

A. I noticed that he was walking as fast as he could walk.

Q. You did not notice anything extraordinary about his gait at that time, did you?

A. I see that he was walking very fast

Q. You did not hardly believe that story when you heard it, did you?

Object to the question

A. I could not say

Q. As a matter of fact when you saw when you said to him that was a serious crime, didn't you have in your mind then that it was not true?

A. No, I could not say about that.

Q. Isn't it a fact that when you——when he said that to you and you said what you did to him, was because you doubted it yourself, the way Lovell told it?

A. No, sir, I did not doubt Lovell's story——no reason to

Q. Why did you say to him that it was doubtful thing?

A. I didn't. I said it was a hard story to tell about a man—that is what I said to him about it—he ought to be arrested.

Q. Did you know then that he would have him arrested?

A. He did not say he would.

Q. But he said he would shoot him, didn't he?

A. He said he had a good notion to shoot him when he saw him at the mare there. He said he cocked both barrels of his gun

Q. He did?

A. Yes, sir.

Q. Did you hear his testimony here?

A. I think I did; yes sir.

Q. Did you hear him say that he did not cock both barrels of his gun?

Objected to

COURT:—Let him say whether he heard him say it or not.

A. I did not pay any attention to Lovell's testimony.

Q. You went down with Lovell and measured the same board, did you not?

A. No, sir, I did not

Q. You didn't? Didn't you go down with anyone?

A. I went down with Lovell, but I measured no board

Q. You didn't?

A. No, sir.

Q. Did you go down with Hodgskins?

A. Yes, sir.

Q. When?

A. About two weeks afterwards.

Q. You saw the horse tracks, did you?

A. No sir, I didn't. When Hodgskins and I was there I didn't notice any at all.

Q. Did you ever go down before?

A. Went down with Lovell the Sunday before; the Sunday following, I mean?

Q. About how many days would that be; Sunday before, Sunday following?

A. About two days afterwards.

Q. What did you do, then?

A. The board was lying there just as Lovell said it was; he told me how the board lay on the fence there.

Q. Lovell saw the board laying; what did he mean, laying?

A. One end on the fence and the other on the ground.

Q. Did Lovell tell you that was the way it was?

A. Yes, before we went down there he told me that.

Q. One end on the fence, the other on the ground?

A. Yes, sir.

Q. And that was the way you found it?

A. Yes, sir.

Q. How long was the board?

A. 12 or 14 feet long; between 12 and 14 feet long, I would not say sure; I don't remember which.

Q. Didn't Hodgskins measure the board?

A. What?

Q. Repeated.

A. Yes.

Q. What did he say about it?

A. He told me it was eleven feet, 10 feet one-half long.

Q. Had you any reason to doubt it was any longer?

A. No, I didn't measure it.

Q. Did you gauge the board with your eye, mind?

A. I told you between 12 and 14 feet.

Q. You are a mechanic, blacksmith?

A. Yes, sir.

Q. Use to measuring by guaging with the eye, are you not?

A. Some, yes.

Q. You can tell pretty nearly how long a foot would be, can't you?

A. Well, pretty close, yes.

Q. You could measure the board pretty nearly, then?

A. I don't know as I could, not giving it any more attention than I did that.

Q. Will you state to the jury,—you say one end was on the fence and one end off from the fence; which side of the fence was the end that was on the fence on?

A. On the north side, running towards the board; on the east side of the fence running north and south.

Q. Was it a full board?

A. About six inches wide I should think; fence board.

Q. It was an old board, was it not?

A. Yes; looked as though it had been on the fence some time.

Q. Pretty rotten was it not?

A. No, sir, is was not.

Q. A man's heft in the middle of that board would make it go down quite a good deal, would it not?

A. I did not see a man stand in the center of the board.

Q. I did not ask you where he stood, I only

asked you the condition of the board from what you saw of it. I asked you if a man stood in the middle of it if it would hold him up?

A. It might not hold a man up in the middle.

Q. Now you said you saw the board measured, now did you notice the peculiar condition of the fence there in that corner?

A. I don't know as I did particularly.

Q. What?

A. Mr. Lovell showed me where it was; I went down there and the board was laying right across the fence that runs from the river to the fence that runs north and south; laid right on top of the fence.

Q. Was that the place where Lovell claimed the act was done?

A. That was the place; yes, sir

Q. And this here was composed of poles?

A. Pole was fastened to the fence.

Q. What?

A. Same answer.

Q. Now then, that pole all decayed off a portion of it.

A. No, sir.

Q. What was the object of having it there?

A. Mr Mills had it there; cattle would come down and go into the river to drink.

Q. Wasn't it put there for the purpose of keeping the horses from coming up into the corner?

A. It might have been there for that.

Q. Didn't it reach over on the other board; that is, to the angle that came across there?

A. No, sir; it did not.

Q. What?

A. No, sir.

Q. You swear positive?

A. Yes, I will.

Q. Why?

A. At the time Hodgskins and me went down there the pole had been removed and I went to lay the pole back on the fence as I see it, and Mr Hodgskins says, "no, leave the pole lay where it is; we have no right to move it; leave it."

