

tradicted statement shows that she did not give her consent, and that she "tried to make him quit, but he wouldn't." The appellant claimed to exercise great influence over her, and the evidence showed that she obeyed him implicitly, as one who was to cure her of her malady. Weak in intellect and credulous, as she was, both from disease and heredity, and subjected for months to the will of her pretended physician, it was rather a matter of surprise that she offered any resistance to him. The crime committed by appellant was not only rape, as the jury found, but of a most aggravated character; and the jury would have been justified, from the evidence, in inflicting the most severe penalty.

The eighth instruction asked by appellant was properly refused by the court. We think it clear, from what has been already said, that a charge would have been improper which assumed that, under the circumstances, the prosecuting witness ought to have made an outcry that would have waked her parents upstairs. Nor do we think the evidence would justify that part of the instruction which assumed that appellant was received by the family on friendly terms on one occasion after the commission of his crime. What we have said before applies also to this last feature of the instruction refused.

Appellant also contends that he should have been allowed to call and cross-examine the prosecuting witness after the case of appellee had been closed. The court permitted appellant to make the prosecuting witness his witness, for the purpose of eliciting any further evidence she might be able to give. This was all he was entitled to. Appellee's witnesses could not be cross-examined after appellee's case was closed, and without the consent of appellee and of the court. We have found no available error in the record.

The judgment is affirmed.

GENERAL NOTES.

EXCENTRICITIES OF PRACTICE IN VIRGINIA.—A Lynchburg, Va., special, August 11, says: "Yesterday afternoon, during the trial of Hugh J. Shott against the Norfolk and Western Railroad, the opposing counsel, J. C. Wysor and General James A. Walker, became involved in a difficulty by Walker accusing Wysor of appealing in his speech to the passion and the prejudice of the