

No. 11461

Supreme Court of Illinois

Campbell

vs.

People

CRIMINAL.

DOCKET NO.

4

AGENDA NO.

32

SUPREME COURT.

Here in 107

~~MAY~~ TERM, 1895.



Southern Grand Division.

State of Illinois,)
SUPREME COURT,) ss.
SOUTHERN GRAND DIVISION.)

THE PEOPLE OF THE STATE OF ILLINOIS,

To the Clerk of the Circuit Court for the County of Hamilton, Greeting:

WHEREAS, In a certain plea between The People of the State
of Illinois

Plaintiffs, and John Campbell

Defendant, lately depending in the Circuit Court of said county, wherein judgment was rendered for the said

People of the State of Illinois

and against the said John Campbell

and the said John Campbell having sued out a writ
of error to reverse

the judgment of said Court rendered against him

as aforesaid, to the Supreme Court held at Mt. Vernon, on the 20th day of November, ¹⁸⁹⁴ and
in pursuance of the said writ of error a transcript of the record and proceedings
in the plea aforesaid was transmitted. And also whereas, it hath been suggested, on the part of said

People of the State of Illinois

that the said record has been diminished
as much as the jury and the return of the indictment in this case into open court
the order of the Court empanelling the Grand hath not been sent up; and for as much
as the said Supreme Court are not satisfied that there is a sufficient record sent in the plea aforesaid, but in the record

there is a diminution; you are therefore hereby commanded that without delay the said order of the Court
empanelling the Grand Jury and return of the indictment in this case ^{into open court} therein you cause to be
now holden transmitted to the Supreme Court, to be held at Mt. Vernon, on the Tuesday of

~~next~~, without any diminution or addition whatsoever, to the end that speedy justice may be done in the premises, accord-
ing to law; whereof you are in no wise to fail; and send you then and there this writ.

WITNESS, Hon. J. H. Hickin, Chief Justice
of the Supreme Court, and the seal of said Court, at Mt. Vernon, this 23 day
of November, in the year of our Lord, one thousand
eight hundred and ninety four

Frank H. Havill
Clerk of the Supreme Court.

State of Illinois
Hamilton County, Ill.

In obedience to the within writ I have certified
and transmitted to the clerk of the Supreme Court of
said State at Mt. Vernon Illinois the order of the
Court in appointing the Grand Jury and the return of the
Grand Jury to the Grand Jury into open court in the
case within named and as I am directed, Witness my
hand and official seal of the Circuit Court of said County
this November 23. 1894

H. L. Maulding

Clerk of Circuit Court
of Hamilton Co. Illinois

4 Case

SUPREME * COURT.

Southern Grand Division.

John Campbell

vs.

The People etc.

CERTIORARI.

Frank W. Howell
CLERK.

NOV 23 1894

FILED.

Filed

Register Steam Print, Mt. Carmel, Illinois.

4 Green 32

— IN THE —

SUPREME COURT

OF THE

STATE OF ILLINOIS.

SOUTHERN : GRAND : DIVISION.

November Term, A. D. 1894.

JOHN CAMPBELL,
PLAINTIFF IN ERROR,
vs.
THE PEOPLE OF THE STATE OF IL-
LINOIS,—DEFENDANT IN ERROR.

ERROR TO THE CIRCUIT COURT OF
HAMILTON COUNTY.

Brief and Argument for Plaintiff in Error.

T. B. STELLE,

Attorney for Plaintiff in Error.

FILED
NOV 20 1894

James W. H.

—IN THE—
SUPREME COURT
OF THE
STATE OF ILLINOIS.

—•—
SOUTHERN : GRAND : DIVISION.

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—•—
ARGUMENT.

Nancy Cook, the prosecuting witness in this case, was 27 years old, un-married, and the mother—as she testifies—of three bastard children. She says she became pregnant in April, 1893, and as the result of an injury or jar, caused by jumping from a wagon, she had a mis-carriage in the last week in October, 1893, and that when the child was delivered the defendant took it out of the room where the child was delivered, and she never saw it any more. She alleges that the defendant was the father of this child and that when she had threatened to prosecute him he had

said that if she would not bother him when the child was born he would see that the child never bothered her. The defendant was married in June, 1893. This witness, Nancy Cook, formed a strong dislike toward defendant's wife. It appears that Nancy Cook had lived in the family of defendant for several years, and after his mother's death and his marriage, she continued to live with him until after she had her mis-carriage. The defendant's wife, it seems, soon after the birth of her child, filed a complaint against her and had her arrested on a charge of concealing the death of a bastard. On the preliminary hearing Nancy Cook, in default of bail, was committed to jail on this charge to await the action of the grand jury. Both Nancy Cook and the defendant testified at this preliminary trial but she made no charges incriminating the defendant in any way. She remained in jail until the grand jury was organized and then, at her own request, went before the grand jury and secured the indictment of defendant on this charge. She also was joined in the indictment. A separate trial was ordered on motion of this defendant and his case was first tried. Nancy Cook admitted on witness stand that she testified against the defendant on the advice of her attorneys; and with the understanding with the prosecuting attorney that her evidence should not be used against her. She said on the witness stand that before she gave her evidence she heard the State's attorney say that her evidence should not be used against her on her trial and that she understood she was to be protected. It is perfectly clear that this woman expected and believed that by testifying in the case she could secure her own acquittal and discharge by securing, if possible, the conviction of this defendant. She had two powerful motives for swearing as she did: Self-preservation, and revenge on the defendant and his wife, whom she believed caused her arrest and incarceration in jail. No other evidence whatever was offered that tended to incriminate the defendant. The defendant denied her allegations against him and denied all knowledge of the birth of the child,

and denied that he was it's father. It was proven clearly that Nancy Cook had made statements out of court to the effect that when her child was born there was no life in it and that it was dead as a "nit," and was a mere bunch of something. Her statement is contradictory, unreasonable and improbable throughout. In many respects her statements show strong indications that she had been influenced. The defendant stands uncontradicted and unimpeached. A miserable effort was made to impeach him by proof of general bad reputation for truthfulness, but the effort signally failed, as is shown by the examination and cross-examination of the witnesses called for that purpose. Nancy Cook's own evidence showed that she had no conception of the obligations of an oath. She shows herself to be a lewd, immoral and ignorant woman; ignorant of the consequences of perjury and reckless in her statements. The proof that the child ever lived is very unsatisfactory, and there is absolutely no proof that the child, if it ever lived, is now dead.

BRIEF.

The direct question which I shall now pre-ent to this Court is of great importance, not only to my client but to the public, and so far as I have ascertained has never been directly before this Court in any prior case. It was sought on the trial in this case and allowed by the trial judge to establish the corpus delicti by circumstantial evidence. I submit to this Court and maintain that it is a rule of law in murder cases: That the identity of the accused and the identity of the deceased may be proven by circumstantial evidence, but the fact of the death must be proven by direct and positive testimony. This I understand to be the rule of the common law and as such in force in Illinois.

"It is a general rule not to convict unless the corpus delicti can be established, that is until the dead body can be found."

Bonvier's Law Dictionary, Tit. Corpus Delicti, citing Best on Presumptions, Sec. 201, Stark, Ev. 575.

"I would never," says Lord Hale, "convict any person for stealing the goods of a person unknown, merely because he would not give an account how he came by them, unless there was due proof that a felony had been committed. I would never convict any person of murder or manslaughter unless the fact were proved to be done, or at least the body found dead."

2 Hale, P. C. 290.

Lord Stowell said, "To take presumptions, in order to swell an equivocal and ambiguous fact, in a criminal fact, would, I take it be an entire mis-application of the doctrine of presumptions."

Evans vs. Evans, 8 Dagg. C. R. 105.

"The rule that the body must be found dead is adhered to with great strictness in the English courts. Where the father and mother of a bastard child threw it into the dock, and the body was never afterwards found, an acquittal was directed, because the flow of the tide might have carried out the body of the living infant."

Case cited by Darrow, Arg. Hindmarsh's Case, 2 Leach, 571.

Russel on Crimes, 682, note S. C.

Phillips on Ev. Vol. 2, Second Ed.

Corwin & Hill's Notes, Part I, Page 394, Note 323.

Greenleaf on Ev., Vol. 3, 6th Ed., Sec. 30. Note.

In New York State under the penal code N. Y., Sec. 181, it is enacted: Unless the death of the person alleged to have been killed, and the fact of the killing by the defendant as alleged are each established as independent facts; the former by direct proof, and the latter beyond a reasonable doubt, a conviction is prohibited.

The Court of Appeals of New York in an opinion filed April 10, 1888, in the case of People vs. Palmer, reported in The Northeastern Reporter, volume 16, page 529, held this statute simply a statutory declaration of Common Law rule.

The Common Law rule that the corpus delicti, the fact

of death, must be proven by direct and positive testimony is ably stated and illustrated in the following cases:

Ruloff vs. People, 18 *NY*, 179.

Evans vs. Evans, 2 Hagg. Ecc. 35.

Rex vs. Clews, 4 Car. & P. 221.