Q. Did you try to shove it back?

A. I went to shove it back.

Q. That was the first time you went there?

A. No, sir, the last time.

Q. Was the rails fastened on that?

A. No, sir, don't think they was.

Q. Don't think they were?

A. No; I could not say how it was fastened, for I didn't notice that.

Q. You say that it did not run back across the corner and reach on the other side, to keep cattle away, shoving in there, do you?

A. It didn't in the first place; it was laid square on top.

Q. The second time you were there what condition was it in?

A. It had been moved; the second time I went down with Hodgskins the pole had been shoved up on the fence.

Q. Laid right on top of the fence, one end of it?

A. The second time I was there it had been moved around.

Q. Did you ever see this mare that they have been talking about?

A. Not that I know of.

Q. Don't know anything about that do you?

A. No, sir.

Q. So that if the horse stood here we will say, (pointing to witness,) then the man would necessarily have to be out here wouldn't he, on the board, if the horse was there?

A. He would have to be up; the fence run towards the river, north and south, this board lay on the top; he would be with one foot on there and the other on the board fence.

Q. The other on the board fence?

A. Yes, sir.

Q. And the horse in between here?

A. Yes, sir.

Q. And if the board was 12 feet long it would reach there?

A. Between 12 and 14 feet I said, as near as I can say.

Q. How long is an ordinary horse?

A. I never measured the length of a horse.

Q. From the nose to the back end, do you know?

A. No, sir, I don't.

Q. Do you know anything about the nature of horses?

A. Some; yes.

Q. Now isn't it a fact—Do you know whether this mare had a colt or not?

A. I could not say; I don't know whether she did or not.

Q. If a horse was not tied up at all, and a person bothering around them, doing some unnatural thing with them, would it not be the nature of a

horse to move around?

A. Well, I could not say; but shut right up in the corner the way that one was, I think she would stand.

Q. The horse would have some room to move, wouldn't she?

A. She would not have much room.

Q. How far would the board have to reach?

A. Probably 4 or 5 feet.

Q. You say that he told you that one end of the board was on the ground?

A. Yes.

Q. You don't know that this man ever had any intercourse with this horse do you?

A. I don't know anything only what was told me about it. I didn't see him do it.

Q. You don't know anything about it only what was told you about it?

A. That is all.

Q. About how high was the horse?

A. About 12 hands, and some horses 14 to 18.

Q. What is a hand?

A. 4 inches.

Q. What kind of a fence was this?

A. Part board and part poles.

Q. Were they 18 inch boards?

A. Yes, sir.

Q. How far apart?

A. I don't think over four inches.

Q. You don't know whether the man done it or not?

A. I know it.

Q. You only know what was told you?

A I know it.

Q Why do you make such assertions here?

Objected to.

Q Why do you say these things occurred?

A. Mr. Lovell was the man that said he seen the boy, I did not see him do it.

Q. You don't like the boy very well do you?

A. I have nothing against the boy.

Q Pretty good boy?

A. I never had any trouble with him at all.

Q. What kind of a man is this Lovell.

A. I don't know anything much about him

Q. Isn't he generally interfering with other people's business?

A. I never knowed him to.

Q. He made this complaint because you said you would have him arrested?

A. I don't think he did.

Q. Have you ever had any trouble with Hodgskins or his people at all?

A No.

Q What was your interest in the potatoes?

A. Just speaking to the fellow.

Q. You stopped the fellow?

A. No, he traveled on along.

Q. Just ordinary gait?

A. Yes.

Q. Did he speak back at all?

A. No.

Q. Never said a word?

A. No, sir.

RE-DIRECT-EXAMINATION.

Q. Did you ever see him before making such time as he was making that day?

A. I never saw him doing it before.

And upon the trial of said issue the counsel for the said people in further maintainance of his said issue, offered in evidence for the people aforesaid, one John Flannery, who was then and there sworn, and who, on his direct, cross and re-direct examination testified as follows, to-wit:

