To Mr. McMahon—I am a member of the School Board.

Temperance McLaughlin, daughter of the previous witness, sworn—I slept at home as usual on the night of the Donnelly murder with my little sister and brother. In the middle of the night I got up and went down stairs to get some water for my little brother. I went to father and mother's bedroom and got a light. I saw my father and mother in bed. This was at two o'clock.

Mr. McGee—Where are the stairs down which you had to come to get the water?

Witness—In the dining-room.

Q. Where was the water? A. On the dining-room table.

Q. Do you usually keep water there? A. Yes, sir.

Q. Then if you always keep water there, and you knew where it was, why did you want a lamp? A. In order that I might see, as it was dark.

Q. Did you see any light outside? A. No. My father, as you state, keeps a rifle. It hangs up in the front bedroom. I took it down.

John Kennedy, another of the prisoners, sworn—I am in gaol on the charge of murder.

Mr. McMahon—William Donnelly married your sister?

Witness—I think so, but I did not see him marry her. I believe he married her any way. I live on the 11th concession of Biddulph, and am married and have two children. The evening before the Donnelly murder I was at James Carthy's. There were present myself, James Carthy, Dennis Carthy, William Hodgins, James Ryan, James Bryan, Thomas Bryan, and their children. We played cards until about ten o'clock, when I went home. The Carthys, the Bryans, and Hodgins are all Protestants, and have nothing to do with this committee business. Bryan came to my house about two o'clock that night. His child having been taken ill, he came to ask how we treated our children who had been sick. I was not at Whalen's Corners that night, and I know nothing of the murder.

Mr. McGee—How did you know it was two o'clock when Bryan called?

Witness—I heard it strike. The next day I went to work at Mr. Fulton's, three miles from London. I heard of John Donnelly's death in the afternoon, and went down to Grantham to hear all about it.

Q. And you mean to say that when you heard of John's death, instead of going to your sister's, where he died, you went all the way to Grantham? A. Yes.

Q. You were not friendly with William Donnelly? A. My feelings towards him were that I did not want to have anything to say to him. He insulted me just after he married my sister. I met him a few days after his marriage at Lucan, when he told me

HE WAS KEEPING A DISREPUTABLE HOUSE.

I then told him I did not want anything to say to him, and that if my sister was with him I could not help it. I never said of William Donnelly that he was the man I hated most in Biddulph.

Dennis Carthy, sworn, testified to the presence of Kennedy at his house the evening before the murder.

William Hodgins, who was at Carthy's that evening, gave similar evidence.

James Bryan, sworn—I live about two hundred rods from John Kennedy. I am a Protestant, and am in no way connected with the vigilance committee. On the evening before the murder I was at Carthy's, where I saw John Kennedy and Hodgins, the last witness. I went home about ten o'clock. During the night my child took ill. I thought the child was getting the croup. I knew Kennedy's children had been ill, and I thought perhaps he might have something in the house that would do for my children, so I went to his place and knocked at the back door. He got up and asked me if there was anything wrong. While he was doing this he opened the door and let me in. He asked me if I had a match, and he lit the lamp. I told him what was the matter with the children, and he told me what the doctor had told him to do with his children. While I was talking to him the clock struck two, which surprised me, as I did not think it was so late. I then went away home. When I got home I looked at my own clock to see if it corresponded with Kennedy's. As I got towards my own door I noticed the reflection as from a fire a few miles off.

To Mr. McGee—The first man to speak to me as to what I knew about Kennedy was Dr. Hossack. I told him that I saw Kennedy at Carthy's, but I did not tell him that I saw Kennedy at two in the morning.

John Wilson, postmaster at Whalen's Corners, testified that he examined the outside of William Donnelly's house at half-past eleven of the morning after John Donnelly's murder, but

COULD FIND NO BULLET HOLE

outside of the house.

William Morley, a farmer living at Whalen's Corners, sworn—I examined the front of William Donnelly's house the morning after John was shot. I found in the snow the track of but one man, and one mark in the snow where one man may have stood and stamped his feet.

John Herbert, farmer, sworn, said—I live on the third concession of Biddulph. On the morning after the murder I got up at five minutes to two, did up the chores, and drove in my cutter to Exeter, ten miles distant. I think it was a little after three when I started. I went down to the town line of Osborne. Before I got to the town line I saw two men ahead of me.

Q. Did you catch up to them? A. Yes, and stopped my horse and asked them to get in and ride. One got in and sat beside me and the other doubled in the crook of the cutter. They were large-sized, rough-looking men.

His Lordship—What has this to do with the case?

Mr. McMahon—I am going to show that they had fire arms.

Witness proceeded—One had a rifle, which he put between himself and me, and the other carried a double-barrelled gun, which he put in the crook of the cutter. They travelled a mile and forty rods with me, and got out when I turned up a side line to get to the town line. This was three miles from Whalen's Corners.

His Lordship—I don't see what this has to do with the case. You may find men in any part of the county going out at this time of the morning shooting.

Mr. McMahon (to the witness)—Did you ask them where they were going?

Witness—Yes, and they did not answer. I also asked them if they knew whose barns had just been burned, and they turned their heads one to the other, and made no answer.

To Mr. Irving—I did not mention the circumstance of my meeting these two men to the Crown attorney or the police, but I talked about it about town.

Philip Brooks, sworn—I am a farmer living on the north boundary of Biddulph, and am a Protestant. I remember the night of John Donnelly's murder. I came over to look at the place between eight and nine o'clock. I asked William Donnelly if he saw anyone or heard any voices he could distinguish, and he said he did not, because

HE WAS AFRAID TO STIR.

Daniel Whalen, a farmer living near Lucan, was called—I met Johnny O'Connor the day after the Donnelly fire. He was on horseback. He cried out to me, "Did you hear of the fire?" I asked, "Where?" He said, "At Donnelly's." I said, "Are their barns burned?" He said, "Their house. A lot of men came and killed them; a lot of black men came and drove them to the bush." I said, "If they drove them to the bush how would they kill them?"

Mr. McMahon—What did he say to that?

Witness—He said they brought them back and shot Tom. After a break or two he said that John and Tom Donnelly were shot. I said, "How did you hear it so early this morning?" He said, "I was there." The way I remember so well is that I have told it so often.

To Mr. Irving—Did you know John O'Connor before?

Witness—Yes, sir.

