

bottom of the hill.

May Allin thought the man at the corners was John Leach; the mother said "where is he?" so dark they couldn't see him; didn't see the blood, until it was felt on her hands. She saw there was some one at corners at 8:15, and heard the loud talk at 8:30, Mrs. Allin swears she did not see the blood until she saw it on her own hands. Young says he saw the shovel in Allin's left hand at the time of the controversy, and that Young could see his hand on the shovel. You remember how he wanted to say where his hands were how far from the top &c., and if he had not been telling the truth he would have been caught. He talked about the hand, he struck at his arm, and to expect this man to aim or see as at daylight, is unreasonable.

Young's is hurring to get home; as he comes to the party in the road he saw somebody digging, who he recognizes as Levi Allin. He says to him "Do you think this is right?"—"Yes b God, I do!" and he brought his hand up in a threatening manner. The pipe in Mr. Allin. mouth would not have interfered with his presenting his arm in a threatening manner. Of course he could not tell how far his hands were away, because it was dark, but he does know what he said, and Allin's reply, "Yes by God, I do!" Remember it was dark, Remember, quick as lightening the consciousness had come upon him, that Allin was a quick tempered man, the thought came to him, and quicker than lightening he struck the blow, he had overreached, Mr. Allin fell. We say he had no malice in his heart against Mr. Allin, it was done by the instinct of self preservation.

The physical facts are in favor of Mr. Young. The hat had been put on hastily. The cut measured over the head eight inches, but if straight it would be five or six inches. It was the scissor point of the spade that struck the blow. It was a short cut. If he had aimed at his head he could not have done otherwise than to hit him on the head and cut him clean to the neck. The spade being concaved, accounts for the fact that the fore part of the skull was broken. The skin would be cut with the end or edge of the spade, The cut in the scalp being clean cut, would indicate that the cut was made with the end of the spade.

Another fact which illustrates our theory of the case was very graphically explained by my brother Smith, with relation to the hat. The physical facts are conclusive that Young did not go stealthily to murder the man in cold blood. Dr. McCarroll testified that the back part of the wound was  $2\frac{1}{2}$  inches; the fact of 8 inches on the skull misleads. Both spades had rounded corners, which accounts for the fact that