Q Did your mother send you out again that night?

A. Yes, sir; for stockings.

Q Did you get the stocking?

A. Yea, sir.

Q How long were you gone?

A. Ten minutes.

Q Did you go back as soon as you got the stockings?

A. Yes;

Q And when you came back, did you see your father?

A. Yes, sir.

Q Was he hit at that time?

(Objected to)

By the Court:

Q When you came back with the stockings -- you were out about

ten minutes; that is what you think?

A. Yes, sir.

Q Where was your father when you came back?

A. in bed.

Q Did you speak to your father?

A. No, sir.

Q Did you see anything the matter with him?

A. Yes, sir.

Q What was it?

A. He was bleeding.

Q He was bleeding?

A. Yes, sir.

Q What else did you see?

A. I saw blood on my mother.

Q You saw blood on your mother?

A. Yes, sir.

Q What did you say to her -- did you say anything to your mother then?

A. I asked my mother if he was dead.

Q What did she say?

A. She said, "Yes."

Q What else did you say?

A. I didn't say nothing more then.

Q You did not say anything more then?

A. No, sir.

Q When your mother sent you out for the beer that your father had a glass of -- do you recollect that?

A. Yes, sir.

Q That is the first time you went out for beer?

A. Yes, sir.

Q Did she give you any money to pay for it?

A. Yes, sir.

Q How much money?

A. Ten cents.

Q What did she say to you about the beer? Did she say where you were to get it?

A. Yes, sir.

Q What did she say?

A. She said I should get it down there near seventh avenue.

Q In Seventh avenue?

A. Hear seventh avenue.

Q In whose place?

A. I don't know.

Q Did you go there? AL Yes, sir.

Q How much did you pay for the beer?

A. Ten cents.

Q What did you bring the beer in?

A. I brought it up in the house.

Q Did you have a pitcher or what?

A. A can.

Q Who gave you the can?

A. My mother.

Q She told you to get ten cents worth of beer?

A. Yes, sir.

Q And you did?

A. Yes, sir.

Q And, when you came back, you gave her the beer?

A. Yes, sir.

Q What did she do with the beer? I am talking about the first time.

A. My father asked for a glass, and she gave him a glass.

Q Of the beer?

A. Yes, sir.

Q And then he drank it?

A. Yes, sir.

Q And then, you say, he took off his clothes and lay down?

A. Yes, sir.

Q And you say that your mother drank all the rest of the beer that was in the can?

A. Yes, sir.

Q And then she sent you out again for beer?

A. Yes, sir.

Q Did she give you any money to pay for the beer the second

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time?

A. Yes, sir.

Q How much?

A. Ten cents.

Q What did she say about the beer?

A. She said I should get it in the same place.

Q And you should get ten cents worth of beer?

A. Yes, sir.

Q Is that it?

A. Yes, sir.

Q What did you have to carry the beer in the second time?

A. A can.

Q A can?

A. Yes, sir.

Q When you came back with the beer, \*\*\*so whom did you give it?

A. My mother.

Q Where was she at the time you gave it to her?

A. She was in the room.

Q In the room where your father was lying?

A. Yes, sir.

Q What did she do with the beer?

A. She drank it all.

Q She drank it all?

A. Yes, sir.

By Mr. Osborne:

Now, when you went out to get the stockings----- By the Court:

Q You said you went out to get some stockings?

A. Yes, sir.

Q To buy stockings or not?

A. To buy stockings.

Q What did your mother say about stockings?

A. She told me

to go down Seventh avenue and get them.

Q What kind of stockings?

A. Black stockings.

Q Black stockings?

A. Yes, sir.

Q Did she give you any money to pay for them?

A. Yes, sir.

Q How much?

A. Ten cents.

Q Ten cents for the stockings?

A. Yes, sir.

Q What else did she say about the stockings? A? She didn't say nothing.

Q Did she tell you where to get them?

A. No, sir; I knew where to get them.

Q You knew where to go to get them?

A. It was on Seventh avenue, near 27th street.

Q It was on Seventh avenue, near 27th street?

A. Yes, sir.

Q Had you been there before?

A. Yes, sir.

Q Had your mother ever sent you there before?

A. Yes, sir.

Q Had you been there more than once before that?

A. Yes, sir.

Q How many times, as near as you can recollect?

A. Four times.

Q Did you go every time for stockings?

A. Yes, sir.

Q How much were you to pay for the stockings?

A. Sometimes five cents and sometimes ten cents.

Q Sometimes five cents and sometimes ten cents?

A. Yes, sir.

Q Were those stockings for herself or for you?

A. For me.

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Q For you?

A. Yes, sir.

Q And the black stockings that you went out to buy the last time, were they for you?

A. Yes, sir.

Q And she gave you ten cents to pay for them?

A. Yes, sir.

Q When you bought the stockings, what did you do then?

A. I came home again.

Q You came home again?

A. Yes, sir.

Q Did you show them to your mother?

A. Yes, sir.

Q Did she say anything about them?

A. No, sir.

Q Did she say anything at all about them?

A. No, sir.

Q What did you do with the stockings when you go to home?

A. I put them on.

Q Did you have stockings on, on your way down?

A. Yes, sir; but they had holes in them.

Q They had holes in them?

A. Yes, sir.

Q You took Off your old stockings and put on the new ones?

A. Yes, sir.

Q Did your mother see you do that?

A. No, sir.

Q Where were you when you did that?

A. I took them off down stairs.

Q You took them off down stairs?

A. Yes, sir.

Q You took the old stockings off?

A. Yes, sir.

Q What did you do with the old stockings?

A. Threw them away.

Q You threw them away?

A. Yes, sir.

Q Did she look at them at all?

A. No, sir.

Q She did not?

A. No, sir.

By Mr. Osborne:

Q When you went out to get the stockings, where was your father?

A. In bed.

Q Was he asleep?

A. Yes, sir.

Q And when you came back you say you asked your mother what was the matter with your father?

A. Yes, sir.

Q What did she say?

The court: You have got all that.

Q What did she say?

A. I asked my mother if he was dead.

Q You did?

A. Yes, sir.

Q What did she say?

A. She said, "Yes."

Q Did she say anything about a hammer?

A. NO, sir -- yes, sir.

Q What did she say?

A. She told me she fired a hammer at him.

Q Did you see the hammer when you came back?

A. Yes, sir.

Q Where was the hammer when you came back?

A. By the side of the bed.

Q By the side of the bed?

A. Yes, sir.

Q What did your mother do after you got back?

A. She told

the people down stairs, before I came back.

Q Did you see her go to the window?

A. No, sir.

Q Now, what did you do with your little sister?

A. I took her down stairs, in the kitchen.

Q Where was she when you came back there?

A. In the corner of the bed.

Q On the bed with your father?

A. Yes, sir.

Q Did she gave blood on her?

A. Yes, sir.

Q Did you pick her up?

A. Yes, sir.

Q And you carried her down stairs?

A. Yes, sir.

Q And whom did you give her to?

A. I kept her myself.

Q Did you go up stairs with anybody when you got back?

A. Yes, sir.

Q Whom did you go up stairs with?

A. With the little girl -- the girl down stairs.

Q Mrs. Sommeia?

A. No, sir; the daughter, Julia. Mrs. Sommeia's daughter?

A. Yes, sir.

Q Did you carry the baby up with you? What did you do with the baby?

A. I brought it down in the kitchen, in the restaurant.

Q Mrs. Sommeia's kitchen?

A. Yes, sir.

Q Did you leave her with Mrs. Sommeia?

A. No, sir.

Q What did you do with her?

A. NO, sir; I stayed there.

Q Do you know whether your mother had ever looked your father out before this time?

A. Yes, sir.

Q How many times?

(Objected to).

A. Three times.

Mr. chanler: I object to the words "your father." It appears from the evidence, as I understand it, that he was a step-father.

Q Three times before?

A. Yes, sir.

Q Was it that week that she locked him out?

A. Yes, sir.

Cross Examination, By Mr. Chanler:

Q How long have you been living in that house on 26th street; do you remember?

A. No, sir.

Q You do not remember?

A. No, sir.

Q About how long, do you think?

A. Since last Winter I was living there.

Q Do you remember where you lived before that?

A. No, sir.

Q Do you know where it was?

A. Yes, sir.

Q You are ten years old now?

A. Yes, sir.

Q Were you ten years old last October, or were you nine? Do you remember when your birthday is?

A. Yes, sir.

Q When is your birthday?

A. The 4th of November.

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Q You were nine years old last November?

A. Yes, sir.

Q Do you remember when you lived in Seventh avenue?

A. Yes, sir.

Q Over Mr. Feldheim's?

A. Yes, sir.

Q Now, Charlie, you know you have got to speak the truth; don't you?

A. Yes, sir.

Q Did your father always treat you well when you lived over Mr. Feldheim's?

A. Yes, sir; only once he didn't treat me well.

Q Was that when you lived over Mr. Feldheim's?

A. Yes, sir.

Q You had a little sister when you were in Mr. Feldheim's, too, didn't you?

A. Yes, sir.

Q Do you remember the people who lived in Mr. Feldheim's, the neighbors, do you remember them, or was it too long ago?

By the Court:

Q Do you know anybody who lived on the same floor with you when you lived in Feldheim's house?

A. No, sir.

By Mr. Chanler:

Q You do not remember?

A. No, sir.

Q Do you remember very well what you used to do when you lived in Seventh avenue, or was it too long ago?

A. Yes, sir.

Q Do you remember what time your father used to come in when

you lived in Seventh avenue?

A. No, sir.

Q Do you remember what time your father her used to come in in the morning when you lived in 26th street?

A. Yes, sir.

Q What time was it. then?

A. 7 o'clock.

Q What room did you sleep in?

A. In the bed-room.

By the Court:

Q How many rooms were there in your house?

A. Three rooms.

Q A big room; wasn't there?

A. Yes, sir, a big room, and a kitchen, and a little bed-room.

Q Which room did you sleep in?

A. The little room.

Q The little bed-room?

A. Yes, sir.

By Mr. Chanler:

Q Did you used to have the door open or shut?

A. The door was broke off.

Q Then you could hear what went on in the room where your father and mother slept?

A. Yes, sir.

Q You remember two or three nights before your father died?

A. Yes, sir.

Q Do you remember your father being carried up stairs?

A. Yes, sir.

Q Do you remember who the boys were who carried him up stairs?

A. NO, sir; I forget.

Q Do you remember what time of day or night it was when he came up stairs; about?

A. NO, sir.

By the Court:

Q Were you in bed when he was brought up?

A. No, sir.

Q Did you see him brought up?

A. I only \*\*\*ssuthem coming up on the stairs.

Q Were any boys with him, or anybody with him?

A. There was a man up with him.

Q In the night-time or in the day-time?

A. About dark.

Q In the evening?

A. Yes, sir.

Q Did you have your supper?

A. Yes, sir.

Q Was it after your supper or before?

A. After.

By Mr. Chanler:

Q What time did you use to get up in the morning, when you lived in 26th street?

A. Half-past 7.

Q About what time did your father use to come into the house?

A. About 7 o'clock; I use dn't to get up at 7 o'clock; he used to come in at 7 o'clock.

Q What time did you used to get up?

A. Half-past 7.

Q You used to get up after your father came in?

A. Yes, sir.

Q What kind of stockings did you use to buy when you lived in 27th street; were they black stockings, like you have on now?

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A. Yes, sir.

Q You are sure you paid ten cents for them, and some times give?

A. Yes, sir.

Q Have you talked with anybody about this case at all since last October?

A. No, sir.

Q Where have you been living since that time?

A. In the Mission of the Immaculate Virgin.

Q And that is where?

A. On Staten Island.

Q You knew that your mother was arrested; didn't you?

A. Yes, sir.

Q And you knew what she was arrested for?

A. Yes, sir.

Q Did you know she was in prison?

A. Yes, sir.

Q When did you go to the Society?

The Court: Where is he? In Staten Island

Mr. Chanler: Yes, sir.

Q First of all, you went to another society?

A. Yes, sir.

Q When did you go to Mr. Gerry's society?

A. On the 18th.

Q The same day that your father died?

A. Yes, sir.

Q Where were you when you heard that your mother was in prison?

A. in Gerry's Society.

Q Who told you?

A. A lot of people -- little boys.

Q Did you talk to anybody, excepting little boys, about what

happened?

A. No, sir.

Q Did you speak to anybody about what happened the day your father died on that day?

A. I only told them that my mother killed my father.

Q Whom did you tell that to?

A. To a lady that washed the.

Q To the lady where?

A. Down in Gerry's Society.

Q Well, now, since that time -- I want to find out if you have talked to anybody about this case since you left Gerry's society?

A. No, sir.

By the Court:

Q Did you talk to any policeman about it?

A. No, sir.

Q Did you talk to the District Attorney, this gentleman here?

A. Yes, sir; to him.

Q Did you tell him what you knew about it?

A. Yes, sir.

By Mr. Chanler:

Q When was that?

A. Last Thursday.

Q Then have you talked to anybody at all about it, excepting Mr. Osborne, this gentleman here, since you went down to the Mission?

A. That is all.

Q You have not talked to anybody else about it?

A. No, sir.

Q Now, Charlie, don't answer this question yet: Did your fat her use to come home drunk, often?  
(Objected to)

The Court: What is your defence?

Mr. Chanler: My defence is self-defence.

Q Did you ever see your father drunk? A. No, sir.

Q Did you use to see him drunk often?

A. Twice.

Q Only saw him drunk twice?

A. Yes, sir.

Q Are you sure of that? A Yes, sir.

Q Do you remember, in Seventh avenue? seeing him drunk?

A. Yes, sir.

Q Do you remember when your little baby sister was sick in Seventh avenue?

A. NO, sir.

Q You don't remember that?

A. No, sir.

Q It was too long ago?

A. Yes, sir.

Q You don't remember much that happened before you came to 26th street; do you?

A. No, sir.

By a Juror:

Q When you returned with the stockings from the store, was your mother excited or was she calm?

The Court: Have you finished with this witness? I intend to have this boy's testimony read to to the jury by the stenographer, and they may then ask any questions they desire to.

By Mr. Chanler:

Q Charley, when you came up stairs, after getting your stockings,

you say you saw your mother and got the baby; did you?

A. Yes, sir.

Q Do you know if any body was in the room when you got the baby

A. I think Mrs. Sommeia was there.

Q Can you remember distinctly?

A. No, sir.

Q Can you remember clearly who it was?

A. No, sir.

By the Court:

Q Are you sure that Mrs. \*\*\*Sommeia was there?

A. No, sir; I am not sure.

By Mr. Chanler:

Q Do you remember clearly seeing anybody else there beside your mother?

A. Only my father.

Q Do you remember seeing a police officer there?

A. No, sir.

By the Court:

Q Did you see a police officer there at any time after your father was killed?

A. I saw two of them, after I went down stairs and came up again.

Q You saw two of them, after you went down stairs and came up again? is that right?

A. Yes, sir.

Q Was that after your taking the baby down stairs?

A. Yes, sir.

By Mr. Osborne:

Q After your father went to sleep that morning, do you ever see him awake again?

A. No, sir.

Q About how long before that Saturday was \*\*\*uit that you father came home drunk; about how long?

A. I ain't sure.

Q You ain't sure?

A. No, sir.

Q Was it a month or two weeks?

By the Court:

Q Was it a long time or a short time?

A. A short time.

Q How long do you think it was?

A. About fair days.

Q About four days?

A. Yes, sir.

Q Did you ever see any trouble between your mother and father?

A. Yes, sir.

Q What kind of trouble was it?

A. Quarreling.

Q What did they quarrel about?

A. I don't know.

Q What did they do to each other when you saw them quarreling?

A. My mother would want to hit my father, and my father would hold her.

Q Did you see anything else?

A. No, sir.

Q Did you ever see your fat her hit your mother at all?

A. NO, sir.

By Mr. Chanler:

Q You don't remember your mother asking the neighbors to come in and stay with her, telling them, before you, that she was

afraid your father would kill her; do you?

A. No, sir.

Q In Seventh avenue; do you?

A. No, sir.

The Court: He says, substantially, that he never recollects the neighbors coming in when there was any disturbance between his father and mother. He does not remember his mother asking the neighbors to come in to save her from the father.

Q Did you see any blood running down from your father's nose when he was in the bed?

A. I only saw the blood coming from here (indicating)

Q It was running down over his face?

A. Yes, sir.

Q What time did your father come in that morning; do you remember?

By the Court:

Q Do you remember what time it was he came into the room?

A. Yes, sir.

Q What time was that?

A. about 8 o'clock.

By Mr. Chanler:

Q Do you remember what time it was, about, when you came back with the stockings? It was in the afternoon; wasn't it?

A. I think so.

Q It was about 4 o'clock?

By the Court:

Q Did you have your dinner that day?

A. No, sir.

Q Bo dinner that day?

A. No, sir.

By Mr. Chanler:

Q What was your mother doing when your father knocked on the door - where were you, what room were you in?

A. I was in the kitchen.

Q And she was in the kitchen?

A. No, sir; she was in the other room.

Q Which door was your father at?

A. The bed-room door.

Q Was there a key inside the kitchen door?

A. Yes, sir.

Q You didn't unlock the kitchen door?

A. My mother wouldn't let me.

Q Your mother was in the room; wasn't she?

A. Yes, sir.

Q Is that all you remember?

A. Yes, sir.

Q Do you remember when your mother opened the door?

A. Yes, sir.

Q How long after your mother opened the door and let your father in did you go out -- how long after that?

A. Five minutes.

ROBERT J. BROWN, a witness called on behalf of the People, being duly sworn, testified as follows:

Direct Examination, by Mr. Osborne:

Q Officer Brown, are you connected with the Municipal force in this city?

A. Yes, sir.

Q Do you remember the 14th of October, 1893?

A. Yes, sir.

Q In the afternoon?

A. Yes, sir.

Q You had a talk with the Sergeant, at the precinct station house?

A. Yes, sir.

Q After that where did you go?

A. He sent me to 106 West 26th street.

Q Did you go up stairs?

A. Yes, sir.

Q On the second floor?

A. Yes, sir.

Q What time was it it, Officer?

A. I expect it was about ten minutes to four.

Q Did any other officer go with you?

A. No, sir.

Q You went alone?

A. Yes, sir.

Q After you were there what officers came?

A. No officers came after myself.

Q What officers did you find there, when you got there?

A. Officer Scully and Officer Buchanan.

Q This last witness who testified on the stand, and Officer

Scully?

A. Yes, sir.

Q Was Officer Scully a large man? A Yes, sir.

Q Did you have a talk with this defendant at any time?

The Court: Suppose you start off right.

Don't you propose to show, by this man, what he saw when he got there?

By the Court:

Q You got there to the premises about ten minutes to four o'clock?

A. Yes, sir.

Q And then you say you were called up stairs, and Officers Scully and Buchana were there; is that right?

A. Yes, sir.

Q Who else did you see?

A. This lady here.

Q The defendant?

A. The defendant; and also the man who was assaulted.

Q Dunn?

A. Yes, sir.

Q You mean the. deceased?

A. Yes, sir.

Q Where was he?

A. He was lying on a bed.

Q Tell what happened?

A. I went in there and asked Officer Scully what had occurred.

Q This was in the presence, of course, of this woman?

A. Yes, sir, this woman stood over at the window.

Q She was in the room?

A. Yes, sir. I went in there

and asked Officer Scully what had occurred. He said that this woman had assaulted her husband with the hammer, and he held the hammer in his hand, and I asked the woman what she assaulted her husband for, and she didn't answer me.

Q Go on?

A. I then remained with Officer Scully a few minutes, and, in the meantime, the ambulance surgeon came, and \*\*\*case up stairs into the room. He looked at the man, and he says, "It is a very bad case."

Q Was Mrs. Dunn there?

A. Mrs. Dunn was still there.

He said, "It is a very bad case; you want to remove this man as quick as possible;" he says, "Who assaulted him?" Officer Scully says, "This woman." The surgeon says, "What did you assault your husband for?" "Well," she says, "He called me a whore, and I wanted him to take it back, and he wouldn't do it, and I struck him." She said nothing more after that; but, with the assistance of Officer Scully, I removed the body, on the stretcher, which Officer Buchanan had brought up, and we carried the body down stairs and put it in the ambulance.

By Mr. Osborne:

Q Now, I want you to tell me what her exact words were, if you remember them?

By the Court: Q. Have you given the woman's exact words?

A. well, that it the best of my knowledge and belief.

Q That is your best recollection?

A. Yes, sir.

By Mr. Osborne:

Q Did she apply any epithet to her husband; what was it she said?

A. Well, I can't remember, exactly. I think she used some profanity, but I can't say positively. She muttered something, and I understood her to say, "The son of a bitch called me a whore;" I couldn't understand that distinctly.

(Stricken out)

Q But you do recollect that she said that he called her a whore

A. Yes, sir; and she wanted him to take it back, and he refused to take it back.

Q And she struck him?

A. Yes, sir; she struck him; and she said, "He had no right to call me a whore." The surgeon says, "No, it ain't a very nice thing to call anybody." We removed the body and took it down stairs.

Q Was the deceased sensible or insensible at the time?

A. Insensible.

Q Was there much blood?

A. Yes, sir; the entire room was covered with blood.

Q You mean that there was blood on the floor, on the articles of furniture, and on the bed?

A. Yes, sir.

By Mr. Osborne:

Q Is Officer Scully alive or dead?

A. He is dead.

Mr. Chanler: I ask that that remark that he said he could not understand distinctly be stricken out.

The Court: Don't you think it is a great deal better to leave it in? He says she muttered something; he is clear about the other.

Cross Examination, By Mr. Chanler:

Q Officer, this is a diagram of the rooms. This is the hall when you enter, and there is a bed-room. How did you come into the room?

A. Through this door(indicating).

Q Did you go into the kitchen at all?

A. Yes, sir.

Q Well, then, you did not go in there?

By the Court:

Q There is the hall. You had to come up the stairs and go into that hall? A Yes, sir.

Q Did you enter that door, and go through the kitchen?

A. No, sir.

Q Is there a door here?

A. Yes, sir.

Q Is that a door?

A. Yes, sir.

Q That is the door leading into the big room?

A. Yes, sir.

And it was through that door that you entered?

A. Yes, sir.

Q That is the door leading from the hall into the \*\*\*mainroom?

A. Yes, sir.

THE COURT: As you clearly understand, there is a door from the hall into the kitchen, and there is a door from the kitchen into the big room.

By Mr. Chanler:

Q This is the bed here. Will you describe how he was?

A. The head was right about where this mark is.

Q Was he lying across the bed?

A. Yes, sir, about the middle of the bed, and his feet were on the floor.

Q Do you recollect how he was dressed?

A. He only had an undershirt on.

Q How, could you see that distinctly?

A. Yes, sir.

Q While he was lying there?

A. Yes, sir.

Q His limbs were bare, of course?

A. Yes, sir.

Q Where did you notice blood on the \*\*\*furniture?

A. It was spattered on nearly every article in the place, right around the floor, here, right around this place (indicating), and I also walked into the kitchen and there was some blood at the sink; there was something in the sink that had blood.

By the Court:

Q What do you call "something in the sink?" Was it a cloth?

A. Some dishes in the sink.

Q Dishes?

A. Yes, sir.

Q The dishes in the sink had blood on them also?

A. Yes, sir.

By Mr. Chanler:

Q Did she seem excited, Officer, when you asked her why she killed her husband, or why she struck him; was she calm or excited?

A. She was quite calm; she looked like a woman that was intoxicated.

By the Court:

Q Did she talk rationally?

A. No, sir; what she did say, the few words that she did say, was plain, though.

Q Easily understood?

A. Yes, sir.

Q When you asked her the question, didn't she answer it?

A. No, sir; she didn't answer it. She stood in a dazed state.

Q Didn't she answer the doctor?

A. Yes, sir.

Q Didn't she answer his questions rationally?

A. Yes, sir; very clear.

By Mr. Chanler:

Q When you asked her a question, she stood in a kind of dazed state?

A. Well, in a kind of dazed state, but you could

under at and her.

By a Juror:

Q Were the chairs up-set and the things in disorder?

A. No, sir; I didn't notice that the chairs were up-set.

Q The man was lying on his back?

A. Yes, sir.

By Mr. Osborne:

Q You say the woman didn't answer your question, and she seemed to be dazed; you mean, by that, you thought she was intoxicated?

A. Yes, sir; she seemed to be intoxicated.

CELIA CHATILLON, a witness called on behalf of the People, being duly sworn, testified as follows: Direct Examination, by Mr. Osborne:

Q Where do you live?

A. 126 West 26th street

Q You live on the top floor?

A. Yes, sir.

Q You are the wife of the baker?

A. Yes, sir.

Q Who lives up stairs?

A. Yes, sir.

Q Were you living there in October, 1893?

A. Yes, sir.

Q You remember the week before the 14th of October, 1893? Do you recollect the day that this man was killed in the house?

A. Yes, sir.

Q You recollect that?

A. Yes, sir.

Q Now, I want to know if you recollect about a week before that?

A. Yes, sir.

Q that time in the morning, if you know, did the deceased, George Dunn, come home, at the time a week before that, I speak off

A. Well, it was about -- I think it was about 7 o'clock in the morning.

Q 7 o'clock in the morning?

A. Yes, sir.

Q Will you tell the Court and Jury what occurred -- where were you?

A. When the man came home, I was in the kitchen, and the kitchen door was open, and I was standing in the hall.

Q You were in your own kitchen?

A. Yes, sir.

Q With the kitchen door open?

A. Yes, sir.

Q And you were standing in the hall; is that it?

A. I was standing in the hall.

Q With your kitchen door open?

A. Yes, sir.

Q Did you see the deceased man, Dunn?

A. Yes, sir.

Q He came home about 7 o'clock?

A. Yes, sir.

Q What I want you to tell is what took place that morning, a week before the homicide. Now, will you state?

Mr. Chanler: I will object, after I hear the question.

Q You say that you saw Dunn on that morning. Tell what you

say him do and heard him say?

Mr. Chanler: I object to that, sir, as too remote.

Q When you saw him first, where was he?

A. He was coming up stairs -- he was up stairs.

Q He was up stairs in his own room; near where was he, near the Kitchen door?

A. No, sir; in the sitting room.

Q In the sitting room?

A. Yes, sir.

Q Did you see the defendant that morning, the woman?

A. Yes, sir.

Q At the same time?

A. No, sir, not at the same time; may be half an hour after.

Q Did anything occur or take place between the dead man and his wife that morning, that you saw?

A. Well, you mean the week before?

Q The week before?

A. The week before -- well, when he came home, in the morning, he knocked at the door; he says, in a very polite way, he says, "Open the door."

Mr. Chanler: I object to that.

Q Leave put the polite. He said, "Open the door?"

A. Yes, sir; then she says, "I will not open the door. Now, if you come in, I will kill you."

Q She said, "I will not open the door. Now, if you come in, I will kill you?"

Mr. Chanler: I object now to this testimony, as being too remote, incompetent, irrelevant, and immaterial.

(Objection over-ruled) (Exception)

Q Is that all you heard? She said, "I won't let you in. If you come in, I will kill you?"

A. Yes, sir; he said, "Oh, you will not, you will do no such a thing," he says that to his wife, and then she came in the hall and she gave him a good beating.

Q She gave him a good beating?

A. Yes, sir.

Q Well, what next?

A. He called for some help.

Q He called for some help?

A. Yes, sir; he says,

"\*\*\*Bakker, baker, help:" Ad at that time, my husband was in bed, asleep, because he works at night.

Q Was that a week before?

A. Yes, sir, about a week before. Then, of course, I was in the kitchen, and standing in the hall, and I was frightened. I didn't wake up my husband.

Q Your husband works at night?

A. Yes, sir, He called for help, and then he came and sat down there. She entered the room, and locked the door.

Q What did she do?

A. She ran in the room. She says, "Wait a minute; I am going to run for a hummer, and I will fix you A." Then he went on to the door.

Q He went what?

A. He went down to the door, in the street.

Q What else?

A. Then by and by my husband waked up and went down and saw the man at the door.

Q You did not go down with your husband?

A. No, sir.

Q You saw this dead man go down the stairs?

A. Yes, sir.

Q Down towards the front door, leading into the street?

A. Yes, sir.

Q Did you see him again that day, if you know?

A. Yes, sir, I did.

Q How much later, after that?

A. Well, it was about 4 o'clock in the evening.

Q It was about 4 o'clock in the evening?

A. Yes, sir.

Q What time did your husband get up?

A. I think it was about 11 o'clock.

Q Then he went out, I suppose, to his work?

A. No, sir; then my husband came up and he says, "My! if you could"-----

Q Your husband went down and came up afterwards?

A. Yes, sir.

Q How, Mrs. Chatillon, at the time this disturbance took place, will you tell me whether you heard Mrs. Dunn Bay. anything to her husband, whether she applied any epithets to him or called him any names, like that?

A. Dp you mean the week before?

Q The week before?

A. Yes, sir, she did call him bad names.

(Same objection) (Same ruling)

(Exception)

A. All kin is of names.

Q Just tell us -- it isn't a very pleasant thing to ask you to do?

A. She called him an old son of a bitch, a son of a gun, a whore-master, and all \*\*\*kindw of names.

Q Now, do you know whether, between that time and the day of the homicide, whether or not the husband was locked out, between those times?

A. You mean the week before?

Q Between the week before and the day of the homicide?

A. Oh, every day, for a week; she kept on for a week like that; and he was every morning -- it was just the same, the same thing, \*\*\*shekept that man out.

Q Did you have a talk with your husband? Do not tell us what it was.

A. Yes, sir.

Q What time -- some two or three days before the homicide?

A. Yes, sir.

Q After you did have that talk with your husband, did you go down and have a talk with Mrs. Dunn?

A. Yes, sir, I went down and had a talk - no, sir, I didn't talk with Mrs. Dunn; I just passed, and I says, "Mrs. Dunn, don't you be so foolish."

Q You did say something to her?

A. Yes, sir.

Q What did you say?

A. I says, "Mrs. Dunn, don't you be so foolish for yourself; why don't you leave your husband come in? He is a nice, quiet man." That is all I said. At the same time she called me all the big names she could think of. I didn't give her no answer, because I was afraid of her; I just came up stairs, and there was no more.

Q What did she say about her husband that day?

A. She says the old son of a bitch, and all those names.

Q What else did she say?

A. This is a whole week before.

Q This is the day you had the talk with her?

A. Yes, sir.

Q What did she then say about him?

(No answer)

By the court: Q You went down stairs one morning?

A. Yes, sir.

Q Two or three days before this killing took place?

A. Yes, sir.

Q You saw Mrs. Dunn?

A. No, sir; this was a week before.

Q A week before?

A. Yes, sir; it was on a Sunday morning.

Q Now, what was it you said to her?

A. I said, "Mrs. Dunn, why don't you open the door for your husband? You have got a nice quiet man# Don't be so foolish and make such trouble for yourself." At the same time then she commenced to \*\*\*schld and call me all the big names and everything \*\*\*like that.

Q Did she call her husband any names?

A. Yes, sir.

Q Have you told us what the names were?

A. Yes, sir, it was the same thing all the time - son of a bitch, son of a gun, whore-master, and all that.

Q Now, then, what did she say about him? Did she use any threats or anything like that about him? Did she say anything else except calling him names?

A. I didn't hear. She said she would run in the rooms and she will go for a hammer, to smash his brain. This was a week before#

Q \*\*\*Dinning that conversation? A She says, "You don't know me. Clear out# Mind your own business; you don't know me.

I will go for a hammer, and I will smash his brain."

Then I ran up.

Q That is what she said to you?

A. Yes, sir, what she said to me. "When I am mad, I will go for a hammer and I will smash his brain;" and she meant to do some thing to me, just because I told her not to be so foolish and to open the door.

Q This was a week before?

A. Yes, sir, a week before; Sunday morning.

Q On the \*\*\*ay of the homicide, or on the morning of the homicide, did you see Mr. Dunn that morning?

A. Yes, sir; I saw Mr. Dunn that morning.

Q Where were you at that time?

A. I was in the kitchen and in the hall; it was a Saturday morning; in my own place.

Q Now, just tell the Jury everything you saw on that morning?

A. Well, in the morning, it was about 9 o'clock, Saturday morning, that I was standing in the \*\*\*halls Then it seems he was out. He came home. Then he stood about half an hour in the house, standing in the hall.