Q. Are you related to the other Whalens? A. Not a bit of it.

Mr. Irving—Well, we have done with you for this evening.

Witness—Thank you, sir.

John Fox, sworn—I am a merchant in Lucan. Johnny O'Connor came into my place the day after the Donnelly burning. He came in alone. I asked him if he knew any of the parties who killed the Donnellys, and he said no, as their faces were all black, and they were dressed in women's clothes. He said he could not see any part of them except their feet, as he was under the bed and behind a clothes basket. He also said they had tied old man Donnelly's hands. He said they had some kind of bonnets on their heads.

To Mr. Irving—I keep a store in Lucan.

Q. You took refreshments into the jury when it was sitting there? A. By the coroner's orders I took them biscuits and cakes, but did not give them beer.

Q. Did not they have beer? A. I think they did, but I did not take it in.

His Lordship—Did you pay for it?

Witness—Not to my knowledge. (Laughter.)

Mr. Irving—The boy said he only saw the men's feet? A. Yes.

Q. Then how could he have known that they wore bonnets and had black faces? A. I don't know.

William Stanley, son of Bernard Stanley, of Lucan, sworn—The morning after the Donnelly fire Johnny O'Connor came outside our store and said he knew none of the men who were in the Donnellys' place that night. Some of them had women's clothes on and black faces.

Mr. Irving—Did he say anything about their feet?

Witness—Yes; he said he could not distinguish them as he could only see their feet.

Q. How then could he see their faces? A. I don't know. That's what he said.

The court rose at 6.45 p.m.

SIXTH DAY.

London, Oct. 9.—The trial of James Carroll for the murder of Judith Donnelly came to a termination to-day, but notwithstanding the six days spent in the hearing of evidence, and in deliberation, the investigation has turned out to be without result, the jury having at a late hour to-night disagreed. The speeches by counsel occupied each about one hour in delivery. The charge of the judge, which was a close analysis of the evidence, occupied over two hours. His Lordship reviewed the entire case with much care, and drew conclusions from the testimony which, as readers of the speech will observe, were by no means favourable to the prisoner. The jury, who went into the box for the sixth time at nine in the morning, sat listening to the evidence in rebuttal and the addresses until 4.30, when they retired to discuss the verdict. Having had no food since morning, being unable to agree, and not receiving their discharge until half-past ten o'clock at night, they were very much fagged out when they re-appeared in court. Their fatigue was, however, as nothing compared with the evident anxiety of the prisoner, who, when the trial was commenced, had some show of confidence in his chances of getting off, but who, by the time his Lordship had concluded his address to the jury, gave unmistakable signs of a change of opinion in that regard. Perhaps the most attentive listener to all that has gone on has been Wm. Donnelly, the accidental survivor of the tragedy. Before the trial he seems to have been sure of the conviction of the prisoners, and during the trial, particularly while the defence was going on, he was on hand constantly, assisting in perfecting the case for the Crown.

Andrew Keefe, sworn—I live in Biddulph. I know James Maher, who slept with me on the Thursday night before the murder at Walker's hotel, Lucan. About two months ago he as much as said that I should go into court and swear that it was on Tuesday, the night of the murder, that we slept together. I said I did not like the proposal.

Q. Did he not say something about the Donnelly's deserving their fate? A. He as much as said that whoever shaved his horses' tails there was nothing that could be done to them was too bad. That's all I know, and I don't think it should be brought in court.

Mr. Meredith—You don't think these things should be told in court.

Witness—Now go and sit down and don't ask me any questions.

Mr. Meredith—Answer my question.

Witness—Now the less you ask me the better, so you go and sit down.

Mr. Meredith—Have you been drinking this morning?

Witness—Yes.

Mr. Meredith—To whom have you told this conversation since it occurred?

Witness—To no one at all.

Thos. Breene called, said—Saw Martin McLoughlin the night of the murder at widow Harrigan's gate. I also saw Twohey, but the two men were not together.

Hugh McFee, of Stratford, said he had known William Donnelly fifteen or sixteen years, and the man had behaved himself.

Mr. Irving—What is his reputation for telling the truth?

Witness—It is not a very good one.

Q.—Would you believe him on oath?

A.—I think so.

James Wright called, I would not say anything as to whether people would be justified in saying Donnelly should not be believed on oath. He carried parcels for me, and delivered them honestly.

To Mr. McMahon—I know that many people have a bad opinion of him.

William Ryder, sworn—I would not believe Donnelly any more than I would believe any other man.

Robt. Keefe, recalled—I have never seen Donnelly do anything bad. I think he is as much entitled to be believed as any one else.

His Lordship—How many more witnesses of this kind have you?

Mr. Irving—I have only two or three more.

His Lordship—Well, it appears to me that you can bring one faction to swear they will not believe Donnelly and another to swear that they will.

Evidence in support of Donnelly's character was also given by James Keefe, Michael Grace, Joseph Simpson, John Whelihan, Stephen McCormick, John R. Peel, Michael Gibson, Robert Thompson, and J. Patton.

ADDRESS OF COUNSEL FOR THE DEFENCE.

This closed the evidence. The addresses were then proceeded with.

