

127

vested right in the culvert. You will remember that when Allin re-built that culvert it was from plank from that district, the culvert existed years and years ago. What were the facts that confronted the prisoner when he was about to do that work? Walter Fosdick and John O'Brien say that the road had been gullied out. William Hagerman said the road gullied out 16 feet, and had washed down south of the crossing. John Kimble, and May Allin herself, testified that she had seen the road gullied out. Is it a crime to do any work or pick up a stone in another road district?

Up to the rising of the sun of June 14th, never had there been an unkind word said between the prisoner and Mr. Allin and the family. Young had spoken to Baker, to Hall and to Weston, constantly obeying the authorities, in doing the work on the hill. If the deceased had not a feeling, instead of doing the work without permission, he would have taken the same precaution.

Mr. Young had been to see his mother, and when he came back he saw the work had been changed. The time Allin interfered with that work; the time when the work was done is not immaterial. When Young came to Hall he was good natured, joked with those cleaning fish, Hall said he was good natured. He told Hall he wanted permission to do half an hour's work in order to save half a day's work; and said he had dug out east end of culvert. He asked Hall whether he had any objection to his doing work provided it did nobody any harm, and Hall said no. He told Hall he thought the work had been interfered with and the man at the foot of the hill did it. He wanted him to go down the next morning to see the work, that it might save trouble. He had the consent of Hall. The trouble he referred to was that it would save the pathmaster further work. If you will not sanction the work as I have done it, then it must be referred to the Highway Commissioner. The gutter on the east side received the water from the east side, and the gutter on the west side received the water from the west side, and the water that would otherwise flow down the centre of the road he did not think would interfere with the culvert.

"The voice was simply angry like". If he had been angry, with his voice he could have been heard by Hagerman and his wife. The only words she heard were—"there is nothing right about it". Why should'nt he walk fast?—the idea of his magnifying that into malice. Why did he go that night at all? he knew it was going to rain; he knew the air was filled with moisture and that the rain was coming, and that it would undo his work.

My brother will put stress on the fact that the re-