*John Flannery sworn:*

Q. Where do you live?

A. Croswell.

Q. Do you know William Hodgskins?

A. I am acquainted with him.

Q. Do you remember following him with Lovell last summer?

A. Yes.

Q. What month was it?

A. In June.

Q. Will you tell us how you came to follow this man, with Lovell?

A. I was going over the river and Mr. Lovell was telling me about it.

Q. He was telling you about it?

A. Yes, sir.

Q. Did he ask you to follow along with him, to catch him?

A. Yes, sir.

Q. Where did you follow him?

A. To the grist mill.

Q. Whose mill was that?

A. Thompson and Stewart's.

Q. The grist mill is in what place?

A. Crosswell.

Q. How did he get over there across the river?

A. He walked over there.

Q. Now, when you saw him going along and Lovell stopped you, what sort of a gait was he going at that time?

A. Walking very fast.

Q. And did he run at all?

A. He started to run when he was going on the bridge.

Q. Did you go into the engine room where he was when Lovell first went in?

A. No, sir.

Q. Lovell went in there did he?

A. Yes, sir.

Q. Did you hear what was said in there?

A. No, sir; I could not say.

Q. Lovell had told you what he had been doing?

A. Yes, sir.

Q. Can you tell what time in June it was?

A. I could not.

Q. What time of day was it?

A. I think it was between three and four o'clock.

Q. Afternoon?

A. Yes, sir.

CROSS-EXAMINATION.

Q. Where did you first see this defendant?

A. That day.

Q. Yes.

A. I see him after he went up by my place.

Q. Where?

A. Same answer.

Q. Did you not see him until after he got by your place?

A. No, sir.

Q. How far was he by your place when you first saw him?

A. About 20 rods.

Q. You say he walked over to the mill?

A. Yes.

Q. Are you acquainted with him?

A. Yes, sir.

Q. What kind of a boy is he?

A. I guess he is quite a nice boy as far as I know.

Q. He is what?

A. Same answer.

Q. As far as you know anything about him he has always borne a good reputation, hasn't he?

A. How is that?

MR. BURGESS—He wants to know if you have heard anything bad about him.

Q. As far as I know up to the time that he was arrested he had always borne a good reputation had he not?

A. I could not say.

Q. Well, as far as you know?

A. As far as I know.

Q. How long have you known him?

A. About 4 years.

Q. Where did you go when you crossed the bridge?

A. To the grist mill.

Q. You say you did not go down into the engine room?

A. No, sir.

RE-DIRECT-EXAMINATION.

Q. I understand you went to the door of the engine room where this fellow was?

A. I went to the door, yes, sir.

Q. Did you see this man in there yourself; this Hodgkins?

A. No, sir, I did not see him in there.

Q. Who did you see in there?

A. Mr. Wheeler, standing inside of the door.

Q. Did you know that Lovell went in there ahead of you?

A. Yes, sir; I saw him go in.

Q. How did you know this Hodgskins went in there?

A. I saw him go in.

Q. Did he go in ahead or behind Lovell?

A. He went in ahead of him.

Q. Did you see this fellow after he came out of the engine room?

A. Yes, sir; I seen him go out behind the mill.

Q. Which way did he go?

A. Went up back way.

Q. Was there a door leading out the back way?

A. Yes, sir.

And upon the trial of said cause the counsel for the said people in further maintainance of his said issue, offered in evidence for the people aforesaid and

did produce and have sworn in said cause one Adam Sherman, who, on his direct, cross and re-direct examination testified as follows, to-wit:

*Adam Sherman sworn:*

Q. Where do you live?

A. I live in Falcon; I did at that time.

Q. Do you know the defendant here; Hodgskins?

A. Yes, sir.

Q. Now do you remember meeting this boy one time last summer?

A. Yes, sir.

Q. Can you tell what month it was?

A. Well, no, not just exactly.

Q. Where did you meet him?

A. Met him right on the river bridge.

Q. Which bridge do you refer to?

A. The bridge there, Miller's

Q. Near the church?

A. Yes.

MR. MCGINLEY:—I submit that unless they propose to connect it with this defendant, that it is immaterial.

COURT:—Yes, it will have to be connected in some way.

Q. Did you, after meeting him or at the same time that you met him there, did you see Flannery and Lovell? You know those two men do you not?

A. Yes, sir.

Q. Did you see them follow him?

A. I seen them coming across next.

Q. When you met this fellow did you speak to him?

A. Who?

Q. Hdgskins.

A. Yes; I says "Hello, Billy."

Q. What did he reply?

A. Nothing.

Q. What was his action at that time?

A. Oh, he was going pretty good rate

Q. How was he carrying his head, &c?

A. Oh, down.

Q. Hanging down?

A. Yes.

Q. What kind of speed were the fellows making in crossing next?

A. Oh, they were walking pretty good rate

Q. Were you acquainted with Hodgkins before?

A. Yes, but not very much; I knowed him when I seen him.

Q. Well enough acquainted with him to call him Billy?

A. Yes, sir.

Q. You say he made no reply?

A. No.

Q. Is that a habit of his, not answering when you speak to him?

Objected to as incompetent by defendant's counsel.

A. No, I guess not.

Q. What?

A. No.

Exception for defendant to the ruling of said Court was then and there, by his counsel, C. H. McGinley, duly taken.