Q What is the first thing he did when he came up stairs?

A. He knocked at the door.

Q Did you hear her say anything?

A. He knocked at the

door; he says, "Open the door, madam." She says, "You will not come in. now; I will kill you." It was the same thing all the time.

Q Tell what she said?

A. He said the same, "You will not do any such thing; don't you be so foolish; open the door," in a very polite way.

Mr. Chanler: I object to that.

The Court: Strike out the words, "in a very polite way."

THE WITNESS: And then, by and by, of course, he had a great deal of patience, as far as I could see, and he was standing in the hall may be about half an hour. Then the boy came out and went down--I don't know for what; then, at the same time the boy opened the door, Mr. Dunn went in, and from that time, from 9 o'clock in the morning, I didn't hear any thing any more -- no fight, no nothing at all --until 12 o'clock. Then I heard the baby scream -- I heard the baby scream.

Q About what time?

A. It was about 12 o'clock. I didn't hear any fall; I didn't hear nothing.

Q You heard the baby scream?

A. Yes, sir.

Q About 4 o'clock in the afternoon did you see the defendant, Mrs. Dunn?

A. About four o'clock - oh, it

was before that. This was about 12 o'clock I heard the baby screaming, for an hour or so. A couple of days before she let it fall down stairs.

Q I want to know whether you saw Mrs. Dunn at the window, in the afternoon?

A. in the afternoon -- yes, sir.

I did; in the kitchen window.

Q Where were you?

A. I was in the hall.

Q Did you hear her call out to somebody?

A. Yes, sir; she called Mrs. \*\*\*Sommeiaout of the window.

CROSS-EXAMINED BY MR. CHANLER:

Q How long have you been living in 26th. Street? A Well, I think it is six years; I don't remember.

Q Where did you live before that? A I have lived in 26th Street, six years before that; I don't remember.---No. 117, across the way.

Q Now, do you do anything beside keep house yourself? A No, sir; I don't do anything.

Q You keep house? A Yes, sir,

Q You are at home all day long? A Yes, sir.

Q Your husband works out at night or day-time? A At night.

Q Did you know Mr. end Mrs. Dunne before they came to that house in 26th, Street? A No, sir.

Q When did you \*\*\*first see Mr. Dunne? A I never saw the man from the day he came to the house till a couple of days before he was killed.

Q You never saw him until then? A No, sir.

Q About how many days before he was killed aid you first see him? A About two weeks before he was killed.

Q Where did you see him then? A Well, when I was going down for groceries, & etc.

Q You saw him in the house? A No, sir; I had met him many

a time; but I didn't know it was him, because he was so quiet

Q A very quiet man? A Yes, sir.

Q Never used to get drunk so far as you saw? A That I cannot say; I don't know.

Q As far as you saw? A I don't know.

Q Did he used to be a friend of your husband? A No, sir; not at all. I don't suppose they wore bad friends: how could they be "bad friends, I don't see why.

Q I ask you if they were friends? A Well, I understand you.

Q Were they friends? A No, sir.

Q They were not friends ? A No, sir.

Q Did Mr. Dunne over sleep in your apartments? A No, sir.

Q When your husband was there? A No, sir; only that Sunday morning when he was there, he said, "Let me come in for a few moments in the hall, or else she will kill me."

Q He used to say that? A One Sunday morning he said it.

Q That was the only time ho was in your rooms ? A He was not in the rooms; he was standing in the hall-- in my hall.

Q You are sure he never was in your rooms? A No, sir.

Q Didn't you see Mr. Dunne being carried upstairs about three nights before his unfortunate death? A No, sir.

Q Do you know if your husband and Mr. Dunne wore out together on that night? A No, sir; he was not out with

my husband.

Q You do not know whether he was or not? A I know very well.

Q You know he was not? A I know he was not out with my husband; I know that very well.

Q Do you know a saloon known as Boyle's Saloon on the corner of 27th. or 26th. Street and 6th. Avenue? A No, sir; I don't know that place at all. No, sir; I don't.

Q You did not visit there? A No, sir.

Q You could see the sign out on the saloon? A Yes, sir.

Q A gold sign on the saloon; did you ever see it? A No, Sir; I didn't take any notice.

Q You have lived there six years? A Yes, sir.

Q The first that you ever heard Mrs. Dunne threaten to kill her husband was about how long before his death?

A A week before, on Sunday morning.

Q After that you heard her threaten to kill him nearly every day that week? A Nearly every day that week. Yes, sir.

Q And always with a hammer? A Always.

Q Were you ever in Mrs. Dunne's rooms? A Only but once when she was sick; when she was taken to the hospital.

Q Did you see any tools in the room, a box of tools? A No, sir; I didn't see the tools.

Q You did not?

A. No, sir; she said it though.

Q You never saw them? A No, sir; I never saw the tools.

Q The first time you hoard Mrs. Dunne threaten to kill her husband with the hammer you wore in your kitchen? A Yes, sir.

Q What wore you doing? A well, that I can't tell.

Q You cannot tell? A No, sir.

Q Were you in your kitchen all the time, or were you in other rooms pert of the time? A Yes, sir; I was surely in my kitchen all the time.

Q Could you see from your kitchen? A Yes, sir; I could see very well.

Q Into her kitchen? A Yes, sir.

Q When the door was open? A Yes, sir.

Q You could see what was going on in Mr. Dunne's kitchen? A Yes, sir.

Q Tell us about how much of the inside of the kitchen you could see from your kitchen door? A Well, that you can find out.

Q How much in her room? A Well, I don't know.

Q Please look at me and tell me about how much of that kitchen you could see from you kitchen door? A Well, I cannot give you any idea about, that.

Q Could you see the kitchen window? A Yes, sir; I could see the kitchen window.

Q Could you BOO on the far side of the kitchen window; could you see the sink? A No, sir; that I cannot see

Q That you cannot see? A No, sir.

Q What did you see going on in that kitchen on that day as you were looking from your kitchen? A Well, I didn't see anything.

Q I mean of Mr. Dunne? A Do you mean the day he was killed

Q No. The week before? A Well, the week before, I didn't see anything in the kitchen, because she beat that man in the hall.

Q In the hall? A Yes, sir.

Q Did you see him in I he hell? A Then he was afraid, and he was down there.

Q Did you see her beat him in the hall? A Yes, sir.

Q Did she come out of the kitchen? A No, sir; she didn't core out; she came from the sitting-room door-- she came out of the sitting-room door.

Q Did she have a wespon in her hand? A Did she have what?

Q A hammer? A No, sir; she didn't; she want like that with her hand. (Indicating)

Q You say she threatened to kill him? A Yes, sir; \*\*\*she \*\*\*as \*\*\*jd

so.

Q And he \*\*\*criud, "Help! help! she is going to kill me"? A Yes, sir.

Q He was a pretty big man; wasn't he? A Yes, sir; he was.

Q And she had her bare fists shaking them at him? A Yes, sir.

Q He ran away crying, "She is going to kill me"? A Yes, sir.

Q You quite euro about that? A Yes, sir.

Q You wore afraid to call your husband for help? A Yes, sir I was afraid.

Q When was the next time that you remember seeing Mrs. Dunne attack her husband; you say she did it nearly every day.

When was the next time?

MR. OSBORNE: She has not said she attacked him every day.

A Every day he used to come home from his work in the morning- every time-- every morning it was the same thing for a week or so.

Q Tell us the next time? A She called him the same names always.

Q She always called him the same names, end always threatened to get the hammer? A Yes, sir; always.

Q When was the next time she called him those names and threatened to get the hammer-- the next day wasn't it? A Well,

It was the same all along until the day he was killed.

Q I want to know a little more details of this. You said it was every day. What happened the next day. A Well, the next day it was the same thing: he wants the door opened, and she says, "You will not come in, if you come in I will kill you." He knocked the door and says, "Open the door, madam, will you please." She doesn't do so; and that is the way it was.

Q He said that? A Yes; and she came to the door and some times. She says, "Now if you come in I will kill you, you are an old son of \*\*\*bitch and whore-master" and all kinds of names like that.

Q That happened the next day? A Yes, sir.

Q And the next, day? A The next day just the same.

Q I am speaking of the second time you saw this man Dunne come into the room. A She just opened the door on a little crack.

Q Did you see her shoving her hand out at him? A I saw him three or four times.

Q I am speaking of the second morning? A Yes, sir.

Q I understood you to say --- try and keep your eyes on me --- I understood you to say that you saw her put her fist out at him, and say she was going to kill him. She came out

of the room, didn't she? A Yes, sir; she did more than that.

Q She opened the door entirely and came out? A Yes, sir.

Q Did her husband go into the room ? A No, sir; he didn't go into the room.

Q Did he cry out for help? A No, sir; not that morning.

Q Did she threaten to kill him with a hammer? A No, sir; she didn't say that.

Q You didn't see that? A No, sir.

Q | Not that time? A No, sir.

Q Did he scream and run away? A No, sir; he didn't scream.

Q Did he run away? A He ran away.

Q He didn't go into the rooms? A No, sir; he didn't go into the rooms.

Q When did you see him again the second day? A Well, sometimes he used to come---

Q I am speaking of the second day; try and think? A The second day, I don't remember, I know it was the same thing for a week, every morning. I can't tell you any more that I know.

Q She did the very same thing always? A Yes, sir.

Q Always at the. same door? A Yes, sir; always the same.

Q Was this after you had been to see Mrs. Dunne and had spoken

to her? Oh no; she done it before.

Q I asked you if this was after you had been to see Mrs. Dunne; after or before? A Not at all; no, sir:

Q Was this trouble after or before? A For a week it was the same.

BY THE COURT:

Q You recollect on one occasion you went downstairs, and you said to Mrs. Dunne, "Don't you be so foolish; let your husband in"? A Yes, sir.

Q Do you recollect that? A Yes, sir.

Q How long was it after that time that you saw Mrs. Dunne beating her husband in the hall? A She done it a week before.

Q A week before? A Yes, sir; a week before she done it.

BY MR. CHANLER:

Q I understood you to say this thing had been going on for a week or for several weeks? A Yes, sir.

Q They had been quarelling for two or three weeks since they had been in the house? A No, sir.

Q She had been quarrelling for two or three weeks? A Well, she didn't quarrel; I cannot say that they were quarrelling very much; those people; things were very quiet.

Q I am speaking of her? A Well she didn't quarrel very much.

Q Did she quarrel much two weeks before this? A I don't know. That men was so quiet that when he came home and every thing like that, I never could see them fight or quarrel, or everything like that, because they didn't fight or quarrel.

BY THE COURT:

Q How long had they been living in the house?--- ever since they came in the house- you knew they lived there? A Yes, sir.

Q How long had they been living in. the house before you observed them quarrelling? A It was just the same all the time.

Q How long had they been living in the house before you noticed the quarrelling? A About two months.

Q They had been living in the house about two months before the quarrelling commenced as you noticed? A I don't know if they quarreled or not; I didn't hear anything.

BY MR. CHANLER:

Q Did you know a Mrs. McMannus, a lady who had the rooms Mrs. Dunne occupied? A Mrs. McMannus had nothing to do with this business at all,; that is all. You just find out yourself. You can go and find out.

BY THE. COURT:

Q Do you know Mrs. McMannus? A She has nothing to do with

this case. He can find out if he wants to.

Q Do you know Mrs. McMannus? A Yes sir. But that has got nothing to do with this case.

BY MR. CHANLER:

Q When did you last see Mrs. McMannus? I have got nothing to say about Mrs. McMannus; she is a nice respectable lady.

BY THE COURT:

Q When did you last see Mrs. McMannus? A When did I last see Mrs. McMannus?

Q Yes, the last time? A About a \*\*\*veer ago.

BY MR. CHANLER:

Q When did Mrs. McMannus leave that house? A I don't know; I cannot tell you. I don't remember.

Q Do you know where Mrs. McMannus is now ? Yes, sir.

Q Next door isn't she? A Yes, sir.

Q When did you see her last then? A I didn't see her since she left from the house.

Q How long have you know her? A I never saw that lady before till she came in the house.

Q That was about how long ago? A Nearly two years ago.

Q That is the truth that you have just answered? A That is the truth. Of course it is the truth.

Q Just as true as anything you have told to-day.

Objected to.

Objection sustained. Exception.

Q Have you testified to everything you recollect that occurred the day of Mr. Dunne's death?

A yes, sir; I have testified.

Q You have testified. A Yes, sir.

Q Tell us again so as not to get it confused with others days, if there was any quarrelling between Mr. and Mrs. Dunne, the day Mr. Dunne died? A No, sir; not at all.

Q There was nothing said ? A No, sir; nothing said. No quarrelling, I didn't hear anything at all; everything was perfectly quiet.

Q Did you hear Mr. Dunne come upstairs when he came into the house?

A Yes, sir; and I saw him too.

Q Where were you at the time?

A In the hall. Standing in the hall.

Q In your own hall? A Yes; in my own hall.

Q Did you see him knock at the door?

A Yes, sir.

Q What door was he knocking at?

A At the sitting-room floor.

Q Could you see the sitting room door from where you were in the hall?

A Yes, sir.

Q Whereabouts in your hall were you? (No answer.)

Q How many rooms do you \*\*\*occupy? A I occupy the whole floor

Q Where is your kitchen: in the back or in the middle A In the back.

Q Your kitchen is right off Mrs. Dunne's kitchen, isn't it? A Yes, sir

Q And your bed-room is next to the kitchen? A Yes, the bed-room is next to the kitchen.

Q You had been in your kitchen on the morning's of Mr. Dunne's death; had you not? A I was in my kitchen nearly every morning, till night; except at night.

Q Where were you when you saw Mr. Dunne come upstairs the morning he died? A I was in my own hall; standing in the hall.

Q Whereabouts in the hall? A I was standing in the hall so that I could see the kitchen.

Q I want to know what part of the hall you were standing in: near the bed-room door, the kitchen door or the front door? A Well, I was standing in the hall; that is all I can tell you. I heard a knock at the door; I looked ----- I didn't know if it was anybody for us so I come to the door-- and I saw it was Mr. Dunne.

Q You saw it was Mr. Dunne? A Yes; he stood in the hall.

Q Did you stand there looking at him? A Yes; I stood

there looking at him, but he didn't see me.

Q Were you looking over the bannisters, or how did you look at him? A You could see everything if you looked over the bannisters.

Q Did you look over the bannisters? A Yes, sir.

Q Mr. Dunne knocked at the door? A Yes, sir.

Q Did you see him knock at the kitchen door? A Yes, he knocked at the kitchen door; he tried both doors.

Q He tried both doors?

A. Yes, sir.

Q Did you see him go into the room? A Yes, sir; I did see him.

Q Which door did he go in? A The sitting room door.

Q Did you see him when he got into the sitting-room? A Yes.

Q Did you look into the kitchen at all on that day before Mr. Dunne was hurt? A Did I look in the kitchen? No, sir, Right away after he went in the room then her door was closed until twelve o'clock.

Q Then at twelve o'clock, you were again standing in the hall.? A No, sir; I heard the baby scream for an hour or so; then when the baby cried, that is the time she came and opened the kitchen door.

Q I will ask you this again, so as to be clear about it: On

the day that Mr. Dunne died, or left those rooms to die at the hospital, there was nothing of an unpleasant nature at the door before Mr. Dunne went into the room? A No, sir; no talking everything was perfectly quiet.

Q When he knocked at the door he didn't say anything? A No, sir; he only asked her to open the door in a very polite He says, "Come and open the door please; don't you be so cruel" She says, "You will not come in", and what she says, of course, I didn't hear.

Q You didn't hear what she said that day? A No, sir; I didn't hear.

Q Did you hear what she said that day? A No, sir; I didn't hear.

Q You didn't hear Mrs. Dunne threaten to kill her husband that day? (No answer.)

Q Were you on good terms with Mrs. Dunne? A How could I?

Q Did you understand the question? A How could I; we never were intimate together; how could I?

Q Did you visit her at all? A No, sir.

Q Did she visit your house? A No, sir.

Q Did you ever have any quarrels with her? A NO, sir; I didn't. She never made any trouble for us.

Q Were you unfriendly with Mrs. Dunne? A No, sir; why

would I be bed friends. with her.

Q That is your answer? A That is my answer; yes, sir.

Q Do you recollect being examined as a witness before the coroner last October?

A. Yes.

Q Do you know what the coroner is? A Yes, sir.

Q Do you recollect that? A Yes.

Q That was in October end shortly after Mr. Dunne's death? A Yes, sir.

Q Do you remember testifying as follows at the coroner's in-quest, "She was in there about an hour, and all at once, the boy went out for something, and he had a chance to go in and from that time until he was hurt he din't \*\*\*qusnell at all" Do you remember that? A I remember that.

Q Did you say that at the coroner's? A Yes, sir.

Q "Until about one o'clock and then they"-- A Well, one o'clock I didn't soothe clock.

Q "And they they screamed like everything"? A The baby.

Q Then the coroner asked you, "Were you and Mrs. Dunne friendly"? No, sir. When she came \*\*\*, I saw she was not respectable. Were you \*\*\*unfriendly? Yes, sir." Do you remember that? A No, sir, no such thing; We wore not unfriendly, because we never associated together.

BY THE COURT:

Q That is you mean to say that when she first came into the house you made up your mind she was not the kind of a woman you wanted to associate with? A You, sir; that is what I mean.

By MR. OSBORNE:

Q Mrs. Chatillon, I want to know whether it was the morning of the homicide that the door was locked When Dunne came home--\*\*\*to the morning of the homicide?

The COURT: She has testified to that.

Mr. OSBORNE: I have become a little unsettled on that \*\*\*point. I will only take a minute to ask a few questions.

The COURT: This lady has come on and told every thing that occurred the \*\*\* of the homicide, and something \*\*\* at occurred a seek before, and she has stated generally in reference to noise and quarrels between these people. There is no use of \*\*\* over the same thing of the homicide? a \*\*\*ain.

Q Was Mr. Dunne locked out the morning of the homicide?

A. Yes, sir.

Q Did you hear Mrs. Dunne say anything to Mr. Dunne the morning of the homicide?"

The COURT: She \*\*\* told all that.

Q Do \*\*\* officers came? A Yes, sir.

Q Did \*\*\* Mrs. Dunne, the defendant?

A. Yes, sir.

Q Where were you at that \*\*\*time?

A. I was standing in the hall.

Q In the hall above?

A. Yes, sir.

Q In your own hall?

A. Yes, sir, in my own hall.

Q What did you hear the policeman say to Mrs. Dunne, if anything?

A. that big fat policeman?

Q The one who is not here?

A. The two officers who are here I did not hear what they said.

Q The big one? a. Yes, sir.

Q What did you hear him say?

A. \*\*\*says "Did you done it, the \*\*\* woman that you are \*\*\* done such a things for"/ she says "I did not kill him enough yet". That is the answer she gave to the officer.

Q she said \*\*\* had not killed him enough \*\*\*

A. she had not beat him \*\*\* yet.

ELLE N O'BREN, a witness called on behalf of the People, being duly sworn, testified as follows:

Direct Examination By Mr. OSBORNE:

Q Mrs. \*\*\*, What is your business? a. Police \*\*\*

Q At what \*\*\*

Q Did you have any talk with her after she was brought to the station house?

A. Well, ns \*\*\*fary as I can recollect to the best of my knowledge and belief when---

Q Did you speak to her?

A. Yes, sir.

Q Then you did have a conversation with her?

A. Yes, sir.

Q I want to know what the \*\*\*substance of the conversation was between the defendant and yourself?

Mr. \*\*\*Chanler: I object to that.

By the COURT:

Q say what at you said to her and what she said to you?

A I simply asked her what did she do it for, and she that her husband called called \*\*\* her \*\*\*hanes, and she wanted him to take it back, he would not do so and she struck him with the hammer.

Q Did she tell you anything were then that that you recollect?

A. No, sir.

Q Do you recollect whether or not she told you that her husband was standing or lying on what?

A. No, sir.

Q At the time \*\*\*

A. Yes sir.

Q Did she state what \*\*\* husband had called her?

A No, sir.

Q You asked what she did it or?

A. Yes, sir.

Q She said her husband called her \*\*\*? Yes,

A Yes, sir.

Q what?

A. she wanted win to take it back and he would not do so.

Q He would not do so?

A. Yes, sir.

Q And she struck him with the hammer?

A. Yes, sir.

Q Did she say anything to you about the baby?

A. I asked her how the baby came to get blood on it and she said it was in the bed with the father.

Q Since I have recalled that to your mind, do you recollect whether or not she told you where her husband was when she struck him?

A. No, sir.

Q Do you remember or not any conversation which took place between Mrs. Dunne and the officers there?

A. No, sir.

Q About whether her husband was drunk or not?

A. No, sir. Stricken out.

Q Do you remember anything else the defendant said that day. A No, sir.

By the COURT:

Q You have told us, as near as you recollect, what you said to her and what she said to you \*\*\* Yes, sir. my recollection.

Q Were you present at any conversation between \*\*\* and any police officer at the station house?

A. No, sir. I was not.

Q You \*\*\*

A. \*\*\* sir.

Q Is Where anything \*\*\* you recollect this women said other than you have already told us\*\*\*?

A. No, sir.

By Mr. Chanler:

Q The defendant was intoxicated at the time, was she not? A Yes, sir.

By the Court:

Q She understood you when you spoke to her?

A. Yes, sir.

Mr. OSBORNE: I wish to refresh the witnesses recollection.

The COURT: This is an intelligent woman who is in the \*\*\* of Saving dealings with people. She tells you that when the woman was brought there she searched her and found twenty dollars in her possession; that she asked her what she did it for, and she gives you the answer the defendant made. In answer to questions put to her by myself she Gated that there was no conversation between any officers and this defendant in her presence. She has stated \*\*\*ll she recollects.

Mr. OSBORNE: I would like to refresh her recollection by referring to a statement she \*\*\*. \*\*: Show me the statement.

By The COURT:

Q Were you present, Mrs. \*\*\*Osborien, at any conversation between this worm and the Captain of Police in the Station house?

A To the best of my knowledge, Yes, sir.

Q Was that the same day she was taken in?

A. Yes, sir.

Q Do you recollect what that conversation was not; what the Captain said to her and what she said to the Captain?

A Just about the same thing.

Q Do you recollect it?

A. Yes, sir, to the best of my knowledge, yes sir.

Q You can state to the jury what the captain said to her, and what she said to the Captain as near as you can recollect?

\*\*\*. \*\*\*CHANER: I will object to it on the ground that it is not the best evidence of that conversation, and also that it is incompetent, irrelevant and immaterial.

Objection overruled. Exception

A. He asked \*\*\*her what she did it for and she \*\*\* that her husband called her names, she wanted hire\*\*\* it back, he would not do it and she struck him with the \*\*\* The vary \*\*\* said to myself.

By Mr. OSBORNE:

Q Was \*\*\* said in that conversation in reference to \*\*\* was intoxicated or \*\*\* at the time he said it?

A. \*\*\* asked \*\*\* she said she avoid tell the truth, she would have \*\*\* the truth he was not.

By Mr. Chanler:

Q Mrs. O'Brien, your recollection of the words used by Mrs. Dunne on the occasion of her being at the station house is not absolutely distinct and clear, is it?

A. Yes, sir, it is

Q Do you recollect the exact words?

A. Yes, sir, Exactly.

Q Did you remember the exact words she used when you went upon the stand?

A. Yes, sir, I do remember exactly what I have said. I said that Mrs. Dunne made use of the words

Q that her husband called her names, and because he would not take them back she \*\*\*streak him with the hammer.

Q When did you first make that statement to any one, Mrs. \*\*\*O'Brien A Last Tuesday, a week ago.

Q To whom did you make the statement?

A. To this gentleman here.

Q To the Assistant district Attorney?

A. Yes, sir.

Q Did you in that statement say anything, as far as you recollect, about the conversation with Captain \*\*\*Oscornor?

A. No, sir.

Q Did you say anything about the conversation with Captain, O'Countor in the statement you made to "\*\*\*\*Oshborne Tuesday

A. Yes, sir.

Q When you made the statement to the Assistant district Attorney did you tell him then of the conversation between Captain O'Connor and this woman?

A. Yes, sir.

Q In which you say the Captain asked her if her husband was drunk?

A. Yes, sir.

Q You did state that to the District Attorney?

A. Yes, sir.

Q You have a number of prisoners Mrs. O'Brian, I presume? A Yes, sir.

Q In your charge constantly?

A. Yes, sir.

Q And it is a very frequent thing for you to listen to the statements of prisoners?

A. Yes, sir.

Q Did You make a note of the exact words used by the defendant upon this occasion.

JOSEPH P. DUNNE, a witness called on behalf of the People, \*\*\* sworn, testified as follows:

Direct Examination by Mr. Osborne:

Q Mr. Dunne, where do You live?

A. In Brooklyn.

Q What is your business?

A. Awnings.

Q You are a manufacturer of \*\*\*awnings?

A. Yes, sir.

Q To you know this defendant?

A. Yes, sir.

Q She is the wife of Your brother?

A. Yes, sir.

Q How long had they been married?

A. I cannot say for the exact time.

Q About?

A. Something over three years, I think.

Q Your brother's name was George?

A. Yes, sir, George H.

Q What was his business?

A. Engineer.

Q Will you go back about ten years and tell the jury what at his business has been \*\*\*draing the \*\*\*time?

A. He has been an engineer all that time. --for over twenty years.

Q He was an engineer at the \*\*\*Bartholdi \*\*\*hotel was he.

A. Yes, sir.

Q How long did he work there. Objected to.

The COURT: This is merely descriptive.

Q Where was he engaged at the time of his death?

A. In the hotel \*\*\*Farlboroah.

Q Your say he was an engineer at the Bartholdi hotel?

A. Yes, sir.

Q For how many years?

A. I think about nine years.

Q Where did he go to work then?

A. \*\*\*He left there and went to the Oriental. think it was the Oriental.

Q How long did he stay at the Oriental?

A. Two months.

Q Then where did \*\*\*?

A. \*\*\* was out of work for three or four weeks and\*\*\* and, told me---

Q After he \*\*\*had been out of work for three or four weeks where did he \*\*\*to work?

A. He went to the \*\*\*Marlborough.

Q In the hotel Marlborough?

A. Yes, sir.

Q And remained there until his death?

A. Yes, sir.

Q Was your brother a Large or small man?

A. He was a good strong man.

Q Was he a muscular man?

A. Yes, sir.

Q A muscular man?

A. Yes, sir, a very powerful man.

Q How old was he at the time of his death?

A. He was pretty year forty five.

Q By Mr. Chanler:

Q Do you know why he left the Oriental hotel.

A. Yes, sir.

Q Was it because of drunkenness?

A. No,, sir.

Q (By MR. Osborne) Tell the \*\*\* why?

A. he told me that he left.

Q Never mind what he told you?

A. I only know from what he told me.

Q He told you it was not for drunkenness? S. He did not tell me it was not for drunkenness.

Q You \*\*\*fattered from what he said that it was not from drunkenness?

A. He told me he could not. get his wages.

Q At the Oriental hotel

A. Yes, sir, He said he had been there two months.

Q did he tell you why they would not give him his \*\*\*were \*\*\*

A. No, sir.

Q You did not know your brother very well the last few years of his life?

A. I. saw him every month or \*\*\*tw.

Q It is your best recollection that he was a married three year to. this defendant?

A. As near as I can recollect, I don't know the exact time, it, might have been longer than that; he did not tell me much of his private life.

PETER' J. BRADY, a witness called on behalf of the People, being duly sworn, testified as follows:

Direct Examination by Mr. Osborne:

Q You are an, engineer in the Marlborough Hotel?

A. Yes, sir.

Q On the night shift?

A. \*\*\* the day shift now.

Q But in October 1993 year were on the \*\*\* shift?

A. Yes, sir.

Q In October 1893 did the deceased Brother Dunne work at the Hotel Marlborough?

A. Yes, sir.

Q Was he on the shift it \*\*\*?

A. You, sir.

Q What time did you and he no to work to mother \*\*\*

A. Seven \*\*\*o'clock in the evening.

Q When did you and \*\*\*He leave work?

A. Seven in the \*\*\*.

Q Did you see him on the morning of the 14th of October 1893, the day of the \*\*\*?

A. Yes, sir.

Q On Saturday

A. Yes, \*\*\*.

Q When he left you was he sober?

A. Yes, sir.

Q Daring the time that you knew Mr. \*\*\* dunne, the deceased the deceased, was he a sober and industrious man?

A. Yes, Sir, always.

attending to his work.

Q During all the time did you ever know him to miss a single nights work?

A. No, sir.

CROSS EXAMINATION by Mr. Chanler:

Q You are quite \*\*\*sare of that?

A. Yes, sir.

Q Pause and think a moment. Think of the last week of his life and see if you can recollect one night on which he did not go to work?

A. No, sir.

Q Did he go to work two, three or four nights before and work from seen until seven?

A. Yes, sir.

Q Were you working there four days before his death? A Yes, sir.

Q And three days before his death?

A. Yes, sir.

Q And five days before his death?

A. Yes, sir.

Q You are positive \*\*\*she the went to work at seven o'clock on each of those three nights

A. Yes, sir.

Q And he was \*\*\*son?

A. Yes sir.

Q You are not the \*\*\*an who as change of the engine -- you were not Dunne's superior, there is a boss engineer there?

S. Yes, sir.

Q What was his name?

A. John J. \*\*\*O'Neill, the head chief.

Q Now, I will ask you this question Mr. \*\*\*braiy, don't you know as a fact from Conversation s between Mr. Dunne and Mr. O'Neil

that Mr. O'Neil stood up for Dunne when he was married, and he told Dunne on account of that he would allow him to keep his job at the Marlborough although he was so drunk that he \*\*\*ould not. come to work there for the last few days of his life.

A. No, sir I don't know anything of there business

Q You were not present at any such statement?

A. No, sir.

By Mr. OSBORNE:

Q Did you ever hear any \*\*\* conversation as that at all? A No, sir.

Q You two were the night engineers there, were you?

A. Yes, sir.

It required the services of both?

A. Yes, sir.

Q You would know whether the other engineer was there or not would you not?

A. Yes, sir.

Q \*\*\*Do you work every day of the weak?

A. Yes, sir.

Q During the whole time that you knew this \*\*\*deecasexd how many drinks did you \*\*\*know \*\*\* to take

The COURT: \*\*\*ended not answer that.

The Court \*\*\*advonshed the jury and \*\*\*rejournd the case until tomorrow morning March 15th 1894.

TRIAL RESUMED.

March 15th, 1894.

Mr. Chanler opened the case on behalf of the Defense. ROBERT HENDERSON, a witness called on behalf of the Defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Chanler:

Q Where do you live?

A. 228 Seventh Avenue.

Q Do you know the defendant, Mrs. Dunne?

A. Yen, sir.

Q How long have you known her?

A. Four years.

Q You own the house near to where she lived, did you not?

A. Yes, sir.

Q And you know her for four years?

A. Yes, sir.

Q Do you know other people who know her?

A. Oh, yes.

Q Do you know her character for peace and quietness?

A. Yes, sir.

Q Is it good or bad?

A. I have always seen it good; heard of it being good.

By the Court:

Q Always heard of it being good?

A. Yes, sir.

By Mr. Chanler:

Q Did you know her husband, George Dunne?

A. Yes, sir.

Q How long did you know him?

A. About four years.

Q Do you know other people who knew him?

A. Yes, sir.

Q Do you know his character for peace and quietness?

A. I have

seen some of his actions.

By the Court:

Q. Do you know?

A. Yes, sir; I know him and his neighbors.

Q. Do you know what his character for peace and quietness was?

A. Yes, sir.

Q. Was it good or bad?

A. I heard my daughter say it was very bad.

Q. You said you knew the man for four years?

A. I knew the man four years.

Q. You said you knew the man for four years, and you were asked if you knew his character for peace and quietness, and you said you did. You were asked the question whether it was good or bad?

A. I would call it bad, sir; I would call it bad.

CROSS EXAMINATION by Mr. Osborne:

Q. Did you know Mrs. Dunne - did you see Mrs. Dunne during the two weeks prior to the death of her husband?

A. Sir?

Q. Do you know when her husband died?

A. Yes, sir, I believe it was about the 14th of October.

Q. 1893?

A. Yes, sir.

Q. Did you see Mrs. Dunne during the two weeks before his death?

A. I seen her in the neighborhood of that; I couldn't exactly say whether it was two weeks, or three weeks, or probably four weeks; but I seen her there shortly before the thing occurred.