Mr. Meredith, in addressing the jury on behalf of the prisoner, said they were now approaching the close of the most important trial that had ever been held in this part of the country. If ever there was a case in which the responsibilities of parties connected with it were heavy it was this one. But, notwithstanding the importance of the duties of counsel, their responsibilities were not so grave as were the duties of the jury, in view of which it was highly important that the jury should not allow any outside influence, any opinions they might have formed before the trial, or any newspaper reports to influence them. Neither should they allow the religious faith of the prisoner to interfere with their judgment. The prisoner was of a different faith to any of the jury, and the only juryman of his own faith who was called was turned away from the jury-box by order of the counsel for the Crown. Now, as to the character of the locality in which the crime for which the prisoner was being tried took place, the Crown would no doubt endeavour to prove that it was bad, and that the organization which was formed to put down depredations was unnecessary and unlawful. The fact was that the community was a law-abiding people until the unfortunate family now dead came to live there and commenced the depredations of which they were suspected. It was the depredations of these people which made the formation of the society necessary, and as to the lawfulness of the society, this was what Chief Justice Wilson said at the last assizes regarding it, "There can be no objection to persons binding themselves together for the protection of their life and property, and for putting down lawlessness. It would be singular indeed if honest men could not combine to put down violence and crime, and to bring bad men to justice." This organization was necessary, and secrecy regarding its doings was as necessary. Why? Because there was a state of terrorism in the community, and because by reason of the conduct of the depredators no man could appeal to the law for justice and for the punishment of the guilty parties without laying himself open to further depredations upon his own property, and perhaps to attacks upon himself. But there was not, as the Crown would endeavour to prove, evidence to show that the organization existed for any other purpose than for assisting to put the law in force. There was no evidence to prove that the organization ever intended to administer law itself, or do anything that any honest man should not do. By undoubted testimony it was proved that in every act of the society there was no intention to do anything but to abide by the laws. Of course, in the case for the Crown, an attempt would be made to show that the proceedings in regard to the search for Thompson's cow were illegal. Certainly the men turned out in large numbers, but then they proceeded lawfully, for they first went for a search-warrant, and then, having been told they could have a warrant if a search were refused, they went to Donnelly's and received from the old man permission to go over his place. An attempt would, no doubt, be made to prove that in turning out to assist in the search for Tom Donnelly the men acted illegally; but it had yet to be proved that it was a crime for persons to assist peace officers in their search for fugitives against whom warrants had been issued. Indeed it was rather the duty of all persons to assist such officers in the performance of their duties. Suspicion had been thrown upon the prisoner's movements by the letter he had written to Chief of Police Fewings, and by his statement to Sutherby that he would get the Donnellys out of the township if it cost him his life. But what did that mean? It did not mean that he would get them out of the township if it cost them their lives, but that he would arrest them on the warrants he had against them even though his life was endangered by doing so. Now, as to the evidence of the boy O'Connor, what did he say? He stated that men in women's clothes with black faces came to old Donnelly's house, but that Carroll was not disguised. Was it to be believed that Carroll, if he was the chief mover in the crime, as was alleged, would have appeared undisguised while those who only took subordinate parts were disguised? If any man would have been disguised would it not have been the man who performed the principal part in the offence? Then there was a spade produced. But it was to be remembered that the spade was found beneath the body that it was said to have killed. The proper view regarding the spade evidently was, that it was in the cellar into which the body after the fire fell. Of course, seeing the spade near the body, it was quite possible for the boy to say it was used there. Then, take the evidence of the boy about the girl Bridget; he stated that Bridget went up-stairs, to the room above the main building, and locked the door behind her so tightly that he could not get up after her. Well, now, Mrs. Donnelly swore that there was no lock on the door. Then the boy said the men went up stairs after the girl and came downstairs saying that she was all right, meaning that she was killed. It must be remembered that the upper room was above the sitting-room and not above the kitchen. Yet in the morning the charred remains of the girl were found at the far end of the kitchen. The boy also said Carroll saw and heard him in the house. Was it likely that Carroll, being aware that the boy was in the house and a witness to his crime, would have allowed the boy to escape? Then again, the boy said he heard the rattle of handcuffs placed upon Donnelly's hands; and yet he stated afterwards that he never saw or heard handcuffs before. Now, let us look into the boy's conduct after the murder. He told his mother he saw Carroll, Purtell, and Ryder all standing together. He now says that he saw Carroll, that he was standing by himself, and that it was afterwards that he saw Purtell and Ryder, and that Carroll was not standing with him then. He also told a man named Whalen soon after the fire that the men drove the Donnellys to the woods. Then, asked Whalen, "How is it that they were killed?" "Oh, they drove them back and killed them." Then he told Mr. Fox, a gentleman of high standing, that the men wore women's clothes and had black faces, and that he could not recognize any one of them. Was that consistent with the evidence the boy now gave? The Crown would endeavour to show that the boy purposely misled the witnesses referred to, but if a boy out of the natural badness of his heart could tell deliberate falsehoods to people on ordinary occasions then how was his oath to be believed? If a boy like that purposely and deliberately misled people, could a jury, upon his unsupported testimony, bring in such a verdict as would result in a fellow-being losing his life? The boy, had he been honestly inclined, could easily have said, if he had not wanted to tell everybody he had seen Carroll, that he did not wish to say anything about it, but instead of doing that he made a statement directly opposed to his testimony to-day, and this made evident his utter unreliability. The boy stated, in addition, that he saw Purtell, but what interest had Purtell in wiping out the Donnellys? He owned no property there, was in no fear of losing anything by reason of acts of the Donnellys, and was not a member of the vigilance committee. For him an *alibi* had been well established, but unfortunately for him evidence which would have put the *alibi* beyond question could not be brought because Dr. McGrath, a man who was then in the last stages of consumption, who slept in the next room to Purtell, who was awake nearly the entire night and could have given positive evidence that Purtell did not move out of the house that night, had since died and his *ante-mortem* statement was not admissible as evidence. On Ryder's behalf, also, proof was given that he was not outside of his house that night. The testimony of the Thompsons with regard to Carroll's presence at their house was indisputable, and the only inconsistency the Crown counsel had been able to find in the testimony of Thompson and his wife was as to the hour at which they went to bed the evening before the murder. It was quite evident that not expecting to be called upon to state the exact moment they went to bed they did not particularly notice the time, hence the discrepancy. Had the Thompsons wanted to deceive the court, had they made up a tale, how easy it would have been for them to have said that they sat up till twelve or one o'clock, and that they were absolutely certain that Carroll did not go out that night. Instead of saying that they told their straight statement, which was to the effect that they saw Carroll go to bed at a certain hour, and that so far as they could observe it was impossible for him to get out without their knowledge. The question was, was the boy O'Connors' evidence to be accepted in preference to that of the Thompsons. Why the prosecution felt that O'Connors evidence could not be accepted without support, or it would not have been found necessary to attempt to corroborate it by a statement from William Donnelly. That very fact showed the jury how careful they should be in accepting O'Connor's statement. Mr. Meredith, in speaking of William Donnelly's evidence would ask the jury to come to the conclusion that Donnelly's entire statement was concocted by him out of the wickedness of his heart. Who was the man who stood between him and his lawless acts? It was Carroll. Who was the man whose enmity he got by making an abominable statement regarding his sister? It was John Kennedy, his brother-in-law, and it was against these men that his evidence was directed. It was beyond controversy that John Donnelly was shot that night, but was the statement of William Donnelly sufficiently trustworthy to justify the jury in sending the men he was accusing to the murderers' doom? That he was an untrustworthy man there is no doubt. According to himself, he was cowardly enough to be in bed while his brother was dying and his wife was in danger. He was in fact in a state of abject cowardice; and was it likely that a man lying in bed as he was, in a state of trembling cowardice could have calmly and coolly sat up in bed and looked out of the window? But though, as he now alleged, he saw the men who were attacking his house, he did not communicate the fact to his wife. Why, if he had seen the men, and if the story was not concocted out of the wickedness of his heart, did he not tell his wife of it at the time? This was not a question in which there was any likelihood of Donnelly having mistaken the identity of the prisoners. Either Kennedy, Carrol and Ryder were on the scene of the murder, or Donnelly was telling a deliberate and wilful lie. The testimony that these men were not there was strong and well corroborated, while in favour of the statement that the men were there was only Donnelly's doubtful and uncorroborated testimony. In the case of Carroll, Thompson's evidence was convincing. In the case, Patrick and James Ryder, and Michael Blake gave evidence proving the impossibility of his being at the murder; and in the case of Kennedy there was James Bryan's clear statement that at two o'clock of the morning of the murder he was in his own house. The veracity of these witnesses had not been impugned, yet the testimony of a man like William Donnelly, whom hardly anybody would believe on oath, and whom the Crown witnesses as to his character (prisoner's) actually damned with faint praise was put against that of the leading men of the locality in which he lived. The jury were to remember that in disposing of this case they were judging not merely as to the conduct of the prisoner, but also as to the conduct of the other five men. If the evidence against Carroll was not sufficient then the evidence against the other men was insufficient. If a verdict of guilty was pronounced against them they would be sent undoubtedly to the gallows. He did not say this to prevent the jury from doing their duty, because with the punishment they had nothing to do; but he did point out that the hopes for commutation in such case were meagre, with a view to impressing the jurors with the responsibilities resting upon them, and with the danger of convicting upon testimony which was not of the very strongest and most convincing character. He was sure for his part that the evidence was not strong enough to warrant a verdict of guilt. It was not strong enough to warrant the placing of a dark stain upon their memories, and the making of their children fatherless and their wives widows. If a verdict of guilty was pronounced the men would surely go to their death. But if such a verdict was not returned it did not follow that the men if really guilty could escape. For the Crown had other indictments against them upon which it should be possible to proceed at a future time. Should convincing evidence against them be forthcoming, in other words if a verdict of "guilty" was returned, the result of that verdict could not be avoided, and an innocent man might hang, while if a verdict of "not guilty" was brought in the possibility of punishing the innocent would be removed, while the danger of the guilty escaping would not be run, as at any future time if evidence actually implicating the men came to light they could still be brought to justice.