Q. Did he appear to be excited when he was passing by?

A. No, he did not seem to be.

Q. Whether or not he was making such haste then as you naturally use to see him going, when he was walking from the river?

A. He was walking faster than I ever had seen him before.

Q. You never saw him move that sort of speed before?

A. Never like that before.

Q. What time in the day was it that you met him on the bridge?

A. It was between 3 and 4 o'clock; it must have been that.

Q. Afternoon?

A. Yes, sir.

#### CROSS-EXAMINATION.

Q. How long have you known this young man here?

A. About a year I guess, pretty nearly.

Q. You live at Croswell, do you?

A. Yes, sir; I did live there; I live in Fremont now; two miles northwest of Croswell and a mile south.

Q. You can not say what time it was you saw this young man going by that day?

A. No, I could not exactly.



Q. What way have you of identifying the time?

A. Well, I was drawing brick over to the school house.

Q. From where?

A. From the station; that was my second trip, load in the afternoon.

Q. You was riding along and saw him?

A. I was going east when he was going west; or he was going east as I was going west.

Q. Was he going slow or fast?

A. Going pretty good rate.

Q. He was not hustling along so that it alarmed you at the time, was he?

A. Oh, no.

Q. Your mind at that time you hadn't connected with any crime?

A. No, sir.

Q. Did not have any idea about his having committed any crime?

A. No, sir, I didn't.

Q. From his actions you could not discover anything that indicated that he had?

A. I could not tell anything about it then

Q. What was the first talk that you had with anybody about this?

A. Well I heard about it in the evening

Q. Who told you about it?

A. Mr. Mudge was the first.

Q. Where did you see him?

A. He lives right in sight of me.

Q. What did he tell you about it?

A. About this crime?

Q. What did he say, just as near as you can tell:

A. He was telling me that he was riding a mare.

Q. Is that what he said?

A. Yes, sir.

Q. Said this fellow was riding a mare?

A. Yes, sir.

Q. Told you that it was a sure thing, did he?

A. I don't know whether he said it was sure or not.

Q. What did he say about it?

A. Well, that is all he said

Q. Where did this conversation occur?

A. Over in his shop

Q. You stepped over in there, did you?

A. Yes.

Q. Who was there?

A. I don't know whether there was anybody else or not there.

Q. See Lovell there?

A. No, sir.

Q. Lloyd Lovell?

A. No, sir, I did not.

Q. How long after this conversation occurred with Mudge was it, before you saw this fellow going over the lots with these two fellows after him there?

A. How long after?

Q. Yes.

A. Oh, this was before, sir.

Q. How long before?

A. I could not tell you.

Q. Well, about what time was it when you went into the shop?

A. After supper, in the evening.

Q. Well, about what time in the day?

- A. I could not tell you that.
- Q. How many loads of brick did you draw after you passed this young man?
- A. Two loads.
- Q. What?
- A. Two loads, sir.
- Q. How long did it take for you to draw a load?
- A. About an hour.
- Q. You had had your supper at this time, had you, and put out your team?
- A. What, after I crossed the bridge?
- Q. What?
- A. You mean after he crossed the bridge?
- Q. No, after the time you saw this young man cross the bridge?
- A. No, I didn't have any supper then.
- Q. Where did you board?
- A. At home.
- Q. How far were you away from home?
- A. Half a mile.
- Q. How did you come to stop there in the blacksmith shop?
- A. I just happened to stop there, that is all.
- Q. And then he started this conversation about this boy, did he?
- A. Yes.
- Q. He asked you if you had seen him, did he?
- A. No.
- Q. Did you tell him you had seen him?
- A. No,—yes, sir.
- Q. You seen him with these two fellows after him?
- A. Yes, sir.

- Q. Did Lloyd Lovell have his gun?
- A. Not when I seen him.
- Q. You did not see him have his gun then, at all?
- A. No, sir.
- Q. Was it before Lovell had been to his home?
- A. This must have been after, I guess.
- Q. After he had been to his house?
- A. Yes, sir.
- Q. How near are you to the village post office?
- A. No, he was going to Croswell when I seen him.
- Q. The boy crossed this bridge and came over and went up towards Croswell?
- A. Yes, sir.
- Q. What time did I understand you to say it was?
- A. When they were over there?
- Q. Yes.
- A. I didn't tell you no time at all.
- Q. What?
- A. I didn't tell you no time at all.
- Q. You knew what time it was?
- A. I don't know anything about it.
- Q. Have you any means of knowing whether it was 5 or 3 o'clock?
- A. It was not 5.
- Q. Was it 4?
- A. I told you several times that it was between three and four when I seen the boy going across the bridge.
- Q. Did you have to pass by this place where the shop was, when you drew your brick?

