

before; that he (Jacob) pointed out Emerson's berth; that he did not walk arm-in-arm with Emerson into the cabin; that he gave Emerson no assistance whatever; and that he is quite sure that Emerson was not drunk.

Sergeant Black, the police sergeant at Gisborne, who appears to be an intelligent and trustworthy non-commissioned officer, gives a most minute account of the Inspector's movements when he was at Gisborne on the 2nd May, and he accompanied the Inspector in the steam-launch "Snark" when he went on board the "Dingadee." The Inspector went down the gangway to the "Snark" in front of the sergeant, who had therefore an excellent opportunity for observation, and these are the sergeant's own words: "In my opinion he was not drunk, nor did he appear to have taken too much. He certainly was not drunk. He walked as well as I did and conversed as well. I went on board the "Snark" with him and out to the "Dingadee." We sat on the hatchway side by side and talked on police matters. It was his first visit, and he had a good deal to say about official business. I saw him go up the gangway. All the assistance he got was the same as other passengers are treated when there is a roll on. There was a considerable roll on."

Captain Neal, of the "Snark," remembers taking Inspector Emerson off to the "Dingadee" on the night of the 2nd May. Captain Neal saw him come on board the "Snark" without assistance, and he swears that "he (the Inspector) boarded the 'Dingadee' without any more than the usual assistance given to passengers when there is a 'range' on, which we gave him." Captain Neal says, further, that he would not have taken off a man who was really drunk. Captain Neal, it is true, adds that he took no particular notice; but it is in evidence that there was only one other passenger for the "Dingadee" that night, so that, if there had been any marked peculiarity in Emerson's manner or behaviour, the captain could scarcely have failed to observe it.

Francis Knowles, the deck hand of the "Snark," gave similar evidence, and he says, "It would not have been possible for a man really drunk to have walked up the stage that night without special assistance. There was a nasty southerly joggle in the bay."

Now, it may perhaps be said that the sergeant of police would be biassed by a feeling of loyalty to his superior officer, and that the Union Company's employes would be naturally averse to saying anything derogatory to a passenger. I respectfully submit that this argument may be carried too far. It must bear little weight unless we attribute absolute perjury to Sergeant Black, Captain Neal, Francis Knowles, and the chief steward, Jacob; for there can be no mistake or question of lapse of memory in the positive and circumstantial statements these witnesses have made.

There is, however, another witness for the defence, of unimpeachable character, and against whom certainly no bias can be urged; for this gentleman is a priest of the Catholic Church, and Inspector Emerson is a Protestant. I allude to Father Ahern. The reverend gentleman deposes that he met Inspector Emerson at the Turanganui Hotel, Gisborne, and had a few minutes' conversation with the Inspector immediately before he embarked in the "Snark," and Father Ahern swears, "As far as I can judge he was sober." In this connection it is only fair to mention that Father Ahern was lodging at the Turanganui Hotel because the priest's house was not then available.

I reject altogether the evidence of Emerson's witness, Donald McDonald. This person swore that he was one of the four inmates of Cooper's cabin on the night in question. It is practically demonstrated that McDonald's evidence in this respect is untrue. Whether McDonald has wilfully perjured himself, or whether his recollection has become impaired by lapse of time, it is difficult to say; but it is somewhat surprising to find Inspector Emerson swearing that McDonald was one of the four inmates of this cabin on the night of the 2nd May.

Mrs. Boyd, the stewardess, another witness for the defence, deals in generalities only. Her evidence is almost valueless. What there is of it is in favour of the Inspector.

I have not yet dealt specifically with the accusations against Emerson of spitting about the floor of the cabin and using abusive and threatening language to his fellow-passengers when remonstrated with for his disgusting conduct in the cabin. The evidence in support of this part of the case for the prosecution is in my opinion inconclusive. If the major charge of drunkenness and committing a nuisance in the wash-hand basin is maintained, these comparatively minor offences are substantiated also; but if the drunkenness and the nuisance are not proved, then the evidence for the prosecution on the minor charges, taken by itself, is certainly insufficient.

As to the spitting: It is proved conclusively that Emerson was troubled at the time by a violent explosive cough from bronchial catarrh supervening on influenza. It is not, I think, proved that Emerson intentionally spat on the floor of the cabin, though he may have been careless or have done so accidentally.

As to the bad language: Emerson's explanation is as follows: "The only conversation I had was this: Mr. Cooper said, 'Look here, old man, if you don't stop that coughing and spitting and let us have some sleep I'll send for the steward and have you turned out of the cabin.' I said, 'You're an unfeeling brute; you deserve to be kicked.' I believe I said I would 'kick his arse.' No other conversation during that night took place." Henderson, being asleep, heard nothing that was said; whilst Warnock, who at page 122 of the evidence gives a somewhat different version of what Cooper said to that given by Cooper himself, did not hear Henderson's reply.

Upon the whole of the evidence I think the Inspector should be acquitted upon the second and third charges. In inquiries of this description—where the accused has so much at stake and is on trial for his official life—it is as necessary as in criminal cases to adhere to those general principles of jurisprudence which experience has shown to be essential to the administration of justice. The most important of these canons by far is that the burden of proof is always thrown upon the accuser. It is for him to prove his indictment beyond any reasonable doubt. It is not sufficient if he raises a case of grave suspicion. This is a "commonplace," but one that cannot be too much insisted on, however great the temptation to disregard it. "The just thing must be done in the just way." Now, it cannot be said that there is no occasion for doubt here. The evidence before