

from the direction of Kilworth's on 10th January. He came over a fence and fell as he was getting over. He threw stones at the dog. I did not hear the man say anything. He fell when stepping on to the verandah. It appeared as if he tripped when getting up. Father sent Michael to see what he wanted, and when he came back he said he was kicking the door. Father said nothing, but went down, and I with him. The man went to the back door, which he was kicking when we went down. The man was swearing pretty regular. He kicked for a few minutes. When about five yards off father asked what he was doing, and the man said, "This is my house." Father asked his name, and he made no reply. Father asked him to leave, and he left. The man was pretty violent when he was kicking the door, but he knocked off when father asked him. My father was not angry. He went towards the stable, but father told him not to go there, as he might set fire to the place; that there were empty houses on the other side of the road. I went to bed a little after half-past 9. I slept that night, and heard no noise. I could not say whether Michael was awake. I went to Oamaru the next morning. I left about a quarter to 8. I came back on Sunday at 2 o'clock. There was no cart or vehicle taken out of our place on Thursday. Before leaving for Oamaru, father and mother and Johanna told me that the man was crying out in the middle of the night. I never heard father say anything about the man. My age is seventeen; Johanna is older; Mary is fifteen, Kate is twelve, and Michael eleven.

Rose Davis, daughter of John Davis, Waihao, sworn, said: I live about a mile from accused's farm. On the 11th of January my brother drove me to the Waitaki store at about 9 o'clock in the morning. I saw a man lying in the direction from which we were coming. He was lying on his left side. I did not notice the position of his arm and legs. He was alive. We did not speak to each other. He did not move. I noticed a pannikin, a bottle, and a piece of brown paper. They were lying near his head. On returning at 11 the man was still there, and in the same position. We did not speak to him. I thought the man was intoxicated. I was with my father the following afternoon going to the Waitaki. That was about half-past 5. We saw an object which I took to be a man lying at the cross-roads. I was not near enough to see his position. It was about half a mile farther from McCarthy's where I saw him the second time. I was not along the road again from the time I saw the man on Friday afternoon to the time I saw him on Saturday. On returning I saw the man lying at the same place. That was about 7 on the Saturday evening. Father called out, and not getting any answer he went down to him. I believe it was the same man; the clothes were the same, but I did not go close to him. There is a water-race on the road between the place where I first saw him and the place where the body was found. The race is about 2ft. wide.

(The Court adjourned at 5.20 till 10 a.m. on Thursday morning. On resuming,)

Ernest Davis, brother of Rose Davis, sworn, said: I remember driving my sister to the Waitaki store on January 11th. It was about 9 o'clock. I saw a man lying on the road. He was lying on his left side, and holding the knee part of his trousers with his right hand. It was his left knee. His left knee was bent under his right leg. He had on light trousers and dark coat. He had a hat, but it was off him. I saw a pannikin, bottle, and towel against his chest. I did not speak to him. He was looking at us. I just saw the man as we were driving. We were going quickly. I saw the man again at 11. The man was in the same position. I saw his face. I passed McCarthy's gate that day about 2 o'clock and saw the same man lying about 20 chains away from the gate. I was then minding my cow up the Doctor's Road. I saw McCarthy in the afternoon coming out of his gate, and I walked behind his dray to the turnip paddock. I saw a man on the road. McCarthy got out of the dray and gave the man some tucker. There were bread, meat, and scones in brown paper. There was some tea which McCarthy poured into a pannikin. McCarthy spoke first and asked him what was the matter, and he said, "My leg is poisoned." McCarthy felt the left leg, remarking, "Is your leg poisoned?" McCarthy told the man to cover the meat over, and he said "Yes," and touched the paper. He did not eat any meat, but drank some tea. I stayed there about a quarter of an hour. McCarthy said to me, "The poor man can't walk." The man asked McCarthy to ask me if I could cure his leg. The man looked silly. When in the field McCarthy said the man must be out of his mind. I saw the man on my way back. He was on the other side of the road, almost opposite where he was at first. They did not stop and speak going back. The man was lying on his back. He was dressed like he was when I first saw him. He had one boot and sock off and one on. In the morning he had both boots on. That was at 9 o'clock on Friday morning. I forget how the boots were at 11 o'clock.

To the Bench: The man did not sit up at any time when McCarthy was speaking to him. He did not get up at all. He did not get on his knees. I was with McCarthy all the time. If the man had sat up or attempted to get on his knees I must have seen him.

John Davis, labourer, Waitaki North, sworn, said: I was driving up the Beach Road to the Main South Road at about half-past 5 on the evening of Saturday, the 12th instant. I was going to the Waitaki Store. When I got to the cross-roads I saw something which I took to be a man. The object was lying on the north side of the road known as the Doctor's Road. It was within two or three feet of the fence. I passed without stopping. Returning about half-past 7 I saw the man still lying, and sang out. Getting no answer, I went over to him. He was lying on his back, dead. His hands were raised each side of his head. I turned the man over on his belly. His hat was lying at his feet. He had a boot and sock off. There was a towel and pannikin also lying near. I saw food on a piece of brown paper. There was bread, scone, and a mutton-bone on the paper. They were lying just on the right side of him. His clothes were all unbuttoned. The place where the body was lying was about 17 chains from the railway crossing. The body was stiff. I did not feel his flesh, and could not say it was cold, but I judged it was. There were no wheel-tracks near.

To Mr. Raymond: Had known accused about eight years. Had known him to be a good friend and neighbour during that time, and a peaceable man.