Reg. vs. Hopkins, 8 Car. & P. 591.

People vs. Wilson, 3 Park, Crim R. 199.

Com. vs. Webster, 5 Cush. 295.

Taylor vs. State, 35 Tex 97.

State vs. Williams, 7 Jones (N. C.) 446.

It is well established by these authorities that the identity of the deceased and the identity of the accused may be established by circumstantial evidence beyond a reasonable doubt, but the corpus delicti, the fact of the death must be proven by direct and positive testimony. The dangerous consequences of violating this salutary rule of law are well illustrated in hundreds of cases. I call the attention of the court to the following:

2 Hale's P. C. 39.

Boorns' Case, Cited Wills Cir. Ev., page 63.

Greens' Case, 14 St. Tr. 1311.

Miles' Case, Theory of Pres. Proof, App. Case 5.

1 Greenleaf's Law of Ev., Sec. 24.

I maintain that the evidence in this case on the part of the people was doubtful and uncertain, and was not of that conclusive, satisfactory and cogent character that is required to warrant a conviction upon any theory whatever. The woman, Nancy Cook, is clearly a base, lewd and ignorant woman, without character and without any of the better instincts of human nature. She has sense enough to be jealous and vindictive, and to realize her own danger, and try to save herself and gratify her revenge by concocting the charge against this defendant. What human

being with instincts above an animal could suffer her child to be removed at birth and never even make an inquiry about it, as she says she did not. ~~We~~ I think that the evidence shows clearly that defendant had nothing whatever to do with the child; that it was a miscarriage, and either dead when born or died immediately, as most 7 month's children do, and that Nancy Cook carried it out and concealed it so that it has never been found. She feared a conviction for that offense, and under a belief that she would be protected on the charge of murder she made this charge. Such evidence ought not be allowed to convict a man of any offense, much less the crime of murder. It is dangerous to life and liberty to allow a witness to testify in a murder case under such assurances or belief. She was bad enough as a witness without the temptations. The 4th and 5th assignments of errors I think should be sustained by this court and the case reversed for a new trial.

To sustain the 1st, 6th and 7th errors assigned I maintain that the indictment and each count of it is uncertain, indefinite and vague. It should have been quashed.

The 2nd assignment of error is that the court erred in giving instructions asked by the People.

The 11th instruction given for the People was:

"If the jury believes from the evidence that the defendant John Campbell has been successfully impeached on this trial, or that he has wilfully and knowingly sworn falsely as to any matter or thing material to the issues in this case then the jury are at liberty to disregard his entire testimony except so far as it has been corroborated by other credible evidence or facts and circumstances found in this trial."

Here the court selects a particular witness and calls special attention to his evidence, and it seems to me that the instruction, in effect, amounts to an intimation from the court that this particular witness has been impeached and has sworn falsely as to some

material issue. This I think greatly prejudiced the defendant.

Baxter vs. People, 3 Scam., 364.

Otmer vs. People, 76 Ill., 149.

The 7th instruction given for the People was:

"The law requiring the jury to be satisfied of the defendant's guilt beyond a reasonable doubt, in order to warrant a conviction, does not require that you should be satisfied beyond a reasonable doubt of each link in the chain of circumstances relied upon to establish the defendant's guilt. It is sufficient, if taking the testimony altogether, you are satisfied beyond a reasonable doubt that the defendant is guilty in manner and form as charged."

This is misleading and deceptive. Each link in the chain of circumstances must consist of one of the circumstances. A chain is no stronger than its weakest link. But the jury are, in effect, told that it is not necessary to be satisfied beyond a reasonable doubt as to all the links in the chain. How many weak links are permissible? The law is, "Before the jury could be justified in a verdict of guilty, they should have believed the facts and circumstances pointing to defendant's guilt proven beyond a reasonable doubt, and that these facts and circumstances in proof were sufficient to establish upon the defendant the crime of which he was charged beyond a reasonable doubt."

Otmer vs. People, 76 Ill., 149.

State vs. Gut., 13 Minn., 341.

I think the court erred in refusing to give each of the eight instructions asked by the defendant and refused by the court. They unquestionably state the law correctly as it seems to me. As to the first refused instruction if a single fact was proven by a preponderance of the evidence inconsistent with guilt it must of necessity raise a reasonable doubt. In a case like this it was especially important that the 4th refused instruction should have been given: "The Court instructs the jury that if there is any other reasonable hypothesis arising out of the evidence given in the case except the one that the defendant unlawfully killed the

deceased, then the defendant is entitled to the benefit of such hypothesis and he ought to be acquitted." This ought to have been given. All the other refused instructions for defendant I submit state the law correctly and should have been given. For the reasons assigned I submit that judgment of the Circuit Court ought to be reversed and the case remanded for a new trial.

T. B. STELLE,

Attorney for Plaintiff in Error.

31 - Nov 94

Brown & Ridenhour real

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Loaned Sherman appellants

Bf Feb 3/98

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—IN THE—
SUPREME COURT
OF THE
STATE OF ILLINOIS.

SOUTHERN : GRAND : DIVISION.

November Term, A. D. 1894.

JOHN CAMPBELL,
PLAINTIFF IN ERROR,
VS.
THE PEOPLE OF THE STATE OF IL-
LINOIS,—DEFENDANT IN ERROR.

ERROR TO THE CIRCUIT COURT OF
HAMILTON COUNTY.

ABSTRACT.

T. B. STELLE,

Attorney for Plaintiff in Error.

FILED.

NOV 20 1894

Francis W. Howell

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SOUTHERN : GRAND : DIVISION.

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ABSTRACT.

Record
Page:

- "A" 1. Placita.
"B" 1. Title of Court and style of cause.
"C" 1. Index to the evidence.
Commencement of trial in the cause.

1 Nancy Cook, being duly sworn, testified that her name is
Nancy Cook. Is confined in jail. Her home is east of Brough-
2 ton, two and one-half miles, in Hamilton county, Illinois. Has
been living with defendant, John Campbell, last few years since
her Uncle died. Has known defendant 13 or 14 years. Points
out and identifies defendant. First got acquainted with him in

3 Kentucky; moved with him to Arkansas; was fifteen years old when she got acquainted with defendant; went with defendant's family from Arkansas to Indiana, and thence came to Illinois; has lived in Hamilton county, Ill., four years; she kept house for defendant and his brothers until defendant got married in June, 1893; says she lived with them as one of the family. She is not married; that she never was married; she is the mother of three children, one living, one dead, and the one alleged to have been killed by defendant; she says defendant was the father of child alleged to have been killed; that it was born last of last October; that she went out to get some water out of a barrel that was in a wagon to water the fattening hogs, and jumped out of the wagon and hurt herself and had queer feelings; she had then been pregnant seven months; soon she had pains; after supper she told defendant she was going to be sick and for him to get some one; he said to wait and see, said he would after awhile if she needed anyone. They all went to bed; defendant and his brother and two nephews and wife slept in east room and witness and her little boy slept in west room. Says she was suffering. Defendant came through
 4 the room and asked her how she was getting along; says he came through her room four or five times; he went out on back porch to get water and came back to her room and made a fire in stove and stood by the stove until the child was born. Says, "he then came to the bed and taken it out." "It was born on an old quilt; he took it out and wrapped it up; saw him go out of the door with his back towards me; that was the south door; I lay with my head nor h and he went out at the south door." Before that I told him I was going to law him and he said, "If you will never pester me when the child is born you shall never be bothered with it." We had no more talk about it. This was in September; child was born in October. She became pregnant in April, 1893; child born about ten o'clock at night. There was only a partition between the room she slept in and the one where defendant and his family slept; no carpets on the floors; defendant put on his

5 shoes. Defendant cut the cord and separated her from child. Neither witness nor defendant spoke. She says child made "fuss" and moved. Says, "it kind o' cried," directly after it was born and before it was separated. Says after defendant went out with child he came back in about thirty minutes, and asked her if she wanted anything. She told him no and he went to bed. Says defendant made fire next morning about 4 o'clock and told her to tell his wife she had a chill. Says the after-birth came from her
 6 next day about twelve o'clock and she put it in heating stove; says she was up and walking around. Says she never saw or heard of child any more; says she never asked defendant about it; says she staid at his home about four weeks after this and never could get a chance to ask defendant about it. Says she was then put in jail on a charge of concealing the death of her bastard child, on a complaint sworn out by the wife of John Campbell,
 7 the defendant. Says the child was born alive; says it moved and made a fuss; says the child was a bastard and defendant's child. Says defendant was married in June and child born in October; child born in Hamilton county, Ill., last week in October, 1893. Says John Campbell, Rosina Campbell, his wife, Henry Campbell, Billy Williams and Jimmy Williams were in house when child
 8 was born; says her little boy, 9 years old, was in bed with her when child was born; he was asleep. Says she had no idea what defendant was going to do with child when he took it; says there was not a word said betwixt them; child was not named; does not know whether it was a boy or a girl. Says after the after-birth
 9 dropped from her she lay down awhile and then got up and got supper. Says she has never seen the child and has never inquired about it. She is 27 years old. Thinks defendant is 27
 10 years old. Says 'Dick' is her nickname.