ADDRESS OF CROWN COUNSEL.

Mr. Irving, on behalf of the prosecution, characterized the observations of his learned friend who had preceeded him as moderate and fair, but his conclusions as irreconcilable with the evidence adduced. In the first place the trial of this prisoner by himself gave him an advantage which he would not have had if the entire batch had been placed on trial at one time. It enables him to call his fellow-prisoners to give evidence directly in contradiction of that of the Crown, and, as might have been expected, he made use of his advantage with a result to which allusion would hereafter be made. All these men were members of the vigilance committee, an organization the existence of which was not by any means sanctioned by law. The words of the learned Chief Justice Wilson did not apply to this committee. They applied to the organization formed by the signing of the pledge at the church door. This second and secret organization was not before the Chief Justice at that time, and it was therefore impossible for him to pass a verdict upon it. The learned counsel for the defence seemed to think there was nothing monstrous or abnormal in the transactions of the vigilance committee. But it was clearly contrary to the spirit of the laws of this country that there should be an association of men bound by a pledge of secrecy, not merely to protect themselves, but to take the law into their own hands. The organisation, as evidenced by the search for Thompson's cow, and by the fact that the men carried sticks and staves and bludgeons on that occasion, was a threatening body, and its conduct was hostile to certain portions of the community. As to the crime for which this prisoner was being tried, these facts were to be remembered. There was no doubt that the members of the committee pursued the Donnellys malignantly on several occasions. When they were accused of trespass by reason of their search for Thompson's cow, they retaliated with a charge of perjury against the deceased. When Ryder's barns were burned they immediately made against the Donnellys a charge of arson, which they could not substantiate. The entire conduct of this association showed that the crime resulting in the death of the Donnellys must have been perpetrated by its members. It was quite evident that if the boy O'Connor's evidence could not be relied upon, the case for the Crown must fall to the ground. But that evidence was strongly corroborated immediately after the fire when the boy rushed over to Whalen's. His first observation after urging Mrs. Whalen to call up the boys and send them to the Donnellys, was something regarding the presence of Carroll. Then there was the pool of blood outside the house. Did not that corroborate the statement that murder had been committed? And the spade with which the head of the old man was crushed in—its presence on the body testified to the fact that the death was caused by it. An attempt was made to show that the spade was lying in the cellar into which the body fell, and that it was always there for the purpose of taking up potatoes. Now, was it likely that potatoes would be taken out of the cellar with a spade? Was it not more likely that the old woman would go down stairs with a pail and pick out the potatoes she wanted for a meal with her hands? Then, for the defence, O'Connor's evidence was discredited because he said Bridget ran up-stairs and locked the stair-door behind her, while there was no lock on the door; and because he said she was killed up-stairs, while her body was found in the kitchen. What more likely than that when she went to the stairs she ran up a step or two, and held the door closed behind her, and that when the men came to kill her they pulled open the door and dragged her into the kitchen to slay her there? On this point there was an apparent discrepancy, but if the boy had been making up a story he would have taken care that no such discrepancy occurred. The learned counsel endeavoured to show that if the murderers went to the house disguised it was impossible that Carroll, the chief conspirator, should have been undisguised. But Carroll was a constable; he could gain admission to the house only as a constable, and it was on the pretext of making an arrest of the murdered people that he went. Entering the house he had handcuffed the men and killed them. He knew well that had he gone in any other capacity than as an officer they would not have admitted him to the place, and they would have sold their lives dearly. All this bore out the truth of the testimony of the boy; that boy was clothed in the panoply of truth, and it was a question whether he was not endowed with strength from a higher power in order that he might bring to justice the perpetrators of the deed. The commission of the crime was doubted on the ground that the murderers allowed the boy to escape. They knew, according to the boy, that he was present, and yet they allowed him to live. The fact was that wicked men always left some little thing that would bring their crime to light, and when that little and comparatively weak boy stood up there accusing these five or six strong men, it seemed like a story from the holy book of the weak overcoming the strong. An attempt was made to discredit the boy because he did not satisfy the curiosity of all who wanted him to tell, before any arrests were made, the details. He had been told by his father and mother not to tell the names of the persons whom he saw, and there was no wonder that he should be in an uncommunicative mood. As to the John Donnelly murder, there was no doubt that it was committed, but as William Donnelly had given evidence pointing to the guilty men, his character and his veracity had been impugned. Why, the character of those who had given evidence of Donnelly's good conduct was quite as good as the character of those who had spoken against him. Of course the *alibis* sworn to affected the truthfulness of Donnelly's statement, but there were discrepancies in those *alibis*—Purtell's, for instance. He swore that Mrs. McGrath and Ellen Blake were all night at the house at which he slept. Why were they not called in court? Martin McLaughlin's *alibi* was equally weak. How remarkable it was that his daughter should have got up and gone down into his room for water at exactly two o'clock that night. Carroll's *alibi* was quite as difficult to believe. The Thompsons, who had sworn to it, had varied considerably in their evidence. Mr. Thompson, for instance, said in court that his bedroom door was open all night, notwithstanding that he said previously it was shut. Mrs. Thompson told the chief of police the day after the murder that she slept very soundly that night. This was said in order to show that she could not have seen the fire. But now that Carroll was on trial she stated that she did not sleep soundly, in order to show that if Carroll had gone down stairs she would have heard him. Then there were the pillow slips. Two of them from the bed on which the Carrolls were said to have slept were produced. One had never been slept on, and the other had been laid on perhaps once, and yet the jury were persuaded that both the Carrolls slept that night on the bed upon which these unused pillow slips were. Then there was the evidence of the window-blind, through which a fire could be seen, hung up on the occasion of the first visit of the chief of police at the window of the room in which Carroll was said to have slept. On the chief's second visit he found a sheet sewn up to the blind with a view to darkening the room and making it appear that the reflection of the fire could not have come through the window. He would leave these facts with the jury, feeling confident that they would do their duty in the premises and satisfy the demands of justice upon the perpetrators of these horrible crimes.

