

tinctly there was no arrangement that Mosier was to come back for him.

William McMaster said he was the person referred to by last witness (Dr. Hunter). Mosier did not know from him of any arrangement with Hunter to lend him his horse and cutter to go to Queensville. Mosier does not live at his place, as he is married. McMaster undertook to wake Hunter on Monday morning. On Monday morning Mosier woke witness by throwing snow on his window, and when he found it was Mosier he told him to come up to his room. He had directed Mosier to waken him on Monday morning at five o'clock, but gave him no reason, but thinks he had told Mosier to waken him; that he had arranged with Hunter to go to Queensville with his horse and cutter. He looked at his watch when Mosier wakened him, and it was about five o'clock. He heard Mosier go out to the street after he got his instructions, and in about fifteen or twenty minutes he saw Mosier return into his yard. He looked through the window and recognized him, and did not see him after this till six o'clock, but heard him moving the sleigh in the yard. He heard him after this go out of the yard and go up the street, and he had only been gone a few minutes when he heard him running like as for his life. He ran into the yard and up into witness' bedroom without slacking his speed. It was about twenty or thirty minutes after he came in before he went out again. This was the time that he went out after he had returned from waking Hunter. Witness asked Mosier what was the matter? He replied to hurry and come down and he would tell; he said tell him then; and he then said Dr. Hunter had been nearly killed dead; some one had attacked him. He told Mosier to go and waken Dr. Hunter, and then to go and get the horse and cutter to go to Queensville. McMaster, when he went down stairs after hearing of Dr. Hunter's being beaten, found Landy, Atkinson and Mosier down stairs. He does not remember looking at his watch, but it was almost daylight. When he got to Dr. Hunter's the lamp was lighted. On his cross-examination he said that if Mosier had gone out in the ordinary way he would have heard him. He did hear some noise in the yard, and thought it was Mosier attending to his work. When he saw Dr. Hunter at his own house he was lying on the sofa and seemed unconscious. On his re-examination he said it was between seven and half-past seven when he saw Mosier ready with the horse to go out.

John Dennis said he remembered the 7th January. He saw Dr. Hunter about fifteen or twenty minutes past six that morning. He was lying about five or six rods from his own door. He had gone to Dr. Hunter's to enquire for him, and was told he had gone to McMaster's half an hour before. He then went towards McMaster's, but while yet on the steps of Dr. Hunter's house heard dismal groans, and when he came down the steps he saw a black object lying on the snow. He turned him over and saw it was Dr. Hunter lying on his face. He was bleeding from the mouth and nose. He attempted to raise him but could not, and then ran to his house for Mr. Landy and went to call Mr. Allen, and came back when Landy came out, and they went and carried the Dr. to his own house, with diffi-

culty. The Dr. appeared to drag his feet as if trying to walk. He was unable to walk and they carried him to his house. He complained of being badly hurt somewhere about the back of the neck. He soon after returned to his own house, which is the same side of the street as Dr. Hunter's, but west of it and further from Main street. Landry went in for a minute, as he was not quite dressed. They then went to McMaster's, and they met Atkinson and then Mosier. It was not more than twenty minutes from the time they first saw Dr. Hunter on the sidewalk till they got to McMaster's house, where they stayed not more than five or ten minutes.

On his cross-examination he says when they met Mosier they told him what had happened to Dr. Hunter, and he seemed to be very much surprised, as much as any one could be who had not heard it.

McMaster, on his being recalled, says he judged it to be from twenty to thirty minutes after Mosier returned from waking Dr. Hunter that he went out the second time, and it was about fifteen or twenty minutes from the time he wakened Dr. Hunter until he returned. He says he thinks it was after the ringing of the town bells that Mosier went out the second time. He says he is tolerably sure it was after the ringing of the bells that Mosier went out the second time.

Landy corroborated the statement of Dennis. He thinks it was twenty minutes past six when they got to McMaster's after taking the Dr. in, and he thought from what he saw that Hunter's life was in danger, and he says they met Mosier and told him about their finding Dr. Hunter and carrying him to his house.

James Allen says that John Dennis came to his house, knocking at the door, and he asked me to come out quick; that Dr. Hunter was killed. Dennis then left, and he went into his room to put on his clothes, but before he had finished Dennis came again and called me to come quickly, and he went to Dr. Hunter, and saw the Dr. there.

*D. B. Read, Q. C., (Harrison with him)* on behalf of the prisoner, after reading the evidence, contended that the proceedings and examinations had taken place in the county of York, but that the warrant had been issued in the city of Toronto. That, under the provisions of the statute 29 & 30 Vict. cap. 45, the judges of the superior courts had a revisory power given to them, and were bound to examine the proceedings, "and to the end that the sufficiency thereof to warrant such confinement or constraint may be determined by such judge or court." That upon such examination it would appear that there was no evidence against the prisoner to warrant his commitment, and that he ought to be discharged.

*D. McMichael, for the crown,* argued that the return showed that the magistrate had ordered that the prisoner should enter into his own recognizance for \$500 to appear at the next Assizes to be held in and for the county of York, on the 8th day of April next, to answer to any indictment which might be then and there preferred against him, which he had refused, but asked to be committed to the next court of competent jurisdiction, on bail, and was therefore committed. That the prisoner had now all that he was entitled to have, for the statute only au-