Q. Three or four weeks?

A. Yes, sir, I spoke to her at my door.

Q. Did you call at the house at any time during the three or four weeks before the death of Dunne?

A. I never was in the house she moved to.

Q. You never called to see her?

A. No, sir.

Q. And during the six months that Dunne lived at 106 West 26th Street how often did you see him?

A. I spoke to him several times, in the street.

Q. Two or three times, in the street?

A. Yes, sir.

Q. And you never knew of Dunne being arrested for fighting, or anything of that kind?

A. No, sir, I never knew him to be arrested for fighting; but I know of people that had to protect her from his brutality.

Q. Did you see him do any violence to that woman?

A. No, sir, I have heard him speak roughly to her.

Q. How long ago?

A. Probably eighteen months or twelve months ago.

Q. That was how long before his death?

A. Eighteen or twelve months ago; I couldn't say exactly the date.

Q. You never saw him strike her?

A. No, sir; I wasn't in the house as much as that.

By a Juror:

Q. In what respect was his character bad?

A. Well, I think it

was bad in this way - he was always in the habit of carrying liquor into his place; I seen it.

Q. Do you know anything against his personal character, of your own knowledge?

A. I say that he has carried liquor into his store day after day, to my knowledge, sir.

Q. You know that he drank it?

A. Yes, sir.

By the Court:

Q. Did you see him?

A. Yes, sir.

Q. Did you drink any of it?

A. No, sir. I don't drink.

Q. Did you ever see him intoxicated?

A. Yes, sir.

Q. Where did you see him intoxicated?

A. 226 Seventh Avenue; next door to me.

Q. In the house or in the street?

A. Both in the street and in the house.

Q. When did you see him? What time of day did you see him?

A. In the evening; after working house.

Q. What do you call working hours?

A. Six o'clock.

Q. Do you know where he worked?

A. Yes, sir. I believe that he worked in the Marlborough Hotel.

Q. Do you know that he went on duty at seven o'clock?

A. Yes, sir.

Q. And remained on duty till seven o'clock?

A. Yes, sir.

Q. What time did you see him intoxicated?

A. He was at home for his supper often at six and seven o'clock in the evening.

Q. What is your business?

A. A cabinet maker and upholsterer.

Q. Did you have any difficulty with this man?

A. No, sir.

Q. Are you any relation to this woman?

A. No, sir.

Q. Did you own the house that he resided in?

A. No, sir.

Q. Did he ever live under you?

A. No, sir, I was not; my daughter stayed with me.

Q. Have you any personal grudge against him?

A. No, sir; I respected the man very much, as a man, as far as that is concerned, the same as I would you or any person.

Q. You respected him, notwithstanding that you swear his character for peace and quietness was bad?

A. I respected him as a man, the same as I respect everybody as a man.

Q. Whether his character is good or bad?

A. Well, I give him full value for what he is worth.

MRS. SOMMIEL, being recalled for cross examination, testified as follows:

CROSS EXAMINATION by Mr. Chanler:

Q. Mrs. Sommiel, did you see George Dunne the morning of the trouble?

A. Yes, sir, I seen him sex o'clock the morning; he got a pint of beer.

Q. From you?

A. No, sir, in the corner.

Q. Was he drunk or sober then?

A. He was sober then.

Q. Did you see him at all drunk on the day of the trouble?

A. I saw him a couple of times come down to get beer.

Q. On the day of the homicide?

A. Yes, sir, in the morning.

Q. Have you seen him drunk at all in the house before the homicide?

By the Court:

Q. Did you ever see him drunk at all?

A. No, sir; the day before I seen him drunk, by the door.

Q. He was drunk by the door?

A. Yes, sir.

Q. Did you see him being carried upstairs a night or two before he died?

A. No, sir.

Q. Did you see the little boy on the morning that the father died?

A. No, sir.

Q. Didn't see him at all?

A. No, sir.

By Mr. Chanler:

Q. About what time did you see Dunne going down for the beer on the morning of his death?

A. Six o'clock.

Q. Did you see him again?

A. Yes, sir, I saw him in the morning, afterwards.

Q. Again, later, in the morning?

A. Yes, sir.

Q. How many times altogether?

A. I didn't count the times I seen him; a couple of times.

Q. You have been in the rooms that the Dunnes occupied, Mrs. Sommiel?

A. Yes, sir, I am the proprietor of those rooms.

Q. Do you know whether Dunne had a tool chest or not? Did he have a box in which he kept his tools?

A. Yes, sir, I have got it myself.

Q. What tools have you got there?

A. I don't know what kind it is.

Q. You didn't keep your tools in his room?

A. No, sir, I have them in my room.

Q. You have his tools?

A. Yes, sir.

Q. One box is there yet?

A. Yes, sir.

Q. Do you know what is in it at all?

A. Some hammer, and some kind of thing; I don't know what else.

Q. That tool box is in your room?

A. Yes, sir.

Q. Did you notice the condition of Dunne's room after Mr. Dunne's death?

A. Well, it was all blood.

Q. The room - was the furniture upset, dishes broken, or anything like that?

A. No, I didn't see any dishes broken.

Q. Was there any furniture upset?

A. No, only clothes.

Q. Clothes were lying around?

A. Yes, sir.

By the Court:

Q. Were they bed clothes or wearing clothes?

A. Wearing clothes.

Q. Were there bed clothes on the floor?

A. Yes, sir.

Q. Were there any coats, pantaloons, things of that sort on the floor?

A. Yes, sir; something like that.

By Mr. Chanler:

Q. Can you give me any idea about what time of day it was the second time you saw Dunne going for beer? You saw him going first at six o'clock?

A. Yes, sir.

Q. What time was it the next time?

A. Before twelve o'clock.

Q. Before twelve o'clock?

A. Yes, sir.

Q. Did you notice then whether or not he was staggering?

A. I didn't hear him; nothing at all.

Q. Did you see whether he was staggering - did you see him waling that morning at all?

A. Yes, sir.

Q. Was he walking steady or staggering?

A. Well, the first time he was walking right; then, afterwards, not the same.

Q. Was he staggering a little the next time?

A. Yes, sir, not the same.

Q. He seemed a little drunk the second time, didn't he?

A. Not the second time. I saw him a couple of times, and he doesn't look the same any more.

By a Juror:

Q. Do you sell beer at your place by the pint?

A. No, sir; by the bottle, in the restaurant.

Q. Did the tenants patronize you for beer in the house?

A. No, sir.

Q. They went outside for it?

A. Yes, sir.

Q. They generally went outside for it?

A. They went in the corner and got the beer; not in my house.

Q. They generally went somewhere else?

A. Yes, sir.

By Mr. Chanler:

Q. You keep a French restaurant there; don't you?

A. Yes, sir.

By Mr. Osborne:

Q. Mrs. Sommiel, where did you get the keys to Dunne's rooms after this homicide, after the death?

A. His cousin gave me the keys.

Q. And you opened the rooms on what date?

A. On Monday.

Q. Now, what did you say you noticed about the bed?

Mr. Chanler: I was asking about the day of the occurrence. This, as I understand it, is long after. I don't know what the nature of it is.

The Court: I suppose if the District Attorney chooses to do it he may.

Q. Now, Mrs. Sommiel, did you notice the condition of the room on the day of the death?

A. Yes, sir.

Q. The day of the homicide?

A. Yes, sir.

Q. When he was killed?

A. Yes, sir. I saw only blood, that is all I saw.

Q. The following Monday, was it, you saw the clothes on the floor?

A. Yes, sir.

Q. Did you see them on the floor on the Saturday, the day of the homicide?

A. I seen them on Monday.

Q. Now, did you notice the condition of the room, as to its cleanliness?

Objected to.

The Court: What has that got to do with it?

Mr. Osborne: I propose to show, your Honor, that the rooms were in such a disorderly state that the housekeeper, or whoever had charge of the room, had not attended to her duties at all for some time.

The Court: What has that got to do with it?

Mr. Osborne: It tends to show the condition of this woman for the week before.

Question withdrawn.

Q. The blood that you speak of, where was that?

A. All over; I saw the blood all over.

Q. The room where the body was?

A. Yes, sir.

Q. That is, on the wall?

A. Yes, sir.

Q. On the bed?

A. Yes, sir.

Q. Are you sure that it was the morning of the homicide, the morning of the death, that Dunne was drinking? You saw him go out for beer?

A. Yes, sir.

Q. And how many times altogether did you see him go out that day?

A. A couple of times; I don't know the times.

Q. About how close together were they - the first one at six o'clock in the morning, and about how long was the next one?

A. About eight o'clock or something like that; about eight o'clock.

By The Court:

Q. One was six o'clock in the morning, and the other was twelve?

A. The first one was six o'clock.

Q. And about how long after that was the next one?

A. About eight.

Q. Are you sure about the hour, Mrs. Sommiel?

A. Yes, sir, I am sure about six o'clock; because I swept the sidewalk at that time.

Q. When you first saw Dunne he was perfectly sober, when you saw him?

A. At six o'clock.

Q. What did you see about him the second time that made you think it was different?

A. I can't tell sure the hours; I didn't notice; I didn't look at the clock.

Q. I am speaking about the second time. What was it you noticed about him that was a little different from what you saw at six o'clock?

A. Near about eight o'clock.

Q. What was it you noticed about him that made you say he acted a little differently from what he did the first time you saw him?

A. About eight o'clock, not much different. He was just by the door. He told me, ``That is a nice day to-day,

Mrs. Sommiel," and he has to go in the corner.

Q. What did you say to that, Mrs. Sommiel?

A. I say, ``yes."

Q. Was it a nice day?

A. Yes, sir, A VERY NICE DAY.

By Mr. Osborne:

Q. Dunne was a peaceable man, wasn't he, friendly?

A. Yes, sir.

Q. And while you were in that house you never knew him to have any fights with anybody, did you?

A. I didn't hear any noise at all.

Q. Very quiet upstairs in his room; wasn't it?

A. Yes, sir.

Q. Mrs. Sommiel, where did you see that tool box that you spoke about, in his room - where did you find the tool box?

A. His cousin let me have that.

Q. Where did you find it?

A. In the bedroom, in the dark room.

Q. In the dark room?

A. Yes, sir.

Q. That is in this closet, marked ``Closet"?

A. Yes, sir.

Q. That is where the tool box was?

A. Yes, sir.

Q. Did you notice whether any carpets had been taken up?

A. Carpets?

Q. Yes. Any carpets, on the floor; had they been taken up at all?

A. Yes, sir.

Q. They were taken up?

A. No, sir; the cousin fixed everything like that.

Q. It was his cousin that was taking up the carpet?

A. Yes, sir.

Q. When you were there on Saturday ----

By The Court:

Q. When was the carpet taken up - do you know what day the carpet was taken up?

A. Yes, sir.

Q. What day was that?

A. Well, the first time he gave the key for the furniture, selling everything.

Q. Will you tell me what day the carpet was taken up?

A. In the middle of the week; Thursday.

Q. After he was killed?

A. Yes, sir.

Q. When you went there on Monday and unlocked the door, when the cousin gave you the keys, did you notice the room that day?

A. He didn't give me the key on Monday; he kept the key all week.

Q. You went in there on Monday you say?

A. Yes, sir.

Q. You told us, just now, you found the tool box in the closet?

A. Yes, sir.

Q. Now I want to know whether you noticed the carpet or not on that day. Was the carpet being taken up or in any way disturbed?

A. No, sir, not at that date.

By Mr. Osborne:

Q. Had anybody bothered the carpet?

A. No, sir.

Q. Was it nailed down?

A. Nobody bothered the carpet.

Q. Were there any signs about the room, as if anybody was moving?

Mr. Chanler: I object to that, on the ground that this is his own witness, and he is asking a very leading question.

The Court: You went into certain matters, and he is cross examining.

Mr. Chanler: Now he asks for signs of moving; that is rather a guess on the witness's part.

The Court: Well, I will let her answer the question.

Q. Did you see any evidences or signs of the furniture being moved, as if the people were about to move out of the rooms, when you went in there on Monday?

A. No, sir, I never saw that.

Q. When you went in on Monday morning, what time did you go in?

A. About 11 o'clock.

Q. Went in at 11 o'clock?

A. Yes, sir.

Q. Who was with you; his cousin?

A. Yes, sir.

Q. And this cousin had a key to the room?

A. Yes, sir.

Q. He unlocked the door and you and the cousin went in; is that right?

A. Yes, sir - he was first in there.

Q. The cousin was in the room when you went in?

A. Yes, sir.

Q. What was the cousin doing there in the room when you went in, was he moving anything?

A. Not that day.

Q. Not taking up any carpets?

A. No, sir.

Q. How long did you stay in the room that day?

A. I don't stay long.

Q. About how long; a few minutes?

A. About half an hour, or something like that.

Q. About half an hour?

A. Yes, sir.

Q. Did you look around the room?

A. Yes, sir.

Q. Did you go into the kitchen and into the dark room?

A. Yes, sir.

Q. And into the sitting room?

A. Yes, sir.

Q. Did you see any of the furniture that was in those rooms moved about in any way?

A. No, sir.

Q. Was the furniture in its place?

A. Yes, sir.

Q. It was in its place?

A. Yes, sir.

Q. Tables and chairs?

A. Yes, sir.

Q. And there was no disorder of any sort around the room?

A. No, sir.

Mr. Chanler: I would ask this witness a question through the interpreter, to get it perfectly clear about the hours of the day of the homicide.

By Mr. Chanler:

Q. Ask her what time it was in the morning when she first saw this man - I mean now the morning of the day the man was killed?

A. Six o'clock in the morning.

By The Court:

Q. And he was then standing, was he not, at this door?

A. He was at the street door. He had a pint of beer in his hand.

Q. At the street door?

A. Yes, sir, at the street door.

Q. Did she speak to him at that time?

A. He said to me, ``Good morning".

Q. What did she say to him?

A. I said to him, I said also, ``Good morning".

Q. When did she next see him?

A. Eight o'clock in the morning again.

Q. Where was he then?

A. Again at the same place, at the door.

Q. Did she speak to him?

A. He said to me it is a nice day.

Q. He said to her ``It is a nice day?"

A. Yes, sir.

Q. What did she say?

A. I said, ``Yes, it is a very nice day."

Q. Is that all she said to him?

A. Nothing more.

Q. When did she next see him that day?

A. I didn't see him in the afternoon. I saw him three or four times in the morning, but not in the afternoon.

Q. Did she see him at all after eight o'clock in the morning?

A. Yes, sir, I saw him afterwards.

Q. When was the next time she saw him?

A. Some time after eight o'clock, but I couldn't tell the hour; I didn't pay attention to the hour.

By Mr. Chanler:

Q. Did she speak to him then?

A. No.

Q. What was he doing then?

A. He had beer in his hand.

Q. And the fourth time you saw him, did he have beer in his hand?

A. He was going for beer, he had a beer can in his hand.

Q. Well, now, did you notice then whether or not he was drunk?

A. I didn't observe him so much; I didn't pay so much attention to him.

By a Juror:

Q. Now she testifies that on the day prior to his death she saw him drunk, at the front door. How did she know he was drunk?

A. Because he was different from how he was on other days.

By the Court:

Q. Ask her now if she spoke to him or he spoke to her on that day?

A. He didn't speak to me; we didn't speak together; we didn't say anything.

Q. Was he standing by the door?

A. He was at the door.

Q. What did she see him do?

A. He was looking at the passers by, at the door.

Q. Is that all?

A. Nothing else.

Q. What time was that?

A. About ten o'clock in the night time.

Q. The day before he was killed?

A. Yes, sir.

By Mr. Osborne:

Q. How many times did you see Dunne on the day of his death before

you went upstairs and saw him on the bed?

A. I saw him when he was going for the beer, but I couldn't tell you about how many times.

Q. About how many times?

A. About three or four times.

MARY BECK, a witness called on behalf of the Defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Chanler:

Q. How long have you known the defendant?

A. All her life.

Q. You are her cousin?

A. Yes, sir.

Q. Do you know other people who know her?

A. Yes, sir.

Q. Do you know her general reputation for peace and quiet?

A. Yes, sir.

Q. Is it good or bad?

A. Very quiet - too good natured.

Q. Have you ever seen her together with her husband?

A. Yes, sir.

Q. Have you ever seen her husband abuse her?

A. Yes, sir.

Q. On what occasion?

Mr. Osborne: One moment. I would like you to fix the date.

Q. On what occasion?

A. When her and her husband came to see me ----

By the Court:

Q. Fix the date when you saw him abuse her?

A. Well, I can fix

one day, the time she was sick.

Q. About how long ago?

A. At the time the child was born.

Q. How long ago is that?

A. Nearly two years.

Q. Nearly two years ago?

A. Yes, sir; it will be two years this march.

Q. Where did you see him do that?

A. In Seventh Avenue and 23rd Street.

Q. In your house?

A. No, sir, in her own house. I went to stand for her baby.

By Mr. Chanler:

Q. What was she doing at the time?

Mr. Osborne: Objected to, as too remote, It happened two years before the homicide, or eighteen months before the homicide.

Mr. Chanler: Does your Honor refuse to admit it?

The Court: I say it is too remote.

Exception.

Mr. Chanler: I wish to show, your Honor, that this course of conduct and habit of life had continued for some time and finally culminated in still more trouble.

the Court: If you will follow that by showing continuous violence on his part against this woman,

I will let you.

Mr. Chanler: I would like to do it properly, but my witnesses have not come yet.

Q. Now, what was he doing at the time, on this occasion that you now speak of? What did you see him do then?

A. She told him to look for her bank book and he went into the room, and she was in bed sick.

Q. What was the matter with her?

A. She was sick; she was confined at the time. And he didn't find the bank book immediately, and he shouted out so loud that I was sorry for going there. I went in the room where she was in bed, and she told her boy ----

Q. Never mind that. What did you hear him say to her?

A. He swore at her.

Q. What did he say?

A. Well - he said - God damn her, what was the matter with her, why didn't she have the things in their places; and after a while he found the bank book.

Q. Is that all that he said to her?

A. He screamed - he always prevented ----

Q. Never mind always. Is that all you saw that day?

A. Yes, sir, that is all.

By Mr. Chanler:

Q. Don't answer this question until his Honor tells you to. Did you hear her send the child out of the room because she was

afraid of her husband.

Mr. Osborne: I object to that.

Mr. Chanler: It was in the presence of the husband.

The Witness: Yes, sir.

The Court: I will exclude that.

Q. Did you hear her say, in the presence of her husband, to her child to go out of the room, because she was afraid of her husband?

Question excluded; exception.

Q. Have you ever seen any other occasion when he spoke harshly to her, or treated her badly?

A. Only her boy has shown me -

By the Court:

Q. Did you ever see, upon any other occasion - and if so when and where - this rough and abusive language?

A. Well, he was a man who was constantly turning - I can say that he called her vile names.

Q. I didn't ask you that. Did you, on any other occasion - you told us now on one occasion, in the Seventh Avenue house, you went there and she was sick in bed, and you told us what occurred?

A. Yes, sir.

Q. Now were you present at any other time when he used abusive language or treated her roughly, that you saw?

A. That I saw - no, sir.

By Mr. Chanler:

Q. Now, don't answer this question until his Honor rules. Did the boy show you any marks of violence on his person about a year before Dunne's death?

Question excluded.

Q. Did he tell you how he got them?

Question excluded; exception.

CROSS EXAMINATION by Mr. Osborne:

Q. How long did you know Dunne?

A. Two years before he was married.

Q. You have known him how long together, about five years?

A. Yes, sir; about six years.

Q. Where was he working when you first knew him?

A. At the hotel Bartholdi.

Q. And he continued to work there for how long?

A. Until not long before the homicide happened.

Q. He continued to work up there until about six months before the homicide?

A. Yes, sir.

Q. And then, after that, he went to work at the hotel Marlborough?

A. Yes, sir; and he found fault about going out to work in night time.

Q. And they lived about six months at 106 West 26th Street?

A. Yes, sir.

Q. I understood you to say you never saw Dunne strike his wife?

A. No, sir; I never saw him raise his hand to strike her.

Q. You never saw him strike her?

A. No, sir.

Q. And the only occasion you have told us about was one time when he swore because she hadn't put the bank book in a place where he could find it; is that right?

A. Yes, sir.

GEORGE P. BIGGS, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Osborne:

Q. Dr. Biggs, you are Pathologist at the New York Hospital?

A. Assistant Pathologist.

Q. And a physician?

A. Yes, sir.

Q. Do you remember on the 15th day of October, 1893, together with Dr. Donlin, performing an autopsy on the body of George Dunne?

A. Yes, sir, I do.

Q. Now, will you state to the jury in detail ----

The Court: Will you be kind enough and give us the result of the superficial examination which, I presume, was made before you commenced the autopsy - tell the jury what you found on the superficial examination, and then go on with the autopsy.

A. The body was that of a well nourished man; he was rather

obsese. His rigor mortis, or signs of death, were very well marked. He had a number of lacerations and contusions on the tissues of the left side of the scalp, which were semi-circular in outline, most of them, as if they had been made with a blunt circular instrument of some sort having the size, I should say, of a quarter of a dollar. They indicated that the injuries had been produced by an instrument about that size.

Q. A blunt instrument?

A. A blunt instrument. There were a few lacerations, tearing of the tissues; some were simply bruised. They were all on the left side of the head, and in one of these lacerations a piece of broken bone could be felt from the outside.

Q. The broken bone was the skull that went through?

A. Yes, sir. The soft tissues in the scalp, here (indicating) in the immediate neighborhood of the injuries were filled with blood, a good deal of hemorrhage into the tissues; and, on looking at the skull, there was a large area of fractures found in the left side. They were circular in outline and about three inches in diameter. The bone was depressed, causing injury to the parts beneath. At the centre of the area I regard as being two and one-half inches above the bone of the external fracture, a portion of the frontal parietal and the temporal bones. The membranes of the brain were found torn. One of

the vessels of considerable size was torn across and the brain itself was lacerated to a slight degree. There was considerable hemorrhage above and between the bones and the so-called dura mater, the first membrane covering the brain, and a large hemorrhage beneath the dura mater covering half the entire side of the brain. There was a slight injury of the brain on the opposite side, at a corresponding point due to the transmission of the force of the injury. Slight hemorrhage -

Q. On the left side?

A. On the right side. The injury was on the left side. The force was transmitted over to the opposite side to the so-called membranes here of the pia mater, which covers the brain; and there were a few small pinhead hemorrhages in the brain itself, at this point (indicating). The fluid in the ventricles of the brain, as they are known, was greater than that found in a normal brain. There were a great many old adhesions on the right side. The lungs were both very much congested and oedematized, a condition frequently found in cerebral injuries. The heart was normal, except the muscular substance was a little soft. The liver was quite fatty. The kidneys showed a condition of chronic Bright's disease, fairly well marked. The stomach showed quite an aggravated condition of chronic inflammation. I think that was all of importance that was discovered.

Q. What was the cause of death?

A. The cause of death was the

compound depressed fracture of the skull, with lacerations of the brain and hemorrhage.

By the Court:

Q. Now, about those wounds that you have described, the rupture of one vessel, one large vessel of the brain - did that cause much hemorrhage?

A. Considerable hemorrhage.

By Mr. Osborne:

Q. The Bright's disease that you have spoken about, would that impair, to a very considerable extent, the muscular strength of the man?

A. No, sir.

CROSS EXAMINATION by Mr. Chanler:

Q. The ulcerations you speak of, doctor, of the stomach ----

A. I didn't go into that. I will describe the condition of the stomach, if you desire.

Q. There is just one question I will ask you. Would you say, doctor, that the ulcerated condition of the stomach showed evidence of the deceased having been a drinking man?

A. The condition of his stomach, as a whole, showed evidence of his being a drinking man.

Q. Mr. Osborne asked you whether the condition of his kidneys would affect his general condition - I understood him to ask - so far as to resisting any violent shock to the system was concerned.

The Court: I don't know what he wanted to get it for. He has already said, and it has been proved, that on the external examination, it was found that the man was well nourished and that he was a large sized man. We have evidence of his weight and height. The condition of the kidneys and the condition of the stomach was not the cause of his death.

Mr. Chanler: Oh, no, sir.

The Court: The doctor has told you what the cause of death was.

By a Juror:

Q. Was the hemorrhage spoken of internal or external? Where does the blood come from we hear so much about?

By the Court:

Q. This man was found, doctor, as the evidence shows, with blood on him, the bed upon which he was lying had blood upon it, there was blood spattered on the wall. In your opinion, where did that blood come from? You have examined these wounds and stated to us what the condition of this man was.

Objected to; objection overruled; exception.

Q. Can you state, doctor - assuming, doctor, that this man was found lying across a bed, in his own apartments, undressed, with the exception of a flannel undershirt upon him; the bed

having upon it stains of blood; blood being spattered on the wall near the bed; some blood upon the floor, evidently the blood from the person of this man; from what particular part of his body did that blood come - whether it came from that rupture of that artery, the blood vessel in the brain or whether it merely came from those wounds?

Objected to; objection overruled; exception.

Q. A. The only source it could have had in connection with the skull was external, the laceration of the muscles and soft part between the skin and the skull. There was no evidence of hemorrhage from any external opening, the mouth or the nose. I will say, in connection with the ulceration of the stomach, which has been mentioned and given rather a prominent position, showed that they were simply very minute and simply very superficial. There was no possibility of any hemorrhage from that source. There was no blood in the stomach or in the canal. A microscopical examination of these showed simply a very superficial ulceration, or destruction, the result of this chronic condition of the man's stomach.

Q. I want to know whether it came from the nose or the mouth, any blood? There was no blood from the mouth or nose; is that it?

A. Yes, sir.

By Mr. Osborne:

Q. Doctor, I want to ask you the same question with reference to



the inflammation of the stomach; would that inflammation, in any very great degree, impair the muscular strength of this man, his muscular force, his power to resist violence?

A. Does that mean to protect himself?

Q. To protect himself from attacks?

A. His muscular condition would not affect, to any very great extent, the inflammation of his stomach. Some of his lesions would probably result in a moderate amount of weakening of his general system, and, therefore, the muscular strength.

Q. Didn't the examination which you made, the exterior or interior examination of the body, enable you to state whether that man presented the appearance of a well-nourished man, a man of ordinary strength?

A. He was rather obese; rather a fleshy man.

Q. He was a man of ordinary strength; was he?

A. Yes, sir.

By Mr. Chanler:

Q. Doctor, can you swear positively that this deceased man did not suffer from a nasal hemorrhage at the time, or shortly after this assault, from the appearance which he presented?

A. He might; I cannot say positively that it could not be. There was no evidence, however, at the time I saw him.

Q. But you would not be willing to swear that that was not the

case?

A. I could not swear that it had not occurred, positively that it was not the case.

JENNIE ROCHE, a witness called on behalf of the defendant, being duly sworn, testified as follows:

Direct Examination, By Mr. Chanler:

Q. How long have you known this defendant?

A. Two years, sir, in August.

Q. Have you had occasion, during that time, to see a good deal of her?

A. I have been under her employ for five months.

Q. Do you know other people who knew her?

A. Yes, sir; I know two parties.

Q. You know some other people in the house where you lived?

A. Yes, sir; I knew some people that knew her.

Q. Did you know Mrs. McCarthy?

A. Yes, sir.

Q. Did you know any of the neighbors there?

A. No, sir, I was not very well acquainted.

Q. Did you know any of the neighbors - Mr. Henderson?

A. Yes, sir, Mr. Henderson, Mrs. Feldman and Mr. Feldman.

Q. Well, while you were with Mrs. Dunn----

A. As a nurse, sir.

Q. Did you always sleep in the house with Mrs. Dunn?

A. No, sir; I always slept at home.

Q. Did you ever see Mr. Dunn, while you were with Mrs. Dunn, in her employ?

A. Yes, sir.

Q. Now, when was this you were employed by Mrs. Dunn?

A. Two years ago this August, sir.

Q. And at that time did you ever see Mr. Dunn use any violence against Mrs. Dunn?

(Objected to, as too remote.)

A. Yes, sir.

Q. What violence did you see him use; what did he do?

A. She requested me----

By the Court:

Q. What did he do?

A. He threatened her life.

Q. What did he say?

A. He said he would take her life.

Q. He said he would take her life?

A. Yes, sir.

By Mr Chanler:

Q. In consequence of that did you do anything?

A. I stayed with her over night, to protect her.

Q. Did you do that with her on more than one occasion?

A. Yes, sir, various times; I couldn't say how many.

Q. More than once?

A. Yes, sir.

Q. Did you hear him threaten her life more than once?

A. Yes, sir.

Cross Examination, by Mr. Osborne:

Q. Where did you live at the time you were nursing for Mrs. Dunn?

A. 437 West 34th street; with my people.

Q. Where did she live at the time?

A. Mrs. Dunn-226 Seventh avenue.

Q. Where was Mr. Dunn employed at that time?

A. Somewhere in a hotel.

Q. In the Hotel Bartholdi?

A. Yes, sir.

Q. He used to work at night?

A. From 7 in the morning until 6 at night.

Q. From 7 in the morning until 6 at night?

A. Yes, sir.

Q. During all the time that you knew him he was working at the Hotel Bartholdi?

A. Yes, sir.

Q. You say that once or twice he threatened her?

A. Yes, sir.

Q. Just tell us exactly what he said?

A. He had threatened to take her life.

Q. What did he say, give the language?

A. Well, he was under the influence of liquor, and he used profanity.

Q. Please tell us what he said; do you remember?

A. I couldn't tell you the exact language he said now, sir, the profane language; I couldn't remember it exactly.

Q. You spent the night with her, to protect her?

A. Yes, sir.

Q. Where did Mr. Dunn sleep?

A. He slept on the

sofa, in the kitchen.

Q. And let you sleep with his wife?

A. Yes, sir, in the bed-room, with Mrs. Dunn.

Q. You thought that you could protect her; did you?

A. Yes, sir, I thought so.

Q. How many times did you protect her?

A. I couldn't say, sir, various times.

Q. Three times?

A. Yes, sir, about three times.

Q. About three times?

A. Yes, sir.

Q. How many months were you there?

A. Five months.

Q. During that time did you ever see Mrs. Dunn strike Mr. Dunn at all?

A. No, sir; I never did, sir.

Q. Did you hear her say anything to him at all?

A. No, sir.

Q. Never heard her say any threatening words to him?

A. No, sir; I never did.

Q. Never heard her say anything?

A. No, sir.

Q. Not at all?

A. No, sir.

Q. You don't know how these things arose at all, these threats?

A. I couldn't say that, sir.

Q. You cant remember any of the circumstances that led up to them?

A. No, sir, not at that time, not in the family affairs; I didn't stay, only just to protect her.

Q. Did you know what her Mrs. Dunn drank at that time?

A. No, sir.

Q. She didn't drink?

A. No, sir.

Q. He drank all that was drunk?

A. Yes, sir.

Q. Did you see him drunk?

A. Yes, sir, I have.

Q. During that time?

A. Quite a number of times.

Q. It was when he was drunk that you saw him abuse her?

A. Yes, sir; threaten her life.

GEORGE P. BIGGS, being recalled for further cross-examination, testified as follows:

By Mr. Chanler:

Q. You say that Mr. Dunn's death was due to a fracture of the skull; that is right?

A. That is what I said.

Q. I will ask you if that fracture of the skull could have been caused by one blow?

(Objected to)

Q. From the instrument that was used?

Mr. Osborne: I object to that, because, of course, if that blow was delivered out of a cannon or something like that, it might be caused by one blow; but he has not stated enough facts upon which this doctor can base an opinion.

The Court: The doctor has described the fracture of that skull, and he has told you what caused

this man's death, and he told us what, in his belief, caused these wounds.

Mr. Osborne: My objection to the question is that he doesn't get into it the element of force.

The Court: I will let the doctor answer the question, whether the fracture could have been caused by one blow.

By the Court:

Q. You can answer that question, Doctor, if you can, whether that fracture could have been caused by one blow?

A. It could; the fracture itself could have been caused.

Q. If sufficient force was used?

A. Yes, sir.

Q. But those marks which you found, those semi-circular marks, in the region of that fracture, they would indicate more than one blow?