- A. No, sir, I didn't.
- Q. How did you come to go down to Mr. Mudge's that night?
- A. Didn't I tell you I went there to supper?
- Q. I didn't hear you say that.
- A. I went there to supper.
- Q. His house near the shop?
- A. Right at the south side of his house.
- Q. You went down to his house first?
- A. No, sir.
- Q. You did not go down to his house right off after you got through work?
- A. Yes, sir.
- Q. Was it dark then?
- A. No, sir.
- Q. How much did it lack of being dark?
- A. I don't know; I didn't keep track.
- Q. About how much?
- A. I didn't keep track of it.
- Q. You don't know anything about it positively, do you?
- A. I never keep track of such things.
- Q. Never keep track of things of that kind?
- A. No, sir.
- Q. You know that Mudge told you there had been something of that kind done by the boy?
- A. Yes, sir.
- Q. That is all you know about it, is what Mudge told you?
- A. Yes.
- Q. You did not see him do anything of that kind?
- A. No, I didn't.

- Q. Did you see the boy when he went into the mill?
- A. No, sir.
- Q. How far did you watch him when he went in there?
- A. I didn't watch him at all.
- Q. You passed right along and paid no attention, did you?
- A. Passed right along.
- Q. How long was Flannery behind him?
- A. Oh, they must have been about forty rods.
- Q. How far was the other fellow behind?
- A. Who?
- Q. Lovell, the sewing machine man.
- A. Him and Flannery was together.
- Q. He was on foot, was he?
- A. Yes, sir.
- Q. Didn't have his sewing machine with him?
- A. Not when I seen him; I don't know, he might have had a sewing machine.
- Q. No guns, or anything of that kind?
- A. No answer.
- Q. Then all that you know about this matter is what you have said?
- A. No answer.
- Q. I will ask you one more question; will you repeat word for word; as near as you can, what Mudge said; what he told you concerning this whole matter, that night?
- A. I don't know as I can.
- Q. What was the first thing that he said to you?
- A. I told you once didn't I?
- Q. Well, tell me twice.

A. I don't know as I have to.

Q. Well, I don't know whether you have to or not; the court will tell you whether you have to or not.

COURT:—You may repeat if you can.

A. I told you he was rubbing the mare; that is what he said, told me.

Q. That was the first thing that he said to you, was it?

A. Yes.

Q. He seemed gleeful over it?

A. Yes, sir.

Q. Laughing, wasn't he?

A. Yes, sir.

Q. Funny thing, wasn't it?

A. I suppose it was.

Q. Did you go and take a drink with him?

A. No, sir.

Q. Didn't take any drink, eh?

A. No, sir.

Q. He had been drinking before that?

A. I don't know anything about it.

Q. Did he take a drink while you were there?

A. I didn't ask him.

RE-DIRECT-EXAMINATION.

Q. How far is it from where Lovell lived, to the bridge?

A. Oh, it must have been half a mile.

Q. That is, how far is it from where Lovell lived to the bridge where you saw this man cross and go into Croswell?

A. I say it is half a mile I should think.

Q. In what direction was Hodgskins going with reference to that mill?

A. Going east across the bridge.

Q. In the direction to go to the mill?

A. Yes, sir.

A. I guess he was going east and then he had to go north after he crossed the bridge.

Q. Lovell's place is in what direction from the bridge?

A. South, half a mile.

And upon the trial of said cause the counsel for the said people, in further maintainance of his said issue, offered in evidence for the people and did produce in evidence upon such trial, one William Wheeler, who was duly sworn, and who, on his direct, cross and re-direct examination testified as follows, to-wit:

*William Wheeler sworn:*

Q. You live in Croswell, do you?

A. Yes, sir.

Q. And run an engine in the flouring mill there do you not?

A. Yes.

Q. In the mill of Thompson and Stewart?

A. Yes, sir.

Q. Do you know this fellow, this defendant?

A. Yes, sir.

Q. How long have you known him?

A. Well, somewhere in the neighborhood of two years; such a matter; maybe a little more

Q. Do you remember the occasion last summer,

in June, when he came into the engine room and Mr. Lovell after him?

Objected to as incompetent and leading.

COURT:—He may answer.

Exception for defendant was by his counsel then and there taken to such rulings of said Court.

Q. Well, go on and tell us the occurrence; what occurred there, and who came there, and what was said by them there, and done?

A. Well, sir, when the boy first came in there he came in with his arm wiping off the sweat; I guess he had a handkerchief probably and he says it is a warm day, says I, yes; he says, I have been cultivating, hoeing potatoes today, he says, and he says, it is warm; and very soon after that Mr. Lovell, Lou Beagle and Mr. Flannery came in there, or at least, Mr. Lovell, he came in and they came to the door and when Lovell came in he looked at him and kind of started towards him and says he, you little devil, or something like that, something to that effect, pretty near that way, and Will looked up and he says, what have I done? and he says to him, you dirty little son-of-a-bitch, I never came so near shooting anyone in my life as I did you; and Lovell took his hand and laid it on his shoulder or collar, pretty close to his collar, and shut it up; I think it was open.