Cross-Examined.

11 Was born in Kentucky; father's name William Cook; left Kentucky when seven years old; went to Arkansas; then went to live with the Campbell's; defendant's mother came and got her;

12 was then 15 years old. Says she got in family way by defendant.
 Had no beaux. Never had connection with others in this country.
 Has had three babies and was never married. Says she stepped
 13 or jumped out of wagon and hurt herself, and felt curious all over;
 she watered hogs and commenced having pains; got hurt about 4
 14 o'clock in afternoon; it was Tuesday night last week in October;
 she helped about skinning and dressing a beef after getting hurt;
 15 defendant and Clark were dressing beef; was feeling curious
 then; saw the blood; labor pains commenced about 7
 16 o'clock that evening; she was eating supper and doing up the
 work after labor pains commenced; went to bed about 8 o'clock.
 Partition between two rooms is studding and ceiling; door
 17 between rooms; two beds in her room and three beds in de-
 fendant's room; defendant, his wife and the boys went to bed
 18 first, was in their room when they went to bed, they all went to
 bed about 8 o'clock; partition door was open; I could see when
 19 I went to bed; left door partly open; went to bed after 8
 20 o'clock; I undressed; my bed had feather bed on top of straw
 tick; had two quilts, a blanket and white sheet; I knew it was
 not time for child to be born; I expected to have a miscarriage;
 21 pains got harder; I helped myself at delivering child; no one
 helped me, was in great pain and agony at time of child-
 birth; felt child move and heard noise; cried like it was get-
 ting its breath, I mean it made a fuss like crying; made fuss
 22 only once; defendant walked from stove and took it out in
 minute or two after it was born; only heard noise once, almost
 23 immediately after it was born; it moved; it made no noise
 after he took it; he raised cover and took child out of bed; it
 seemed to move and make fuss before defendant raised cover and
 24 took it out of bed; it moved after he took it and made fuss; he cut
 the cord before he took it; it did not move or make fuss after he
 cut cord; child was born about 7 months after I got in family-
 way.

Q. "Do you know whether that child is alive now or not?"

A. "No, sir, I can't tell you."

Q. "For all you know it may be alive yet?"

A. "It may be, for all I know."

Q. "You don't know whether it is dead or living?"

A. "No, sir, I do not. Have never heard the defendant
 say a word about it since then. Never seen child since."

Q. "Now, what did you do that night? Did you go out of
 doors?"

A. "No, sir, my boy went out of doors. I never got up after
 laying down on the bed."

25 Soon after I went to bed boy went out doors; bed clothing
 did not get soiled; was nothing on the sheets; had no oil cloth on
 bed; was nothing soiled about the bed; child born naturally but it
 26 come too quick; I got up at 11 or 12 o'clock next day; told de-
 fendant's wife she had a chill, she went to her mother's next day;
 27 I got up, stayed around in house, I got supper that evening; after-
 birth came from me while defendant's wife was at her mothers; I
 was walking around and it dropped; picked it up and put it in
 28 stove; made fire in stove and got supper; next day I got up about
 6 o'clock and cooked and sewed; bed clothes were as clean as
 anybody's bed clothes; sheet was not soiled. I was arrested in
 three or four weeks afterwards; John Campbell's wife had it done
 29 for making away with my child. I had talk with Thomas Camp-
 bell once; did not tell him it was just little wad of something that
 came from me and that there was no life in it. Had conversa-
 30 tion with Sheriff Crouch, never told him child was born dead.

Q. "What was the trouble between you and Mrs. Camp-
 bell?"

A. "She was jealous hearted and quarrelled and kept up a
 fuss, and was determined to carry news betwixt John and me.
 She got mad at me first about Jimmy. I got mad at her because
 she had a high temper and would fuss and quarrel. She had me
 arrested for concealing death of my bastard child. I did not
 31 state on my trial before Justice of the Peace what I stated here."

Q. Who did you communicate it to that you was going to give this evidence?"

A. "I dont have to tell."

Q. You say you did not give evidence to this fact before the Justice of the Peace?"

A. "No, sir."

Q. "You testified there, did you?"

A. "Yes, sir."

No one has spoke to her about it this way; Vanwinkle and Porter asked me some things; I told John Vanwinkle first; I never told officers; Crouch was present when I told them; I never told anyone I was going to swear against John Campbell; I told Vanwinkle about it; I know I am charged with the murder of my child, Rosina Campbell did it, she got out writ for that I understand. It was a seven month's child; I missed my monthly sickness in May; Mrs. Campbell stated in court that I was in a family way; I understood they were trying me for the murder of my baby, and therefore I went before the Grand Jury to tell them the true facts; I understand I am indicted for the murder of my baby, I did not harm it; he carried it out; I never saw the child, I only saw the bulk of it wrapped up in a quilt; when I got up I looked and sheet was not soiled; nobody promised to dismiss my murder case if I would testify in this case; I did not tell this before because I did not want to tell all I knowed; Vanwinkle said I could acknowledge to it; I did not want to tell it before Justice of the Peace; defendant told me once that when child was born he would take it where I would not see it; never spoke to him since about it; defendant said that if I thought I was going to be sick he would send for some one; he came in and asked me if I wanted anything and I told him no; that is all; I never could get a word of secret talk with him after that; I did not tell about this in my first trial; they did not ask about it; never got mad at defendant, he got mad at me.

Q. "When was he first mad at you?"

A. "It was his wife that was the trouble."

Q. "If he had not got any wife there would have been no trouble?"

A. "I dont think there would, his wife has stirred up trouble ever since she has been in it."

Q. "Is it her you want punished?"

A. "I want to punish the one that helped to do the work!"

40 Mrs. Campbell kept trotting back and forth to her mother's; she went every morning; I met John in the field lot and talked to
41 him; not alone; he got up some wood. I do not know exactly what the nature of an oath is; does not know the consequences of
42 swearing a lie; has no idea of any punishment but cross-examination; has made her statement with that idea; does not know nature
43 of an oath. Visited some after birth of child and before she was arrested; explains again how she got hurt and mis-carried; states
44 over again about occurrences after her pains commenced; no one ever explained to her the nature of an oath; says she has no idea of the consequences of swearing a lie.

46 Re-Examined by People.

Says, she was there to tell the truth; thought she would be
47 punished for lying.

Re-Cross-Examined.

I said I thought cross-examination was punishment. Don't know what is the punishment.

Sarah Gwin testified:

48 Think Nancy Cook was pregnant last October, in November
49 she looked changed; I live quarter of mile from her; I and Belle Campbell, Betty Swofford, Eliza Brown and Rosina Campbell
50 searched for the child around the place and found nothing; we searched around the fields about our barn, saw no baby, saw no
51 sign of a baby, saw nothing of the kind.

Jerry McElvain testified:

52 Knows defendant, had a conversation with defendant last
fall about the child. I asked him about the guilt or innocence
of this woman, he gave me to understand that he thought she
was guilty; it was at her trial in Broughton; he gave no reasons;
defendant told about thinking she had a bastard child, he did not
53 seem to try to keep anything back, he said he believed she had
had a child and concealed it.

John Sneed testified:

Talked with defendant, he said that the night child was
supposed to be born he thought he heard something cry but could
not tell whether it was in the house or out doors; he raised the
conversation by asking what I thought they would do with Dick,
54 meaning Nancy Cook; I was serving subpoenas for the Grand
Jury; he talked freely about it so far as I could see.

55 Inman Hamilton testified:

Heard defendant's evidence in Nancy Cook's trial before
Justice of the Peace; he said something about hearing a noise; he
said his wife spoke up and said, "there Dick has got her baby."
Did not pay much attention to the evidence.

56 Cross-Examined.

John Campbell was a witness, he said he thought the noise
was a cat.

57 W. F. Howard testified:

Heard defendant's evidence before the Justice of the Peace;
he said he heard noise, thought it was a cat or child; thought she
58 was not pregnant at time of the trial; he said his wife called his
attention to the noise;

59 John Gwin testified:

He is satisfied Nancy Cook was pregnant and lost her baby
60 in October last; heard defendant tell about his wife hearing the

noise and calling his attention to it; he said he heard noise,
thought it was a cat. I searched for the baby day of trial, found
61 nothing. John Campbell always told and swore to same facts.
He talked freely about it.

Nancy Cook, recalled by State, testified:

Thomas Campbell came to her in jail, I told him about hav-
62 ing the child; he asked me why I did not give bond, I told him
could not; he said he would take me out if he could. Says bed
clothing was not soiled because she had on three undershirts and
clothing to keep defendant's wife from knowing it.

