

Sometimes, in cases of the kinds just mentioned, confirmation of the girl's story is sought from a complaint made by her soon after the event. It would be out of place here to notice the conditions which must be present in order that such complaints may be admitted in evidence, but it is relevant to inquire as to their effect after they have been admitted. The general rule (6) is that evidence of such complaints is admitted not "as part of the *res gestae*, or as evidence of the truth of the things alleged, or solely for the purpose of disproving consent, (*i.e.*, in cases where consent is in issue,) *but for the general purpose of confirming the testimony of the ravished woman*" (5)—and it applies to all such women, including girls of tender years.

The distinction is rather a fine one which thus regards a complaint of this sort, not as establishing directly the truth of what is alleged, but as bolstering up the credibility of the person making the statement, and so tending to establish its truth indirectly. The application of the rule, where children are affected, is shown by a number of Canadian cases, (7) one of which (8) may be quoted as illustrating how such a complaint may be a factor, with other circumstances, in providing corroboration:

"I am of opinion that the evidence of the child was sufficiently corroborated by the evidence: (a) *of the statement made by her to her mother within an hour or two after the occurrence*, (5)—(b) of the condition of the child's clothing as testified to by the mother, (c) of the fact of the child having been seen with the prisoner in his wagon or buggy during the time testified to as that during which his improper conduct took place."

The foregoing discussion, since it involves a consideration of Section 1003, has called for illustration from a certain class of cases. The reader may be inclined to argue that this section adds nothing to the law, that, had it never been passed, the cases with which it deals would fall within Section 16 of the Canada Evidence Act. At all events, it does put beyond question the need for corroboration in those cases. However, for the sake of clarity, it may be well to point out again that this provision of the Evidence Act is a general section requiring corroboration of the unsworn testimony of *any* child of tender years in *any* legal proceeding. And it should be added that where the evidence of a child is received unsworn, it cannot be corroborated by the evidence of another child, also unsworn. (9)

As to accomplices. It has been held that an accomplice is one who knowingly, voluntarily, and with common intent with the principal offender, unites in the commission of a crime. It has been held too, (10) that the test whether one is an accomplice is whether he could be indicted for the offence of which the principal offender is being tried.

The law with regard to the evidence of accomplices is stated in the case of *Rex v. Baskerville*, already referred to as a leading case, as follows:

"There is no doubt that the uncorroborated evidence of an accomplice is admissible in law. But it has long been a rule of practice at common law for the Judge to warn the jury of the danger of convicting a prisoner on the uncorroborated testimony of an accomplice or accomplices, and, in the discretion of the Judge, to advise them not to convict upon such evidence; but the Judge should point out