Q. Well now, what else was said if anything?

A. Well, I don't know as there was anything else said.

Q. Following that, did Lovell say to you before

what he had done?

A. He did after he put his hand on his shoulder, and Will took a sneak out of the back door; after he went out Lovell said that he had caught him scratching a mare, or something of that sort; something to that effect.

Q. Now, you say that he was wiping the sweat off from his brow?

A. Yes, sir.

Q. Did he look excited, show any excitement?

A. He did.

Q. And did you notice his face, his appearance; any change in his face when Lovell accused him of that deed?

A. Well, pretty white I thought, in spots, anyway.

Q. What was the matter with the other spots?

A. Well, they looked to me to be white.

Q. He was warm?

A. Yes, he had been sweating; he was warm; had been sweating very good.

Q. Do you remember the day of the month?

A. I could not say.

Q. Do you remember the month?

A. Some time in the latter part of June.

Q. Do you remember what sort of a hat he had on?

A. I think straw hat.

Q. What sort of pants?

A. He had on blue overalls

Q. What kind of coat?

A. Seemed to be kind of a checked coat; grayish like.

Q. Have you seen the coat since?

A. Today and yesterday; here in the cell I asked him if that was the coat he had on that day and he said it was; new, anyway.

Q. Quite new, anyway?

A. Yes, sir.

CROSS-EXAMINATION.

Q. Did you think from the appearance of the boy coming into the mill there, that he had been committing any crime?

A. I didn't inquire; when he first came in he looked sweaty; that was all I supposed he had been doing, what he said he had.

Q. Was he pale when he first come into the engine room?

A. No, sir.

Q. Then he didn't turn pale until this man came in and laid his hand on him, did he; until he laid his hand on him and was going to shoot him?

A. I don't know what he was going to do; Lovell came in; I could not tell you what he was going to do with his hand on him.

Q. Anybody would naturally think that from the appearance, from the attitude of the parties?

A. I supposed he was going to strike him; that is what I supposed, but he didn't.

Q. Did this Lloyd Lovell act as though he was mad?

A. I thought he was.

Q. Did the boy act as though he understood what Lovell meant?

A. Well, I could not say whether he did or not.

Whether it was because he was scared or what it was; I can not tell you.

Q. If a man as much larger than you as Mr. Lovell is larger than this young boy here, would take hold of your collar and haul off to strike you, would you turn pale do you think?

A. I could not tell you; could tell you better if he tried it.

Q. Do you think anyone naturally would?

A. Some might, yes; I never was very much of a coward, myself.

Q. He turned pale when Lovell hauled off to strike him?

A. Yes, he hauled off to strike him

Q. Would you think it strange that he turned pale when he hauled off to strike him?

A. No, I don't know but what I might myself, if I was a coward.

RE-DIRECT-EXAMINATION.

Q. Did you say that he hauled back to strike him?

A. I can't say whether he drew his arm back or not; I kind of think he had his hand on his shoulder, on his collar, and drew the other one back this way, (illustrating.)

Q. When Lovell came in did he go direct to this fellow:

A. Yes, sir.

Q. Didn't stop to say anything to anybody else?

A. No, sir.

Q. When this fellow came in there did he appear to be in a hurry; to come in in a hurry?

A. Yes, he was on pretty good walk.

RE-CROSS-EXAMINATION.

Q. I suppose you know nothing about this case only what Lovell told you; that is, the material facts of the case?

A. Yes, what I see there in the engine room is all.

Q. Do you know anything bad about this young man?

A. Never did, sir, in my life before.

Q. He has always borne a virtuous reputation, character?

A. I suppose so; he has been there in the engine room a great many times; I have been there about 8 years, myself

People rest their case.

And upon the trial of the said cause the counsel for the said respondent in defense of said action, did then and there produce and offer in evidence in his own behalf the said William Hodgskin, who, being first duly sworn for and in his own behalf doth on his direct, cross and re-direct examination give evidence as follows, to-wit:

*William Hodgskins sworn for Defendant:*

Q. What is your age?

A. My age is 19.

Q. Where do you live?

A. In Falcon

Q. Which way from Tucker's tavern?

A. West.

Q. How far west?

A. I hardly know; it is not but a few rods, any way.

Q. Where were you on the 27th of June?

A. I were cultivating some potatoe and some mangle ground over that we had; that we was going to sow to turnips.

Q What time of day did you commence cultivating potatoes?