A. Yes, sir; several.

FANNIE FELMAN, a witness called on behalf of the defendant, being duly sworn and examined through the Official Interpreter, testified as follows:

Direct Examination, By Mr. Chanler:

Q. Where do you live?

A. 226 Seventh avenue.

Q. Do you know this defendant, Mrs. Dunn?

A. Yes, sir.

Q. How long have you known her?

A. About five

years.

Q. Do you know other people who know her - you know the neighbors who know her?

A. I don't know the people that are acquainted with Mrs. Dunn.

Q. Do you know Mr. Henderson?

A. Yes, sir.

Q. Do you know anybody else besides Mr. Henderson about there?

A. All the people in the same house where I live, they are acquainted with Mrs. Dunn.

Q. You know Mrs. O'Connor?

A. Yes, sir.

Q. Have you ever heard these people talk about Mrs. Dunn?

A. They never talked anything bad about her, but always talked well of her.

Q. Now, did you know Mr. Dunn?

A. I only knew him from living in the house.

Q. When was that, how long ago was that?

A. For three years he lived in our house, and he moved away about ten months ago.

Q. Did you ever see him drunk?

(Objected to)

Q. Did you know people who knew him, neighbors in the house?

A. Only the neighbors in the house.

Q. Did you ever hear the neighbors speak of him, his character for peace and quiet?

A. Whenever he is drunk, or

somewhat drunk, they used to talk about him.

Q. From what they said----

By the Court:

Q. Ask her if he was a peaceable, quiet man or not?

A. Whenever he was in a sober state he used to be a very quiet man, but, whenever he was drunk, he used to quarrel with his wife.

Cross Examination, by Mr. Osborne:

Q. You never knew him to strike his wife; did you?

A. Never saw him beat her.

Q. Did you ever see Mr. Dunn strike his wife?

A. No, I did not.

By the Court:

Q. Did she ever see Mr. Dunn quarrel with his wife?

A. I never was in his room when they quarreled, but I could hear the quarrel in my room.

Q. Did she hear Mrs. Dunn's voice also?

A. I heard the voice of both.

Q. That is all?

A. Yes, sir.

Q. Now, ask her if she ever saw this man drunk herself?

A. I saw him drunk, but not the woman.

Q. Where was he when she saw him drunk?

A. In the same house

where I lived. Since he moved away, I don't know how he lived.

Q. Was he in his own room, or was he out in the street?

A. He passed the house, going home from work; I used to see him.

Q. Was he able to walk?

A. Yes, sir.

Q. Did she ever speak to him?

A. Whenever he was sober, then he used to bid me good-morning.

Q. How about when he was drunk?

A. When he was drunk, in an intoxicated condition, I didn't want to talk to him.

Q. Ask her if he was more often drunk than sober?

A. No; more often sober than drunk.

Q. How long did she know him?

A. Five years in the block, and three years he lived in my house.

By Mr. Chanler:

Q. Don't answer this question until his Honor rules. While he was living in your house, or the next house, have you seen a policeman driving him out of the cellar, for drunkenness?

(Question excluded)

MARY DUNN, THE DEFENDANT, being duly sworn, testified, in her own behalf, as follows:

Direct Examination, by Mr. Chanler:

Q. Where were you born?

A. In Newark, New Jersey.

Q. Where did you first work?

A. I first worked in this city at the St. James Hotel - no, Fourth avenue, between 20th and 21st streets.

Q. From there where did you go to work?

A. The St. James Hotel.

Q. And from there?

A. I worked there about two years, and I went from there to Pierre Lorillard's.

Q. And how long did you work there, about?

A. I only went there to open the Tuxedo Club.

Q. You were there in the store-room?

A. Yes, sir.

Q. And after leaving there where did you go?

A. I left there and came back to New York, and I went to work for Mr. Garrison, in the Grand Union.

Q. Mr. Garrison, at the Grand Union?

A. Yes, sir.

Q. Now, Mrs. Dunn, when were you married first?

A. I was married in Newark.

Q. When?

A. I couldn't tell you exactly.

Q. How many years ago?

A. It is a good many years ago; I guess about eleven years ago.

Q. Eleven years ago?

A. Yes, sir; may be twelve.

Q. Did you have any child by him?

A. Only my boy, Tody, that was here yesterday.

Q. Your boy, who was here yesterday?

A. Yes, sir.

Q. How long after you were married did he die?

A. He didn't live six months; he was a consumptive.

Q. After that you were married to Dunn?

A. He went home to Ireland, and was buried there.

Q. Who?

A. My husband, and I worked after that until I married Dunn.

Q. How long ago did you marry Dunn?

A. I couldn't tell you the date.

Q. About how long?

A. I guess it was about four or five years ago.

Q. Mrs. Dunn, were you working at the time you married Dunn?

A. Yes, sir.

Q. And did you go on working, or stop working, after you were married to him?

A. I continued working.

Q. Where?

A. I worked for Mr. Nutter, 28th street and Fifth avenue, opposite the Union Club.

Q. How long did you work after you were married?

A. Until I became pregnant.

Q. Mrs. Dunn, how long did you work after you were married?

A. After I was married, I work until I wasn't able to work any longer.

Q. Then you stopped working, after you were married?

A. Yes, sir.

Q. Did you have any money when you married Dunn?

A. Yes, sir, I did.

Q. How much money did you have?

(Question excluded)

The Witness: May I speak, your Honor?

The Court: Not unless you want to leave the stand, you must not.

The Witness: There is a gentleman here whom I employed for ten years. He is a newspaper man, and it embarrasses me so that I can't answer properly.

Mr. Chanler: I beg your Honor's pardon. It is a man named Costello.

The Court: Who is he?

The Witness: He stands over there, sir.

The Court: He is only a reporter, taking down the evidence. He has a right to be here. He won't hurt you or anybody else.

Mr. Chanler: Now, Mrs. Dunn, when anybody objects, do not answer until his Honor has said you may.

Q. How long after you were married to Dunn did you have a baby born?

A. Well, I guess it was ten months; probably

a little longer.

Q. Where did you live when you were first married?

A. You mean when I had taken up rooms?

Q. Yes; where did you first live with Dunn?

A. I took a flat, between 40th and 41st streets, on Seventh avenue; I lived there one month.

Q. One month?

A. Yes, sir.

Q. And from there you and Mr. Dunn went to live where?

A. 226 Seventh avenue.

Q. And while you were living at 226 Seventh avenue, you kept house; did you not?

A. Yes, sir.

Q. How many rooms did you occupy there?

A. Four rooms.

Q. Was Dunn in the habit of drinking to excess, Mrs. Dunn?

A. Yes, sir.

Q. Where did he work?

A. He worked at the time I married him, in the Bartholdi Hotel.

Q. And from there where did he work, in the Marlborough Hotel?

A. He was to be discharged from the Bartholdi.

Q. He worked at the Bartholdi?

A. Yes, sir.

Q. During that time you say he used to drink to excess?

A. Yes, sir.

Q. Did he ever maltreat you?

Mr. Osborne: I would like to have you

fix the date.

A. He certainly did.

Q. When did Dunn first begin to maltreat you; how long after you had been married, about?

A. I wasn't keeping house more than two months.

Q. How long after your marriage did he commence to maltreat you?

A. About five months.

Q. When did he first begin to drink to excess, how long after you were married?

A. I guess he always drank to excess.

Q. As soon as you were married?

A. Yes, sir.

Q. And did he keep this up all during the time that you were in Seventh avenue?

A. He did - in a quiet way.

Q. Did he continue to maltreat you during the time you were living in Seventh avenue?

A. Yes, sir.

Q. When did you leave Seventh avenue?

A. I left Seventh avenue - I have been arrested six months, and I left six months before I was arrested; that makes it pretty near a year.

Q. About a year?

A. Yes, sir; I have been in the Tombs six months.

Q. Did he maltreat you more or less after you left Seventh avenue?

A. More after I left Seventh avenue.

Q. Did you have friends in Seventh avenue?

A. The neighbors all knew me; I lived there.

Q. You had friends there?

A. Yes, sir, they were all my friends.

Q. Did you know any one in the house on 26th street when you moved there?

A. No, sir, not anybody; everybody was a stranger to me.

Q. How long had you been in the house on 26th street before Dunn began to maltreat you again?

A. Well, he always kept it up-I couldn't say - every week, or whenever he felt in the mind, particularly whenever he visited his family.

Q. Well, now, Mrs. Dunn, when did you begin to drink; how long before Dunn's death?

A. I drank more since I went to 26th street than I ever did before.

Q. When did you commence; how long have you been drinking?

A. When I lived in Seventh avenue, on a wash-day, I would send the girl for a pint of beer and get a pint of beer or anything like that, but never drank to get drunk.

Q. When did you begin to drink to excess?

A. No one ever seen me drunk.

Q. When did you begin to drink to get drunk?

A. When I went to 26th street.

Q. When did you begin to drink too much?

A. When I lived in 26th

street.

Q. How long had you been there before you drank too much, about?

A. Before I drank too much?

Q. How long had you been there when you first got drunk, about?

A. I guess I was there - I didn't drink anything for three months, or two months, I ain't positive.

Q. And then you began to drink, off and on?

A. Yes, sir; when anything bothered me, I always drank, if I could get it.

Q. Did things begin to bother you a short time before Dunn's death?

A. Yes, sir; I was very much up-set.

Q. And were you drinking too much then?

A. I presume I was; I know I was.

Q. Now, Mrs. Dunn, coming down to the day of your husband's death, do you remember seeing him drunk two or three days before that?

A. Yes, sir.

Q. What time of day or night?

A. It was after the 10th.

Q. What time of night?

A. In the morning of the 10th.

Q. What time of day?

A. Well, he didn't get home until 9 o'clock that morning.

Q. Did he walk up stairs himself that morning?

A. He did, to my knowledge, yes, sir.

Q. Did you know of his being brought home at all, at any time?

A. I remember one evening, I don't remember whether it was the night before or two nights previous to that, that a little boy, a little colored fellow, after 9 o'clock at night, knocked at the door and told me that Mr. Doyle - no, he didn't say Mr. Doyle - he said Mr. Dunn had been thrown out of Mr. Doyle's liquor store, and that he was now lying in the gutter.

Q. Did you go down?

A. I got up out of bed, and I couldn't go at once; I had to put my wrapper on.

Q. Did you go down stairs?

A. I made an attempt to go down stairs, sir.

Q. Did you see him lying in the gutter?

A. No, sir, I didn't get down stairs as far as that.

Q. When did you see your husband?

A. I got up and got my boy - my children were in bed, and I was obliged to get the boy out of his bed, before I went down, and directly I opened the door and went to the head of the stairs, I saw two boys that are around there----

Q. You saw two boys?

A. Yes, sir; helping him up stairs.

Q. Did you see them helping your husband up stairs?

A. Yes, sir.

Q. Mrs. Dunn, had you - did you have anything to say to Dunn about leaving him, going away from him?

A. Yes, sir, he knew I was going away; he knew I was leaving him.

Q. When did he find you you were going to leave him, as far as you know?

By the Court:

Q. When did you tell him you were going to leave him?

A. I guess, a week before; I ain't positive of the day or the date.

By Mr. Chanler:

Q. Now, Mrs. Dunn, had he been drinking to excess during the last week of his life, had he been getting drunk?

A. Yes, sir.

Q. The last few days of his life?

A. Yes, sir.

Q. And had you been having trouble with him?

(Objected to)

Q. Had he had any quarrels with you?

A. Yes, sir.

Q. On more than one occasion?

A. Yes, sir.

Q. Did he ever threaten to hurt you, or did he ever hurt you?

A. He hurt me several times.

Q. Did he ever strike you or kick you while you were living on Seventh avenue?

A. Yes, sir.

Q. Did he have delirium tremens while you were living in Seventh avenue?

The Court: That won't do. She is not an expert on delirium tremens.

Q. Did he ever drink for a number of days at a time when you were living in Seventh avenue?

A. Yes, sir.

Q. Did you call a doctor in to attend him?

A. Yes, sir.

Q. What was that doctor's name?

A. One was Dr. Harrison, and the other was Doctor Mahr.

Q. Did he have hemorrhages from his nose, bleeding from his nose?

A. Yes, sir, always.

Q. Did he ever have them while you were in Seventh avenue?

A. Yes, sir.

Q. Did he have them often?

A. Yes, sir, frequently; he was obliged to carry a bottle of liquid, I believe, alum.

Q. Doctors attended him while he was sick with hemorrhage?

A. Yes, sir, always.

Q. When did you last see him have a hemorrhage, how long before his death?

A. I don't know whether you would call it a hemorrhage or not----

Q. Bleeding from his nose?

A. Yes, sir.

Q. How long?

A. About two weeks.

Q. Now, Mrs. Dunn, you remember the day that your husband and

you had this final trouble?

A. Yes, sir.

Q. Coming down to that day, what time in the morning did your husband come to the door, so far as you can recollect?

A. He didn't come to any door.

Q. When did he come into the room?

A. He had been home all that night - I don't know whether he had - no, I guess it wasn't that night.

By the Court:

Q. Do you recollect the day this killing took place?

A. Yes, sir.

Q. You recollect the day your husband was wounded?

A. Yes, sir.

Q. Now, what time in the day did your husband come home on that day?

A. He came up stairs about half-past 8 in the morning - that might not be the exact hour.

By Mr. Chanler:

Q. You are not sure about the exact time?

A. No, sir.

Q. Did you lock the door on him?

A. No, sir.

The Court: Now, let her go on and tell what happened.

Q. Tell what happened, Mrs. Dunn?

A. He came to the door and knocked and I wouldn't open

open the door. I don't remember whether he knocked the second time or not; he may have knocked the second time, but I am not positive - but he certainly didn't rap the third time, because there was only----

Q. He didn't rap the third time?

A. No, sir. There was only a very small bolt on the inside of the door, and he pushed his shoulder to it, or his back - I wouldn't say what he pushed - but he burst the door open, the front room door, and he came in and gave me a slap across the face. I was then standing in the kitchen, by the wash-tub, and my baby was there. I picked the baby up and went into the front room. The beer----

Q. You went into the front room?

A. Yes, sir. I don't remember my boy going out for beer; I certainly don't remember anything about it. I don't say that he didn't; he may have. But if he did, I don't know it.

Q. What is the next thing you remember, Mrs. Dunn?

A. Then he sat down on the rocking-chair, and he said, ``You had a second-hand man in here last night, a man to sell the furniture." I didn't answer him, and he says, ``Don't you?" I says, ``Yes, I did." He said, ``You are going to leave?" I said, ``Yes, I am going to leave." He used some

bad language - I don't like to use such language.

Q. You go on and tell it.

A. He says, ``You God damned bitch, you have got to stay; you can't get away from me; you are married to me, and you can't get away, even if you want do." He said, ``I am sorry I didn't kill you long ago." I said, ``You have got lots of time to do it now." He came over quick, and he went out - there was some change on my bureau in the room, and he went out - he went over to the bureau and took the change. He hadn't given me any money in two months previous to that. I had sent my boy down to my home----

Q. Please keep down to this day. He went to the bureau, and took some change off it?

A. He took the change, and he went out and came back. He was a little drunk when he came in. He called me other names.

Q. What did he say to you?

A. He called me a whore and a bitch and everything else that he could think of, and I didn't say anything to him. I had made a fire and put boiler on, for I intended washing some clothes that I had there, and the clothes were in the tub and the boiler was on the stove, and I went back to the baby, and I went into the front-room and I untacked some of the carpet - I went

to his tool-chest first and had taken this hammer from it. There was a smaller hammer there, but there were no claws on it for taking out tacks, and for that reason I used the large one. He came in-----

Q. You took a small hammer out?

A. No, sir; I say, there was a small hammer there, but it wasn't fit for taking out tacks, and I took the other hammer out and came out into the front room and was drawing the tacks out of the carpet. I had one piece of carpet, next to the wash-stand, a piece as big as that (indicating), when he came over and he sat down and took his shoes off. He kicked me two or three different times in the stomach and abdomen, and I stood up and he caught me by the arm, here, and held me up against the wall. I still had the hammer in my hand, and I remember raising the hammer and hitting him with it. I don't remember anything else, only I have an idea - but I am not positive - but I think I did - I seen blood, and he said, ``Now see what you have done," and I rushed out to the kitchen and I think I called Mrs. Sommeil - I ain't sure whether I called her or not, but I think I did. It wasn't her that came up stairs; it was a man who frequents down stairs, some friend of Madam Sommeil's. He came up stairs, and I don't remember what he said. I don't remember

distinctly anybody speaking to me excepting Officer Buchanan. I had the baby in my arms, and he took the baby from me and sat the baby on the bed.

Q. Who did this?

A. The officer. He says, "Mrs. Dunn, don't be frightened," he said, "get your wrapper on. The officers will take you presently." I left the baby sitting there, and I went to the bureau drawer and took out my wrapper and put it on me, and he still kept watch over the baby. I saw Officer Buchanan left the baby in his arms and give it to my boy, and the child took the baby down stairs. I don't remember anything else. I don't remember ever having seen the other officers. I remember there was a great bustle, but I don't know what - I don't remember.

The Court admonished the Jury and took a recess.

AFTER RECESS.

MARY DUNN, THE DEFENDANT, being recalled for cross-examination, testified as follows:

Cross Examination, By Mr. Osborne:

Q. Mrs. Dunn, when were you married?

A. I don't remember the day or date.

Q. Where?

The Court: What marriage are you talking about?

Mr. Osborne: The second marriage.

A. I was married in 28th street, in the Priest's house. I was married by Father Fitzsimmons.

Q. When you married Dunn where was he working?

A. At the Bartholdi Hotel.

Q. How long did he continue to work there after you married him; about how many years?

A. He worked there until after we moved from Seventh avenue.

Q. Two or three years?

A. Yes, sir.

Q. Then where did he go to work?

A. He went to the Oriental.

Q. How long did he work at the Oriental?

A. He didn't work but a short time; I don't remember how long.

Q. About how long?

A. I don't remember whether he-

Q. Two months?

A. No, sir; I don't think so.

Q. A month?

A. Yes, sir, he worked there a month; over a month.

Q. How long was he out of employment?

A. I don't know whether he was - I guess three or four weeks - I guess four weeks.

Q. Out of employment?

A. Yes, sir.

Q. Then he went to work where?

A. He went to work at the Marlborough Hotel.

Q. At the Marlborough Hotel?

A. Yes, sir.

Q. He worked at the Marlborough Hotel from August until the day of his death?

A. No, sir; he was only four weeks at the Marlborough.

Q. Didn't you hear the young man swear, who worked at the Marlborough, that he worked there six months?

A. From the 10th of one month to the 10th of the next.

Q. From the 10th of one month to the 10th of the next?

A. Yes, sir.

Q. From the 10th of September to the 10th of October?

A. Yes, sir.

Q. That is, he went to work at the Marlborough hotel after he left the Oriental; is that right?

A. Yes, sir; he did.

Q. Then he worked a month and ten days at the Marlborough?

A. Yes, sir.

Q. During the time that you have known him, he has been out of employment four weeks altogether?

A. Yes, sir.

Q. He worked as an engineer?

A. Yes, sir.

Q. Mrs. Dunn, when did you say you began to drink hard?

A. Why, I drank very hard after I moved to 26th street.

Q. You lived in 26th street about six months?

A. Yes, sir, or seven months; I ain't positive which.

Q. And you continued to drink hard about how long?

A. I was drinking, at the time this happened, about three weeks.

Q. For three weeks?

A. Yes, sir.

Q. You had been drinking for three weeks?

A. Yes, sir.

Q. And drinking hard?

A. Yes, sir.

Q. You remember looking your husband out two or three times?

A. Not two or three times.

Q. How many times?

A. Twice, I think.

Q. Twice?

A. Yes, sir.

Q. Didn't you lock him out more than twice?

A. I ain't positive of that, but I don't think so.

Q. You don't think so?

A. No, sir.

Q. Well, as a matter of fact, you were drinking so constantly during the three weeks next prior to his death that you do not remember very distinctly what you did; do you?

A. Well, no, sir; not very distinctly. But I remember that the reason I locked him out was----

Q. I didn't ask you that, Mrs. Dunn. I asked you if it is not a fact that, during the three weeks prior to your husband's death, you were drunk so much that you do not distinctly remember what you did?

A. Well, I remember that I didn't - I am almost positive, though I am not certain of it altogether - I would be telling a lie----

Q. But you are certain that you locked him out twice?

A. Yes, sir.

Q. When was that that you locked him out?

A. Sunday and the day that he burst in the door.

Q. You say you locked him out the Sunday previous?

A. Yes, sir.

Q. Is that the Sunday - you remember Mrs. Chatillon says that you and he had a fight that day; is that true?

A. I didn't have any quarrel with him that day.

Q. You are sure of that?

A. I am positive of that.

Q. What made you lock him out then?

A. Because I told him,

when he went out, that unless he gave me money to support the house, he certainly could not come in there any more.

Q. You told him that unless he gave you money to support the house he certainly could not come in there any more?

A. Yes, sir.

Q. So you locked him out on Sunday?

A. Yes, sir.

Q. When he came back did you let him in?

A. No, sir.

Q. What?

A. No, sir.

Q. You locked him out all day; did you?

A. No, sir. I didn't keep him out all day. I didn't know I found out afterwards that he was out----

Q. Did you keep him out all day?

A. Not all day; no, sir.

Q. You would not let him in there?

A. I sent for him.

Q. Then he got back about 4 o'clock?

A. Yes, sir; I guess it was 4 or half-past 3.

Q. After he was locked out, he didn't get back that Sunday until 4 o'clock; is that right?

A. All night, Sunday?

Q. All day?

A. He got back at 4 o'clock.

Q. On Sunday?

A. Yes, sir.

Q. And the next time that you remember of locking him out was the day of his death?

A. Yes, sir.

Q. Is that true?

A. Yes, sir.

Q. Your boy, you remember, says that you locked him out three times before that; might he be correct about that?

A. Well, I couldn't swear to that without telling you a lie.

Q. You don't know, as a matter of fact, how many time you locked him out?

A. No, sir. I don't think I locked him out three times. I will tell you only what I remember.

Q. The only thing you can remember is that you did lock him out twice?

A. Yes, sir.

Q. Do you remember having a fight with him in the hall?

A. No, sir. I had no fight with him.

Q. You don't remember that at all?

A. No, sir. I had no quarrel in the hall.

Q. You had no quarrel in the hall?

A. No, sir. I had no quarrel in the hall with my husband.

Q. None at all?

A. No, sir.

Q. You remember Mrs. Chatillon saying that you threatened to strike him with a hammer, in the hall?

A. I never threatened him with anything. I never quarreled in the hall with him.

Q. Did you ever say anything about that hammer? Didn't you say something about that hammer once before?

A. Never.

Q. Not a thing?

A. No, sir; so help me, God.

Q. You never referred to it in any way at all?

A. No, sir.

By the Court:

Q. You recollect that distinctly, although you were drinking, that you didn't say so?

A. I never had cause to speak about the hammer no more than anything else.

Q. I didn't ask you that. You were drinking very hard, and, notwithstanding that you were drinking very hard, you recollect distinctly that you never referred to this hammer; is that so?

A. I never referred to the hammers.

By Mr. Osborne:

Q. You were very drunk during the last week before his death, weren't you, Mrs. Dunn, as a matter of fact?

A. Yes, sir. I was drinking very heavy; I don't know how drunk I was.

Q. You have a very distinct recollection about what took place during the week previous to his death?

A. No, sir, only that I know that my husband never quarreled in the hall.

Q. He never quarreled?

A. No, sir, nor myself neither.

Q. He didn't quarrel in the hall; did he?

A. He called me a vile name and I got hold of him and pulled him in.

Q. You just said he didn't quarrel in the hall. Do you mean to change your testimony and say he did quarrel in the hall?

A. No, sir; he didn't quarrel in the hall.

Q. He didn't call you any vile names in the hall?

A. No, sir, because I took him by the hand.

Q. Must answer, please. When he came and knocked at the door, and you would not let him in, he didn't call you any vile names; did he?

A. Not then, in the hall.

Q. Not in the hall?

A. No, sir.

Q. When he came back from his work, on the Saturday of his death, he knocked at the door; didn't he?

A. Was that the day that I wouldn't let him in?

Q. Yes?

By the Court:

Q. Did he knock at the door?

A. He knocked on the door then.

Q. You would not let him in?

A. No, sir.

By Mr. Osborne:

Q. What time was that, Mrs. Dunn?

A. It might about half-past 7 or 8 o'clock I should judge.

Q. About half-past 7 or 8 o'clock?

A. Yes, sir.

Q. After a while he came in; did he?

A. Yes, sir.

Q. Both doors were locked?

A. Yes, sir.

Q. You say that he broke open the door?

A. Yes, sir.

Q. How did he break open the door?

A. He might very easy do that by putting his shoulder to it.

Q. Did he break the lock?

A. There was no lock on it; only just a little bolt.

Q. Did he break the bolt?

A. I presume it was broken off; yes, sir.

Q. Do you know?

A. Yes, sir, I am sure it was.

Q. Do you know that the bolt was broken?

A. Yes, sir.

Q. Are you sure that he did not come in with your little boy?

A. No, sir.

Q. Do you know now, as a matter of fact, whether he came in by going in with your little boy, when your boy opened the door, or whether he broke the door open?

A. My boy did not open the door.

Q. Your boy went down that morning; didn't he?

A. Yes, sir, but he wasn't any place around when Mr. Dunn came up stairs; he was not any place around.

Q. You heard him say he went down that morning several times for beer, your boy, and that you sent him?

A. I don't remember it, sir.

Q. You don't remember whether he did or not?

A. No, sir.

Q. You don't remember it?

A. No, sir.

Q. As a matter of fact, that morning you were very much intoxicated and don't recollect distinctly what happened?

A. I didn't send him out several times for beer.

Q. I said several. Did you send him down several times for beer that morning?

A. No, sir.

Q. Did you send him down more than once?

A. No, sir; I don't remember having sent him once.

Q. You don't remember having sent him once?

A. No, sir, because I-----

Q. How did you get the means of becoming intoxicated, if you didn't send your boy to get the beer?

A. How did I? I don't understand you.

Q. How did you get what you drank, if you didn't send your boy for it? Who did you send?

A. There was nobody; I didn't have any one to send.

Q. Well, who went and got you what you drank?

A. What I drank I got from the restaurant, down stairs.

Q. From Mrs. Sommeil?

A. Yes, sir, that morning.

Q. What did you have to drink that morning?

A. Nothing but whisky, that I remember.

Q. You got that from the woman that was on the stand here?

A. Yes, sir.

Q. How much whiskey did you get that morning?

A. I don't

know whether I got it more than two or three times; no more than two or three times.

Q. You went down and got whiskey two or three times?

A. No, sir, I didn't get it; my boy did.

Q. Well, he did go down and get you something to drink two or three times?

A. Yes, sir.

Q. And when your husband came in, in the morning, about what time did he succeed in getting the door open?

A. I don't know whether he rapped once or twice. He wasn't any more than five minutes standing there, at the longest.

Q. No more than five minutes, standing in the hall?

A. No, sir, if he was there as long as that.

Q. Therefore, he must have gotten in somewhere between 8 and 9 o'clock?

A. Yes, sir.

Q. What was the first thing he did when he got into the room?

A. He gave me a slap in the face.

Q. He gave you a slap in the face?

A. Yes, sir.

Q. Then what did he do?

A. He passed right on into the other room.

Q. He passed into the bed-room?

A. Yes, sir.

Q. Did he undress, take off his clothes?

A. No, sir; not just then.

Q. What did he do?

A. He sat down.

Q. He sat down?

A. Yes, sir; on the couch.

Q. He sat down on the floor?

A. On the couch.

Q. What did he do when?

A. He was talking to the baby there for a while.

Q. Talking to the baby?

A. Yes, sir.

Q. At that time he was perfectly sober; wasn't he?

A. I dint know; I couldn't swear to that.

Q. You couldn't swear one way of the other about it?

A. No, sir.

Q. Your recollection is not very distinct about what happened that day; is it?

A. No, sir.

Q. It is not?

A. No, sir.

THE COURT: When did he take off his clothes?

Q. He sat down there and played on the couch with the little baby?

A. Yes, sir.

Q. Your little girl?

A. No, sir, he didn't stay there, only a few minutes.

Q. Then what did he do?

A. He got up and went out.

Q. When did he come back again?

A. He took some money off the bureau, all the change I had, and went out.

Q. When did he come back again?

A. I don't remember

what time it was. It must have been a couple of hours afterwards.

Q. About two hours afterwards?

A. I ain't positive of the time.

Q. You have no idea of the time at all?

A. No, sir.

Q. You don't remember when he came back, whether it was after noon or forenoon; do you?

A. No, sir, I do not.

Q. Between the times that he went out and came back, you went down to see Mrs. Sommeil in the restaurant, two or three times?

A. No, sir.

Q. How many?

A. I was not down stairs at all.

Q. I mean, you went your boy?

A. No, sir, not during the time he was out; it was before he came in.

Q. It was before he came in you sent down and got the whiskey?

A. Yes, sir.

Q. And when he got there in the morning, then you were intoxicated?

A. I don't think I had more than one drink of whiskey.

Q. Now, when he came back what did he do, what was the first thing he did?

A. When he came back into the room?

Q. Yes?

A. The first thing he done was to give me a slap in the face.

Q. The second time?

A. He said that I had a man there,

and he said, "You are going to sell out the things; aren't you?" I said, "Yes." He says, "You go ahead, just as quick as you like," calling me some names.

Q. He said, "Go ahead and sell out, as soon as you like?"

A. Yes, sir.

Q. Mrs. Dunn, what had you been doing that morning?

A. I soaked my soiled clothes in the tubs in the kitchen.

Q. You were washing that morning?

A. I hadn't commenced to wash yet. I just had my boiler on, with water in it, and I bathed my baby. I went into the front room, and was taking up the tacks out of the carpet.

Q. You were taking the tacks out of the carpet when he came in?

A. Yes, sir.

Q. That is the second time?

A. Yes, sir.

Q. Did he sit down when he came in?

A. No, sir; he stood up.

Q. He stood up?

A. Yes, sir.

Q. He said, "You are going to move; are you?"

A. I didn't say that; he said, "So you had a man up here last night, to sell the furniture?" And I told him, "Yes."

Q. What next happened then?

A. Well, we had a very severe quarrel.

Q. Well, just tell us about what was said; tell us what was said on either side?

A. Well, he said where was

I going, did I suppose he was going to let me go like that? I told him yes, I didn't suppose he could prevent me, and he said he couldn't prevent me from taking the things in the house, because they were mine, but he said he could prevent me from going away. I told him I didn't think he could, and I told him I was tired of his abuse and way of living that he had, and that I might better earn my own livelihood than live the way I was. He said he didn't think so, that he thought I was put up to it; I told him no, that no one had put me up to it. I asked him then why he didn't give me some money for the support of my children and my own home. He refused my boy ten cents before he went out that morning. He refused my boy ten cents to get some break and milk for him and my baby, and when Tody came back I said to him, ``You go down stairs and ask Mrs. Sommeil if she would lend me some money."

Q. What?

A. I said to Tody, ``You go down stairs and ask Mrs. Sommeil if she would lend me some money." Before the child got half-way down stairs, he called him back and gave him ten cents.

Q. He did?

A. Yes, sir; so Tody took the ten cents, and he went out for the milk, and he came back, and I put some oat-meal on the stove and made it for the children, and

I sat the child and Tody down and gave them their breakfasts.

Q. Who had breakfast?

A. My little boy and the baby.

Q. That is, after he came back the second time?

A. No, sir, that was the first time; not the second time.

Q. I was asking you about the second time. I asked you what he did when he came back the second time?

A. When he came back he commenced to quarrel about my leaving him.

Q. You had a quarrel about your leaving him when he first came in, in the morning, or the second time?

A. The second time.

Q. That is what you were in the act of telling us. You said he wouldn't give you money to support your children, and then your boy went down stairs, to get something to eat?

A. That was the first time; and the quarrel was the second time.

Q. Now, tell us all that took place the second time? I distinctly asked you that. Commence it over again.

A. He came back into the room the second time. He came in through the front room door. I was taking up the tacks out of the carpet. He sat down - or, rather, stood beside the mantel-piece.