THE JUDGE'S CHARGE.

Mr. Justice Armour then delivered his charge to the jury. He pointed out that the first thing the jury had to determine was whether Judith Donnelly came to her death by human hands on the night of February 3rd, and having determined that they had to consider by whose hands her murder was effected. The responsibilities in making an enquiry of this kind were of course great, but they had to be fulfilled honestly and impartially, but rigidly, sternly, and manfully. If there was a reasonable doubt, then the doubt in a case of this kind should be given in favour of the accused. The doubt, however, should not be a doubt conjured up by what may have happened in other cases or by reports regarding the case produced before the evidence was given. In the same way the evidence given as to character in a case of this kind might become of no importance whatever, unless the other evidence were of such a class as to make it completely impossible to say whether the accused was guilty or not, and in such a case previous good character would give a clue as to whether the prisoner really could be guilty of such a crime or not. If the proof of guilt was convincing, their evidence as to character was of no consequence at all. The jury no doubt would agree that the Donnellys came to their deaths by violence, and by an outrage unparalleled in this country for savage atrocity and brutal ferocity. The reflection that such a crime could be committed in this Christian and civilized country was sufficient to make one's blood freeze; but though horrified at the brutality of the crime, it would not beright for the jury to allow themselves to consider the evidence brought against the prisoners charged with the offence in any other than an impartial spirit. The deaths which were caused that night were as nothing to the vindication of public justice, which was now required in order to show that such deeds could not be permitted in this country. If this offence was the work of the vigilance committee, and it passed unpunished, who could tell what next offence would be committed? If this offence remained unnoticed what guarantee was there that others who had become obnoxious to the persons who formed this conspiracy against law and order, would not be exterminated? If the perpetrators of this deed went free, what satisfaction would the public have that in other parts of the country evil-disposed people would not be deterred from secretly conspiring to take the lives of their fellowmen? In the case for the Crown the murder of John Donnelly was brought forward; but that murder was of very little importance in this case, except in so far as that it showed that the series of depredations was committed by the aid of men whose action was preconcerted. And even though the jury should be satisfied that the prisoner was present at John Donnelly's murder, they would not be justified in bringing in a verdict against him unless they were also assured that he was at the homestead. It seemed to be pretty clearly established that John Donnelly was murdered, and the question arose whether Wm. Donnelly saw the prisoner there. It was for the jury to judge whether Donnelly's evidence was true or not, and they were better able to judge of his veracity by his conduct in the box than by the evidence of men, some of whom came forward and said they would not believe him, while others came forward and said that they would. In support of Donnelly's statement that he saw Carroll when looking out of the window, there was the statement of his wife that she saw him looking out. On behalf of Carroll an *alibi* was sworn to. In regard to *alibis* it was to be noticed that persons proving them always spoke with the greatest of precision on the surrounding circumstances and in this case the rule had been followed. Were the jurymen prepared to say that those *alibis* were reliable. This led to a discussion of the vigilance committee and the purpose of its existence. It was said that there were a great many depredations in Biddulph and a pledge with reference to them was signed at the church door. This pledge, it was evident, meant nothing more than that the persons who signed it would assist the priest in the discovery of crime. Shortly after that a society regarding which the court could not learn much, was formed. One witness said it was to put down violence, another said it was to assist in bringing certain people to justice. One said it was not actually a secret society, while another said there was a man minding the door of the place in which it was held. All agreed, however, that a pledge was signed, and it would have been well if that pledge had been produced. It was only by acts of the organization that the purposes of its founders could be arrived at. It was, of course, perfectly legitimate to endeavour to find out crime and bring people to justice; but organizations such as this were clearly outside of the law. They were not recognized by the law. They were the frequent mothers of all sorts of offences. Such as organizations when formed ro bring people to the law frequently when failing in that purpose took the law into their own hands. The particular depredations which called the society into existence had not been given, but the acts of the society subsequently showed its character. In several matters it had pursued the Donnellys. When it should have got them bound over to keep the peace in the case of Thompson's cow, the zeal its members showed in sitting up all night and descending upon the Donnellys in a large band in the morning showed its promptitude to act and its readiness to judge of a charge without first enquiring into it. Had these men for their attack on the Donnellys been indicted for riot instead of being charged with a trespass, the indictment would undoubtedly have been sustained. But, notwithstanding the society's search and its threatening proceedings, the cow was not lost at all. This showed the danger there was of such a society taking proceedings unwarrantably. There was a singular reticence on the part of the witnesses in regard to what was done at the meeting before the murder. Kain and Blake said the names of the Donnellys were not mentioned or talked of, and, indeed, all seemed to be oblivious regarding what was done on that occasion. But previous to this the society seemed to have come to the conclusion that it was not complete without a constable and a magistrate of its own. There could be no doubt of this: that had the Ontario Government known that Carey was a member of such a society as this, and that his appointment was asked for by the society, they would never have made him a magistrate, and he would make bold to say that had the chairman of the Quarter Sessions known that the prisoner was an active member of such a society he would not have permitted his appointment as a peace officer. It would seem that the society was formed for the purpose of putting down the Donnelly gang, as Michael Blake justly said, and the difficulty about such a society was that whatever depredation is committed its members are sure to assume that the persons against whom they are hostile are guilty parties. What did the prisoner himself say about it? He said it was got up to put down bad work, and as soon as Thompson's cow was missed he and the others went to Donnelly's, towards whom they were hostile, and made a demonstration against them, asking the old man how he would like a kick in his ribs. The jury had from such acts as these to judge whether the murder at the Donnelly homestead was the work of the society. If