63 Cross-Examined.

Q. "Who have you seen since you were on the witness
stand?"

A. "I have seen Mr. Hale."

Q. "Where did you see him?"

A. "He came up this morning."

64 Never had any beaux; Elijah Sneed was my beau. Has had
65 connection with none but John Campbell in this State. Had on
white gown when child was born; moved her skirts and put piece
66 of quilt under her for baby to be born on, next day she took skirts
off and put them under the bed; had on 5 or 6 under-skirts. She
says that before she gave her evidence she heard the State's At-
torney say that her evidence should not be used against her on
67 her trial; says again she understood some of it should not be used
against her; she says she understood that she was to be protected.
She understood State's Attorney to say that he would not use her
evidence against her; she testified with that understanding; Judge
68 Eckley and Mr. Hale, she says, are her attorneys; she says she
testified with the understanding with the State's Attorney that
part of her evidence will not be used against her; she says that
69 under the representation of the State's Attorney and the advice
of her counsel she was caused to testify.

Evidence for Defendant.

70 Willie Williams testified :

Lived with defendant last October; Nancy Cook lived there; Henry Campbell, Jimmy Williams, I and Rosina Campbell lived there; remember the night they killed the beef; Nancy Cook and her boy slept in west room; John Campbell, Rosina Campbell, Henry Campbell, Jimmy Williams and I slept in east room; we went to bed about 8 o'clock; had supper at 7 o'clock; I had ear-ache that night; I went to sleep about 9 o'clock; my ear-ache waked me about 1 o'clock; did not sleep any more that night; about five o'clock in the morning John Campbell got up and went out about a minute; heard no noise in Nancy Cook's room; we had breakfast next morning about 6 o'clock; I went to school. About half an hour after I woke up at one o'clock Nancy Cook got up and went out doors and stayed a little bit, at that time John Campbell was lying in the bed; I am John Campbell's nephew, live with him; I think it was Nancy Cook that got up and went out. Is 15 years old.

Henry Campbell testified :

John Campbell's brother; lived with him last October; knows Nancy Cook, she is commonly called Dick Cook; she has been living in the Campbell family about 15 years; saw her down where we were killing beef; had supper at 7 o'clock; Nancy Cook and her boy slept in west room; her boy is 10 years old this month. Billy Williams had ear-ache that night; between 12 and 1 o'clock Billy Williams waked me up crying with his ear and I heard some one go out of Nancy Cook's room; at the time I heard some one go out of her room John Campbell, Rosina Campbell, Billy Williams, Jimmy Williams and I were all in the east room; John Campbell and his wife were in bed together; about an hour before I heard some one go out of her room John Campbell got up and got a drink, was gone about a minute; next morning Nancy Cook said she had a chill and did not get up.

Cross-Examined.

82 Am 20 years old; the boy had ear-ache the night we killed
83 the beef; when John Campbell went out to get a drink he had to
84 go through west room; know John Campbell went out to get
85 drink; I got up and made a fire; has not talked to John Camp-
86 bell about what he would swear; think I would remember if I had.

Monroe Crouch testified :

87 Was the officer that brought Nancy Cook to jail and under-
stood her to say on the way up here that her child was born dead.
That was the way I understood her; she said when the case was
tried would learn all about it.

Charles Martin testified :

Walked with Nancy Cook from meeting one night last sum-
88 mer; did not have connection with her.

Thomas Campbell testified :

89 Lives in McLeansboro, Ill. Knows Nancy Cook; had a
conversation with her since she was put in jail; she told me she
had a mis-carriage.

Nancy Cook, recalled :

Remembers conversation with Thomas Campbell while she
was in jail; did not tell him it was a mis-carriage; did not tell him
90 there was no life about the child; did not tell him there was no
life in it; did not tell him it was dead as a nit and was a little
lump of something; did not tell him there was no more life in the
child than a stick of wood; did not tell him that if John Camp-
bell and his wife swore they heard it cry they would swear a lie.

Cross-Examined.

I talked with Thomas Campbell; he asked me the trouble;
told him John and his wife had me arrested; told him John
91 accused me of concealing the child; told him John Campbell kept

Uncle Joe from going on my bond; he said John treated me mean; said he would try to get me bail; said he would go on it if he had money; told him John was the father of the child.

Thomas Campbell, recalled :

92 She told me it was a mis-carriage; she said when her child was born it was dead and had no more life in it than a stick of wood; she said that if John Campbell and his wife swore they heard it cry they would swear a lie; she said it was a little bunch of something; she asked me to see Jo Blake to go on her bond; I promised to do so; told her I would go on her bond if I was able; the deputy sheriff told me she wanted to see me and I went up to see her.

Cross-Examined.

93 Am cousin to defendant; Seymour Irvin told me to go up; he fed the prisoners; she said that when the child was born it was dead; had no more life than a stick of wood; was a wad of something; that if John Campbell and his wife swore they heard it cry they would swear a lie; that they had mistreated her.

John Campbell, defendant, testified :

My name is John Campbell; am the defendant; remembers time we killed a beef last of last October; before and at that time Nancy Cook looked like she was pregnant; I never did have carnal connection with her in 1893; I was not the father of her bastard child; I did have carnal connection with her about four years ago; 95 I never had carnal connection with her during last four years; had supper about 7 o'clock night we killed beef. went to bed about 8 o'clock; Nancy Cook and her boy slept in west room; boy is 10 years old; my wife, Henry, the two boys and I slept in the east room; boy had ear-ache; after I went to bed I was not in 96 Nancy Cook's room before I went to sleep; we had no time-piece running; think I went to sleep about 11 o'clock; boy was moaning with his ear; think I waked up about 12 o'clock again; boy

97 waked me; after I had been in bed a little bit and before went to sleep got up and went to get a drink, I went through corner of room where this Cook girl was; it was not over a minute I was gone for drink; never stopped anywhere; got drink and went right back; I was not present when child was born; never saw any child; if one was born I knew nothing of it; I did not carry any baby out of her room; she never spoke to me to get doctor; I never told her to tell that she had had a chill.

Q. "State if you know from your own knowledge or from anything you heard that night whether she had a baby? If you heard any noise you may tell it?"

A. "I will tell all I know about it. After we went to bed we was lying there, maybe an hour and a half, my wife heard something and she said 'Dick has got her baby.' I said, 'I guess not.' She said, 'I heard something like a baby.' I said, 'it may have been a cat.' She said, 'no it went like a baby.' We lay 98 still and didn't hear any more. We lay in bed and talked."

Q. "Did you hear the noise?"

A. "I cant say for sure whether I heard anything or not. We lay there talking, maybe for half an hour or longer. I then heard some one get up in the room she was laying in and they went out."

Q. "You heard some one go out of that room?"

A. "Yes, sir."

Q. "Do you know who it was?"

A. "No, sir."

Was not in the room any time that night except the time got drink of water; it is not true that I was present when her baby was born; never saw her baby; never wrapped it in piece of quilt; never took it out of the room; if she had a baby do not know it; do not know where it is; do not know what become of it; Henry made fire next morning; my testimony before Esquire Howard 99 was substantially as I have stated it here; did not tell her that night it was not her time; I never told her that "If she would not

bother me the child should not bother her;" never had such a conversation; Nancy Cook was arrested about two weeks after we killed the beef; never sought to avoid her; she had plenty of chances to speak to me; she never did say anything to me about her baby; she had chances to talk to me about it if she wanted to; she was mad at my wife. I am not guilty of this charge.

Cross-Examined.

Am 27 years old; lived in this county four years; Nancy Cook lived in family; I married last June; has been 4 years since had connection with Nancy Cook; not the father her child born last fall; never did have connection with her during last four years; my wife heard noise in her room the night we killed beef; never talked with Nancy Cook about her condition; never told her that if she would not prosecute me the child should not bother her; have told all I know about it; told it on trial before Justice; my wife called my attention to noise; Nancy Cook said next morning she had a chill; got water about nine o'clock that night; after I got drink of water we talked awhile and I heard some one get up in the other room and go out; don't know who it was; Boy had ear-ache; Henry got up and put stuff in boy's ear after ten; next morning Henry got up and made fire, and Nancy Cook said she had chill, and my wife and I got up; I went out to feed; after breakfast I went to work; it was two weeks before I noticed she had lost her baby; she was arrested soon after; it was after I got drink of water that heard the noise; neither one of us went in to see about it.

Lorin Biggerstaff testified:

Nancy Cook went with me over to a neighbor's house one day from John Campbell's; I asked her to go. Had no arrangement with her for sexual intercourse.

John F. Elder testified for People:
Am not acquainted with general reputation of John Campbell for truthfulness.

W. C. Ingram testified:

Knows general reputation of John Campbell for truthfulness; says it is pretty bad; would not believe him. Henry Campbell's reputation for truth is bad; would not believe him.

Cross-Examined.

Heard talk about Campbell boys this summer. I can't name anyone who ever said they were not truthful; never heard anyone say it.

J. R. Farris testified:

Don't know John Campbell's reputation for truthfulness.

Nicholas Linden testified:

Is some acquainted with defendant's reputation for truth, and thinks it bad. I can only tell one name I heard speak of his reputation for truth; that was McElvain.

Jerry McElvain testified:

Am not acquainted with the general reputation of John Campbell for truthfulness.

John Moutry testified:

Knows reputation of defendant for truth; thinks it is bad. Could not say would not believe his evidence.

Cross-Examined.

Cannot name anyone but T. J. Allen that I ever heard speak of John Campbell's truthfulness. Never heard anyone else speak of it.