Q. Which did he do? Stand beside it, or sit down?

A. He sat down half a second, and then he stood up beside the mantel. He said, ``Where are you going, if you are leaving me?" I says, ``Well, I guess I will find a place to go to." He says, ``You can't leave me," like that; ``you can take the furniture and sell it, because you have bought it; but," he said, ``you can't leave me like that. You are my wife, and I can make you stay." I told him I didn't think he could; so one word borrowed another, and I don't remember any more particulars at all. I know he kicked me with his bare foot or his stocking foot.

Q. He had taken off his shoes then?

A. Yes, sir.

Q. He kicked you with his bare foot or his stocking foot?

A. Yes, sir, at least two or three times, and he grabbed me by the arm and he threw me back.

Q. Threw you back where?

A. In a sitting position. Then I stood up - I didn't stand up, because he tried to hold me down. I got up as best I could. He still had hold of me by the arm, and he grabbed me by the throat and held me up against the wall, and was almost choking me. I lifted the hammer and hit him.

Q. Your back was leaning against the wall at that time?

A. Yes, sir; when he kicked me, I was on the floor.

Q. When he kicked you, you were on the floor?

A. Yes, sir.

Q. Then he had a hold of you and you stood up; is that right?

A. I got up just as the best way I could. He still had hold of my arm.

Q. Did he have hold of your arm or throat?

A. My arm, when I got up - I guess it was this arm.

Q. Do you know which arm it was?

A. I ain't positive which.

Q. He had you by your left arm, that is right, ain't it, his left hand on your throat; is that it?

A. Yes, sir.

Q. He had you back against the wall?

A. Yes, sir; so that I could scarcely breathe.

Q. And in that attitude, while you were against the wall, you struck him?

A. He let go his hand and he struck me right in the face again, and I lifted up the hammer and hit him with it.

Q. You said you struck him while he had hold of your throat, a moment ago?

A. He let go of my arm, I said.

Q. You said he let go of your arm?

A. Yes, sir.

Q. Then, with his right hand, he struck you in the face?

A. Yes, sir, he did.

Q. Didn't he make a black and blue mark on your face?

A. I don't think so; not much of a wound.

Q. The doctor didn't see it, when you went to the hospital;

did he?

(Objected to)

Q. Did the doctor tell you he saw it?

A. The doctor didn't tell me what he saw.

Q. You didn't notice it yourself; did you?

A. I don't see how I could notice it. I hadn't any thought of looking in the glass.

Q. When you went to prison did you notice it?

A. There are no glasses in the prison.

Q. Nobody ever told you you had a black eye; did they?

A. No, sir - never a black eye; no, sir.

By the Court:

Q. Were you struck in the eye or on the face?

A. On the face; not in the eye.

Q. With his closed fist or open hand?

A. Well, I couldn't tell you which.

Q. You don't remember?

A. No, sir.

By Mr. Osborne:

Q. Then he still had you by the throat with his left hand?

A. Yes, sir.

Q. While you had your back to the wall, you struck him on the head?

A. I lifted the hammer, and I don't know where I struck him.

Q. You don't recollect anything else that happened?

A. No, sir; he was a taller, bigger man than I was.

Q. Was he standing up when you struck him?

A. Yes, sir; he fell back on the bed.

Q. You don't recollect anything more about it at all?

A. That is all I recollect - yes, I do have a faint recollection of going to the window and calling Mrs. Sommeil.

Q. How many times did you hit him?

A. I don't remember hitting him only once; I don't remember striking him only once. I don't say I didn't, for I don't remember it.

Q. After that, you say, you have a recollection of going to the window and seeing Mrs. Sommeil, is that right, of calling Mrs. Sommeil?

A. I called Mrs. Sommeil - either her or Mrs. Webber, I don't know which.

Q. Then they came up stairs?

A. No, sir, they didn't.

Q. They came up after a while?

A. I didn't see Mrs. Sommeil at all; I don't remember seeing her at all.

Q. You don't remember seeing her at all?

A. No, sir.

Q. Didn't you hear her testify that she came up stairs and you told her that you had hit your husband with the hammer?

A. No, sir, I don't say so. I don't think I ever said so. I don't remember having seen the woman at all. It

was two men that came up.

Q. It was two men that came up?

A. Yes, sir, and the policeman, too, Officer Buchanan.

Q. Didn't you see Officer Brown?

A. I don't remember him at all.

Q. You don't remember Officer Scully, either?

A. No, sir.

Q. You don't remember seeing three policemen there; do you?

A. No, sir; I don't.

Q. Did you see Louis Pain; was he one of the two men that came up there?

A. Two men were there. I don't know whether they lived with Madam Sommeil or eat there or not.

Q. Did you see Adrian?

A. Yes, sir.

Q. That is Adrian (pointing to a man)?

A. Yes, sir; I don't know them by name.

Q. Is that the man?

A. Yes, sir.

Q. Did you tell Adrian, when he came up, anything about how this thing took place?

A. I think I told him that I was afraid my husband was hurt.

Q. Was what?

A. I told him that I was afraid my husband was hurt. He asked me who did it. I ain't positive of the conversation.

Q. Now, will you tell me where you were taking up that carpet; what part of the room?

A. Well; I was taking it

up - I had the piece up right by the wash-stand.

Q. Was it near the mantel-piece or near the door?

A. Right on the corner of the mantel-piece.

Q. Just show me now where that was, will you, Mrs. Dunn? (Diagram shown to the witness)

A. Right here.

Q. Right over there; was it?

A. Yes, sir.

THE COURT: Mr. District Attorney, you can make a mark on the diagram.

Q. You won't deny that you struck your husband more than once; will you?

A. I don't think I did - I wouldn't deny it, because I might be lying.

Q. You don't know?

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

Q. You remember being taken to the hospital, do you, the New York Hospital?

A. Yes, sir.

Q. You remember the doctor examining you?

A. Yes, sir.

Q. You remember his saying he only found a slight bruise on your left-arm?

A. I don't remember what he said.

Q. You don't remember anything about it?

A. No, sir. I remember about him, there, that he was very unkind.

Q. He was very unkind?

A. Yes, sir; very rough.

Q. He was rude to you?

A. Yes, sir.

Q. Did he ask you what made you do that?

A. No, sir.

Q. You don't remember anybody asking you that?

A. No, sir.

Q. Don't you remember that the doctor asked you, in the presence of Officer Brown, what made you do that, and you said to him that, "He called me a vile name, and I hit him with the hammer?"

A. I don't remember Officer Brown or the doctor either.

Q. Asking you anything at all about it?

A. No, sir; as far as I can recollect, the only officer I remember speaking to me was Officer Buchanan.

Q. He is the only one you recollect?

A. Yes, sir.

Q. Do you remember being taken to the station house?

A. I have an idea of being taken to the station house.

Q. You have a faint recollection of having been taken there?

A. Yes, sir.

Q. But it is very indefinite; is it?

A. I know that it was Officer Buchanan that took me there.

Q. You know that you were taken to the station house?

A. I know I was.

Q. Do you remember being searched there, by Mrs. O'Brien?

A. No, sir; I don't remember that woman at all.

Q. You don't remember that woman?

A. No, sir. I remember, in the middle of the night, she came in and spoke to me.

Q. You don't remember that the searched you?

A. No, sir.

Q. And found \$20 in money?

A. Yes, sir.

Q. You do remember that?

A. No, sir; the Captain, I think it was - the Captain took it from me.

Q. You don't think that a captain of Police would search a woman when there was a matron there?

A. I really don't remember that woman at all.

Q. You don't remember the woman at all?

A. No, sir.

Q. You do not pretend to say that Mrs. O'Brien was not there? You don't mean to say that? You don't recollect; that is all?

A. I don't know Mrs. O'Brien. I wouldn't know her if I saw her, but I remember a woman coming to me during the night.

Q. You do not remember a woman searching you during the day?

A. No, sir, I do not.

Q. You just don't remember it; you don't say she was not there?

A. No, sir, I don't say she was not there; I say I don't remember her.

Q. Do you remember Mrs. O'Brien asking you what did you do that for, and your replying that your husband had called you names, and you wanted him to take it back, and he would not do it, and you struck him with the hammer?

A. I don't remember anything at all, or of seeing that

woman at all.

Q. Do you recollect the Captain's asking you whether or not your husband was drunk, and you said, "I must tell the truth, Captain; he was not drunk?"

A. No, sir. I remember the Captain spoke to me the following morning, but, that night, I don't remember anything at all about it.

Q. The following morning, did you say that to the Captain?

A. Well, I do not know. No, sir, I did not - I don't think I did.

Q. You don't know; you just don't think you did?

A. I don't think I said that.

Q. You might have said it?

A. I might have said it. I do not say positively I did not, for I might have said it.

Q. You would not have said that, unless it was true; would you?

A. No, sir.

Q. Now, then, it was true that your husband was not drunk?

A. My husband was drunk.

Q. You would not tell that Captain that he was drunk, you would not say to the Captain, "He was drunk," if he was not drunk?

A. I certainly would not say anything that I did not think was the truth.

Q. You say you don't remember whether you told the Captain or

not that your husband was not drunk?

A. No, sir, I don't recollect it. I never recollect such a conversation passing between him and i.

Q. Now, when your husband came in the second time, where was your baby?

A. The baby was running around the room.

Q. The baby was running around the room?

A. Yes, sir.

Q. When did you put the baby on the bed?

A. I didn't put the baby on the bed. Officer Buchanan told me to put on my wrapper, and he lifted the baby out of my arms and sat the baby on the bed.

By the Court:

Q. With the bleeding man?

A. She wasn't any place near my husband.

Q. How do you know that?

A. On the side of the bed the child was sitting, and he was there while I went to change my wrapper.

Q. You said the baby was on the bed?

A. Yes, sir.

Q. What part of the bed?

A. On this side of the bed.

Q. Where was your husband lying then?

A. Lying with his head to the foot of the bed.

Q. His feet towards the head of the bed?

A. Yes, sir; he always slept that way.

Q. That was his position?

A. Yes, sir.

Q. Where did the officer put this baby?

A. He sat the baby down on the bed.

Q. What part of the bed?

A. This side of the bed.

Q. Up near your husband's head?

A. No, sir; near his feet.

By Mr. Osborne:

Q. Your husband always slept with his head toward the foot of the bed?

A. Well, not always.

Q. He did generally?

A. When it was very warm he did.

Q. You told the Court a moment ago that he always slept with his head toward the foot of the bed. Did you mean that of did you not mean it?

A. I mean just as he felt inclined; some times he would, and sometimes he would not.

Q. Then you did not speak the fact; you did not state that correctly, when you said he always slept with his head toward the foot of the bed?

A. Just as he felt inclined. Other times he lay on the couch.

Q. Your recollection is that at the time he kicked you, and at the time he put you up against the wall and held you by the throat, he had on all his clothes?

A. No, sir; he didn't have his shoes on.

Q. He had all but his shoes on?

A. He did not have his shoes or his outside shirt.

By the Court:

Q. Then he must have taken off his coat; did he?

A. Yes, sir; he didn't have any coat on when he went out.

Q. Did he have any vest on?

A. No, sir.

Q. Did he have anything on, when he went out, but his shirt?

A. His shirt, and he had his undershirt on.

Q. His shoes and stockings?

A. Yes, sir.

Q. Pantaloons?

A. I don't know whether he had his stockings on or not.

Q. You said he kicked you in his stocking feet?

A. I said either in his bare feet or his stocking feet.

By Mr. Osborne:

Q. When he came into the room, the second time, and he began to talk to you, he had on his trousers and his undershirt; is that it?

A. Yes, sir; he had only taken off his coat and his vest and his outer shirt. He did not have a coat or vest on.

Q. He had taken them off, during the day?

A. Yes, sir.

Q. He had taken off his shoes?

A. Yes, sir.

Q. Now, isn't it a fact that you and your husband got into a quarrel, while you were standing there and while you were taking up the tacks out of the carpet, and that then, after that, he went to lie down and began taking off his clothes?

A. No, sir.

Q. And that then it was you struck him, whilst he was lying, as usual, with his head toward the foot of the bed?

A. No, sir.

Q. Is that not the way it took place?

A. No, sir; it was not.

Q. You know that, when his body was found, his head was toward the foot of the bed; you know that, do you? You have just said that?

A. His body was toward the foot of the bed.

Q. His head was?

A. Yes, sir.

Q. Don't you know that, when he was found, he had no clothes on but an undershirt?

A. I don't know what he had on.

Q. Didn't you hear what the officers testified to on the stand here?

A. I believe I did, but I didn't hear them say what he had on. I know they said he had an undershirt on.

By the Court:

Q. They said he had an undershirt, and no other clothing. Do you know how he took that clothing off?

A. I don't know; I didn't stay in the room. I told you that I went and called Madam Sommeil.

Q. You mean to say that this man, after you had struck him,

took his trousers off; is that what you mean to have the jury understand?

A. I don't know, sir.

Q. When you did strike him, what clothing did he have on?

A. I think he had his trousers on him.

Q. You think he had his trousers?

A. Yes, sir.

Q. Didn't he have his trousers on?

A. And his undershirt.

Q. But not his outside, linen shirt?

A. No, sir.

Q. That was the way he was when you struck him?

A. Yes, sir.

Q. Is that right?

A. Yes, sir, I believe it was; I couldn't swear what he had on.

By Mr. Osborne:

Q. You do not know how he got his trousers off?

A. I don't know.

Q. You don't recollect anything about that at all?

A. No, sir, I do not; I do not remember whether he had them on or had them off. I remember his having his undershirt on, but no outside shirt on.

Q. After you struck him you went to the window, did you, and called for Mrs. Sommeil?

A. I ain't positive whether I called for Mrs. Sommeil or Mrs. Webber.

Q. You went right out of the room right away?

A. No, sir, I did not go out of the room.

Q. How long did you remain in the room after you struck your husband.

A. The minute I saw the blood I ran out for these people.

Q. The moment you saw the blood? You did see blood?

A. Yes, sir.

Q. After you struck the blow?

A. Yes, sir.

Q. Where was the blood?

A. On his hand, he rubbed his hand that way. (Indicating)

Q. He rubbed his hand that way?

A. Yes, sir.

Q. You didn't see any blood on the side of his head?

A. I didn't wait to look.

Q. Then you went into the kitchen, is that right?

A. Yes, sir.

Q. You went to the open window and called either to Mrs. Weber, or Mrs. Sommeil?

A. Yes, sir.

Q. You are not sure which?

A. No sir.

Q. You are sure you did call to some woman in that yard?

A. Yes, sir.

Q. Do you know why you called to them?

A. Why to go for a doctor or something.

Q. Did you know you had killed your husband at that time, or wounded him seriously?

A. No sir, I did not.

Q. You did not know?

A. No sir.

Q. You had no idea that he was in a very dangerous condition, did you?

A. No sir, I did not.

Q. You don't know why you called for Mrs. Sommeil except to send for a doctor?

A. I called for somebody to send for a doctor.

Q. That was your idea?

A. Yes, sir.

Q. Do you know how he happened to get those twelve wounds or marks on his face?

A. No sir, I don't know any more about that than I have told you.

Objected to.

Q. You don't know how he got them at all?

A. No, sir.

Q. Did anybody else come into the room before this Adrian did?

A. No sir, that young man and somebody else.

Q. Louis Pain?

A. I don't know the other gentleman at all.

Q. The man that came up with Adrian?

A. Yes, sir.

Q. How did your husband get on the bed?

A. Why, he must have laid down or fall down on it; he was standing up when I saw him last.

Q. When you saw him last he was standing up?

A. Yes sir.

By the Court:

Q. Where was he standing?

A. Right at the bed, at the side of the bed.

Q. You got over from the mantle piece, over to the bed?

A. No sir, it was here. (Indicating)

Q. Where was the deceased at the time you struck that blow?

A. That was where it occurred, right there. (Indicating.)

Q. Where was your husband at the time you struck that blow?

A. Standing there, he had me up there. (Indicating.) There stood a wash stand bowl, and a pitcher; he had me there.

Q. Where were you when you struck the blow?

A. There. (Indicating.)

Q. Where was your husband when he struck the blow?

A. Standing here right in front of me, and here was the bed; there was not that much space between the mantle and the bed.

Q. There is the mantle?

A. There is not that much space between them.

Q. There is the mantle over there?

A. There is the foot of the bed.

Q. This is the kitchen, there?

A. Yes sir.

Q. And this is a closet?

A. Yes sir.

Q. Now, where was your husband standing at the time, where you were taking up the carpet. Have I pointed that out to you?

A. That is where I was taking up the carpet; I had that piece taken up.

By Mr. Osborne:

Q. How far is that from the foot of the bed?

A. There is not that much difference. (Indicating.)

Q. You should say between four and five feet, is that right?

A. That is the difference as far as I know.

Q. You say about between four and five feet?

A. Yes sir.

Q. Where were you standing when he had you pinned up against the wall?

A. There. (Indicating.)

Q. He was standing immediately in front of you?

A. Yes sir.

Q. Do you see the mark there?

A. Yes sir, right in front of me.

Q. And that would make him standing three or four feet from the bed, is that right?

A. There wasn't any such space from the bed to the mantle piece, there is not that much space, scarcely room to get by.

Q. About two feet?

A. No sir, you wouldn't have to take but one step to go from the wash stand over to the bed.

Q. When you last saw him he was standing up where you struck him?

A. Yes sir.

Q. Then you went into the back room?

A. I went into the kitchen.

Q. You went into the kitchen?

A. Yes sir.

Q. What made you say to your husband, "I will have to send my boy down stairs to borrow ten cents from Mrs. Sommeil to get milk", when you had twenty dollars in your pocket?

A. I didn't have any twenty dollars at the time, I didn't have one penny.

Q. Do you remember that the matron said she found twenty dollars on you.

A. Yes sir. My boy went down---

Q. Who did you get the twenty dollars from?

A. From my home.

Q. From where?

A. From my home.

Q. Whereabouts?

A. My cousin.

Q. From your cousin?

A. Yes sir.

Q. What is the name of your cousin?

A. Dennis McCarthy.

Q. Where did you get it?

A. I got it that week.

Q. Where did you have that twenty dollars?

A. I had it in the bureau drawer.

By the Court:

Q. Why did you send down stairs to borrow money from Mrs. Sommeil, if you had twenty dollars of your own money in your bureau?

A. I said I didn't want to change any bill

to buy milk for the children. I was leaving Mr. Dunn and I knew that I would need the money for the support of my little ones.

By Mr. Osborne:

Q. That is your recollection of that?

A. Yes sir, I am positive of that.

Q. How long before the death of Mr. Dunn, did you tell him that you were going to leave him.

A. Well I threatened him a great many times; I told him several times.

Q. You threatened him several times, frequently?

A. Yes sir, threatened to leave him, I told him I would leave him.

Q. Do you know anybody in the world who ever saw Dunn strike you?

A. Yes sir, I do.

Q. Who is it?

A. My cousin.

Q. Where is your cousin?

A. I presume he is in Court.

Q. Is he in Court now?

A. I presume so.

Q. Where did he see it?

A. At No. 226 7th Avenue.

Q. About how long before you moved to 106 West 26th Street did you live at 7th Avenue?

A. I don't remember how long, I could not give you the exact day and date.

Q. I would like to know about, I don't care about it exactly?

A. Well, I guess about two years.

Q. Two years?

A. Yes, sir, I don't know the exact date, I have the receipts, but I could not tell you the exact date.

Q. You lived there about two years before you moved to 106 West 26th Street?

A. Yes sir.

Q. And it was there your cousin saw Dunne strike you?

A. Yes sir.

Q. About two years before this thing occurred, is that right?

A. Yes sir.

Q. Do you know any other person in the world that ever saw him strike you?

A. Yes sir, I do.

Q. Who?

A. A m Mrs. Burns.

Q. Is she in Court?

A. I don't know.

Q. Do you know where she lives?

A. I don't know.

Q. Do you know what her first name is?

A. I don't know, she is a Mrs. Burns, I don't know her first name.

Q. Where did she see him strike you?

A. In 226 7th Avenue.

Q. That was also about two years before the homicide?

A. It was not two years, about eighteen months, hardly that. I lived in 26th Street six months, it was before that anyhow.

Q. You remember that?

A. It was before I came there, yes sir.

Q. Any other person?

A. Not that I can remember.

Q. Your little boy was a good little boy, isn't he?

A. Yes sir.

Q. He is a good boy, isn't he?

A. Yes sir.

Q. A truthful boy?

A. I don't know about that at all.

Mr. Chandler: I object to this.

The Court: I think you gone far enough.

Q. You and your boy are on good terms are you not?

A. I was always very good to my boy.

Q. He was an obedient boy to you, wasn't he?

A. No sir.

Q. He was not?

A. No sir, not always.

Q. You heard your boy testify?

A. Yes sir.

Q. You heard your boy say that you attempted to strike Dunne and he held you? Do you remember that?

A. Yes sir---Who held me?

Q. Do you remember your boy saying that?

A. I remember his saying it yesterday.

Q. Mr. Chandler asked him if he knew of any trouble between you and Dunne, and he said that you used to try to strike Dunne and Dunne held you?

A. Yes sir.

Q. Do you remember his saying that?

A. Yes sir.

Q. Was that little boy telling the truth when he said that?

A. No sir, he was not, I am sorry to say.

Q. Do you know of any reason or motive why your son would come to Court and state things that were not true?

A. I don't know

of any reason unless he was well trained before he came here; it seems like that to me.

Q. Do you know of any person who would be likely to train him?

Objected to.

By the Court:

Q. Do you know of anybody that did train him?

A. No sir.

By Mr. Osborne:

Q. Do you know of any enemy of yours who could come in contact with that boy so as to train him?

Question excluded.

Q. During your married life did you ever attempt to strike your husband before that day?

A. I never attempted to strike my husband because---

Q. I did not ask you why, I asked you if you ever did.

Q. No sir, I never have, I did not.

Q. This is the first time that you ever attempted to strike him through he had abused you, and kicked you many times before?

Q. This is the only time.

Q. Did he beat you at any time during the week immediately prior to his death?

A. If you call giving a person a kick or a slap in the face abusing them, pushing them, if that is what you call beating, why I can say yes.

Q. And this happened during the week immediately prior to

the killing?

A. Yes sir.

Q. He had several times kicked you and abused you?

A. Yes sir, since my marriage.

Q. I didn't ask you since your marriage? I mean just during the week prior to this death?

A. No sir, I could not say several times.

Q. More than once?

A. Yes sir.

Q. Do you know anybody that saw it?

A. No sir, the people in the house were all strangers to me; there was no one in the house.

Q. There was nobody in the house that saw it?

A. No sir.

Q. You did not make a report of his abuse to you, at the Police Station or anything of that sort?

A. No sir, I never spoke of my troubles to anybody.

Q. You never had him arrested for it?

A. No sir, whatever happened between us I let it stay there.

Q. And is the reason why you don't remember any more about this assault because you were drunk that day, is that the reason you don't remember what happened?

Objected to.

Q. Do you know the reason why it is you don't remember anything that occurred immediately after you struck your husband?

A. Do I know?

Q. Do you know why your memory has left you so that you don't recollect what happened?

A. There was very good cause for my memory leaving me, I was hustled about by almost everybody that came in contact with me, everybody was against me and treated me wrong and I didn't have time to think about anything.

Q. I don't ask you that?

A. I want to know why it is that you cannot remember whether or not you struck your husband more than once?

A. I don't remember striking him more than once. I don't say that I did not.

Q. I want to know why you don't remember that?

A. Well, I cant account for that.

Q. Was it because you were drinking?

A. I don't know that neither.

Q. You don't know why it was that you don't remember?

A. No sir.

By Mr. Chanler:

Q. Were you pregnant at the time of your husband's death?

A. Yes sir, I was.

By Mr. Osborne:

Q. Immediately after you went to the prison did you call in a physician, or a few days afterwards?

A. I did not call in

anybody, the physician visits there every day.

Q. About how long after you got to the Tombs did you call in a doctor to treat you?

The Court: She says that the physician there visited her every day. I suppose that the doctor down at the City Prison, she means it was his business to do it.

The Witness? A. Yes sir.

Q. Did the prison doctor see you every day?

A. No sir, not everyday.

Q. Did he see you at all---did the doctor in the prison see you?

A. He did see me, yes sir.

Q. How often did he come to see you?

A. I believe twice.

Q. Twice?

A. Yes sir.

Q. When did you first see him after you got into the Tombs?

A. I don't remember.

Q. Was it a day or two?

A. No sir, it was longer than that.

Q. About two weeks after you got to the Tombs?

A. Two or three weeks.

Q. When you were at the nineteenth Precinct Station House, did a doctor visit you there?

A. No sir, I saw nobody there.

By the Court:

Q. This trouble you say caused by the beating, when did that come on?

A. I don't claim that it was, your Honor, I don't know.

Q. You know you said you were in a certain condition.

A. Yes sir.

Q. You are not in that condition now?

A. No sir.

Q. When was that trouble over?

A. About three or four weeks after I went into the tombs.

Q. Did you have a doctor attend you then?

A. No sir, after that nobody was with me but the night nurse.

Q. Did you tell him that?

A. Yes sir, I told him afterwards that I had some trouble.

Q. Did you tell him of that particular trouble?

A. Yes I did your Honor.

Q. That was three or four weeks after you got into the City Prison?

A. Yes sir.

By Mr. Osborne:

Q. About how long after the trouble was it that you told the doctor?

A. When I was taken very sick, a short time after. I had nothing done before that, but I was taken very sick at one time.

Q. Two or three weeks ago?

A. It is longer than that.

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Q. A month ago?

A. I was sick longer than that too.

Q. You told him about two months ago?

A. I guess it is, I don't know the exact time.

Q. Between six weeks and two months?

A. Yes sir.

A. Juror: Didn't Officer Buchanan testify that the deceased was found in the bed with his head to the foot board.

The Court: I am going to ask her a few questions.

By the Court:

Q. You say that after striking your husband you went into this kitchen, you recollect that, don't you?

A. Yes sir.

Q. And you went to the window?

A. Yes sir.

Q. You said you left your husband standing up when you left that room?

A. He was standing, that is the last I saw of him.

Q. When you came back to the room, where was he?

A. I did not come back.

Q. You came back after that, didn't you?

A. The man were upstairs, he was in the room.

Q. You came out of that kitchen into the front room?

A. Yes sir.

Q. And you told us that you saw your husband lying on the bed

with his head towards the foot of the bed, and his feet towards the head of the bed, is that right?

A. I don't think his feet were on the bed at all.

Q. That is what you told us?

A. I don't remember saying anything about his feet, I ain't positive of that.

Q. How was it that his body got turned around so that he lay across the bed with his feet hanging over the side of it, do you recollect when that happened?

A. His body was not turned around.

Q. The officers say that when they came into the room they found the body of your husband lying across the bed with his feet hanging down on the side of it?

A. Well, probably they called that across the bed.

Q. How do you account for that?

A. My husband's head was lying that way from it, and I don't remember whether his feet were on the floor or not.

Q. Was it towards the head of the bed?

A. No sir.

Q. Or the foot of the bed?

A. Towards the foot of the bed.

Q. Was he lying on his side or on his back?

A. That I couldn't say.

Q. You meant to say that with his head towards the foot of the bed his legs were down on the floor?

A. I don't say they

were on the floor, I say I don't recollect.

Q. You don't recollect?

A. No sir, I don't recollect whether his feet were on the floor or on the bed.

Q. Do you recollect when you got into the station house?

A. No sir, I don't.

Q. Don't you recollect when you were brought to the Station House?

A. I recollect Officer Buchanan taking me to the Station House in a car.

Q. Were you taken in an ambulance to the hospital before you were taken to the Station House?

A. Yes sir.

Q. How long did you remain in the hospital?

A. I guess only while the doctor examined me.

Q. He examined you for the purpose of seeing whether you had any braises or wounds upon you?

A. I don't think he undressed me at all. I don't think I took off my wrapper. I don't think I took off any of my clothes.

Q. How long did you remain there in the hospital as far as you can recollect?

A. I haven't any idea, it may be twenty minutes or a half an hour; I haven't any idea.

Q. You didn't remain there all that night?

A. No sir.

Q. You were taken from the hospital to the station house?

A. Yes sir.

Q. And there you saw the Captain of Poluce?

A. Yes sir, I saw

some gentlemen there.

Q. You saw a gentleman behind the desk in uniform?

A. Yes sir.

Q. Didn't that gentleman ask you some questions?

A. That I don't recollect.

Q. He asked you what your name was didn't he?

A. Dear knows, I don't know. I couldn't tell you without lying.

Q. Didn't he ask you where you were born?

A. I think he did, yes sir.

Q. Didn't you tell him you were born in Newark N. J.?

A. Yes sir.

Q. You did?

A. Yes sir.

Q. Didn't he ask you some other questions?

A. Yes sir.

Q. Did he ask you how old you were?

A. I don't remember that.

Q. Didn't you tell him how old you were?

A. I don't remember what conversation took place between us.

Q. Didn't he ask you whether you were married or single and didn't you tell him you were married?

A. I don't remember the conversation between the Captain and myself at all.

Q. None of it at all?

A. No sir, not one bit of it.

Q. Didn't he ask you whether you could read and write?

A. I don't remember anything that the captain said? I don't remember speaking to the captain.

Q. But you remember going to the desk?

A. I remember the next

morning, the Captain came in to me, that is the first time, I didn't know who it was.

Q. Don't you remember being brought before a desk and seeing a gentleman seated behind the desk.

A. I simply do not remember.

Q. You don't remember?

A. No sir.

Q. Do you remember the ambulance doctor saying, when he came upstairs and looked at your husband, "This is a very bad case, you want to remove this man as quick as possible", do you recollect that?

A. I don't think I was in the room at the time the doctor came upstairs.

Q. Do you remember that?

A. No sir, I do not.

Q. Do you recollect the doctor saying, "Who assaulted him?" and that Officer Scully said, "This woman", meaning you, do you recollect that?

A. No sir, I don't remember any Officer only Officer Buchanan.

Q. Do you recollect there were other officers there?

A. I do not.

Q. Do you recollect the doctor saying to you? "What did you assault your husband for?" and your saying "He called me a name, I wanted him to take it back, he would not do it, and I struck him".

A. I certainly did not.

Q. You certainly did not?

A. No sir.

Q. Do you remember that you used some profanity and used this language, "The son of a bitch", meaning your husband "called me a whore". Do you recollect that?

A. No sir, I never used the slang expression.

Q. The officer says that you did?

A. I never used such a slang expression. No one ever heard me use such talk.

Q. Do you remember that you did not?

A. I don't think I did. I am sure that if I ever spoke like that in my life somebody would tell me of it.

Q. Do you recollect that you did not?

A. I don't recollect it; I don't remember seeing any officer.

Q. Will you tell me how much whiskey you had send downstairs for on that morning?

A. I sent twice.

Q. How much whiskey did you get each time?

A. I don't think I sent for it any more than twice.

Q. How much whiskey did you get each time?

A. One of those goblets, those standing glasses.

Q. One of those glasses, (Indicating).

A. Yes sir.

Q. How much whiskey did you get the first time?

A. About that much.

Q. And the second time about how much?

A. The same.

Q. How much did you pay on each occasion for the whiskey?

A. My cousin paid for it after I was arrested.

Q. You did not pay for it?

A. No sir.

Q. Who did you send for it?

A. My boy.

Q. How much whiskey did you tell him to get?

A. I didn't tell him any amount.

Q. You told him to get whiskey?

A. Yes sir, to tell Mrs. Sommeil to send me up some whiskey.

Q. Did you give him the glass to get it in.

Q. I guess I did.

Q. And that is what you drank that morning?

A. Yes sir.

Q. You said something or another about not having any money to get milk for this baby, did you say that?

A. Yes sir.

Q. I understood you to say that you cooked something for the boy's breakfast and for the babys?

A. Some oatmeal.

Q. You recollect that do you?

A. Yes sir.

Q. You cooked that?

A. Yes sir, I had it cooked.

Q. When did you cook that, that morning?

A. Yes sir, I guess I cooked it that morning.

Q. Don't you know whether you did or not?

A. I guess it was cold, I warmed the milk and fixed it.

Q. Was it cooked that morning?

A. It was cooked, I guess.

Q. It had been cooked, is that right?

A. Yes sir.

Q. Then what did you do with it?

A. I boiled the milk

and fixed some for the baby and the boy.