they were of opinion that it was, they could have very little difficulty in coming to a conclusion on the other parts of the case, and the connection of the prisoner with the crime. If the crime was committed, was it likely to have been committed by but one? man If it was committed by more than one man who were the most likely men to commit it? Was it likely that such a crime could not have been prearranged, and if prearranged were the men who committed it most likely to have met to discuss and decide upon it? Were the men who committed this offence in the dead hour of the night as likely to be strangers to the neighbourhood or persons who were quite familiar with it, and in addition to that hostile to the Donnelly family? Did not the whole reasoning show that the crime was deliberately planned, and if deliberately planned, where did the plotters meet? immediately prior to its execution? If they met must they not have met in some house in the neighbourhood? and if so at whose house did they meet? Could any other conclusion be arrived at than that the offence was planned and carried out by the society? If so, then there was so much reason in favour of the prisoner. But there were the *alibis* to be considered. Five of the prisoners swore they were not present, while other witnesses swore, on the part of the prisoner, that he couldn't have been there. These witnesses were members of the society, and was it likely that men who would join hands to commit a crime of this kind would have the slightest hesitation in swearing *alibis* for all who were connected with them? These witnesses might not have been at the murder themselves, but would they not come to the assistance of those in whose wicked plans they had conspired? The conduct of the people of the neighbourhood immediately after the occurrence would enable the jury to judge whether the members of the society were cognizant of the crime. "Take Patrick Whalen's evidence," his Lordship continued; "his evidence astonished me beyond measure. I do not know what is the ordinary course pursued in case of a fire in this part of the country. But I do know that in other parts of the country when a neighbour's house is on fire the first one to see it alarms the community, and everyone living near rushes to assist in putting out the flames. But what did Whalen do? The boy O'Connor came to tell him of the fire and asked that the boys be called up But no, they call up the boys, and Whalen, instead of going down to the fire, which was 165 yards distant, went to his son's house, 184 yards distant, where he found his son John, not getting ready to go to the fire, but standing in his shirt-tail looking at it. The old man would have us believe that all that took place was his telling his son that Donnellys' was on fire, but you must remember that he was a member of the vigilance committee, and that according to his own story he went three or four miles to attend a meeting of the committee and to talk about nothing." This same witness, his Lordship proceeded to observe, went down to the fire afterwards, and though the front part of the house was not on fire, he did not attempt to get the Donnellys, who might not yet have been dead, out. What did the jury gather from that? Did not the indifference of the members of the society after the affair was committed make it appear as if the society was privy to the offence, or did the jury think now that the crime was committed by some one not belonging to the country? Did Casey, who saw the fire in the morning, go to it? No, he said he thought it was only the school house on Donnelly's lot. But was not the house of Thompson, who was a fellow-member of the society, close by the school house? It was a wonder he did not think it was Thompson's, and run to help to put it out. Was it really likely that he thought it was the school house? Then there was the conduct of the prisoner to be considered. He heard next day, according to the evidence brought forward, that there had been a fire at Donnelly's and four bodies had been found, and, although he was a constable, he took care not to go near the place. Thompson, at whose place he slept, knew the fire was at Donnelly's, and he coolly harnessed his horse and went to Exeter, while Sullivan, on hearing of the conflagration, only said, "Bedad, if it's at Donnelly's, then I'll go home." The conduct of Blake, who slept at Ryder's, and who swore to the *alibi* for Ryder, stating that he was awake nearly all night, and was certain that Ryder could not have been out, was equally open to question. When asked if he saw the fire, he replied that he did, and that he thought it was moonlight. Was it likely that he could have mistaken a fire which lighted up the whole countryside for moonlight? It was singular also that the fire was seen by so few people. The Ryders, although they lived so near it, did not see it, neither did they, when they heard of the fire and the death of the Donnellys, take any interest in the occurrence. What did that indicate? Did the jury believe that these people knew nothing whatever of what was taking place, or did they not rather know of it just as well as the people who were guilty? Had the jury, in view of the conduct of the members of the society, any doubts as to whether the society was guilty or not? If they had none, and if they came to the conclusion that the society was a moving spirit in the offence, what reliance could they put in *alibis* sworn to by its members? Men implicated in such a crime would have no hesitation in going into the box and making any statement whatever in order to get their fellow-offenders off. In connection with Mr. Ryder's *alibi* there was this singular circumstance. One of the Ryders said that a pistol found on the clothes barrel had lain there for two years; another said it was always kept in his bureau drawer, where it had remained at the time of the murder, and it was only got out when it was felt that it was dangerous to be without a revolver. Then there came up the *alibi* of Purtell. The boy swore he saw Purtell. If the story was concocted, why did he stop at Purtell, and why did he not go on and implicate other men? Mr. McGrath was brought to prove that Purtell did not go out that night, but it must be remembered that McGrath was a member of the society. It was for the jury to consider whether Purtell could get out of the house without the inmates hearing it. His Lordship could only say that he had frequently cases before him in which persons were charged, not only with coming out of houses, but with going into them without making the inmates aware of the fact; but supposing the boy was mistaken in Purtell and Ryder, was he mistaken in Carroll? In the first place he told the Whalens the morning after the crime that he saw Carroll, and the Whalens were not called to contradict it. He also said that he saw a lot of men with blackened faces and in women's clothes; but that statement was not inconsistent with his subsequent evidence that some of the men had not blackened faces and women's clothes. He was only in the first instance giving his observations in a condensed form. It was not likely that in the excitement of the moment, after the tragedy, he would have given the Whalens the events step-by-step. He simply ejaculated something about the crime in a condensed form in order to get them to send at once to the rescue. But it was to be remembered that at that time he mentioned Carroll's name, so that his statement regarding Carroll then was not inconsistent with his statement now. According to his mother, he told