116 John L. Sneed testified :
Not acquainted with defendant's reputation for truth.

Cicero Clark testified :
Not acquainted with defendant's reputation for truth.

Henry Brown testified :
Don't know defendant's reputation for truth.

117 Paul Hamilton testified :
Don't know defendant's reputation for truth.

George W. Donley testified :
Don't know defendant's reputation for truth.

118 T. J. Hardesty testified :
Don't know defendant's reputation for truth.

W. Strotner testified :
Don't know defendant's reputation for truth.

119 Ira Dilsworth testified :
Don't know defendant's reputation for truth,

And here the evidence closed.

120 INSTRUCTIONS FOR PEOPLE.

1. Defines crime of murder.
2. Defines murder.
3. States punishment for murder.
4. Explains circumstantial evidence.
- 121 5. Further definition of circumstantial evidence.
6. Explains presumption of innocence.
7. Explains reasonable doubt.
- 122 8. Explains competency of defendant as witness and way to judge of the weight of his evidence.
9. Explains malice.
10. Defines reasonable doubt.
- 123 11. Explains effect of impeachment of defendant.
12. Tells jury they are the judges of the weight and value of defendant's evidence.
13. Explains circumstantial evidence.
14. Explains what degree of criminating will warrant conviction.
- (Defendant excepted to the giving of these instructions.)
- 124 15. Refused to People.
16. Refused to People.
- 125 17. Refused to People.

INSTRUCTIONS GIVEN FOR DEFENDANT.

- 126 1. Jury judges of the credibility of witnesses and of the weight and value of the evidence.
2. Defines effect of impeachment of witness and of making statements out of court different to statements made in court.
3. Explains to the jury the effect upon the testimony of Nancy Cook if she was promised her evidence should not be used

against her, or that it would go easier with her if she testified.
127 4. Explains the degree of proof required and the effect of circumstantial evidence.

5. The court instructs the jury that one of the material issues is whether the child alleged to have been killed is dead or alive, and that it devolves on the people to prove the death beyond a reasonable doubt by the evidence.

6. Indictment is no evidence; it is merely a formal charge.
128 7. Jury not to disregard defendant's evidence. Must acquit if they have a reasonable doubt.

8. Jury must acquit if they have a reasonable doubt of guilt.

9. Mere probabilities not sufficient to convict; probabilities not sufficient; must be reasonable doubt.

10. Where evidence demonstrates the probability of guilt it is not sufficient.

129 11. Every material averment must be proven beyond a reasonable doubt.

12. All evidence must be considered, and if a reasonable doubt remains the jury must acquit.

13. People must prove every material allegation as charged; nothing to be presumed; the law presumes the defendant innocent until proven guilty by competent evidence beyond a reasonable doubt.

130 14. If all the facts proven can be accounted for on any reasonable theory consistent with defendant's innocence he should be acquitted.

15. Circumstantial evidence to warrant a conviction must produce same degree of certainty as positive and direct testimony.

16. In order to justify the inference of legal guilt, from circumstantial evidence, the existence of the inculpatory facts must be absolutely incompatible with the innocence of the accused, upon any rational theory, and incapable of explanation upon any other reasonable hypothesis than that of guilt.

INSTRUCTIONS REFUSED DEFENDANT.

If any fact is proven to the satisfaction of the jury by a preponderance of the evidence which is inconsistent with guilt, jury should acquit.

2. Circumstantial evidence must be consistent with guilt and inconsistent with any other reasonable hypothesis.

3. Defendant presumed to be innocent until proven guilty beyond a reasonable doubt.

4. The court instructs the jury that if there is any other reasonable hypothesis arising out of the evidence given in the case except that the defendant unlawfully killed the deceased then the defendant is entitled to the benefit of such hypothesis and he ought to be acquitted. (Refused.)

132 5. Law raises no presumption of guilt; every material fact must be proved beyond a reasonable doubt.

6. Explains and defines degree of proof required when connection is sought on circumstantial evidence.

7. Circumstantial evidence is not sufficient unless they are incompatible with defendant's innocence.

133 8. The law deems it better that many guilty persons escape than that an innocent man be punished.

(Defendant excepted to Court's refusal to give these instructions.)

Verdict of jury finding defendant guilty of murder and fixing his punishment at 14 years in the penitentiary.

MOTION FOR NEW TRIAL.

1. Because verdict of jury is contrary to the law.
2. Because verdict of jury is contrary to the evidence.
3. Because the verdict of the jury is contrary to the law and the evidence.
4. Because the jury disregarded the instructions of the court.
5. Because the court refused proper instructions asked by defendant.
6. Because the court gave improper instructions for the people, &c.

Motion over-ruled.

135 Motion in arrest of judgment because record was not written up of the return of the indictment, and because indictment is not sufficient, and because verdict is not sufficient.

Motion over-ruled. Judgment on verdict. Verification of Bill of Exceptions, and signature and seal of Judge.

136 Indictment at February Term, 1894, charging John Campbell
to bell and Nancy Cook with the murder of an un-named child.
141

142 Record of proceedings. Motion to quash indictment on each
143 count. Motion over-ruled. Seperate trial ordered. Defendant
144 arraigned. Jury impannelled. Trial and verdict of guilty and
145 punishment fixed at 14 years in the penitentiary. Motion for a
146 new trial and over-ruled; and motion in arrest of judgment and
147 over-ruled Judgment and sentence. Certification of record.

ASSIGNMENT OF ERRORS ON THE RECORD.

And the defendant, by T. B. Stelle, his attorney, comes and assigns errors on the Record as follows:

1st. The Court erred in over-ruling the motion to quash the indictment.

2nd. The Court erred in giving to the jury instructions asked by the prosecution.

3d. The Court erred in refusing to give to the jury instructions asked by the defendant.

4th. The Court erred in over-ruling the motion for a new trial and rendering a judgment on the verdict.

5th. The Court erred in rendering judgment on the verdict against the defendant and sentencing him to confinement in the penitentiary for fourteen years.

6th. The court erred in over-ruling the motion in arrest of the judgment.

7th. The court erred in rendering judgment on the verdict which is contrary to the evidence and the law.

T. B. STELLE,
Attorney for Plaintiff in Error.

40
52

IN THE
SUPREME COURT
OF ILLINOIS.

SOUTHERN GRAND DIVISION.

NOVEMBER TERM, A. D. 1894.

JOHN CAMPBELL,

Plaintiff in Error.

VS.

THE PEOPLE OF THE STATE OF ILLINOIS.

Defendant in Error.

*Error to the
Circuit Court of
Hamilton County.*

BRIEF AND ARGUMENT FOR DEFENDANT IN ERROR.

MAURICE T. MOLONEY,

Attorney General.

T. J. SCOFIELD, }
M. L. NEWELL } *Of Counsel.*

ISSAC H. WEBB { *States Attorney
Hamilton County*

SPRINGFIELD ILL.
ED. F. HARTMAN, STATE PRINTER.
1894.

FILED.
DEC 4 1894

W. H. Koss

IN THE
SUPREME COURT

OF ILLINOIS.

SOUTHERN GRAND DIVISION.

NOVEMBER TERM, A. D. 1894.

JOHN CAMPBELL,

Plaintiff in Error.

vs.

THE PEOPLE OF THE STATE OF ILLINOIS.

Defendant in Error.

*Error to the
Circuit Court of
Hamilton County.*

BRIEF AND ARGUMENT FOR DEFENDANT IN ERROR.

STATEMENT OF THE CASE.

The plaintiff in error was tried and convicted of the crime of murder in the Hamilton Circuit Court at the February Term A. D. 1894 and sentenced to fourteen years in the penitentiary at Chester.

The material facts offered in evidence are, and most of it will be found in the record in the evidence of Nancy Cook, on pages from 1 to 47, inclusive, of Sarah Gwin on page 47 to 49, inclusive, Inman Hamilton, pages 55 and 56, W. F. Howard, page 57 and John Gwin pages 59 to 61, inclusive. The

evidence of these witness establish the facts beyond a reasonable doubt as alleged in the indictment. The evidence shows that on or about the night of October 24th, 1893 Nancy Cook gave birth to an illegitimate child, that she was a single and unmarried woman and about 27 years old, and that John Campbell, the plaintiff in error, was the father of her bastard child; and that she had become pregnant by plaintiff in error sometime in April 1893, that along about the middle of September 1893 she had a talk with plaintiff in error in regard to her condition and said to him that she would law him as long as there is any law to do anything with him. And plaintiff in error said to her "if you will never pester me when the child is born you shall never be bothered with the child."