Q. You boiled the milk?

A. Yes sir.

Q. And you put the boiled milk over the oatmeal?

A. No sir I put the oatmeal into the milk.

Q. You boiled the oatmeal in with the milk?

A. Yes sir.

Q. You recollect doing that?

A. Yes sir.

Q. How long was that before you hit your husband on the head with the hammer?

A. That was early in the morning.

Q. About what time?

A. I guess it was half past eight.

Q. You guess it was half past eight in the morning?

A. I don't know the exact hour.

Q. Your husband was a great deal taller person than you are?

A. Yes sir.

Q. About how near did your head reach up to his?

A. About to his shoulder; hardly to his shoulder.

Q. And he was standing up straight when you hit him.

A. Yes sir.

By Mr. Osborne:

Q. You say that you do recollect that the doctor took you to the hospital?

A. Yes sir.

Q. In the ambulance?

A. I recollect that Officer Buchanan took me downstairs and helped me into the ambulance.

Q. You recollect the doctor don't you?

A. I don't recollect the

Doctor.

Q. Didn't you tell the jury just now that you recollected a doctor treated you very badly?

A. The doctor in the hospital, the doctor that examined me.

Q. You do remember then that the doctor treated you badly?

A. Yes sir.

Q. What is his name?

A. I don't know.

Q. Don't you know that it was the ambulance surgeon that went with you to the hospital; that he was the first one who examined you?

A. I did not know the ambulance surgeon from any other doctor that might be there.

Q. Don't you know whether it was the same man that was in the ambulance that examined you?

A. No sir, I don't.

Q. Do you know whether it was the same doctor, who was in the room where your husband was, that examined you in the hospital?

A. No I don't remember.

Q. You do remember that the man who examined you in the hospital, treated you very badly?

A. Yes sir.

Q. Didn't you tell the jury just now that you didn't even take off your wrap in the hospital?

A. My wrapper.

Q. Your wrapper?

A. Yes sir.

Q. You didn't tell them that?

A. I said I did not think they took off my wrapper.

Q. How in the world could the doctor treat you badly then if he didn't take the trouble to take off your wrapper?

A. He was very rough and unkind to me?

Q. In what way?

A. In every way possible.

Q. If he didn't examine you, how was he rough. You have told the jury you didn't take off your wrapper?

A. I had no outside wrap and no hat on.

Q. How could he examine you without exposing some part of your person.

A. I didn't say the doctor didn't examine me.

By the Court:

Q. You said that then doctor treated you roughly, tell the jury what he did to you?

A. There was a lady in the room, I don't know what you would call it, but where they receive patients, and she told me to be seated?

A. She told you to be seated?

A. Yes sir. I sat down there. The doctor came in; he gave me a push by the arm and ordered me to get up on the table and when he was through examining me, he didn't examine me but b very little, and when I said that my husband had kicked me, he said ``Ah, it is too good for you"; of course that upset me very much, and all I remember then was that I went out with Officer Buchanan.

By Mr. Osborne:

Q. You remember being seated in that room?

A. Yes sir.

Q. And a woman asked you to be seated, is that right?

A. Yes sir.

Q. The doctor came in and ordered you to get on the table?

A. Yes sir.

Q. Did you get on the table?

A. Yes sir, I think I did, I don't know whether it was a table or what you would call it.

Q. Something like a table?

A. Yes sir.

Q. Then didn't the doctor make an examination of your person?

A. Some part of it, he did of my stomach, but not much of an examination because I had all my clothes on.

Q. He made some examination?

A. Yes sir.

Q. He examined your arm?

A. I don't remember whether he did or not.

Q. You don't remember whether he did or not?

A. No sir.

Q. Do you know how long you were on that table?

A. No sir, I could not tell.

Q. Do you recollect getting off the table and how you got off it?

A. Yes sir, I recollect the nurse helped me off.

Q. The nurse helped you to get off of that table?

A. Yes sir.

Q. Then what was done with you? Did you sit down then, or were you taken back to the station house?

A. I went right away.

Q. When you struck your husband how were you dressed?

A. I was in my skirt with a light white dressing sack on.

Q. In a skirt and a light dressing sack.

A. Yes sir.

Q. Did you have your corsets on?

A. No sir.

Q. Did you have your shoes and stockings on?

A. Yes sir.

Q. I presume you had some underclothing on you?

A. Yes sir.

Q. And a light dressing sack?

A. Yes sir.

Q. Is that right?

A. Yes sir.

Q. That is all the clothing you had on?

A. Yes sir, that is all the clothing I had on.

Q. Was that the clothing you went to the hospital in?

A. No sir.

Q. What other clothing did you put on?

A. I put my wrapper on.

Q. You put on a heavy wrapper, didn't you?

A. Officer Buchanan told me I had better put on a skirt, and he held the baby, stayed with the baby at the side of the bed, while I put the wrapper on.

GEORGE TUCKER HARRISON, a witness called on behalf of the defendant, being duly sworn, testified as follows:

Direct Examination by Mr. Chanler:

Q. You are a practicing physician?

A. Yes, sir, and I am a surgeon also.

Q. Are you a member of any societies?

A. I am a member of the Academy of Medicine, The New York County Medical Association, the Obstetrical Society/the New York State Medical Association and a number of others.

Q. You are President of some of them?

A. No, sir, I have been President of the Obstetrical Society, and also of the County Medical Association in times past.

Q. Did you know this defendant Mrs. Dunne?

A. Yes, sir.

Q. Did you know her husband George Dunne?

A. I also knew him.

Q. When did you know them?

A. My acquaintance began with Mrs. Dunne I think in January 1891, possibly before, but certainly from that time.

Q. Now, Doctor, did you see anything of George Dunne during that time?

A. I did, I saw him a number of times; he was in fact under my professional care a number of times.

Q. About how long, could you say?

A. Well, I think I saw him first professionally in 1891, November, 1891.

Q. What was he suffering from?

Mr. Chanler: I object to this. It is a professional communication from a patient to a physician. The patient has not waived any such privilege.

Mr. Chanler: That was decided in the Harris case.

Mr. Osborne: That was decidedly another point. The point in the Harris case was that a person who had been treated and was dead - that a party accused of crime could not take advantage of that fact.

The COURT: I allowed the physician in that case to state what he did and how he treated the girl but I did not permit the Doctor to state any conversation that took place between himself and the deceased girl.

Mr. Osborne: This is an entirely different case.

The COURT: What do you want to prove by this doctor-that he treated this man for delirium tremens and hemorrhages?

Mr. Chanler: Yes, sir.

The Court: I will allow you to prove that.

Q. What was he suffering from?

A. Well, when I first called to see him ----

Q. Did you find him suffering from delirium tremens of any kind?

A. I did find him suffering from delirium tremens at the time I speak of, I think it was November, 1891, I considered it a symptom of chronic alcoholism.

Q. Did you treat him for any other trouble at a later period?

A. At a later period I treated him for ----

The Court: Just state the one other thing you treated him for. It has been stated here, doctor, that this man suffered from hemorrhages of the nose, bleeding from the nose, as I call it. Did you ever treat him for anything of that sort?

A. I was just going to state.

Q. Will you kindly answer me?

A. Yes, sir, I was going to say that I treated him for that.

Q. Was he suffering from that as far as you know?

A. That I do not know, I only know that one time I treated him for that.

Q. For any length of time?

A. No, sir, I did not treat him for any length of time, I think he discharged me and employed another physician.

By Mr. Chanler:

Q. You had a little trouble with him, doctor?

A. Yes, sir.

Q. During that time, doctor, did you have occasion to examine

Mrs. Dunne, at any time when you knew her, to treat her professionally?

A. Yes, sir, in May, 1891, I performed a surgical operation upon her; I sent her to St. Elizabeth's Hospital for treatment, and there I performed a surgical operation upon her.

Q. From that attendance upon her were you able to tell whether or not she was a drinking woman at that time?  
Question excluded.

The Court: You are not going to claim that this woman was insane?

Mr. Chanler: No, sir. I simply want to show by the doctor that she was not a drinking woman at the time when he knew her.

The Court: I have asked the question whether the defense of insanity is to be interposed?

Mr. Chanler: No, sir, not at all.

Q. Are you able to state, from the examination that you made of Mrs. Dunne at the time of her treatment in the hospital whether she was addicted, to any extent, to the use of intoxicating liquors?

Question excluded; exception.

CROSS EXAMINATION by Mr. Osborne:

Q. What time did you say you treated Dunne for this hemorrhage in the nose?

A. For the hemorrhage I think it was in March, 1892.

Q. About how long did you treat him for that?

A. For this hemorrhage I don't think I saw him but twice.

Q. You only saw him twice?

A. Yes, sir, that is the best of my knowledge.

Q. Did you perform any operation upon him?

A. I had to check the hemorrhage, I had to plug his nostrils.

Q. Did you have any trouble with him at that time?

A. I did, that is to say - I cannot say I had any trouble, but I recollect scolding him because he didn't have them plugged.

Q. You had occasion to scold him, why?

A. Because he showed such little pluck.

Q. He showed his timidity?

A. Well, I ----

Q. Lack of pluck is timidity, is it not, doctor?

A. Well, that degree of patience and courage that a man ought to exhibit who has to undergo any slight operation.

DAVID LATIMER, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Chanler:

Q. What is your business?

A. Tailor.

Q. Where is your place of business at present?

A. 228 Columbus Avenue.

Q. Were you at any time living on Seventh Avenue near 23rd Street?

A. Yes, sir.

Q. Did you live there when this defendant was living there?

A. Yes, sir.

Q. For how long a time with this defendant?

A. About six years or five and a half years.

Q. Did you know people who knew her?

A. Yes, sir.

Q. Do you know her general reputation for peace and quiet?

A. Yes, sir.

Q. Is it good or bad?

A. Good.

Q. Did you know George Dunne?

A. Yes, sir.

Q. Did you know people who knew him?

A. I could not say, no, sir. I know both of them, that is all.

Q. Have you ever seen George Dunne commit any acts of violence upon his wife?

A. Yes, sir.

Q. When?

A. In 1889, 1890 and 1891.

Q. That was at 232 Seventh Avenue?

A. Yes, sir.

Q. What did you see?

A. I seen Mr. Dunne blacken her eyes, I seen her when she was in the nursery - I seen him kicking her downstairs, and I know her to be kicked downstairs and out into the street.

Q. You have seen him do this?

A. Yes, sir.

Q. With your own eyes?

A. Yes, sir, with my own eyes.

Q. Have you ever gone into their rooms?

A. Yes, sir, once in a while.

Q. Have you been attracted into their room or called into their

rooms by anything?

A. No, sir, the only time I went into those people was when the baby was born.

Q. Have you ever been attracted by any sounds of quarreling in the rooms that you recollect?

A. Well, I always listened to them and said nothing.

Q. That is not a very definite answer.

A. Well, I always listened and said nothing, because I don't wish to say anything between husband and wife. It is not my business, it is not my business their quarreling.

Q. Did you ever hear any noise or quarreling in the apartments of this defendant?

A. Yes, sir.

Q. In consequence of that noise did you ever go into the room?

A. No, sir.

CROSS EXAMINATION by Mr. Osborne:

Q. When was it you say you saw him strike his wife?

A. I guess it was in ----

Q. When was the first time you saw him strike his wife?

A. Four and a half years ago.

Q. Where were you?

A. On the same floor with Mr. Dunne.

Q. Did you go into the hall?

A. When Mrs. Dunne began screaming I went out into the hall.

Q. You went out into the hall?

A. Yes, sir.

Q. You saw him strike her?

A. Yes, sir, and kick her downstairs at 11 o'clock at night.

Q. You saw him strike her yourself, did you?

A. Yes, sir.

Q. You saw him kick her downstairs?

A. Yes, sir.

Q. When you ran out in the hall did you go to her door?

A. I followed Mrs. Dunne downstairs myself.

Q. You followed her downstairs?

A. Yes, sir, I wanted her to come back.

Q. When you came out of her room how near did you get to her door?

A. We lived on the one floor.

Q. Will you just tell me how near you got to her door when you came out of her room?

A. I didn't go near her door.

Q. Why did Dunne strike her?

A. She passed my door and so did he.

Q. Right in front of your door?

A. Yes, sir.

Q. He kicked her in front of your door?

A. Yes, sir.

Q. You were standing in your door and saw it?

A. Yes, sir.

Q. What did you do to Dunne?

A. Nothing at all, he was a bigger than I was.

Q. You mean to say that you stood there and saw him kick his wife downstairs?

A. I could not do anything because I was a small man and he is a big man.

Q. Did you see Mrs. Dunne strike her husband before he struck her?

A. No, sir.

Q. Do you know whether she did or not?

A. No, sir, I could not say.

Q. When you heard quarreling going on in the room did you hear her quarreling too?

A. No, sir, I didn't hear no quarrel, I heard both quarrel, I heard both calling names.

Q. You heard both calling each other names?

A. Yes, sir.

Q. Could you hear her calling him a

A. No, sir.

Q. What did you hear her call him?

A. I could not say.

Q. She did call him a name?

A. I could not swear, they were quarreling - calling names.

Q. What were the names?

A. I could not mention them.

Q. Did you hear him call names?

A. No, sir.

Q. You don't know what names, did they both call each other names?

A. They were fighting, that is all.

Q. Tell us another time you saw him?

A. Another time I saw him? After they left our house.

Q. When was that?

A. I was two years in the same house.

Q. Did you ever see them when they moved to 106 West 26th Street?

A. Yes, sir.

Q. Did you ever visit them?

A. No, sir, I never saw him there.

Q. You never saw them from the time they got there until the time they left?

A. I never saw Mrs. Dunne from the time she left two doors below me until I see her now, that is about two or three years ago.

Q. That is the only time you say they had a row?

A. They were

rowing all the time, he was quarreling all the time.

Q. Wasn't she quarreling at him?

A. No, sir.

Q. Didn't you say to the jury just now they were both quarreling?

A. The quarrel he would get up himself when he came home at night.

Q. How do you know?

A. I know perfectly well.

Q. How do you know she didn't call him a name first?

A. Because he was drunk and she was sober.

Q. You never saw her drunk in your life?

A. I saw her taking one glass of beer in my life.

Q. You have seen her drunk?

A. One glass of beer.

Q. Did you ever see her drunk?

A. No, sir.

Q. You don't know when she began to drink?

A. After the baby was born she began to drink.

Q. When was the baby born?

A. I think it was in 1889 or 1890, I don't know which.

Q. She began to drink in 1889 or 1890?

A. I don't say she began to drink, she was drinking after her baby was born.

Q. When was the baby born?

A. As far as my recollection is it was 1889 or 1890.

Q. She began to drink then?

A. Yes, sir, she may have.

By the Court:

Q. You only saw him strike her once and kick her downstairs, is that it?

A. Yes, sir, several times, I cannot exactly tell.

Q. You told us of one time where you saw him strike her, black her eye and kick her downstairs?

A. Yes, sir.

Q. When was the next time, and where was it?

A. On the same floor.

Q. Did he black her eye again, the second time?

A. He didn't black he eye the night he kicked her downstairs, he blackened her eye afterwards.

Q. The next time?

A. Yes, sir, and she came into my house for protection.

Q. Did you see him black her eye?

A. No, sir, but her eye was blackened.

Q. You didn't see him blacken it?

A. No, sir.

Q. When was the next time you saw her?

A. I don't know of any other time.

Q. Those are the only two occasions that you recall?

A. Yes, sir.

By Mr. Chanler:

Q. Will you kindly stand up?

A. Yes, sir.

Q. How much do you weigh?

A. About 110 or 115 pounds.

DAVID LATIMER, Jr., a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Chanler:

Q. Your father is the tailor who was just on the stand?

A. Yes, sir.

Q. You have worked for him?

A. Yes, sir.

Q. Do you know this defendant, Mrs. Dunne?

A. Yes, sir.

Q. How long have you known her?

A. About five years and a half.

Q. On the same floor with her?

A. Yes, sir.

Q. For how long a time?

A. For about two years.

Q. During that time, Mr. Latimer, did you ever see her husband commit any acts of violence upon her?

A. Yes, sir.

Q. How many times?

A. I could not say how many.

Q. More than once?

A. Yes, sir.

Q. Will you tell us where you were and where it was done?

A. I saw him using vile language to her, and saw him striking her.

Q. Did he use the vile language and strike her at the same time?

A. Yes, sir.

Q. Where was that?

A. At No. 232 Seventh Avenue.

Q. Was it on the street or in the house?

A. In the house.

Q. Where else did you see him?

A. In his own room.

Q. Were you ever attracted by any cries from the room?

A. Yes, sir.

Q. Did you go into the room?

A. Yes, sir.

Q. What did you see?

A. Mr. Dunne is the act of kicking his wife.

Q. In the room?

A. Yes, sir.

Q. Have you ever seen Mr. Dunne drunk?

A. Yes, sir.

Q. Often?

A. Yes, sir.

Q. Did you ever see Mrs. Dunne drunk while she was living in that house?

A. No, sir.

CROSS EXAMINATION by Mr. Osborne:

Q. You knew what your father testified to here?

A. No, sir.

Q. Did you hear it?

A. No, sir.

Q. You did not hear him say that he had seen Mrs. Dunne get a black eye and kicked downstairs?

A. No, sir.

Q. Did you see that?

A. I saw her with a black eye.

Q. Did you see her get a black eye and get kicked downstairs?

A. No, sir, I never saw her getting kicked down.

Q. The only thing you saw was going in the room and seeing them there?

A. Yes, sir.

Q. That is the only row you ever saw, was it?

A. I saw more than that.

Q. How many more than that?

A. I could not count them.

Q. So many that you cannot count them?

A. Seven or eight times I saw him striking her.

Q. Seven or eight times?

A. Yes, sir.

Q. You live on the same floor?

A. Yes, sir.

Q. How many families live on that floor?

A. Two.

Q. Just Dunne and yourself?

A. Yes, sir.

Q. When you went in and saw Dunne kicking his wife what did you do?

A. I told him to stop.

Q. Didn't you make him stop?

A. Yes, sir.

Q. Did you have him arrested?

A. No, sir.

Q. Did you go out and report to the police?

A. No, sir.

Q. When you saw him beating her after that didn't you do anything?

A. No, sir.

Q. Just let him do it?

A. I didn't let him do it, I stopped him the best I could.

Q. You didn't have him arrested?

A. No, sir.

Q. You never reported this thing to any of the police?

A. No, sir.

Q. Did you ever hear them quarreling with each other?

A. Yes, sir.

Q. Did you ever hear them calling each other names?

A. I heard him.

Q. Didn't you hear her too?

A. No, sir.

Q. Didn't you hear them quarreling together?

A. Yes, sir, I heard them quarreling together.

Q. When Mrs. Dunne quarrels doesn't she call her husband names?

A. I never heard it.

Q. When did she begin to drink?

A. I don't think she ever drank.

Q. She never drank?

A. She drank, but not to get drunk.

Q. Did she begin to drink after the baby was born?

A. I don't know, I couldn't say that.

Q. You don't know anything about that?

A. No, sir.

By Mr. Chanler:

Q. You did not see Mrs. Dunne after she moved to 26th Street?

A. I saw her on the avenue.

Q. Did you visit at her house at all or see anything of her?

A. No, sir.

JAMES MAHR, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Chanler:

Q. You are a practicing physician in this city?

A. Yes, sir.

Q. Where is your office?

A. 213 West 23rd Street.

Q. Did you know the deceased, George Dunne?

A. Yes, sir.

q. In his lifetime?

A. Yes, sir.

Q. Were you ever called upon to attend him as a physician?

A. Yes, sir.

Q. When?

A. I think it must be about eighteen months ago or so.

Q. Was he suffering from hemorrhage?

A. Yes, sir, hemorrhage from the nose.

Q. Was it a severe hemorrhage?

A. Well, it was one of those

persistent hemorrhages that continued for several days in spite of the various methods of treatment carried out. We had a specialist in the case, and in spite of his efforts the hemorrhage continued for nearly a week.

By the Court:

Q. It was a persistent one, was it a profuse hemorrhage?

A. It was one of those ----

Q. Was it profuse?

A. It was quite profuse and persistent.

Q. Then it was a profuse, persistent hemorrhage?

A. Yes, sir.

Q. A profuse hemorrhage is where a very large quantity of blood flows?

A. Yes, sir, it began first before I got there, and I could not swear as to the amount of blood lost, but it was persistent.

Q. Was this a profuse hemorrhage or was it a persistent hemorrhage?

A. Yes, sir.

By Mr. Chanler:

Q. The man was what you would call a bleeder, wasn't he, was that the expression you use?

A. Yes, sir, evidently.

Q. You performed an operation on him of stopping up his nostrils?

A. Yes, sir.

By the Court:

Q. Did you succeed in stopping it?

A. Yes, sir.

Q. When did you cease to treat him for it?

A. I had been treating him for about four days.

Q. For about four days?

A. Yes, sir.

Q. Then you succeeded in stopping it?

A. Yes, sir, I plugged the nose just the same as it had been before, and while the blood remained there, there was no hemorrhage. The plug was accidently removed and the hemorrhage came on again; then I succeeded in stopping it again by means of injections; the hemorrhage then ceased for several days, for about a day or so, when this specialist was sent in - the proprietor of the hotel sent in a specialist to join me in the treatment, and then he performed another operation, he associated himself with me.

Q. You and this other physician prescribed for this man, treated him for this hemorrhage?

A. Yes, sir.

Q. Tell us when you ceased to prescribe for him?

A. It was simply a matter of days, my treatment began on Monday and ceased about Wednesday, I really could not tell you, as I did not come here prepared; I had no notice of this thing until 12 o'clock.

Q. Can you tell approximately when you and this other gentleman ceased to treat this man for this hemorrhage?

A. It may be eighteen months ago, that is approximate.

DENNIS McCARTHY, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Chanler:

Q. You are a cousin of this defendant?

A. Yes, sir.

Q. You have known her for a number of years?

A. Yes, sir.

Q. And you know others who know her?

A. Yes, sir.

Q. Do you know her reputation for peace and quiet?

A. Excellent.

Q. Have you ever seen Dunne attempt any acts of violence against his wife?

A. Yes, sir, I have.

Q. When have you seen him do it?

A. In the month of June, 1892.

Q. Was that after or before they had moved to 26th Street?

A. Before they moved to 26th Street.

Q. Did you see any acts of violence after they moved to 26th Street?

A. One in 26th Street.

Q. When was that?

A. That was about three weeks previous to the time of the murder.

Q. Three weeks previous to his death?

A. Yes, sir.

Q. Tell us what you saw?

A. I seen him attempt to strike her one afternoon, I should judge about the first of October, and I prevented him from doing it. I took him out of Sixth Avenue to have him cool off.

Q. You took him out?

A. Yes, sir.

Q. That was the last time you saw him attempt to strike her?

A. Yes, sir, that was the last time.

Q. Did you see him attempt to strike her on any other occasion?

A. Those were the only two times I ever saw.

Q. The other time was up in Seventh Avenue?

A. Yes, sir.

Q. Have you been in the habit of giving money to support Dunne and his wife?

Objected to. Question excluded. Exception.

CROSS EXAMINATION by Mr. Osborne:

Q. What relation are you to the defendant?

A. I am a cousin.

Q. After the murder, as you call it, did you get the keys of those premises?

A. Yes, sir.

Q. Did you go to the station house to get them?

A. No, sir.

Q. Where did you get them?

A. I got them in the Tombs Prison.

Q. What time was it you got them?

A. In the morning.

Q. Sunday morning?

A. Monday morning.

Q. That is the Monday after the Saturday?

A. Yes, sir.

Q. Did you go there to the premises?

A. Yes, sir.

Q. And you turned the keys over to Mrs. Sommiel?

A. No, sir.

Q. You went upstairs with her?

A. Yes, sir, I went upstairs with her.

Q. Did you turn the premises over to Mrs. Sommiel?

A. No, sir, not until I disposed of the property in there.

Q. When did you dispose of the property?

A. The Wednesday or Thursday after that.

Q. You did not disturb the premises until the Wednesday or Thursday after that?

A. No, sir.

Q. You did not go in the premises and take an inventory of any of the property there until then?

A. No, sir.

Q. You did not disturb anything in there?

A. No, sir.

Q. How often did you visit Dunne while he was living there?

A. Occasionally.

Q. You went around there occasionally?

A. Yes, sir.

Q. How long has Mrs. Dunne been drinking to your knowledge?

A. I never knew of her drinking to any extent, in fact I never saw Mrs. Dunne under the influence of liquor at all, not in my presence.

Q. You never did?

A. No, sir.

Q. Don't you know that she herself has testified here that she was drunk for two weeks prior to this death?

A. I never have seen under the influence of drink.

By the Court:

Q. Did you see her at any time within three weeks of the death of this man?

A. Yes, sir.

Q. How often did you see her?

A. I used to visit her about twice every month.

Q. Up to the time of the death of this man?

A. Up to within three weeks of the time of the death of this man.

Q. Within that three weeks you did not see this woman?

A. No, sir, I did not.

Q. Therefore, you cannot tell what her condition was during those three weeks, can you?

A. Within three weeks of the time of this man's death, I never saw my cousin under the influence of drink.

Q. You did not see her within three weeks of his death?

A. No, sir.

Q. Therefore you don't know what her condition was at that time?

A. I could not, sir.

By Mr. Osborne:

Q. Did you ever hear Dunne and his wife quarreling with each other?

A. Yes, sir, I have heard Mr. Dunne threaten her.

Q. Did you ever hear them quarreling with each other?

A. Yes, sir.

Q. Both quarreling?

A. Yes, sir.

Q. You heard her quarrel and him quarrel?

A. I have heard him threaten her.

Q. Did you hear her threaten back?

A. No, sir.

Q. You heard her quarrel?

A. Yes, sir, I heard them quarreling.

MARY BECK, recalled.

By Mr. Chanler:

Q. Did you see the defendant about two weeks or six weeks before Dunne's death?

A. Yes, sir, I called in to see her in the month of September.

Q. Did you notice whether or not she was pregnant at that time?

A. She told me with her own lips.

The Court: We have the woman's own statement on that point.

The Witness: She told me.

Exception.

Mr. Chanler: That is the case for the defendant.

The Court admonished the jury, calling their attention to Section 415 of the Code of Criminal Procedure, and took a recess until to-morrow morning, March 16th, 1894, at 11 o'clock.

TRIAL RESUMED.

March 16th, 1894.

REBUTTAL.

MRS. SOMMITEL, recalled, testified as follows:

By Mr. Osborne:

Q. Mrs. Sommiel, you are the housekeeper at 106 West 26th Street?

A. Yes, sir.

Q. Now you know what kind of bolts and locks there were on the doors of Mrs. Dunne's apartments on the 14th of October, the date of the homicide?

A. I don't know what kind.

Q. Did you go in there on Monday, the Monday following his death?

A. Yes, sir.

Q. Did you notice the kind of locks and bolts and fastenings on the doors?

A. Yes, sir.

Q. Mrs. Sommiel, did you notice whether or not there was a bolt or a lock on the kitchen door; and, if so, what?

A. In the kitchen there is a lock.

Q. Is there any bolt on it at all?

A. No, sir.

Q. Now on the front room, is it a lock or a bolt?

A. That is a chain; I don't know what you call them.

Q. A chain?

A. Yes, sir.

Q. When you went into the room - will you locate the bed, indicate on this diagram where Dunne's bed was, where his head and

his feet were on the bed?

A. Yes, sir.

Q. Just show me where it was?

By the Court:

Q. Was it nearer the mantel piece or nearer the kitchen?

A. On the front room, on the bed.

Q. Where was his head and where were his feet? Here is the kitchen, there is the door, there is the front room, this is the door coming off the hall. Just mark where his head was.

No answer.

By Mr. Osborne:

Q. There is the kitchen (indicating)?

A. Yes, sir.

Q. There is the mantel piece, in the front room?

A. Yes, sir.

Q. You understand that?

A. Yes, sir.

Q. And the bed, as I understand you, lay in that way?

A. Yes, sir.

Q. Where was Dunne's head?

A. Here (indicating).

Q. That end of it?

A. Yes, sir.

Q. His head then was towards the mantel piece, is that right?

A. Yes, sir.

By Mr. Osborne:

Q. Where were his feet?

A. Well, I saw him straight in the bed; they were right in.

Q. He lay straight in the bed?

A. Yes, sir.

Q. His feet would be down in this direction (indicating)?

A. Yes,

sir.

Q. Was there any bed covering on him when you went in there?

A. No, sir, I don't see nothing.

By the Court:

Q. I am asking whether you saw if he was covered that day?

A. No, I don't see nothing.

Q. You didn't see nothing?

A. No.

Q. I don't understand what you mean by that.

A. I don't see nothing; I don't see any covering on him.

Q. There was no cover on him? What I want to get at is if there was any covering on him?

A. No, sir.

Q. All you saw on the man lying there was a flannel shirt, an undershirt?

A. No, sir, I don't look right.

Q. You didn't look very much?

A. No, sir.

Q. Did you notice whether his feet were bare?

A. Yes, sir.

Q. As far as you know there was no covering on him?

A. No, sir, I don't see any.

Q. You didn't see any?

A. No, sir.

Q. There was no covering on him?

A. No.

By Mr. Osborne:

Q. Mrs. Sommiel, where was the principal part of the blood, the most of the blood?

A. On his face.

Q. Not on his person, but about the bed, on the floor?

A. I just seen it in the middle of the floor.

Q. Was it nearer to the kitchen or nearer to the mantel piece, in the back room? Where was the most blood?

A. There (indicating).

Q. There was blood on the bed?

A. Yes, sir, and there, too (indicating).

Q. Blood there, too?

A. Yes, sir.

Mr. Osborne: Blood there, and blood there, on the floor.

Q. Did you notice any blood over in here (indicating)?

A. No, sir, I didn't see any.

Q. You didn't notice any blood in that corner or in that corner?

A. No, sir.

Q. From whom did you get the keys of that apartment?

A. His cousin.

Mr. Chanler: Objected to, as not being in rebuttal. I don't know what the object of it is.

The Court: I think it is.

Q. You got the keys from the cousin?

A. Yes, sir.

Q. And what day did you go up there - was it Monday or Tuesday, or Sunday or what day?

The Court: She has already stated she went there on Monday.

The Witness: Yes, sir.

Q. What day did you get the keys from the cousin?

A. Monday.

Q. Monday?

A. Yes, sir.

Q. For what purpose?

A. I don't understand.

Q. Why did you give them to him; what made you do it?

A. The cousin went in there before me.

By the Court:

Q. The cousin was in the room before you went up?

A. Yes, sir.

By Mr. Osborne:

Q. Why did you go in there; what did you want to do in the room?

A. Well, because it is my own room, you know.

Q. Did you clean up the room, Mrs. Sommiel?

A. No sir, not that day.

Q. What day did you clean it up?

A. I let it lie a week there.

Q. You cleaned it up at the end of the week?

A. Yes, sir.

Q. Mrs. Somiel, on Saturday, October 14th, 1893, did Tody, the little boy who testified here, come downstairs to get any whiskey in your place?

A. I didn't see Tody at all that day. He never come in.

By the Court:

Q. He didn't come to your place?

A. No, sir.

By Mr. Osborne:

Q. Who was there with you that day, in the store with you?

A. No one.

Q. Were the members of your family there?

A. Yes, sir.

Q. Was your daughter there?

A. Yes, sir.

Q. Is she in court now?

A. No, sir.

By Mr. Chanler:

Q. Mrs. Sommiel, were you in your place every minutes on that day?

A. Yes, sir.

Q. Every minute?

A. Yes, sir.

By the Court:

Q. Did you give Tody any whiskey that morning in a glass like that?

A. No, he didn't come that morning to get whiskey.

Q. Did you give him any whiskey? That is all I ask.

A. No, sir.

By Mr. Chanler:

Q. Did you give a bill to the cousin of Mrs. Dunne, Mr. McCarthy, for \$2.10 for whiskey given to Mrs. Dunne?

A. That is for beer; not for whiskey.

Q. That is for beer?

A. Yes, sir.

Q. When did you send the beer up?

A. I don't remember when that was.

Q. When did you send it up - that day?

A. No, sir, not that day. I didn't give her nothing that day.

Q. Now, Mrs. Sommiel, do you wish to tell this jury that you were in your restaurant every minute of the day, from six in the morning until three in the afternoon?