her that he saw Purtell and Ryder standing behind Carroll. He says now he saw Carroll alone and Purtell and Ryder together, but in speaking to his mother he might have said that he saw Carroll and afterwards Purtell and Ryder, and the old woman might take it to mean that the word "afterwards" meant the position of the floor. Other words she might have used, though he meant Carroll was standing before Purtell and Ryder. As to his statement to Fox and Stanley that he did not recognize any one in talking, the jury must remember that he had been cautioned not to tell the names of the fifty of the men he had seen. It would have been better if he had declined to make any statement at all to his numerous questioners, but then he was but a boy. There was no evidence to show that anybody had tampered with the boy, and could the jury think he had invented the story? Could they think anyone was capable of writing a history of what took place on that night and teaching it to the boy? To the detectives he made a statement, but he did not make to them a statement differing from that given now—and why? Because he knew he was making his statement to officers of the law. Had he concocted a story he might have told them a different one to that which he told now, but that he did not tell them a different story was evident by the fact that the defence had not called the detectives and put in their testimony that such a different story has been related to them. It was, therefore, apparent that the only occasions upon which the boy told a tale differing from that in his evidence were when questioned by irresponsible parties prior to the arrest of the men with whose conduct his statement would deal. It would now be advisable to see what the law laid down in regard to the evidence of children. Leading jurists were of opinion that the evidence of children was more likely to be correct than the evidence of grown people, because the memory and observation of a child were greater than those of grown persons, and because the brain was younger, and the impression made upon it was deeper and more lasting. The jury had no doubt noticed that old people always talked a great deal about what happened when they were children, while they forgot rapidly what occurred in their older days. Most people would remember circumstances which occurred while they were children, and forget altogether the more important events happening when they were thirty or thirty-five. This was because in youth the passions were not strong, and the motives of malice, spite, and self-interest were wanting. Men would come into the witness-box, and by reason of malice towards their neighbours, swear to what was untrue. A lad such as O'Connor has no such motive as that. A lad such as he would not be likely to become a member of a vigilance committee. He would not attend the meetings at the Cedar Swamp schoolhouse, neither would prejudice be likely to bias his narrative. Another reason why the evidence of a child was more to be relied upon than that of a man was, that if a child was telling what was untrue, it was not wary enough to stand cross-examination. A man knows what a counsel is driving at, and gives such answers in his cross-examination as will, in his view, support the story he is telling. The boy has not the same acuteness. What motive could a boy have had in going to Whalen's and telling them that he saw Carroll? Spite, malice, or self-interest could not have dictated to him a story thus to implicate the prisoner. Was it likely that the boy could have invented such a story as this? He said that Carroll came undisguised, and an endeavour was made to show that this was proof of his unreliability; but the old man had firearms in his room, and would it be reasonable to suppose that he and his son would have permitted these men to have entered the house at that time of night had they not come ostensibly on a peaceful mission? Was it likely that the old man and his son would have got up and dressed, of which there was confirmation by the buttons, knife, and watch found on their bodies, in obedience to the demand of disguised men? Was it probable that a stranger coming there not armed with a process of law could have got them up to dress? The men, according to the boy, called them up to be arrested, told them they had a warrant for them and handcuffed them. The boy certainly said he had not heard of a warrant or handcuffs before, but if any one had been educating him to tell this story would he not have taught him to say he knew what warrants and handcuffs were? Thomas asked the warrants to be read, and the prisoner replied:—"There is time enough for that." That is all the boy hears until the hammering was going on. Thomas was seen by him running out of the front door. No doubt there was a guard at every door. He was caught and brought in and beaten. The boy heard the some one call for a spade. Was that an intention? The boy did not see the spade, but it was found near the body of Tom the next morning. Was it likely that the spade could have been in a potato bin eighteen inches from the floor as contended for by the defence, or would it not have been the ordinary course for the woman to go down stairs with a pail to bring up a few potatoes for dinner? Well, the spade was there, the blood was there, and the tracks were there. It was said that had Carroll been there and had he seen the boy, as the boy alleged, O'Conner would have answered for it by his life. No doubt if the mem had remembered that the boy was there he would have been killed. But the boy did not say the prisoner did see him, but he said he thought he did. Though the boy escaped cannot be said they did not know he was there; but this much can be said, that in nine cases out of ten where a horrible crime like that was committed some clue was left whereby the guilty were discovered. "Murder will out" is a common saying, and its meaning was that no one was so intelligent and so far-seeing as when committing a crime so to cover his tracks that he could not be traced. Regarding the girl Bridget, the boy says she ran upstairs and he after her, but when he got to the stair door it was closed so tightly that he could not open it, and yet it was said there was no lock on the door. Might she not have stood holding the door closed behind her, and was it impossible for her, when the boy had run under the bed, to run to the kitchen, where her body the next morning was found? But the theory of the girl being murdered in the kitchen was, it was said, inconsistent with the story of the tramping which he heard upstairs. For whom did the men ask when they first entered the house? It was for John Donnelly, who was not there. No one knew except Feehely, who was looked upon with suspicion so far as society was concerned, that John was away from home, and was it improbable that the men should have gone upstairs to look for him? It was, however, for the jury to say, looking on the whole evidence from beginning to end, and bearing in mind the fact that the boy accused the prisoner the very first time he made a statement regarding the crime, whether his evidence was true or not. He would leave to these questions with them to decide, and if they were satisfied that the prisoner was there they should have no hesitation in finding him guilty. They had a duty to perform to society, and they must not shirk it. Were a jury to shirk its duty in a case of this kind society would be in no better position than if there were no laws at all. His Lordship, who had spoken for over two hours, ordered the jury to be removed.