That in the afternoon of October 24, 1893, she went, at the request of plaintiff in error, to water the fattening hogs of plaintiff in error, that in getting out of the wagon where the water bands were she slipped or jumped out of the back end of the wagon and shocked herself in such a way that it caused her to have queer and peculiar feelings, that notwithstanding the queer feelings she went ahead with her work until after supper, when she felt that she was going to be sick and give birth to her child, and when she became convinced that she was going to be sick she asked the plaintiff in error to go for some one, that she was going to be sick, and he said to wait and see, and when she insisted on his going he said to wait further along and if you need any one I will go after some one, but that plaintiff in error did not go after any one; that about 8 o'clock in the evening the family all went to bed in

the east room of the house of the plaintiff in error, except Nancy Cook and her little boy, about 10 years old, who went to bed together in the west room of the house; that there was a door opening from the east room, where the plaintiff in error had lain down, and the room where Nancy Cook was lying; that soon after lying down she began to have labor pains, that plaintiff in error got up, came into her room, went out at south door of her room on the porch, got a drink of water; he passed back into his room and then soon came back into her room; did this three or four times and finally came in her room, mended up the fire and stood between her bed and the stove until the child was born, which was between 10 and 11 o'clock; it was born alive; it made a noise and she felt it move. Plaintiff in error went to the bed where she was lying, cut the umbilical cord, wrapped the child up in an old quilt that she had lying under the child on the bed, took the child away from her, went out at the south door of her room and was gone about thirty minutes; came back in without the child, and the child has never been seen since that time by her; came by the bed and wanted to know if she wanted anything and then went on in his own room and went to bed. He came in the room next morning about 4 o'clock and made a fire and told Nancy Cook that when his (plaintiff in error) wife came into the room for her to tell his wife that she had had a chill and was not able to get up. She remained in bed nearly all day, was up for a short time about twelve and then got up in the evening and assisted about getting supper, and was up next day and from that time on. She lived with the father and mother of plaintiff in error from the time she was 15 years old up to the

time of the death of each of them, and after their death she was living with plaintiff in error and keeping house for him and his brother up to the time of the marriage of the plaintiff in error, which was in June, 1893, and after his marriage she continued to live with them as one of the family, doing any and all kind of work that she was called upon to do, that during the time she had lived with the Campbell family she had given birth to two children, one a boy now living and about 10 years old, and a girl that lived to be about 2½ years old.

Plaintiff in error admits that he had been having intercourse with Nancy Cook but claims that it was about four years prior to the time of her giving birth to this child, in October, 1893. The evidence shows that she had not had any beaux, nor had any one had anything to do with her, nor had any one had intercourse with her during the four years she had been living in Illinois except the plaintiff in error.

The evidence clearly shows that Nancy Cook was subservient to and completely under the influence and control of the plaintiff in error, and that she was guided and controlled by the wishes and desires of the plaintiff in error in almost everything she did.

The evidence of Sarah Gwin shows that she, Belle Campbell, Betty Swofford, Eliza Brown and Rosina Campbell made a search of the premises of the plaintiff in error for the child on Sunday after the child should have been born on Tuesday night, but that no trace of the child could be found, and that the child had never been seen or heard of so far as she knew or heard.

BRIEF AND ARGUMENT.

I.

AS TO THE CORPUS DELICTI.

We maintain that while the general rule of evidence under the common law required the corpus delicti to be proved by direct and positive testimony, that there are exceptions to the general rule. Indeed the rule as stated by Lord Hale himself, is, in the alternative, "the fact must be proved or the body found."

"According to the rule as it seems to be understood by the best modern writer, the fact of the death when the body cannot be found may be proved by circumstances."

Burrill on Circumstantial Evidence 680

It may be inferred, says Mr. Wills, on Cir. Evid. 162, from such strong and unequivocal circumstances of presumption as render it morally certain and leave no ground for reasonable doubt. In illustration of this, the same, the author cites the case of *Rex vs. Hindmarsh*, 2 Leach. C. C. 569. Also Best on Pres., 202 and 203.

The general rule, says the American and English Ency. Vol. 9, page 728, is that the corpus delicti taken as a whole may be shown by any evidence which satisfies the jury beyond a reasonable doubt, whether it be direct or circumstantial.

This rule is upheld and sustained in:

State v. Keeler, 28 Iowa, 551.

Johnson v. Com., 81 Ken. 325.

State v. Williams, 7 Jones, N. C. 446.

McCullough v. State, 48 Ind. 109.

Stocking v. State, 7 Ind, 326 to 330.

Mr. Burrill on Cir. Evidence, 679, says: "To require the discovery of the body in all cases would not only be unreasonable and absurd in itself, but would seriously interfere with the cause of criminal justice."

Mr. Bertham, regarding the same rule in its unqualified light, pronounced it to be in the highest degree prejudicial to justice. "To secure to himself impunity," he observes, "a murderer would have no more to do but to consume or decompose the body by fire, by lime, or by any other of the well known chemical menstrea, or to sink it in an unfathomable part of the sea; in any of these ways might the body be effectually got rid of." Bentham 3rd Jud. Evid. 234.

In the case of *The United States v. Gibut et al.*, 2 Sumner, 19, 27, Mr. Justice Story in summing up the case at the trial said of the same rule or proposition that "it certainly can not be admitted as correct in point of common reason or of law, unless courts of justice are to establish a positive rule to screen persons from punishment who may be guilty of the most flagitious crimes. In the case of murder committed on the high seas the body is rarely if ever found, and a more complete encouragement and protection for the worst offenses of this sort could not be invented than a rule of this strictness. It would amount to a universal condonation of all murders committed on the high seas. 2 Starkie Evid. 944.

"It follows, therefore, that in cases where the discovery of the body after the crime is impossible, the fact of the death may be proved by other means."

Recent cases, etc.

The defendant, a poor and shiftless person, having separated from his wife, was importuned by her to help support their child, whom finally she brought and left with him. His mother would not keep the child, and returned her to defendant, with a basket of clothes. Defendant was then working and living in a livery stable, eating where he could. The child, being four years old, stayed at the stable all day, till 8 p. m., when defendant borrowed from his employer a horse and buggy "to take her home." He took her, but left the clothes, and in less than an hour came back alone. Next morning the child's hat was found near a road, over a mile from town, in a path down to the river bank, to a space clear of underbrush, opposite an eddy. Five days later the body was found 600 feet away, without marks of violence. Defendant told lies about what he had done with her, contradicting himself. Held sufficient proof of the corpus delicti, and the identity of the murderer.—*Commonwealth v. Johnson* (Pa. Sup.), 29 A. 280.

Zoldoske v. State (Wis.), 52 N. W. Rep., 778.

Lancaster v. State, 91 Tenn., 267; 18 S. W. Rep., 777.

Kerr on the Law of Homicide, pages 539, 540, 541.

Wharton's Criminal Evidence, sections 325, 326, 327.

On trial of an indictment for murder by drowning of a seaman on a vessel at sea, testimony of her master that, during several days before and after the night deceased was missed, he saw no vessels, is competent, as evidence of the corpus delicti.—*St. Clair v. United States*, 14 S. Ct. Rep., 1,002.

If a man disappears, as men frequently do, there is some reason for holding a strict rule. Not so with the case under consideration. The victim here was an infant; without that wonderful instinct, its mother's love, it would perish from the slightest neglect. The man neglected or thrown out of doors upon a winter's night could shift for himself and seek other and more hospitable quarters, but the helpless infant at its best could do no more than utter its feeble wail and die.

It would be insufficient to prove the corpus delicti in the former case by showing that the man had been thrown out of doors, but in the latter case it would undoubtedly be sufficient to show that the infant had been thrown from the house and never seen again.

The severing of the umbilicus by which it was separated from its mother was an assault upon it. Tender and young as it was it had all the legal rights possessed by the most influential. Its place was beside its mother. Not only the laws of man require this but it exists by a higher law and the impulse of nature. It is not confined to the human family, it exists in the lower orders of animals.

If the evidence is true the father took the infant from the side of the mother and rolling it up in an old quilt carried it out into the night. In half an hour he came back but the infant was never seen again. Now what is the irresistible conclusion? Under the circumstances what is the presumption? The child is dead. It perished from the treatment it received at his hands. We submit that the circumstances of this case clearly come within the exception to the general rule.

II.

AS TO THE INSTRUCTIONS COMPLAINED OF BY COUNSEL FOR PLAINTIFF IN ERROR.

We think they have been approved by our own Supreme Court and state the law fairly and correctly.

The II instruction being in almost the exact language of an instruction given in the case of *Spies, et al. v. People*, 122 Ill. 1—C.

The VII instruction for the People is sustained in:

Mullins v. People, 110 Ill. 42.

Leigh v. People, 113 Ill. 372.

Davis v. People, 114 Ill. 98.

Bresler v. People, 117 Ill. 437.

And as to the instructions refused on behalf of the plaintiff in error, each and every one of them which stated the law correctly were included in and had been given in other instructions for the plaintiff in error.

As to the sufficiency of the evidence in this case, the jury in the trial of the cause had the witnesses before them, and had opportunity for judging the character, clearness, fairness and opportunities of the witnesses concerning the matters about which they testified, and so far as the abstract and record shows do not seem to have gone beyond the support of the testimony in the verdict which they rendered.

Believing that no error was committed in the instructions or trial of the case which in any way justifies a reversal of the case, and that the evidence established beyond a reasonable doubt that the plaintiff in error is guilty of the crime of murder as charged in the indictment, an affirmance of the judgment below is respectfully asked.