A. About 8 o'clock.

Q. How long did you stay there at that time?

A. I remained there until 4 o'clock; it may have been some after, I don't know, and then I went across the river.

Q. Did you not stop for dinner?

A. I did.

Q. What time did you go up to dinner?

A. I went about 12 o'clock.

Q. What time did you go to work again?

A. Right away after I got my dinner, hoeing.

Q. Was there anyone working with you?

A. There was my father.

Q. Who else, if anyone?

A. My mother and sister.

Q. Were they working with you all day?

A. They were with me all day.

Q. What time did you quit work?

A. About 4 o'clock.

Q. Where did you go when you quit work?

A. I eat my supper and went out to the door?

Q. How long did it take you to eat your supper?

A. Oh, I wasn't but a few minutes eating my supper.

Q. What did you do then?

A. After eating my supper I got up and went to the door and my sister was standing in the door that goes out in the street, and as I went to go by her I hit her with my hand on the side, and she started to chase me and went around up—

Q. Was it in a friendly way?

A. Yes; and went around up to Mr. Tucker's corner, and I put my hand on the fence and jumped over the fence and went over to the post office and there was no mail, and I turned around and came back again and went across—I crossed the road; started just before I came to Mr. Moore's; I went across on the other side of the road there, going home, and then I thought that I would go across the river, on the other side of the river, and I crossed again there; so I came up and started up by Richardson's store, and out in front of Mr. Mudge's blacksmith shop, where he moved a building out for a blacksmith shop.

Q How is that?

A. I crossed the road and started from Richardson's store, and I crossed the road and came out in front of Mudge's, where Mudge moved a building up for a blacksmith shop, and I kept right on that side of the road then, along, until I came to Mr. McIntyre's, and then I turned and went down there by Mr. Flannery's, and kept right straight ahead until I came in that street, and then I turned and went across the bridge, and as I was going down this little steep grade I commenced to step fast, just as the weight of a person's body would naturally carry them down grade; I walked across; I wasn't thinking anything and Mr. Sherman, I met him about middle-way across the bridge, and he says "good-day, Billy," and I spoke to him, answered him certainly, but perhaps he might not heard me, but I answered him and went across and went, I went into the grist mill there, and Mr. Lovell came in and ac-



cused me of it, and put his hand on me here, (pointing out where Lovell placed his hand,) and pushed me back like up against some wood-pile that was there in the engine room, and drew his fist back at me and threatened to shoot me, and he says, for two pins I would put my fist through you; through your face, he says. Well, I knew he was a bigger man than I was, and would handle me, and I got out of it the best way I could, and went out the back way there, and came up over home. I didn't suppose there was anything of it, and I had hired out to Mr. Homestead to work for him, and I went out; went out on Saturday, out as far as my uncle's; then on Sunday I went on out there and it was some time during the night I think of July, I was arrested for it.

Q. What night was it you were arrested?

A. It was in the morning; along about, I could not say really, what time it was.

Q. What time was it, do you remember?

A. It was the 9th of July.

Q. What is the exact language that Lovell used to you when he came in there in the mill?

A. He came in and he came right up to me and caught me here by the breast and pushed me back, and he says, you are a pretty fellow; I can not repeat the words he used.

Q. What did you say?

A. I says, what have I been doing, Mr. Lovell, like that; spoke as reasonable as possible, and he says, damn, well you know what you have been doing.

Q. Did he say anything about him having a

shot-gun?

A. He said he never had such a notion in his life to shoot a man as he did to shoot me.

Q. What did you say?

A. I didn't say anything; I see he was mad and I thought I would get away if I could.

Q. Were you afraid of him?

A. Well, I was, of course; but if I had had to fought him I would, but I didn't want to, at all.

Q. You were scared, were you not?

A. Yes, I was a little scared.

Q. Who were at the house when you went to supper?

A. No one but my own folks.

Q. Where did your sister go when she left you?

A. She went to Tucker's hotel.

Q. When you jumped over the fence?

A. Yes.

Q. State whether or not your sister stayed there in the field with you.

A. She did not.

Q. Until supper was ready?

A. She did not.

Q. Where did she go?

A. She went to the house and got supper ready.

Q. About what time was it?

A. Well, I could not hardly say about what time it would be.

CROSS-EXAMINATION.

Q. What did you go to the post office for?

MR. MCGINLEY:—Would like to ask a few more questions.

## RE-DIRECT-EXAMINATION.

Q. Did your mother stay there in the field with you?

A. She did.

Q. Did your father?

A. He did.

Q. Were you all together?

A. We were all together; I was hoeing one row that I was in; my mother was hoeing in another row.

Q. Did your mother go to the house with you?

A. She did.

Q. Where did your father go?

A. He went with us.

## CROSS-EXAMINATION.

Q. What did you go to the post office for?

A. For mail.

Q. Who did you expect mail from?

A. Well, I suppose, that is,——

Q. Who did you expect mail from that day?

A. I don't know as that is much concerning you.

Q. Yes, it is; who did you expect mail from?

A. I expected probably there would be some mail.

Q. Who from?

Objected to; a person might expect mail from anybody, generally.