A. Yes, sir.

Q. Every minute?

A. Yes, sir.

Q. Now, Mrs. Sommiel, when you went into the room where Dunne was

lying, you saw him on the bed and ran out; didn't you?

A. Yes, sir.

Q. Ran out when you saw it?

A. Yes, sir, I didn't stay.

Q. You ran out of the room as soon as you saw the body on the bed?

A. Yes, sir.

Q. Now I will ask you, Mrs. Sommiel, if you didn't see some blood on the wall over the mantel piece and about here (indicating) on the right side of the mantel piece?

By the Court:

Q. There is the mantel piece. Did you see any blood on that wall there, near the mantel piece?

A. I seen a couple of drops there.

Q. Where?

A. Near the chimney, there (indicating) in the middle of the chimney.

Q. Right there?

A. Yes, sir.

Q. Over the mantel piece?

A. In the top, there is the mantel in the top.

Q. On the top of the wall, over the mantel piece?

A. Yes, sir.

Q. Somewhere here?

A. Yes, sir.

Q. How high over the mantel piece was it?

A. There is the mantel piece, and it is right there. The chimney was there.

Q. How high would it be above the mantel piece, above the top of the mantel piece, where you saw the blood?

A. Right there (indicating).

Q. That would be about how much?

A. Nine or ten or twelve inches.

The Court: She says that she saw some blood on the wall, right about the centre of the mantel piece and about a foot above it.

Q. Did you see any blood here, in this corner?

A. No, sir, I didn't see that.

Q. You didn't see any blood there?

A. No, sir.

Q. Did you see any blood on this part here, where the little closet is?

A. No, sir.

Q. There was no blood there?

A. No, sir.

Q. Where else did you see blood?

A. Only that place where I showed you in the middle of the floor, there and there (indicating).

The Court: She says the only place she saw blood was that spot above the mantel piece and on those two places that she has designated upon this diagram, upon the floor.

By Mr. Chanler:

Q. Now, Mrs. Sommiel, I will ask you again if you are sure you didn't see any blood - this is the little room where the boy slept; here is the closet; this is facing towards the front of the house?

A. Yes, sir.

Q. Did you see any drops of blood spattered on the wall, along

here and here?

A. Well, I saw only this.

Q. Do you remember, yesterday afternoon or yesterday morning, showing that gentleman there where the blood was on the wall?

A. Yes, sir.

Q. Do you remember seeing that gentleman there?

A. Yes, sir.

Q. Do you remember going about and around your room with him?

A. Yes, sir.

Q. Showing him, with your hand, on the wall, where the blood was?

A. Yes, sir, just there.

Q. Didn't you tell him there was blood there (indicating)?

A. No, sir, I said here.

Q. Do you say that you went into the room on the following Monday?

No answer.

By Mr. Osborne:

Q. Mrs. Sommiel, did you see any blood along the side of the bed, that side up there or that side?

A. In the bed, you mean?

Q. At any time after you went into the room, on the side of the bed, on either side?

A. I will show you.

Q. Did you see any up towards the head of the bed, up along there?

A. Yes, sir, I did.

Q. That is the foot there?

A. Yes, sir.

Q. Did you see any blood on either side of the bed, towards the head of the bed, this being the head of the bed?

A. Yes, sir, I saw some where the head is.

Q. That is the head I am showing you?

A. Yes, sir.

Q. The head is there, and the feet is there; that is what I am showing you.

A. Yes, sir.

Q. There is the kitchen partition?

A. Yes, sir.

Q. Do you see that?

A. Yes, sir.

Q. What I want to know is - just mark on there about where, along the sides of the bed, you saw any signs of blood?

A. I saw it along there (indicating).

Q. On that side?

A. Yes, sir.

Q. Did you see any on the other side or not?

A. Well, I saw some all around thee.

Q. Mark it.

A. Yes, sir.

Q. Right there?

A. Yes, sir.

By a Juror:

Q. Do you run that restaurant of yours alone?

A. With my son-in-law.

Q. Was your son-in-law there on the day of the murder, that you know anything about?

A. Yes, sir.

By Mr. Chanler:

Q. Have you had a talk with Mr. Osborne since yesterday afternoon?

A. No, sir, I didn't see him.

By Mr. Osborne:

Q. Have you seen me since yesterday and had any talk with me, except on the stand?

By the Court:

Q. You were here in court yesterday, and gave your testimony when sitting there?

A. Yes, sir.

Q. You recollect that?

A. Yes, sir.

Q. Did you talk to that gentleman there (Mr. Osborne) after you had given your testimony here?

A. No, sir. That one here?

Q. Did you talk to him after that?

A. I don't remember that.

Q. Don't you know when you left that chair yesterday - don't you recollect when they got through examining you?

A. Yes, sir.

Q. Now, after that, did you go outside and have any talk with Mr. Osborne:

A. No, sir.

By Mr. Chanler:

Q. Did you talk with this gentleman here (pointing to Mr. Delehanty)?

A. Yes, sir.

Q. When did you talk to him, yesterday afternoon?

A. Yes, sir, the time I came back.

Q. You went away and came back?

A. Yes, sir.

By Mr. Osborne:

Q. Have you talked to him since leaving the witness chair yesterday afternoon?

A. No, sir; I don't talk to nobody yesterday.

By Mr. Chanler:

Q. You misunderstand. You left the stand and you went home?

A. Yes, sir.

Q. And you came back to court?

A. Yes, sir.

Q. And after you came back to court, after coming back in the afternoon, did you talk with this gentleman?

A. Yes, sir.

By a Juror:

Q. You saw the body on the bed when you went in there on the day he was killed?

A. Yes, sir.

Q. What did the body have on, any clothes, or anything of that sort, that you saw?

A. I just looked at him and I saw some pants.

Q. He did have his trousers on?

A. Yes, sir.

Q. Is that all you noticed?

A. Yes, sir.

By Mr. Osborne:

Q. Mrs. Sommiel, do you know whether it was drawers or trousers that he had on?

A. Drawers.

Q. Something on his legs?

A. Yes, sir.

Q. Are you sure of that?

A. Yes, sir.

ADRIAN FORNAGE, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Osborne:

Q. Where do you live?

A. 249 West 26th Street.

Q. Do you remember the afternoon of the 14th of October, 1893, Saturday?

A. Yes, sir.

Q. On that day did you see Mrs. Dunne, the defendant?

A. Yes,

sir.

Q. Where were you at the time you saw her?

A. I seen her upstairs when I was upstairs.

Q. Where were you at the time you saw her?

A. Downstairs in the restaurant.

Q. Whose restaurant?

A. Mrs. Sommiel's.

Q. Where was Mrs. Dunne when you saw her?

A. In the kitchen.

Q. Of the restaurant?

A. Upstairs on the second floor, where she lived.

Q. Where was she standing when you saw her?

A. Against the wall, she was leaning against the wall.

Q. Did you hear her say anything?

A. I spoke to her, yes.

Q. Did she speak to anybody, when you first saw her; do you know whether or not she spoke to anybody?

By the Court:

Q. You were downstairs in the restaurant?

A. Yes, sir.

Q. What time in the morning was it?

A. It was in the afternoon.

Q. What time of the afternoon was it?

A. It was between one and three.

Q. Then you went upstairs; did you?

A. Yes, sir.

Q. Did you go into her apartments then?

A. Yes, sir, I went as far as the kitchen door.

Q. Where was she when you got up there?

A. We knocked at the door and she opened it.

Q. Did you go in?

A. I went in ----

Q. Inside the kitchen?

A. Yes, sir, we went two steps in and spoke to her.

Q. You went in two steps?

A. Yes, sir.

Q. Into the kitchen?

A. Yes, sir.

Q. Who was with you; was ``we"?

A. Louis Pain, another young man.

By Mr. Osborne:

Q. What did Mrs. Dunne say to you when you went upstairs?

A. She was covered with blood. I asked her who hurt her. She said, ``I stabbed my husband, because he called me a whore, and he would not take the word back."

Q. What next?

A. Then I stepped in and I took a glance on the bed, and I saw her husband, and then I ran out for the policeman, Police Buchanan.

Q. You saw the husband on the bed?

A. Yes, sir.

Q. There is the kitchen (pointing to diagram)?

A. Yes, sir.

Q. There is the hall?

A. Yes, sir.

Q. This is the room?

A. Yes, sir.

Q. There is the bed, there is the head of the bed, there is the partition, there is the foot of the bed, and there is the mantel piece. Now indicate where you saw the man's head and where you saw his feet?

A. I saw his feet over here (indicating) on this side, and his head was resting here on the

foot of the bed.

By the Court:

Q. His head then was towards the mantel piece in the room?

A. Yes, sir.

Q. And his feet were toward the kitchen partition; is that right?

A. Yes, sir.

By Mr. Osborne:

Q. Was there any other person on the bed besides the deceased?

A. The baby.

Q. You say the baby was on the bed?

A. Yes, sir.

Q. Mr. Fornage, you say you saw Mrs. Dunne at the window?

A. I didn't see Mrs. Dunne at the window.

The Court: He didn't say so. He said he saw her in the kitchen, leaning against the wall.

Q. Did you hear her call out of the window?

A. No, sir, I didn't; Mrs. Sommiel called me up.

Q. Do you know whether or not immediately before you went upstairs, whether any other person went - do you know?

A. I don't know if the son-in-law was up before me or not.

Q. Who is the son-in-law?

A. Mrs. Sommiel's son-in-law.

Q. What is his name?

A. Mark Webber.

By the Court:

Q. You knocked at the kitchen door; did you?

A. Yes, sir.

Q. And this woman opened the door and let you in; is that right?

A. Yes, sir.

Q. You went two steps into the kitchen?

A. Yes, sir.

Q. Now where was she standing while you were in the kitchen?

A. She had her hand against the wall.

Q. The wall, near where?

A. On the east side, the east side of the wall, on the east side of the kitchen, at the door, turned to the door; and I spoke to her then.

Q. Do you know how she was dressed at that time?

A. No, sir, I don't remember. She was not well dressed.

Q. You mean by that that she had not all her things on; is that right?

A. That's right.

Q. What was the first thing you said to her?

A. I asked her, because she was covered with blood, who hurt her.

Q. You said to her, "Who hurt you?"

A. "Who hurt you?"

Q. What did she say to that?

A. "My husband is inside, and he called me a where, and he wouldn't take the word back, and I stabbed him"; and I took a glance at the corpse and I ran out.

Q. Is that all that she said?

A. Yes, sir.

By Mr. Osborne:

Q. Then you looked into the room where the man was lying?

A. Yes, sir.

Q. Then you went downstairs?

A. Yes, sir, I ran out.

Q. And got Officer Buchanan?

A. Yes, sir, on Sixth Avenue.

Q. Did you go back with Officer Buchanan?

A. I came back with him.

CROSS EXAMINATION by Mr. Chanler:

Q. Now, Mr. Fornage, you only took a glance, didn't you, at the body?

A. That is all.

Q. And ran away at once?

A. And ran away at once.

Q. She said she had stabbed him?

A. Something like that, hurt or stabbed.

Q. Those were the words?

A. I guess ``stabbed"; she used the word stabbed.

Q. Did she have blood on her face and on her skirt?

A. Yes, sir, she had blood on her.

Q. Where was the blood?

A. She had blood on her hands and face and on her arms.

Q. And on her skirt?

A. I didn't pay particular attention where it was.

Q. I ask you whether you remember this question being put to you at the Coroner's office: ``What was her condition?"

A. She was covered with blood.

Q. ``She had blood on her face and on her skirt." Do you remember that?

A. I remember that; yes, sir.

Q. Do you remember this question being put to you: ``I asked her who hurt her, and she answered me and said, 'he is inside?'"

A. That is right.

Q. ``He is inside?"

A. Yes, sir, that's right.

By a Juror:

Q. Did the body have pantaloons on or drawers on at the time you noticed it?

A. I don't remember.

Q. If he hadn't had anything on would you have noticed it particularly?

A. Yes, sir; I seen him have an undershirt, but the pants I don't know.

Q. If his legs had been bare, wouldn't you have noticed it, if he had been entirely naked?

A. I didn't stay long enough to look at it.

By Mr. Osborne:

Q. Was this question put to you at the Coroner's office: ``Q. What do you know about this case? A. Mrs. Dunne came to the window in the back and called Mrs. Sommiel, the proprietress of the restaurant, and told her to come upstairs, and she ran in and she said Mrs. Dunne was covered with blood. I went upstairs with this young man, Louis Pain, over there." Did you say that in the Coroner's office?

A. Yes, sir.

Q. ``Mrs. Dunne opened the door, and she was in the kitchen, and she was covered with blood, and I said, 'who hurt you?' and she answered me and said, 'my husband called me a whore, and he wouldn't take it back, and I stabbed him.' Then I ran for a policeman."

A. Yes, sir, that's right.

Q. Did you say that in the Coroner's office?

A. Yes, sir.

MICHAEL SHEEHAN, a witness called on behalf of the People being duly sworn testified as follows:

DIRECT EXAMINATION by Mr. Osborne:-

Q. You are the Sergeant attached to the 19th Precinct?

A. Yes, sir.

Q. Do you remember this defendant being brought to your station house on the 14th day of October, 1893?

A. Yes, sir.

Q. Were you behind the desk?

A. Yes, sir, I was on desk duty that afternoon from one to six.

Q. Did you take her pedigree?

A. Yes, sir.

Q. Can you remember it without looking at your book?

A. Yes, sir.

Q. What time was she brought in?

A. At five o'clock in the afternoon.

Q. Who brought her in?

A. She was brought in by Officer Buchanan.

Q. As soon as she was brought in I suppose she was arraigned at the desk?

A. Yes, sir.

Q. Can you state to the jury what took place between you and this defendant at that time?

Objected to as incompetent irrelevant, immaterial and not in rebuttal.

Objection overruled. Exception.

A. I asked her her name.

Q. You asked her what?

A. I asked her her name.

Q. What did she say it was?

A. She said her name was Mary McGovern, then I asked her how old she was and she told me.

Q. Do you recollect it?

A. As near as I can remember, I think it was twenty-six. I asked her where she was born, whether she was married or single, and where she resided.

Q. Where did she say she was born?

A. She said she was born in the United States.

Q. What did she say about her residence?

A. She gave me her residence.

Q. Do you recollect what that was?

A. No sir, I don't recollect that.

Q. Did you put in on the blotter?

A. Yes, sir, I expected to refresh my memory from the blotter.

Q. What else?

A. Then I asked the officer who was the complainant and he gave me the name of Dunne; I said to the prisoner ``How is this, the officer says that your husband's name is Dunne."

Q. What did the officer say in her presence.

Mr. Chanler: This is all taken under my objection

Exception

A. I asked the officer, the complainant not being

there, the name of the complainant and he gave the name of Dunne, I don't remember the first name. I said to the prisoner ``how is it that your husband's name is Dunne, and you gave me the name of McGovern? ". She says ``My first husband's name was McGovern; and then I changed it from McGovern to Dunne. Then I rang the bell for the matron and the matron took her into the cell.

Q. Did she answer those questions you put to her rationally or irrationally?

A. She answered them very intelligently.

Q. Will you refer to your book there and refresh your memory. After looking at that, can you remember exactly what she said in answer to your questions.

Mr. Chanler: I object to that until it is shown that he cannot recollect without the book.

Q. Can you recollect anything else that was said by the prisoner to you or by you to the prisoner other than what you have already stated.

A. No sir. Then I asked the officer for a statement of the facts, and he gave me a statement of the facts of the case which I entered on the blotter.

Q. Did he give you a statement?

A. Yes, sir.

Q. Were those entries made in her presence right at the desk there?

A. I ordered the matron to take her back

and they were made immediately, probably while she was being taken back.

Q. Do you recollect what the officer said?

A. He did not finish the whole statement in her presence.

Q. Did he say what he had arrested her for?

A. He said he had arrested her for felonious assault, striking this man Dunne on the head with a hammer.

Q. Was that said in her presence?

A. Yes, sir.

Objected to Objection overruled

Exception.

Q. What did she say if anything?

A. Nothing that I can recollect.

BY THE COURT:

Q. What is the name of the Captain of your precinct?

A. The present Captain is Schmittberger, at that time it was O'Connor.

CROSS EXAMINATION by Mr. Chanler:

Q. You are quite sure that everything you have stated here is correct? Do you remember clearly what you have stated?

A. That blotter is correct.

Q. What you have stated on the stand, is it accurate?

A. The statement in the blotter is correct.

Q. Are you sure that the statement you have made here, without any reference to the blotter, is correct?

A. Yes, sir.

Q. You are quite sure that she gave you her age and you put it down as 26?

A. About 26. Of course, I did not refresh my memory, but as near as I can recollect it was about 26 years of age. I expected to refer to the blotter and consequently did not refresh my memory otherwise.

Q. None of the conversations you have repeated here were reduced to writing were they?

A. We don't consider that necessary, no sir.

Q. They were not?

A. No sir.

Q. You are simply giving us your recollection?

A. As to that portion of it.

Q. Of course, you have a very great number of prisoners brought up constantly?

A. Quite a number.

Q. At the time this woman was brought up she was only charged with felonious assault?

A. That is correct.

Q. Do you not very frequently have people brought up charged with felonious assault and other small crimes of that kind?

A. Yes, sir.

Q. Do you always hold conversations of that kind with them, asking them their name, age &c.?

A. Yes, sir, that is the usual routing to get the pedigree; then we get a statement from the officer of the facts of the case.

BY THE COURT:

Q. So far as the pedigree is concerned, that is, the name, the age and whether a person is married or single, that is all inserted in the blotter?

A. Yes sir, that appears according to the head of the blotter.

Q. And then when you come down to the charge that is made against the prisoner you take the statement of the officer?

A. Yes, sir.

Q. And that does not necessarily appear on the blotter. I suppose, except in brief?

A. In brief, yes sir.

Q. Felonious assault?

A. Yes sir.

Mr. Osborne:

I will read the entry:

Five PM: name Mary McGovern; age 26; color, white; nation, United States; calling, house work; marked; read and write, yes; residence, 106 West 26th Street; felonious assault-homicide. Name of the complainant, George Dunne; residence, 106 West 26th Street; Officer, Edward Buchanan; disposition, without bail; Police Justice Koch. The above prisoner, the

wife of the complainant, age 32 years of the United States, Engineer, charged with striking him on the head with a hammer, causing a possible fracture of the skull during an altercation at their residence about 3:45 this PM.

Complainant sent to New York Hospital. Died at the hospital at 3:17 this day. Coroner notified. Witnesses, Adrian Fornage, Louis Pain, Cecile Chatillon two children were brought here, Charles Dunne and Mad\$\$ Dunne, age 10 years and 17 months. Society notified.

JOHN J. O'NEIL, a witness called on behalf of the People being duly sworn testified as follows:

DIRECT EXAMINATION by Mr. Osborne:

Q. What is your business?

A. Engineer.

Q. Whereabouts?

A. Hotel Marlborough.

Q. You are the Chief Engineer there?

A. Yes, sir.

Q. Did you know the deceased, George Dunne?

A. Yes, sir.

Q. What was his business during the time that you knew him?

A. Engineer.

Q. Whereabouts?

A. At the Hotel Marlborough.

Q. Night engineer at the Hotel Marlborough?

A. Yes, sir.

Q. When did he first come there?

A. I do not remember

but I went to the time book and found that it was-

Q. When did he go there first?

A. He first came there in August.

Q. What date in August?

A. About the 11th of August.

Q. Did he work there till the time of his death?

A. Yes, sir.

Q. What time of day did he go on duty?

A. Seven o'clock PM.

Q. What time did he quit work?

A. Seven AM.

Q. During the time that he worked at the Hotel Marlborough was he absent at any time?

A. No that I know of.

Q. You were the Chief Engineer there?

A. Yes, sir.

Q. Do you remember the night preceding his death, the Saturday night?

A. Not particularly.

Q. When was he paid off the last time?

A. The 10th is the pay day.

Q. Who was his partner there, who was on the night shift with him?

A. Peter Brady.

Q. He and Peter worked there together?

A. Yes, sir.

Q. They are the only two who were there, or were there more?

A. There were two engineers and two firemen.

Q. You are the Chief Engineer, are you?

A. Yes, sir.

Q. If at any time one of the engineers was absent from duty would you or would you not be likely to know it?

A. I would be very likely to know it.

Q. During the time that Dunne worked at the Hotel Marlborough was he or was he not a sober man?

A. He was sober.

Q. What was the amount of his wages a month?

A. Sixty dollars.

CROSS EXAMINATION by Mr. Chanler:

Q. You were Dunne's best man when he was married, you were a friend of his?

A. Yes, sir.

Q. You did not know of Dunne being on a spree a short time before his death?

A. No sir.

Q. You did not know of Dunne not being at work at all or missing any nights during the last week of his life?

A. No sir, I did not.

Q. You are quite sure you would have known it had he done it?

A. I suppose so.

Q. If he had been absent two or three nights?

A. I think I would.

Q. Are you quite sure of it?

A. I go away at seven o'clock and if a man is not there when I go---

BY THE COURT:

Q. What time do you go on yourself?

A. Seven o'clock in the morning.

Q. And you remain until seven at night?

A. Yes, sir.

Q. Do you remain there until the Engineers who are on night duty arrive?

A. Yes, sir.

Q. So that you see that the men who are to take charge of the machinery and boilers are there before you go?

A. Yes sir, that is my duty to see that they are there.

Q. Then you would be very likely to know whether this man was on or off?

A. Yes, sir.

By Mr. Chanler:

Q. As a matter of fact, from your own knowledge, you don't know whether he missed one night during that last week of his life, do you?

(No answer)

Q. You would certainly know of your own knowledge if he had been absent one night?

A. I think I would sir.

BY THE COURT:

Q. Are you not sure of it, if you waited there for him?

A. I think so; it is so long ago; I knew at the time this man died but now I am not positive whether he missed one night or not.

By Mr. Chanler

Q. It is not true that you told Dunne that because of

his being a friend of yours you would give him another chance and you would keep him on although he was not sober?

A. No sir.

ROBERT J. BROWN re-called.

By MR. OSBORNE:

Q. You remember when you came in there and saw the body of Dunne?

A. Yes, sir.

Q. Do you know positively how that body was clothed?

A. Yes sir, I know positively.

Q. Will you tell the jury how it was clothed?

Mr. Chanler: I object to this as not being in rebuttal he has testified to all this before.

(Objection overruled) Exception.

Q. What clothing did he have on?

A. He only had an undershirt on?

Q. Any drawers?

A. No sir.

Q. Did you see the doctor there?

A. Yes, sir.

Q. Do you know what the doctor did with the undershirt?

A. He cut it up the centre and cut it off the man's body.

Q. And what was the condition of the man when you took him away?

A. Entirely naked; we put two blankets around

him ourselves.

By Mr. Chanler:

Q. This is the plan I showed you yesterday?

A. Yes, sir.

Q. You came in this door and saw Dunne lying there (indicating)

A. Yes, sir.

Q. Where did you see the blood, and spattered around the floor?

A. Around here?

A. Yes, sir, on the floor; the blood was spattered all around the floor.

Q. The blood was on the bed?

A. Yes, sir.

Q. This is the hall, this is the kitchen and there is the bed?

A. Yes, sir.

Q. You say that you came in his door, went into the room, and found the body on the bed with the legs down here?

A. Yes, sir.

Q. The man was lying partially across the bed, is that right?

A. Correct.

Q. There was blood on the bed?

A. Yes, sir.

Q. Will you point out, as near as you can recollect there you saw the blood on the floor?

A. There (Indicating)

Q. Was there much blood there?

A. There was just a stain on the floor, a fair portion of blood.

Q. Wasn't there a carpet there?

A. Yes sir, the carpet was stained.

Q. How large would you say the stain was?

A. The stain was about three inches around.

Q. About three inches around?

A. Yes, sir.

Q. Where else did you see any stains?

A. Stains? Around the floor, just spots like that.

Q. Opposite the mantel piece?

A. Just around the foot of the bed.

Q. Was it nearer to the bed?

A. There wasn't a great distance between the bed and the wall and this was around the centre there, a space probably two feet.

Q. Two feet from the foot of the bed?

A. Yes, sir.

By Mr. Osborne:

Q. I understood you to say that that bed was equally between the two doors, the door leading from the kitchen and the door leading from the hall?

A. Yes sir, just about the centre.

Q. And the bed was about how many feet wide?

A. Four feet and a half.

BY THE COURT: He had designated on that diagram the places where he observed the blood, by dots.

THE WITNESS; I did not travel around the other side of the bed much.

Q. How far from the bed did you see the blood spots?

A. About two or three feet.

BY THE COURT:

Q. Did this part of the bed lay up against the partition or was there a space between the partition and the bed?

A. There was a space but it was a very small space, I don't recollect it correctly.

By Mr. Osborne:

Q. The room was a small room, wasn't it?

THE COURT: The room was 16 feet seven by twelve feet four

BY A JUROR:

Q. As I understood your previous testimony the room was somewhat disturbed and upset?

A. Yes, sir.

Q. Were the bed clothes off the bed or on the bed?

A. They were on the bed.

Q. Was the man covered or uncovered?

A. He was uncovered.

Q. What was the condition of the bed clothes?

A. That seemed to be all tossed up, he was laying across the bed.

Q. And looked as if he had been in bed?

A. Yes, sir.

BY THE COURT:

Q. Could you observe a man's clothing anywhere about the room?

A. No sir.

Q. You didn't see any clothing belonging to the man at all?

A. No sir I didn't notice his clothing.

Q. About the room?

A. No sir, I didn't notice that.

Mr. Chanler: The District Attorney concedes that this little hammer was a hammer found in the tool box of the deceased.

PATRICK H. DELAHANTY: a witness called on behalf of the defendant being duly sworn testified as follows:

By Mr. Chanler:

Q. You went yesterday to the house where this occurrence took place?

A. Yes, sir, I did.

Q. You are connected with the District Attorney's Office and you were sent there?

A. Yes, sir.

Q. And you brought here a hammer which you found in the tool chest?

A. Yes, sir, I did, what was pointed out to me as the tool chest of the deceased.

Q. Did you see any other hammer in the tool chest?

A. Yes, sir.

Q. Describe it?

A. It was a solid piece of iron with whole in the centre of it for the handle; it was a solid place and any one of the ends were as large as that (indicating) circular.

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Q. How much in diameter?

A. About an inch and a half or two inches in diameter?

Q. About how long was it?

A. It was about four inches long.

Q. About how long was the handle?

A. About two feet. The small hammer just referred to was offered in evidence by Mr. Chanler: and marked defendant's Exhibit No. 1

DANIEL REDDING, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Chanler:

Q. What is your business?

A. Steam fitter.

Q. Who do you work for?

A. For the Ferral Manufacturing Company.

Q. Where is their place of business?

A. 154 West 27th Street.

Q. Are you working there now?

A. Yes, sir.

Q. Did you know the deceased, George Dunne, in his life time?

A. No sir.

Q. Did you know him by sight?

A. Yes, sir.

Q. You know him when you saw him?

A. Yes, sir.

Q. You never spoke to him?

A. No sir.

Q. When was the last time you saw him alive that you recollect?

A. On Friday night before the murder.

Q. Before his death, put it that way?

A. Yes, sir.

Q. On the Friday night before his death what time did you see him?

A. About eight O'clock.

Q. Was he drunk or sober?

A. Drunk.

BY THE COURT:

Q. Where did you see him?

A. In front of Doyle's saloon 26th Street and Sixth Avenue.

Q. In what direction was he going?

A. He was going towards his house.

Q. Was he walking?

A. He was staggering.

Q. He was walking, wasn't he?

A. Yes, sir.

Q. When did you see him before that?

A. I seen him the Friday night, a week before his death.

Q. Did you assist him upstairs at any time?

A. Yes, sir.

Q. When was that?

A. Friday night, the week before.

Q. Was there anybody with you?

A. Yes sir, Mr. Haight.

Q. Was he drunk or sober then?

A. Drunk.

Q. Where did you first see him that night?

A. That night I saw him lying down beside a barber pole.

Q. Where?

A. In front of No. 100 W. 26th Street.

Q. Did you go up and have some conversation with Mrs. Dunne?

A. No sir.

Q. Did Haight go up?

A. I do not know.

Q. You saw him lying down by the barber pole?

A. Yes, sir.

Q. Where is the barber pole?

A. Between 102 and 100.

Q. What did you do then?

A. Well, Mr. Haight and I stooped down, picked him up and supported him to his door and up on the first landing.

Q. What time of night was that or day?

A. Eight or a quarter past eight.

BY A JUROR:

Q. Why did you take such a particular interest in Dunne if you didn't know him personally?

A. I saw him lying down, it was sort of damp on the ground, Mr. Haight knew him and he asked me to help him support Dunne to the door and I told him yes.

Q. Did you speak to him at all?

A. No sir, I didn't speak to Mr. Dunne at all.

BY THE COURT:

Q. Did Mr. Haight speak to him when you picked him up?

A. He didn't want to let us assist him?

Q. But you insisted upon doing it?

A. Yes, sir.

Q. What is your business?

A. I am a steamfitter.

Q. What were you doing around there?

A. I stay in the grocery there?

By Mr. Chanler:

Q. How long have you been in the place you are working at now?

A. Two years and a half.

By Mr. Osborne:

Q. You are a steamfitter and work in a grocery store?

A. No sir, I stay at the grocery store.

Q. Where do you work?

A. 154 West 27th Street.

Q. Is that a grocery store?

A. No sir, a steamfitter's place.

Q. Where do you live?

A. 459 Sixth Avenue, second floor.

Q. How often have you seen Dunne?

A. I generally saw him every night.

Q. Where would you see him?

A. In front of his own house.

Q. At what time of night?

A. Well after seven o'clock.

Q. After seven o'clock?

A. Yes, sir.

Q. How much after seven o'clock?

A. I couldn't say.

what time, I don't carry no watch. I don't know whether it was half past six or a quarter past six.

Q. Did you ever see him later than that?

A. Yes, sir, nine o'clock.

Q. You saw him at nine o'clock?

A. Yes, sir, I have seen him at nine o'clock.

Q. You saw him sometimes as late as ten or eleven o'clock?

A. No sir.

Q. About nine?

A. Yes, sir.

Q. You saw him around there every night?

A. Generally.

Q. You didn't know him at all personally?

A. No sir.

Q. You never were introduced to him?

A. No sir.

Q. You never took a drink with him?

A. No sir.

Q. You just simply saw the man about the place?

A. Yes sir, that is all.

By Mr. Chanler:

Q. You say that Haight knew him?

A. Yes sir.

Q. How did you happen to me in the grocery store that evening?

A. I make up the books for the grocery man.

Q. What time did you go to the grocery in the evening generally?

A. About seven or a quarter past.

Q. Then you noticed Dunne frequently?

A. Yes, sir.

Mr. Chanler: I call this witness for the purpose of contradicting Mrs. Sommeil as to the blood that was on

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the wall. It is in the nature of sur-rebittal.

THE COURT: I will not allow it.

Mr. Chanler: I offer to prove that she made a different statement.

Exception

Testimony closed

The Court charged the jury as follows:

Gentlemen of the Jury: The prisoner now on trial is indicted, as you are aware, for one of the most heinous crimes known to the law. If it is a fact, as is claimed by the prosecution, that this man was deprived of his life in the manner and under the circumstances claimed here, then one of the most heinous crimes which has been called to the attention of a Court or jury has been committed by this woman. She has had a fair and impartial trial; she has had the benefit of counsel who undoubtedly has done everything that lay in the power of honorable and reputable counsel to do; she has had the benefit of selecting the twelve men in the jury has taken his seat except by her consent; every witness whom she could call has been produced and the testimony of those witnesses has been received; every question of doubt has been decided and ruled in her favor. With all those rights accorded a defendant when the evidence in a case of this character satisfies a jury, as the law requires they must be satisfied, beyond a reasonable doubt of guilt, there should be no hesitation to pronounce the verdict that they believe the evidence in the case justifies. With the consequences of whatever verdict you see fit to render neither you nor I have anything to do, nor can we ever be held responsible. With the question of the punishment

which the Legislature of this State has seen fit to affix to the commission of crime the jury have no concern whatever, and the moment a juror permits his judgment to be influenced by the result which may follow a verdict of conviction he violates the oath which he took when he entered the jury box.