M. T. MOLONEY,

Attorney General.

ISAAC H. WEBB,

States Attorney.

T. J. SCOFIELD AND

M. S. NEWELL,

Of Counsel.

4 Crim 32

— IN THE —

SUPREME COURT

OF THE

STATE OF ILLINOIS.

SOUTHERN : GRAND : DIVISION.

November Term, A. D. 1894.

JOHN CAMPBELL,
PLAINTIFF IN ERROR,
VS.
THE PEOPLE OF THE STATE OF IL-
LINOIS,—DEFENDANT IN ERROR.

ERROR TO THE CIRCUIT COURT OF
HAMILTON COUNTY.

Brief and Argument for Plaintiff in Error.

T. B. STELLE,

Attorney for Plaintiff in Error.

NOV 20 1894

W. H. Howe

—IN THE—
SUPREME COURT
OF THE
STATE OF ILLINOIS.

—
SOUTHERN : GRAND : DIVISION.
—

—
November Term, A. D. 1894.
—

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JOHN CAMPBELL,
PLAINTIFF IN ERROR, }
VS. } ERROR TO THE CIRCUIT COURT OF
THE PEOPLE OF THE STATE OF IL- } HAMILTON COUNTY.
LINOIS,—DEFENDANT IN ERROR. }

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Brief and Argument for Plaintiff in Error.
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ARGUMENT.
—

Nancy Cook, the prosecuting witness in this case, was 27 years old, un-married, and the mother—as she testifies—of three bastard children. She says she became pregnant in April, 1893, and as the result of an injury or jar, caused by jumping from a wagon, she had a mis-carriage in the last week in October, 1893, and that when the child was delivered the defendant took it out of the room where the child was delivered, and she never saw it any more. She alleges that the defendant was the father of this child and that when she had threatened to prosecute him he had

said that if she would not bother him when the child was born he would see that the child never bothered her. The defendant was married in June, 1893. This witness, Nancy Cook, formed a strong dislike toward defendant's wife. It appears that Nancy Cook had lived in the family of defendant for several years, and after his mother's death and his marriage, she continued to live with him until after she had her mis-carriage. The defendant's wife, it seems, soon after the birth of her child, filed a complaint against her and had her arrested on a charge of concealing the death of a bastard. On the preliminary hearing Nancy Cook, in default of bail, was committed to jail on this charge to await the action of the grand jury. Both Nancy Cook and the defendant testified at this preliminary trial but she made no charges incriminating the defendant in any way. She remained in jail until the grand jury was organized and then, at her own request, went before the grand jury and secured the indictment of defendant on this charge. She also was joined in the indictment. A separate trial was ordered on motion of this defendant and his case was first tried. Nancy Cook admitted on witness stand that she testified against the defendant on the advice of her attorneys; and with the understanding with the prosecuting attorney that her evidence should not be used against her. She said on the witness stand that before she gave her evidence she heard the State's attorney say that her evidence should not be used against her on her trial and that she understood she was to be protected. It is perfectly clear that this woman expected and believed that by testifying in the case she could secure her own acquittal and discharge by securing, if possible, the conviction of this defendant. She had two powerful motives for swearing as she did: Self-preservation, and revenge on the defendant and his wife, whom she believed caused her arrest and incarceration in jail. No other evidence whatever was offered that tended to incriminate the defendant. The defendant denied her allegations against him and denied all knowledge of the birth of the child,

and denied that he was it's father. It was proven clearly that Nancy Cook had made statements out of court to the effect that when her child was born there was no life in it and that it was dead as a "nit," and was a mere bunch of something. Her statement is contradictory, unreasonable and improbable throughout. In many respects her statements show strong indications that she had been influenced. The defendant stands uncontradicted and unimpeached. A miserable effort was made to impeach him by proof of general bad reputation for truthfulness, but the effort signally failed, as is shown by the examination and cross-examination of the witnesses called for that purpose. Nancy Cook's own evidence showed that she had no conception of the obligations of an oath. She shows herself to be a lewd, immoral and ignorant woman; ignorant of the consequences of perjury and reckless in her statements. The proof that the child ever lived is very unsatisfactory, and there is absolutely no proof that the child, if it ever lived, is now dead.

BRIEF.

The direct question which I shall now present to this Court is of great importance, not only to my client but to the public, and so far as I have ascertained has never been directly before this Court in any prior case. It was sought on the trial in this case and allowed by the trial judge to establish the corpus delicti by circumstantial evidence. I submit to this Court and maintain that it is a rule of law in murder cases: That the identity of the accused and the identity of the deceased may be proven by circumstantial evidence, but the fact of the death must be proven by direct and positive testimony. This I understand to be the rule of the common law and as such in force in Illinois.

"It is a general rule not to convict unless the corpus delicti can be established, that is until the dead body can be found."

Bonvier's Law Dictionary, Tit. Corpus Delicti, citing Best on Presumptions, Sec. 201, Stark, Ev. 575.

"I would never," says Lord Hale, "convict any person for stealing the goods of a person unknown, merely because he would not give an account how he came by them, unless there was due proof that a felony had been committed. I would never convict any person of murder or manslaughter unless the fact were proved to be done, or at least the body found dead."

2 Hale, P. C. 290.

Lord Stowell said, "To take presumptions, in order to swell an equivocal and ambiguous fact, in a criminal fact, would, I take it be an entire mis-application of the doctrine of presumptions."

Evans vs. Evans, 8 Dagg. C. R. 105.

"The rule that the body must be found dead is adhered to with great strictness in the English courts. Where the father and mother of a bastard child threw it into the dock, and the body was never afterwards found, an acquittal was directed, because the flow of the tide might have carried out the body of the living infant."

Case cited by Darrow, Arg. Hindmarsh's Case, 2 Leach, 571.

Russel on Crimes, 682, note S. C.

Phillips on Ev. Vol. 2, Second Ed.

Corwin & Hill's Notes, Part I, Page 394, Note 323.

Greenleaf on Ev., Vol. 3, 6th Ed., Sec. 30. Note.

In New York State under the penal code N. Y., Sec. 181, it is enacted: Unless the death of the person alleged to have been killed, and the fact of the killing by the defendant as alleged are each established as independent facts; the former by direct proof, and the latter beyond a reasonable doubt, a conviction is prohibited.

The Court of Appeals of New York in an opinion filed April 10, 1888, in the case of People vs. Palmer, reported in The Northeastern Reporter, volume 16, page 529, held this statute simply a statutory declaration of Common Law rule.

The Common Law rule that the corpus delicti, the fact

of death, must be proven by direct and positive testimony is ably stated and illustrated in the following cases:

Ruloff vs. People, 18 *N.Y.*, 179.

Evans vs. Evans, 2 Hagg. Ecc. 35.

Rex vs. Clews, 4 Car. & P. 221.

Reg. vs. Hopkins, 8 Car. & P. 591.

People vs. Wilson, 3 Park, Crim R. 199.

Com. vs. Webster, 5 Cush. 295.

Taylor vs. State, 35 Tex 97.

State vs. Williams, 7 Jones (N. C.) 446.

It is well established by these authorities that the identity of the deceased and the identity of the accused may be established by circumstantial evidence beyond a reasonable doubt, but the corpus delicti, the fact of the death must be proven by direct and positive testimony. The dangerous consequences of violating this salutary rule of law are well illustrated in hundreds of cases. I call the attention of the court to the following:

2 Hale's P. C. 39.

Boorns' Case, Cited Wills Cir. Ev., page 63.

Greens' Case, 14 St. Tr. 1311.

Miles' Case, Theory of Pres. Proof, App. Case 5.

1 Greenleaf's Law of Ev., Sec. 24.

I maintain that the evidence in this case on the part of the people was doubtful and uncertain, and was not of that conclusive, satisfactory and cogent character that is required to warrant a conviction upon any theory whatever. The woman, Nancy Cook, is clearly a base, lewd and ignorant woman, without character and without any of the better instincts of human nature. She has sense enough to be jealous and vindictive, and to realize her own danger, and try to save herself and gratify her revenge by concocting the charge against this defendant. What human

being with instincts above an animal could suffer her child to be removed at birth and never even make an inquiry about it, as she says she did not. I think that the evidence shows clearly that defendant had nothing whatever to do with the child; that it was a miscarriage, and either dead when born or died immediately, as most 7 month's children do, and that Nancy Cook carried it out and concealed it so that it has never been found. She feared a conviction for that offense, and under a belief that she would be protected on the charge of murder she made this charge. Such evidence ought not be allowed to convict a man of any offense, much less the crime of murder. It is dangerous to life and liberty to allow a witness to testify in a murder case under such assurances or belief. She was bad enough as a witness without the temptations. The 4th and 5th assignments of errors I think should be sustained by this court and the case reversed for a new trial.

To sustain the 1st, 6th and 7th errors assigned I maintain that the indictment and each count of it is uncertain, indefinite and vague. It should have been quashed.

The 2nd assignment of error is that the court erred in giving instructions asked by the People.