The jury went out at 4.30.

At nine o'clock his Lordship came into Court and said:—The jury have sent a message to say that they cannot agree, and are not likely to agree. In a case of this kind, if there is no chance of their conscientiously coming to an agreement, I would not be inclined to keep them there to convince any one of them who conscientiously may have a view one way or other. However, they had better take a little more time to consider.

At half-past ten the jury were called in. In reply to the clerk, the foreman, Jas. Douglas said it was impossible for them to agree. Seven were for acquittal, four for conviction and one juror was entirely undecided.

His Lordship said that of course that was no verdict, and asked if there was any chance of an agreement.

Mr. Douglas—Not the least.

His Lordship—Is there any point upon which you desire instruction?

Mr. Douglas—No, sir, not so far as I know.

His Lordship said he did not care to lock the jury up until Monday with a view to coercing them into a decision. He would therefore discharge them.

The court then rose.

SEVENTH DAY.

London, Oct. 11.—At the re-opening of the assizes this morning the jury in the last civil case was called, and an intimation was given to the remaining jurymen that they might go home, as there was no more business for them. After this notice to

THE JURY TO DISPERSE,

Mr. Irving, addressing the Court, said:—In the cases of the Queen against Carroll and others, my Lord, and especially as regards the case in which the jury disagreed on Saturday night, I would be glad to know, as your Lordship goes to St. Thomas to-morrow, what can be done.

His Lordship—I propose to close the Court here to-day immediately after trying this civil case.

Mr. McMahon—In these cases I gave notice to the Crown at the last assizes under the *Habeas Corpus* Act, compelling them to go on at the present assizes. I would like to know from my learned friend if he proposes to go on at all this autumn?

His Lordship—I suppose you do not bring yourself under the statute of Charles. The application is to be made in open court the first day of the assizes, and the trial is to be brought on. I suppose it would be sufficient reason as against the statute of Charles that the time of the court will not permit of a trial taking place. Of course as regards the application for bail it can be made, and the question of granting it left to the discretion of the court.

Mr. McMahon—I would make the application for bail now to your lordship.

His Lordship—I will note that you make the application, but I think it will be more convenient, under the circumstances, to hear the application on another occasion at my chambers.

Mr. McMahon—Immediately after the case your Lordship is about to consider is disposed of?

His Lordship—I would desire not to express my view about bail without consultation with my learned brother judges at Toronto. In a matter of this kind, and in the position in which the case stands, though I have an opinion myself as to whether I ought to give or to refuse it, I should still prefer having an opportunity of consulting with my brother judges as to what they think under the circumstances should be done. I will take as early an opportunity as I can to consult them, and an intimation will be conveyed to you, Mr. Irving, and to Mr. McMahon as to what I am prepared to do.

The civil case was then proceeded with.

HOW THE CASE STANDS.

In the case as it now stands the voluminous evidence, the keen cross-examinations, the learned arguments of counsel, the able and exhaustive charge of the judge, and the great expense of last week amount to nothing. The prisoners are in no better nor worse position in view of the disagreement of the jury than they were before the trial commenced, though the evidence elicited, and the analysis of that evidence by Mr. Justice Armour, must have affected the public mind. Carroll can, of course, be brought up and tried again on the charge of murdering Judith Donnelly, and as often as the jury disagree so often may the Crown bring it up. Should a jury at any time find him guilty his trial will end at once; but should a jury find him not guilty then he can still be detained and tried on the remaining five indictments against him. In the case of each one of these the rule is the same. A disagreement by the jury may only lead to another trial on the same indictment, while a verdict of not guilty may be followed by a further trial on another indictment. And so the trials can proceed until he has been found not guilty upon the full list of indictments, when he will be entitled to his freedom. It is the same with the other prisoners. They have six indictments against each one of them, and they can be tried individually or collectively upon the entire catalogue until they have been acquitted upon all. The contemplation of such a series of trials is perfectly appalling, even with the matter of expense left out of the question. The probability is, though there is no hint that such is the intention, that a verdict of not guilty on one indictment, against each man, will put an end for the present to the investigations. The idea that this is probable is founded on the fact that the evidence in each case against each man is the same.

THE QUESTION OF BAIL.

The conversation which took place in court this morning upon the question of admitting the prisoners to bail arose in this way. By a statute passed in the nineteenth year of the reign of Charles II. provision is made against the unnecessary or spiteful detention of persons accused of crime in gaol for lengthened periods. Prior to the passage of that act a man suspected of an offence could be arrested and held for trial from assize to assize and not admitted to bail. For instance, if that law was not in force now, the Biddulph prisoners, having been arrested, could have been brought into Court at the present assizes and sent back to gaol on the ground that the prosecution was not prepared to proceed. At the next assizes a similar proceeding could have been followed, and so the postponements could have been continued until the men, though not convicted, had put in a pretty long imprisonment. Under the law as it stands, the prisoner's counsel has the right to move at one assizes that the Crown be compelled to proceed at the assizes next following, or to discuss the advisability of admitting the prisoner to bail. Mr. McMahon, it seems, made such a motion last assizes. He pointed out this morning that the trials should proceed, but he did not press his point, as his Lordship considered the fact that the time of the court would not permit of the trials being continued was a sufficient reason as against the statute. Then of course followed the question of bail, and upon that question his Lordship decided to consult with his brother judges before giving an opinion.

MURDERERS SENTENCED.

The Hampden and Annapolis Murderers to be Executed in December.

Derby Lane, Vt., Oct. 9.—Gray, who murdered Mulligan in Hampden, Que., is to be hanged on December 10th.

Halifax, N. S., Oct. 9.—Judge Smith pronounced sentence this morning on the prisoners tried at Annapolis this term. Mitchell, for murder, is to be hanged on December 22nd. Thibault, for murder, and Munsee, for arson, are to be tried at a special term.

The annual sports of the Ottawa College took place on Monday last, October the 4th, and were quite spirited.