

Rape.

John Beardon (17) was charged with committing a rape on Bridget Fitzgerald, at Adelaide, on August 8. Prisoner, who pleaded not guilty, was defended by Mr. W. V. Smith. The prosecutrix stated that on the evening of August 8 she was leaving the house of a Mrs. O'Brien in Queen-street, off Halifax-street, when the prisoner, who was in the company of another young man, walked up, and remarking "You b— old cow, O'Brien, now I've got you," struck her violently in the mouth and knocked her down. Whilst on the ground prisoner committed the offence, despite the threats, cries, and struggles of witness. In his cross-examination of the prosecutrix, who acknowledged that she was at present confined in gaol for being drunk and using indecent language, and also to having been on several previous occasions fined for taking a "little drop," Mr. Smith attempted to show that she was a woman of intemperate habits and easy virtue; that on the afternoon of the date in question she was very drunk; and that some other person had first been accused of the assault. Terence O'Brien, who admitted having lived with a woman named Tatham, and in whose house the prosecutrix was stopping on the date of the assault, deposed to having seen Beardon and another young fellow follow Mrs. Fitzgerald down the street prior to the alleged outrage, and to having subsequently received a complaint from the latter. The prosecutrix and the woman Tatham had been drinking during the day. Mrs. Fitzgerald was a prostitute. Mary Tatham, wife of Joseph Tatham, and who was living with O'Brien on August 8, corroborated the evidence given by the previous witness respecting the "following" done by the prisoner and his companion, and the subsequent complaint made by the prosecutrix. Both O'Brien and the witness had often been in gaol. On the date in question Mrs. Fitzgerald was under the influence of liquor. The woman was of loose character. Detective Lawton deposed having arrested the prisoner, and to the prosecutrix having picked him out as her assailant from amongst three others. John Henry Dunn denied that prisoner was one of the men who followed the woman. This closed the case for the Crown, and Mr. Smith asked His Honor whether he considered it necessary to take up the time of the court after the serious contradictions that had been made. His Honor acknowledged that the prosecutrix had been contradicted with regard to her alleged sobriety on the date in question, the mode of life she led, and the identification of prisoner, but at the same time there was some evidence which might be considered by the jury. Of course if the jurors had made up their minds with regard to the matter there was no reason why their decision should not be notified. The jurors then consulted together for a few minutes, and eventually returned a verdict of not guilty. His Honor quite agreed with the finding. Without any rebutting evidence by the prisoner he would, had the case proceeded, have pointed out the great danger of convicting any one on the evidence brought by the Crown. Prisoner was accordingly discharged.

(Left sitting.)