

have been accounted for, in the minds of the jury, by that species of moral duress which the evidence tends to show that the prisoner exercised over her. She was young—only sixteen—and seemingly artless, wholly inexperienced, and by no means intelligent. * * * Under such circumstances, his influence over her must have been great. * * * The jury saw the witnesses and the parties. They have come to a conclusion which in our view of the case, is perhaps supported by the evidence. * * * Unless we respect such verdicts, there would be little hope of bringing the guilty to punishment. Bish. Crim. Law, *supra*, says: "Some of the cases, both old and modern, are quite too favorable to the ravishers of female virtue, and ought not to be followed, on this question of resistance. * * * The better judicial doctrine requires only that the case shall be one in which the woman 'did not consent.' Her resistance must not be mere pretense but in good faith." In *Huber v. State*, 126 Ind. 135, the court held that "the rule does not require that the woman shall do more than her age, strength and the attendant circumstances make it reasonable for her to do in order to manifest her opposition.

Pomeroy v. State, 94 Ind. 96, 7 Leg. News, 278, was a case in many respects similar to that before us. In that case the prosecuting witness, who was twenty-one years of age, was afflicted with epileptic fits, and Pomeroy was an itinerant doctor, who said he could cure her, and in pretending to treat her as a physician, accomplished her ruin. She too made no outcry at the time, but the court says: "If the jury believe, as they might well have done, under the evidence, that the appellant, as a physician, obtained possession and control of Rebecca's person, under her mother's command * * * and that she never in fact gave her consent, through fraud or otherwise, * * * then it seems to us that the appellant was lawfully convicted of the crime of rape." *Queen v. Flattery*, 2 Q. B. Div. 410, referred to in the same opinion, was also similar to the case before us. In the case at bar the prosecuting witness was a child but little over the age of consent, as then fixed by law, and under such age as now fixed by our more humane statute. She was an epileptic, and had been so afflicted for about two years. In obedience to the direction of her parents, she was placed in the power of the charm doctor, who had wormed himself into her confidence, and into that of her almost equally feeble-minded parents. Her uncon-