COURT:—Answer the question.

Exception for defendant to such ruling of said Court was by his counsel then and there duly taken.

A. Well, I expected that there might be some mail; a letter from my sister.

Q. How many sisters have you?

A. Four.

Q. Which one did you expect the letter from?

A. Oldest sister.

Q. Where does she live?

A. Oscoda.

Q. Were you expecting to go up there?

A. No, sir, I wasn't.

Q. Did you get a letter from her frequently?

A. Well, no, but I generally go up there for my own folks.

Q. What time of day was it that you went to work?

A. I went to work at 8 o'clock in the morning.

Q. Work all day?

A. I did.

Q. Have you ever worked all day at any other time this summer?

A. I have, sir.

Q. Eh?

A. I have.

Q. Where?

A. Well, I have done it at home.

Q. How many days did you work this summer, all day?

A. I didn't just keep account of them.

Q. But all that you did work was done at home was it?

A. Well, not all.

Q. How much land has your father got there where you were working on those potatoes?

A. I never measured the ground.

Q. How many acres, pretty nearly?

A. I don't know; I never measured it.

Q. Did you ever hear your folks talking about it at the house?

A. I did.

Q. Did you get any mail that day?

A. I didn't.

Q. Does your father live west of Parker's corners; west of Parker's hotel?

A. Yes, he does.

Q. Towards the mill?

A. Yes, he does.

Q. On the north side of the road?

A. It is on the north side.

RE-CROSS-EXAMINATION.

Q. Are you guilty of any such crime as Mr. Lovell charged you with?

A. I am not, sir.

Q. Was you down there that day, at all?

A. I was not.

Q. Did you have anything to do with the horse there that day?

A. No; I harnessed up a horse that morning.

Q. Whose horse?

A. Mine.

Q. Your Fathers?

A. Yes, sir.

Q. What did you do you with it?

A. Hitched it to a cultivator.

Q. Were the potatoes right there in plain sight?

A. Some of them.

Q. What?

A. Same answer.

Q. How many of you were at home that day?

A. Six.

Q. All at home that day?

A. Yes, sir.

Q. Who was that?

A. Father, mother, my three sisters and myself.

Q. Three sisters; which one of them was it that went out with you after supper?

A. My oldest.

Q. Which one is that?

A. She is next to the oldest one.

Q. How old were the other two?

A. One about 11 and the other about 8 or 9.

Q. Where did you go from Crosswell after you heard the warrant was out for you?

A. I went to my uncle's in Fremont, and the next day I went to where I hired out to work, in Fremont.

Q. Did you stay there right along until you were arrested?

A. I did until the day before I was arrested.

Q. How is that?

A. Same answer.

Q. How many times has the officer been down there after you?

A. He never was there that I know of while—

Q. What?

A. He was never there that I know of.

Q. Don't you know that the officer chased you around there day and night for a week or two before you were finally arrested?

A. No, sir, I don't.

Q. Didn't you keep out of his way?

A. No, sir I didn't.

Q. Didn't he finally arrest you?

A. Yes.

Q. He arrested you in the night-time, didn't he?

A. No, he didn't

Q. When was it?

A. In the morning; in the day time.

Q. Where were you during the day?

A. I was in Fremont.

Q. In Fremont?

A. Yes, sir.

Q. How far away from home were you?

A. I was about nine miles north.

Q. Tell me about how large that potatoe patch is, will you, that you were working in?

A. Well, sir, I could not estimate it at all.

Q. Could not?

A. I could not

Q. Did you finish them up that day?

A. No, sir, I didn't.

Q. Did you hoe them any other day?

A. Yes, sir.

Q. You had, besides that day?

A. Yes.

Q. Did you have an acre of potatoes, altogether?

A. Well, I don't know; yes, there was an acre.

Q. How many days before that had you worked

in them; before you had worked in them that day?

A. I had worked in them some three or four days before.

Q. Hoeing?

A. Yes.

Q. Was your father and mother with you those days also?

A. They was some of the time; some of the time they wasn't.

Q. You were working in them 3 or 4 days previous to that; how many days previous to that did your father and mother work in them?

A. Well, I could not hardly tell you that.

Q. Well, they had worked in them as much as you had?

A. Yes.

Q. Did your father work as much as you had?

A. Yes.

Q. Did your sister work as much as you had?

A. Well, I don't think it, hardly.

Q. She had worked in them, hoeing them?

A. Yes, sir.

Q. There was one acre of potatoes?

A. Yes, that is about what I think there was.

Q. She had worked in them with the rest of you?

A. Yes, sir.

Q. You hitched up a horse that morning at 8 o'clock?

A. Yes, sir.

Q. And went into the field to cultivating?

A. Yes, sir.

Q. Finished up the potatoes?