The law, gentlemen, does not require you to lay aside all sympathy for this woman in her unfortunate condition. The law does not require an impossibility. Every man sympathizes with a person, male or female, who is placed at the bar of a criminal court charged with the commission of a criminal offense; he would be less than a man if he did not do so; but, neither you nor I would be fit to occupy our respective positions if we were to permit our sympathies to interfere with our judgments on the questions arising in a criminal case.

The law requires that this woman's guilt must be established by evidence satisfactory to you and beyond a reasonable doubt; not all doubt, because there is nothing human that is beyond all doubt. If the prosecution succeed in establishing guilt beyond all reasonable doubt then it becomes the sworn duty of the jurors in the case to convict. A reasonable doubt is a doubt which arises out of the evidence in the case. You are circumscribed by your oaths to the evidence in the case. You cannot go out side of the evidence to find ground upon which either to convict or acquit this woman.

This case is to be determined, as you swore you would determine it, upon the evidence and upon nothing else; therefore, the doubt to the benefit of which a person accused of the commission of a criminal offense is entitled must be a doubt which arises out of the evidence. It has been well said that a reasonable doubt, the doubt that the law recognizes, is such a doubt as an honest, painstaking, intelligent man may conscientiously entertain after a full, fair and impartial examination of the evidence in the case. That is a reasonable doubt and it is the only doubt which a person charged with the commission of a criminal offense is entitled to the benefit of. This woman is also entitled to the presumption of innocence, as it every person charged with the commission of a criminal offense until the contrary is established to the satisfaction of a jury. The law, in its humanity, requires that that presumption must be overcome by the prosecution before it ceases to exist. With all those safeguards, and there are many others, which the law throws around this woman for her protection, surely there ought to be no hesitation on the part of jurors in determining the question of guilt or innocence.

This defendant has had the benefit of presenting herself upon the witness stand. That opportunity is afforded her under the law of our State. Until within a comparatively recent period a person occupying the position of a defendant in

a criminal action would not be permitted to become a witness in his or her own behalf. That law, in my judgment, has been properly repealed, and under the statutes of our State a defendant can be a witness, if she or he chooses to voluntarily go upon the stand and give such testimony as they may see fit or as may be advisable for them to give. No person can be compelled to be a witness either for or against himself or herself. This defendant has had that benefit. She has come here upon this witness stand and told her story from the time she met this deceased person down to the time she deprived him of his life. Her testimony is to be taken, considered and weighed just as you would take, consider and weigh the testimony of any other witness not occupying the same position; but, in weighing and considering her testimony you should recollect that she is testifying to facts and circumstances which occurred upon the day of this homicide when the other party who was present has ceased to exist and when his lips are closed in death by the act of this defendant. You should also take into consideration the fact that she is the defendant in this case, and it will be for you to say whether for the purpose of relieving herself from the position which she at present occupies and the consequences which may result in the event of a conviction, whether that would not furnish her with a sufficient motive to come here and testify untruly in respect to

the matters out of which this prosecution has arisen.

There are many facts in this case admitted or proved beyond all question. it is conceded that this woman committed the crime of homicide with the weapon which has been produced here; that she inflicted upon the skull of her husband, on the 14th day of October, 1893, one or more mortal wounds from the effects of which he lingered until the 15th day of October, and on that day died in consequence of the wounds so inflicted by her upon him. You must recollect distinctly that it is not claimed in this case that this woman was insane at the time she committed this act. The only defense that has been interposed is that of justifiable homicide, that is, that the act she committed on that occasion was committed by her in what is commonly called lawful self defense. If I understood the counsel correctly it is not claimed in this case that this woman was laboring under the effects of intoxication to such an extent as to be wholly incapable of comprehending the nature and quality of the act that she did. It is claimed, however, that for some time prior to this occurrence, certainly for a period of three weeks, according to the woman's own testimony, that this defendant was indulging to extent in the use of intoxicating liquors of some sort. Nothing more is claimed.

I will now proceed, gentlemen, to call your attention

to the provisions of the Statute. I do this because the jurors, one or more of them, have made very intelligent suggestions and asked very intelligent questions bearing upon the responsibility or irresponsibility of this woman at the time she committed this homicide. The Statute provides that, ``An act done by a person who is an idiot, imbecile, lunatic or insane is not a crime. A person cannot be tried, sentenced to any punishment or punished when he is in a state of idiocy, imbecility, lunacy or insanity so as to be incapable of understanding the proceeding to making his defense. A person is not excused from criminal liability as an idiot, lunatic or insane person except upon proof that at the time of committing the alleged criminal act he was laboring under such a defect of reason as either, first, not to know the nature and quality of the act he was doing, or, second, not to know that the act was wrong".

You will observe from the plain language of this Statute that a person may be an idiot, may be an imbecile, may be a lunatic, may be an insane person and, yet, he is liable for his acts, unless he is laboring under such a defect of reason as not to know the nature and quality of the act he was doing or not to know that the act was wrong.

I also call your attention to the provision of the Statute in reference to intoxication. The Statute provides

that, ``No act committed by a person while in a state of voluntary intoxication shall be deemed less criminal by reason of his having been in such condition; but, whenever the actual existence of any particular purpose, motive or intent is a necessary element to constitute a particular species or degree of crime, the jury may take into consideration the fact that the accused was intoxicated at the time in determining the purpose, motive or intent with which he committed the act''.

You see by that provision of the statute that no person is relieved from the commission of a criminal act while in a state of voluntary intoxication, but, where it is necessary for the jury to determine, as it is in this case, the elements constituting the crime charged in this indictment, they may take into consideration any evidence bearing upon the question of whether this defendant was or was not intoxicated at the time she committed the act for the purpose of enabling the jury to determine her motive and intent in committing that act. It has been held over and over again, and no sensible man will question the propriety of it, that voluntary intoxication is no defense or excuse to the commission of a crime. If it were to be recognized as a defense all that a person intending to commit a crime would have to do would be to become voluntarily intoxicated, commit the crime, and then come into a court of justice and have a jury acquit him or her, as the

case may be. That is not the law, it never was the law, and I trust and believe it never will be the law of this or any other State.

I will now call your attention to the Status of homicide. I think you will agree with me, gentlemen, that the language of this statute is clear, concise, easily understood by men of the most ordinary intelligence, and easily applied to the facts of each particular case.

“Homicide” the statute says, “is the killing of a human being by the act, procurement or omission of another, and it is either, first, murder, second, manslaughter, third, excusable homicide, or fourth, justifiable homicide”.

It is not claimed in this case, nor could it be claimed upon the evidence, that the homicide was excusable, but it is claimed that the homicide was justifiable.

This defendant admits that she committed the crime of homicide, that she deprived her husband of his life. According to the provisions of this statute that homicide is either murder or manslaughter, unless it is justifiable homicide. If it is justifiable homicide then this woman has committed no crime for which she is responsible to the law of this State. If it is not justifiable homicide then, under the plain language of this statute and under all the decisions in this State bearing upon those questions she has committed either

murder or manslaughter, and it will be for you to say which.

I will define, in the first place, what constitutes justifiable homicide, because if you come to the conclusion that the homicide was justifiable that will end your connection with this case and you must render a general verdict of not guilty.

“Homicide is justifiable when committed in the lawful defense of the slayer, or of his or her husband, wife, parent, child, brother, sister, master or servant, or of any other person in his presence or company, when there is reasonable ground to apprehend a design on the part of the person slain to commit a felony or to do some great personal injury to the slayer or to any such person, and there is imminent danger of such design being accomplished”.

Unless the evidence in this case brings it within that statutory definition of justifiable homicide then this defense must necessarily fall to the ground.

The very best definition of justifiable homicide, one which I have had frequent occasion to use in cases of this character and which has been approved by the highest court of our State, I will now call your attention to:

“It is undoubtedly a fundamental rule of law that a homicide is justifiable when done necessarily in the defense of one's person for the preservation of his life or protection

from great bodily injury (not slight bodily injury). The foundation of the right to take life by way of self defense is necessity - necessity for resorting to any violence for self protection, and necessity for using the means that were used to secure the defense of the person. An accused is justified in using force to defend his person only when force is necessary to accomplish that end. If the apprehended injury can be otherwise avoided he is bound to avoid the danger without resorting to violence, and if the circumstances be such as to require the use of force to repel the assault he will be inexcusable if he carry his defense beyond the bounds of necessity. To justify the taking of life by way of self defense the danger must be immediate and must be actual, or else apprehended on reasonable grounds of which the jury is the judge. The accused cannot make his own judgment of the necessity of slaying the deceased in order to defend himself a justification of his acts. Whether the necessity for taking life existed must be determined from the situation of the accused at the time, but it is the province of the jury to decide whether the circumstances were such as to furnish reasonable grounds for apprehending a design on the part of the deceased to take the life of the accused or to do him some great bodily harm. It is not enough that the accused believes himself to be in danger unless the facts and circumstances were such that the

jury can say that he had reasonable grounds for his belief.

In determining whether the accused made all reasonable effort, to avoid the necessity of taking life you are to consider the situation at the time the fatal wound was given; in some cases as accused is bound to retreat, in others he is not. If he can retreat with safety and avoid the necessity of taking the life of his adversary he is bound to adopt that course, but where his situation is so perilous as not to allow retreat without manifest danger to life or grievous bodily harm he is under no obligation to fly, but may, if need be, kill his adversary. He is not bound to wait until his adversary has affected his destruction before he acts".

No language that I could give expression to would convey to you more clearly or distinctly the law of self defense than that extract which I have just read. You will observe by the language of that law that it is not sufficient for this woman to come here and state ``I believed that my life was in danger or that I was in danger of receiving some great bodily injury, and the danger was so imminent of it being accomplished that nothing was left for me to do but for me to arm myself with that hammer and inflict the mortal wounds which I did inflict upon the person of the deceased" and have a jury acquit her. That is not the law of this or of any other state. If that were so all a person would have to do would be to come

into court and testify within the language of that law and have a jury acquit them. As you have observed, the law requires that there must be a state of facts and circumstances existing at the very moment of striking the fatal blow which reasonably led the accused to a belief that her life was in danger or that she was in danger of receiving some great bodily injury, and that there was no means of avoiding it except by resorting to the use of a weapon and inflicting the injury which she did inflict. That will be for you to determine upon all the evidence in the case. It is for you to say whether at the time this woman deprived her husband of his life, in the way in which she did, there was such a state of facts and circumstances surrounding her which reasonably led her to believe that her life was in danger or that she was in danger of great bodily injury. You must also find, from the evidence, that the danger was so imminent that there was no means left open to this woman to avoid it in any way except by doing what she did. Upon that last question it will be for you to say whether this woman could have left those apartments, whether she could have retreated from this abusive husband of hers, whether she could have sought safety without imperiling her own safety, whether it was possible for her to avoid committing the act that she did commit. If she had an opportunity to leave those apartments in safety she was bound to retreat

before she attempted to take the life of her husband, even though he was endeavoring to make an assault upon her. This difficulty occurred in what I call a tenement house. There were people living on the various floors within a few feet of each other. The assault was committed and the deed was done within a very few feet of where other people lived. Under these circumstances it will be for you to say whether this woman was justified in doing what she did without attempting to get out or retreat from her husband whom she says was engaged in making an assault upon her. You must look at the medical evidence; that has some bearing upon the question of whether this act was justifiable or not. Was there any occasion to inflict the number of wounds which were inflicted upon the person of the deceased? The law says that a person has a right to use all the reasonable force which is actually necessary to repeal an assault, but no one has any right to resort to more force than is actually necessary. One of the physicians who was examined here states that the number of wounds inflicted upon the head of the deceased was somewhere in the neighborhood of ten or twelve. The other physician, without specifying the actual number of wounds, states that there were a number of wounds upon the head of the deceased and describes them. If that evidence is true then it is manifest

that this defendant used that hammer upon the skull of her husband more than once. One of those wounds was a compound fracture of the skull breaking the bone, and forcing the bone down upon the brain. The defendant says that her husband was standing up, that he had her pressed against the wall at a point indicated upon the diagram, that with one hand he grasped her by the throat, with the other hand he had hold of her arm, that he had slapped her face or had struck her, and that he had kicked her in the side. Is it possible that the deceased and this woman could have occupied the positions which she says they did on that occasion? It is claimed on the part of the defense that these are the positions that were occupied, while on the part of the prosecution it is claimed that these blows were inflicted upon the head of the deceased while he was in a prostrate condition upon the bed. It is very material whether her testimony as to the position which she and the deceased occupied is true, or whether the position claimed by the prosecution is true. It would make a vast difference whether this man was standing up, holding this woman by the throat with one hand and by the arm with the other when she struck the blow, or whether he was lying down upon the bed. It is claimed here that this defendant had no serious bodily injury of any kind upon her person, and it is claimed by the People that it would have been impossible for a man

of the weight and strength of the deceased to hold this woman, to strike her, to kick her in that part of the body where she says she was kicked under the circumstances which existed at that time without leaving any mark or contusion upon her. It is also claimed that there is evidence tending to establish the fact that when the defendant was asked what she did this for she stated that she did it because her husband had called her a vile name, and that he refused to take it back. All these are matters which must necessarily have a bearing upon the question of whether this woman's defense is sustained or not. It will be for you to say what bearing they have.

The Court of Appeals in laying down the rule governing self defense in another case uses this language:

``When a person takes human life upon which the law sets a high value it is not sufficient for him to raise a reasonable doubt whether he was justifiable or not, but he must go one step further and give satisfactory evidence that he was justified. But it is not necessary for him to establish his justification beyond a reasonable doubt. He must make his defense appear to the jury, availing himself of all the evidence in the case on either side. Nothing more and nothing less is required. To maintain this defense previous apprehensions to life or bodily injury do not afford any justification for taking life. It must be an apprehension existing at the time the

prisoner struck the fatal blow. To maintain such a claim it is essential that the evidence should satisfy the jury, first, that the defendant was acting in no wise against the law in the encounter which resulted in the homicide. Second, that at the time of giving the fatal blow she had reasonable ground to apprehend a design to do her some great personal injury, and, third, that she had reasonable ground to believe that there was imminent danger of such design being accomplished".

The evidence is reference to this defendant's condition so far as intoxication is concerned is to be considered by you. As I have already told you voluntary intoxication is no excuse for crime. Was she intoxicated? Merely indulging in liquor, merely drinking liquor or being under the influence of liquor is not sufficient either as a defense or in mitigation of crime. Assuming that this woman was under the influence of liquor, was she in such condition as not to be thoroughly able to comprehend and know everything she did. She herself tells you everything that occurred down to a certain point and then claims that her memory fails. She tells you at what time her husband came in, what occurred between her and her husband, the words he said to her, what she was engaged in immediately prior to this assault which resulted in the death of her husband. She tells you that she was about to take up the carpet, that she went to a tool chest, that she

get a hammer without a claw, found that would not suit her purpose, then got the hammer which has been produced here which had a claw on it. She also tells you that she was engaged in taking up the carpet and had succeeded in loosening a portion of it in the neighborhood of this mantel piece. She tells you that she went to the kitchen and called for assistance. That she wanted to get the assistance of a doctor for this wounded man. She tells you that she had prepared food for her children earlier in the day. The officers told you what she said to them when they entered the room, and what she said to the ambulance surgeon. There is evidence of what she said in the hospital and what she did. She herself recollect sitting down on a chair, she recollects being told to place herself upon a table, and she recollects that there was an examination made of her person at that time. She was taken to the station house and arraigned before the sergeant. She gave her name, her age, her birth place and the other information which has been testified to. Upon all that evidence it is for you to determine whether she was so much under the influence of liquor as to be wholly incapable of knowing what she was about at the time she inflicted this wound. There is other evidence having on this question which you will doubtless recollect.

If you come to the conclusion that the defense of justifiable homicide has not been established it will then be

your duty to determine whether the homicide was murder in either of its degrees or manslaughter.

The definition of murder in the first degree is this:

``The killing of a human being, unless it is excusable or justifiable is murder in the first degree when committed from a deliberate and premeditated design to effect the death of the person killed or of another."

There must not only be a design to effect the death of the person killed, but that design must proceed from deliberation and premeditation. Some jurors think that it requires a considerable length of time to deliberate and premeditate upon the act of killing to constitute murder in the first degree. In some cases it does, in other cases it does not. A great deal depends upon the facts and circumstances surrounding the case and the character of the person charged with the commission of the crime. The terms ``deliberation and premeditation" have received a construction in the Court of Appeals of this State in very many cases. I will only trouble you with one because it covers this case, so far as that question is involved.

Judge Danforth, then of the Court of Appeals, in delivering an opinion, which was quoted in the case of Conroy, says:

``If the killing is not the instant effect of impulse,

if there is a doubt to overcome, a choice made as the result of thought, however short the struggle between the intention and the act, it is sufficient to characterize the crime as deliberate and premeditated murder."

In the People against Majone, 91st New York, Judge Earl, another judge of the Court of Appeals, uses this language:

``Under the statute there must not only be an intention to kill, but there must also be a deliberate and premeditated design to kill. Such design must precede the killing by some appreciable space of time, but the time need not be long. It must be sufficient for some reflection or consideration upon the matter for choice to kill or not to kill, and for the formation of a definite purpose to kill. The human mind acts with a celerity which it is sometimes impossible to measure, and whether a deliberate and premeditated design to kill was formed must be determined from all the circumstances of the case. If a person is undisturbed by sudden and uncontrollable emotions, exciting by an unexpected and observable cause, and is in the possession of his usual faculties, it will be presumed that his actions are prompted by reason and are the result of the causes operating upon his mind and deemed sufficient by him to inspire his actions. A sane person meeting a stranger upon the street, and in the absence of any

Sudden impulse produced by an observable cause, without words of explanation or warning immediately drawing a deadly weapon and therewith causing death, unquestionably brings himself within the penalties prescribed for the punishment of the crime of murder in the first degree. The shortness of time elapsing between the conception of the intention and its execution form no legal defense to the crime".

Evidence as to the number of blows which were inflicted, the part of the body upon which these blows were inflicted, the weapon that was used and the result achieved by the use of that weapon are all matters bearing upon the question of premeditation, deliberation and intent to kill.

In the absence of any satisfactory explanation the law presumes that a person charged with the commission of a crime was sane and intended the ordinary and natural consequences of the act committed. That is a fair and reasonable presumption. If a person takes a weapon, such as the one used in this case, and aims a blow at the skull, which is a vital part of the body, and produces an injury, the law presumes that the person doing so intended the ordinary and natural consequences of just such an act. If a person draws a leaded revolver, presents it against the body of another, discharges its contents into the body of that other and death ensues, in the absence of any satisfactory explanation, the law presumes

that he intended the natural and ordinary consequences of that act. There is other evidence in this case bearing upon the question of deliberation and premeditation and intent to kill. It is for you to determine what that evidence is and whether it is reliable or not. It is my duty merely to call your attention to the fact that there is evidence bearing upon those questions. You have a right to take into consideration the life led by these people. And it is your duty also to consider the evidence indicating that this woman made threats of what she would do. You have a right to take into consideration the scene which of the witnesses said she witnessed from the floor of her apartments between this defendant and the deceased, and the declaration that were made by her in connection with that transaction.

If you come to the conclusion, gentlemen, that the evidence would not justify you in holding that this woman premeditated and deliberated upon effecting the death of this man, but that she did intend to kill him, and there was an absence of premeditation and deliberation upon her part, then it will be your duty to look into it for the purpose of determining whether it was murder in the second degree. The statutory definition of that degree of crime is this:

``Such killing of a human being is murder in the second degree when committed with a design to effect the death of the person killed, but without premeditation and deliberation." To constitute murder in the first degree there must not only be a well formed design to effect the death of the person killed, but that design must be preceded by both deliberation and premeditation, while in murder in the second degree it is killing from a design to kill but without deliberation and premeditation. That is the simple distinction between the two grades of murder. If you come to the conclusion that this woman designed to effect the death of her husband but without any deliberation or premeditation on her part to effect that purpose, if she suddenly struck the blow which inflicted the injury resulting in his death, it would be murder in the second degree. The same rules to which I have called your attention, and which I have read from the decisions of the Court of Appeals, apply to murder in the second degree with the exception of such as refer to deliberation and premeditation.

In a case that was tried in this city and which is referred to in this very case of *The People against Conroy*, the crime of murder in the second degree was illustrated. A sailor, I think, under the influence of liquor, was noisy in one of the public streets of this city. He was approached by a sergeant of police who told him he had better go home. The

Sailor took a rung from a cart or wagon that was standing in the street and suddenly struck the blow which deprived the police sergeant of his life. In those days that was murder in the first degree, because the Judge charged the jury that if at the very moment of striking the blow the defendant intended to kill, it was murder in the first degree. A killing perpetrated under such circumstances as those to which I have so briefly alluded would be murder in the second degree because there would be an absence of premeditation and deliberation.

If you come to the conclusion, gentlemen, that the evidence would not justify you in convicting this woman of murder in either the first or second degree you will look at the evidence to see if she is guilty of manslaughter in the first degree or manslaughter in the second degree. The general distinction between murder and manslaughter is simply this: Murder is an intentional killing of one human being by the act or procurement of another, while manslaughter is an unlawful killing which does not proceed from a design or intention of kill. If there is a design or intent to kill it cannot be manslaughter.

``Such homicide is manslaughter in the first degree when committed without a design to effect death in the heat of passion, but in a cruel or unusual manner, or by means of a

dangerous weapon." The claim here upon the part of the People would be that if it is not murder it is manslaughter in the first degree, having been a killing without a design to effect the death of the person killed in the heat of passion, and by means of a dangerous weapon. That this woman killed her husband there is no doubt, and that she killed him with the hammer which has been produced there is no doubt. That is conceded. Was that a dangerous weapon within the meaning of the term as used in this statute? It is not necessarily a dangerous weapon like a pistol or a sword or an ax would be, but it may be a dangerous weapon in the estimation of the jury according to the manner in which it was used and the effect produced by its use. For instance, a scissors would not be a dangerous weapon necessarily, and yet if a person made an assault upon another and plunged a scissors into a vital part of the body and it effected death a jury would probably regard it as a dangerous weapon. It is the question of fact for you to determine whether a hammer of this size and weight used in the manner in which it is claimed it was used, and producing the effect which it did produce, was a dangerous weapon within the meaning of the provisions of this statute. An instrument may be, of itself, a very innocent and harmless thing, but according to the use that is made of it and the manner in which it is used, it may become a deadly and dangerous instrument or

weapon. You will use your own good common sense and judgment in determining that question. If you come to the conclusion that this killing was done without a design to effect the death of the deceased, in the heat of passion, there being a quarrel either at the time or proceeding it, according to some of the evidence, and by means of a dangerous weapon, then this woman would be guilty of manslaughter in the first degree.

I have been asked to charge manslaughter in the second degree, and as you have the right to determine the grade of homicide which has been committed I will do so. You will consider the case and see if it comes within the definition of manslaughter in the second degree.

A Juror: Can we take into consideration the fact of the defendant being enceinte at the time of the commission of that act, and would that operate in her favor?

The Court: You may take that into consideration if there is any evidence of that fact, upon the question of her ability to form that intent which the law requires, and upon the question of her being able to deliberate and premeditate.

``Such homicide is manslaughter in the second degree when committed without a design to effect death in the heat of passion, but not by a dangerous weapon or by the use of means either cruel or unusual".

Whether this hammer is or is not a dangerous weapon is a matter for you to determine. I have endeavored to lay down as briefly and as clearly as I could the rules applicable to that question. If you determine that that is not a dangerous weapon within the meaning of this statute, and that this defendant killed the deceased without intending to kill why it would be manslaughter in the second degree.

If, however, you determine that that is a dangerous weapon under the language of this statute it cannot be manslaughter in the second degree.

I have endeavored, gentlemen, as briefly as I could, and more briefly than I intended to do at first, to call your attention to the provisions of law by which you are to be governed in determining the question of the guilt or innocence of this woman. There are other matters which I do not deem it necessary to call your attention to at any greater length than I have already have. If you have a reasonable doubt, on the whole case, of this woman's guilt, she is entitled to the benefit of that doubt and must be acquitted. If you entertain a reasonable doubt that she committed the crime of murder in the first degree, as I have defined it, and no reasonable doubt that she committed the crime of murder in the second degree, the law says you must extend to her the benefit of that doubt and convict her of the minor degree of murder. If you entertain

a reasonable doubt of her guilt of murder in either of its degrees and no reasonable doubt that she committed the crime of manslaughter in the first degree, the law again says that you must extend to her the benefit of the reasonable doubt and convict her of manslaughter instead of murder. If you entertain a reasonable doubt as to her guilt of manslaughter in the first degree, and no reasonable doubt of her guilt of manslaughter in the second degree, as I have defined it, then you must again extend to her the benefit of that doubt and convict her of the lesser degree of manslaughter. Of course, gentlemen, you recollect, as I have already told you, that if you believe the homicide was justifiable under the decision and under the statutes of this State, you will render a general verdict of not guilty.

I now submit this case to you. I have endeavored to perform my duty as I understand it without attempting in any way to impress upon your minds any opinion or belief that I may entertain upon the question of this woman's guilt or innocence. You are to determine all questions of fact without being influenced by any opinion which I may possibly have intimated. I have been careful to avoid intimating any opinion. The law I have laid down for your guidance is the law by which you are to be governed. You are to apply the rules of law to the evidence in the case without attempting to question

their correctness. This is a case of vast importance. It is important to the people of this State, and to every law-abiding citizen of this State that the laws of the State should be upheld and fearlessly administered. It is equally important to this woman, because either her life or her liberty may be at stake. I merely mention these matters to impress upon your mind the gravity and importance of this case. you are required by the law, as I am, to do your duty without fear or favor, to decide the questions presented upon the facts in accordance with your best judgment and to come to a conscientious and an honest conclusion. I believe you will do that in this case, and I believe that the interests of justice will be subserved by whatever verdict you believe the facts and the law require you to render.

You may render any one of the following verdicts: Quality of murder in the first degree, guilty of murder in the second degree, guilty of manslaughter in the first degree, guilty of manslaughter in the second degree, or not guilty.

Mr. Chanler: I have two requests that I would like to ask your Honor to charge.

The Court: If any of the requests which you handed up to me are not covered by my charge you can have the benefit of an exception.

Mr. Chanler: I have two additional requests. One

is, that it is the uncontradicted evidence in this case that the defendant was pregnant at the time of the assault.

The Court: I will leave that to the jury to determine.

Mr. Chanler: I ask your Honor to charge the jury that if they believe, from the evidence, that the defendant was pregnant at the time the assault was committed they should take that into consideration in determining whether she was justified in fearing great bodily harm at the hands of the deceased.

The Court: The jury may take that into consideration on that question also.

The jury retired.

Counsel for the defendant desires the following exceptions noted to the Court's charge to the jury:

The defendant excepts to that portion of the charge where the Court says in substance that the testimony of every witness the defendant could have called has been produced and their evidence given.

The defendant excepts to that portion of the Court's charge where the Court says, ``That is the doubt and the only doubt to which a person charged with crime is entitled".

The defendant excepts to that portion of the charge where the Court says in substance, ``until within a comparatively recent period the woman occupying the position of this defendant would not be allowed to testify in her own behalf, yet she now has the benefit of going upon the stand and saying what she sees fit or what is best for her to say."

The defendant excepts to that portion of the charge where the Court says, ``It is not enough for the defendant to say there was nothing left for her to do but to arm herself with a hammer."

The defendant excepts to that portion of the charge where the Court says in substance, ``Whether she was justified in doing what she did without attempting to cry out for help or escape it is for you to say."

The defendant excepts to that portion of the charge where the Court says, ``If you come to the conclusion that the defense of justifiable homicide has not been established it will be for you to determine what degree of homicide the defendant is guilty of."

The defendant excepts to that portion of the charge where the Court says, ``The law presumes that the defendant intended the consequences of her own act, and unless she gives a satisfactory explanation she is guilty of murder

or manslaughter."

The defendant excepts to that portion of the charge where the Court referred to the killing of a police officer by a sailor with a club.

The defendant excepts to that portion of the charge where the Court says, "Murder is an intentional killing, manslaughter is an unintentional killing."

The defendant excepts to that portion of the charge where his Honor says, "It may be a dangerous weapon according to the manner in which it is used."

The defendant also excepts to the Court saying that a pair of scissors would probably be regarded as a dangerous weapon by a jury if plunged into a vital part of a body. Also "A weapon may be a very harmless and innocent thing in itself, but might be so used as to become a dangerous weapon."

The defendant excepts to that portion of the charge where the Court says, "I have been asked to charge manslaughter in the second degree."

The jury returned to court and rendered a verdict convicting the defendant of manslaughter in the second degree.

People against Mary Dunne.

Defendant's Requests to Charge.

1. If the jury should find that the defendant was in no danger of great bodily harm from the deceased, but defendant honestly believed herself to be in such danger, even although no danger existed, the defendant was justified in defending herself, and is not responsible criminally for the result of the blow that she inflicted if the jury believe that the defendant's mistake was due to fear, alarm or cowardice:

2. The danger need not be real in order to justify the taking of human life, but the apparent danger must be such as to create in the mind of a reasonable man a just apprehension of imminent danger to life and limb.

Keith vs. State, 11 So. 914. Als/

3. When one who is without fault himself is attacked by another in such a manner, or under such circumstances as to furnish a reasonable ground for apprehending a design of taking away his life, or to do him some great bodily

harm, and there is reasonable ground for believing the danger imminent that said design will be accomplished, he may safely act upon appearances, and kill the assailant if that be necessary to avoid the apprehended danger, and the killing will be justified although it may afterwards turn out that the appearances were false, and there was in fact no design to do him serious injury, nor danger that it would be done.

People vs. Shorter.

4. That when the prosecution has made out a prima facie case the burden of proof is not on the defense to satisfy the jury of his innocence - the burden of proof is always on the side of the prosecution. The burden of proof rests on the prosecution, and if upon the whole evidence, including that of the defense as well as that of the prosecution, the jury entertain a reasonable doubt of the guilt of the accused, he is entitled to the benefit of that doubt and must be acquitted.

5. If the jury entertain a reasonable doubt from all the evidence, as to whether the defendant at the time he killed the deceased believed himself to be in imminent danger of some great bodily harm at the hands of the deceased, and that such appeared to him to be imminent, they must give the

defendant the benefit of the doubt and acquit.

6. If the jury believe that the defendant, in no great danger of serious bodily harm, through fear, alarm or cowardice killed the deceased under the impression that great bodily harm was about to be inflicted upon him, he is not guilty of either manslaughter or murder, but must be acquitted on the grounds of justifiable homicide.

7. The jury should take into consideration the condition in which the defendant was at the time of the assault, in determining whether or not she was justified in fearing great bodily harm at the hands of the deceased.

8. It is necessary for the jury to find that the weapon used was of itself a weapon likely to produce death, before they can convict the defendant of manslaughter in the first degree.

9. If the jury entertain a reasonable doubt as to whether the weapon used by the defendant was a dangerous weapon or not, they must give the defendant the benefit of that doubt, and find the defendant guilty of a lower degree of homicide if the evidence warrants such a verdict.

Defendant's Additional Requests to Charge.

1. Drunkenness is no excuse for crime, but in considering whether the defendant apprehended an assault on herself the jury may take into consideration the state in which she was.

Reg. vs. Samlen, 1 F & F, 90.

2. The surrounding circumstances as well as the degree of force used in an assault, is the test of the right of self defense.

Williams vs. People, 80 Ky. 313.

3. That there is evidence showing that a larger hammer than the one used by the defendant. That the jury may take that fact into consideration in determining why the defendant had the hammer that she did have.

4. There is no direct evidence as to the number of blows, but only as to the number of wounds.

5. The jury may find that one blow caused more than one wound.



COURT OF GENERAL SESSIONS OF THE PEACE  
CASES 37 TO 44

End  
END ROLL # 10  
PLEASE REWIND

TRIAL TRANSCRIPTS  
1883 - 1927  
JOHN JAY COLLEGE  
NEW YORK, NY