The 11th instruction given for the People was:

"If the jury believes from the evidence that the defendant John Campbell has been successfully impeached on this trial, or that he has wilfully and knowingly sworn falsely as to any matter or thing material to the issues in this case then the jury are at liberty to disregard his entire testimony except so far as it has been corroborated by other credible evidence or facts and circumstances found in this trial."

Here the court selects a particular witness and calls special attention to his evidence, and it seems to me that the instruction, in effect, amounts to an intimation from the court that this particular witness has been impeached and has sworn falsely as to some

material issue. This I think greatly prejudiced the defendant.

Baxter vs. People, 3 Scam., 364.

Otmer vs. People, 76 Ill., 149.

The 7th instruction given for the People was:

"The law requiring the jury to be satisfied of the defendant's guilt beyond a reasonable doubt, in order to warrant a conviction, does not require that you should be satisfied beyond a reasonable doubt of each link in the chain of circumstances relied upon to establish the defendant's guilt. It is sufficient, if taking the testimony altogether, you are satisfied beyond a reasonable doubt that the defendant is guilty in manner and form as charged."

This is misleading and deceptive. Each link in the chain of circumstances must consist of one of the circumstances. A chain is no stronger than its weakest link. But the jury are, in effect, told that it is not necessary to be satisfied beyond a reasonable doubt as to all the links in the chain. How many weak links are permissible? The law is, "Before the jury could be justified in a verdict of guilty, they should have believed the facts and circumstances pointing to defendant's guilt proven beyond a reasonable doubt, and that these facts and circumstances in proof were sufficient to establish upon the defendant the crime of which he was charged beyond a reasonable doubt."

Otmer vs. People, 76 Ill., 149.

State vs. Gut., 13 Minn., 341.

I think the court erred in refusing to give each of the eight instructions asked by the defendant and refused by the court. They unquestionably state the law correctly as it seems to me. As to the first refused instruction if a single fact was proven by a preponderance of the evidence inconsistent with guilt it must of necessity raise a reasonable doubt. In a case like this it was especially important that the 4th refused instruction should have been given: "The Court instructs the jury that if there is any other reasonable hypothesis arising out of the evidence given in the case except the one that the defendant unlawfully killed the

deceased, then the defendant is entitled to the benefit of such hypothesis and he ought to be acquitted." This ought to have been given. All the other refused instructions for defendant I submit state the law correctly and should have been given. For the reasons assigned I submit that judgment of the Circuit Court ought to be reversed and the case remanded for a new trial.

T. B. STELLE,
Attorney for Plaintiff in Error.

ESTATE OF [REDACTED]
Office of CIRCUIT CLERK AND RECORDER,
HAMILTON COUNTY.

H. L. MAULDING, Clerk and Recorder.

McLeanboro, Ill., Nov 23 1894

Hon Frank W. Hall
Clerk Supreme Ct
Mt Vernon Ill.

Dear Sir:

Enclosed find additional Transcript
of Proceedings in the case of John Campbell
v. The People now pending in the supreme
court showing empaneling of Grand jury and
return of Indictment into open court
this was omitted from the record now on
file in Supreme Court. by oversight and
mistake and I hope this will be accepted
as an answer to certiorari

Yours Respe
H. L. Maulding
Clerk

FILED.

NOV 23 1894

Frank W. Havill
CLERK.

H. C. C.

Supreme Court-
Southern Grant Division &
Northern Term 1894

Campbell v The People

And now came the people and suggest
a diminution of the Record
book and move the Court
for a writ of Habeas Corpus to be
directed to the Clerk of the Court
behaving commanding him to
certify to this Court a complete
record of the proceedings in this
case etc.

Wm Motlany

Atty Gen

M L Jewell

asst-

Recess appearing of Record

On page 145, ^{of the record} appears this entry,
"Motion in arrest- and affidavit
of Clerk Taken orally in support
and Minutes of Clerk's depositions
read in Evidence ~~read~~ as to
return of indictment in open
Court and Motion overruled
from which it appears that
there is a record remaining
in the Office of the Circuit
Court of Hamilton County
of the return into Court of the
indictment- true and of the
annulling of the grand
jury, and yet the Clerk has
failed to certify the same.

Wherefor this Motion

Is made
Atty Gen

By M L Stowell

No 4

Supreme Court

Causes for the People

Suggestion Disposition
Motion for Extension

Almond

FILED.

NOV 22 1894

Frank W. Havens
CLERK.

UNITED STATES OF AMERICA.

STATE OF ILLINOIS,

Hamilton County,

ss.

In Circuit Court, *February* Term, A. D. 18*94*.

PLEAS, before the Hon. *C. C. Rogers* one of the Judges of the *Second* Judicial Circuit of the State of Illinois, and sole presiding Judge of the Circuit Court of *Hamilton* County, in the State aforesaid, and at a term thereof begun and held at the Court House in the *City* of *Highland* in said County, on the *Twenty Ninth* day (being the *Fourth* day) of *February* in the year of our Lord one thousand eight hundred and *Ninety Four* and of the independence of the said United States the one hundred and *Eighth*

Present—Honorable

*C. C. Rogers*Judge of the *Second* Judicial Circuit of the State of Illinois.*H. E. Mendenhall*

Clerk.

E. H. Webb

State's Attorney.

H. M. Crutch

Sheriff.

Attest :

H. E. Mendenhall Clerk.

and now on this the first day of the term the same being the 26th day of February A.D. 1894 comes before Mr. Crutch Sheriff in and for the County of Hamilton and State of Illinois and returns into Court into open Court the following named good and lawful men to serve as Grand Jurors during this term Court; William Gaul, Ezra Campbell, R. E. Bartlett, Lemuel Smith, C. E. Dyer, John H. Moss, John Decker, John Dyer, J. W. Jenkins, Lewis Duvigne, John C. Crawford, William E. Webb, Rev. W. Gross, J. A. Jackson, E. W. Carey, Josephus Quinn, Rev. A. Walker, E. J. Kirk, King Riley, Jake Mc. Oak, John L. Elder, and it appearing to the Court that the Panel lacks two of being full it is ordered by the Court that the Sheriff call two Jurors from the by standers wherefore William C.

-Ingraham and Page Williams are called which completes the Panel of Grand Jurors and all are accepted as the Panel of Grand Jurors for this term and Robert C. Bartlett being selected and sworn as Foreman, and the Grand Jury having also taken the oath as prescribed by law and the Grand Jury being now charged by the Court in regard to their duties under in charge of John W. Mantry a Bailiff who is sworn for that purpose to summon of presentments &c.

And now on this 5th day of the term same being the 2nd day of March, A.D. 1894 again come into Court into open Court the Grand Jury within and for said County and State and return into open Court the following as and for true Bills of Indictment viz:

No. 5.

The People of the State of Illinois vs.

Nancy Barker
John Campbell



Murder.

STATE OF ILLINOIS,

Hamilton County, ss.

I, H. C. Maulding

Clerk of the Circuit

Court of Hamilton County, in the State aforesaid, and keeper of the records and

files of said Court, do hereby certify the above and foregoing to be a true, perfect and complete copy of

the order of said Court in remanding the Grand Jury at the February
term thereof 1894 and of the return of the indictment into Hamilton County
and then pending in said Court, on the People vs. John Campbell side thereof, wherein The People of the
State of Illinois were Plaintiffs and Henry Cook and
John Campbell were Defendants, as the same

appear from the records and files of said Court, now in my office remaining to
and I further certify that above is all the record in my office and
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the

Seal of said Court, at

M. C. Hamilton

this

22

day of

November

A. D. 1894.

H. C. Maulding Clerk.

Addition al

Transcript of Proceedings

IN SUIT.

CIRCUIT COURT,

Wilmington County,

February Term, 1894

In the Matter of

*The People of the
State of Illinois*

*vs
John Campbell
Dee*

JOHN MORRIS COMPANY, PRINTERS, CHICAGO.

FILED.
NOV 23 1894
Frank W. Davis
CLERK.

Pago "A" 1

4 Case
UNITED STATES OF AMERICA.

STATE OF ILLINOIS,

Hamilton COUNTY,

} ss.

In Circuit Court February Term, A. D. 1894

PLEAS, before the Hon. Carrol C. Boggs one of the Judges of
the Second Judicial Circuit of the State of Illinois, and sole presiding Judge of the Circuit
Court of Hamilton County, in the State aforesaid, and at a term thereof

begun and held at the Court House in the City of McLeanboro in said
County, on the 26th day (being the Fourth Mon day)

of February in the year of our Lord one thousand eight hundred and Ninety four
and of the independence of the said United States the one hundred and Eighteenth

Present—Honorable Carrol C. Boggs Judge of the Second
Judicial Circuit of the State of Illinois.)

W. L. Maulding Clerk.

J. H. Webb State's Attorney.

W. M. Broun Sheriff.

Attest: W. L. Maulding Clerk.

§§§

HAMILTON COUNTY ILL

Feb. Term. 1894.

[illegible]

THE PEOPLE

V

MURDER.

JOHN CAMPBELL.

Tried by a Jury.

Hon. C. C. BOGGS ~~Chairman~~ Presiding.

C O U N S E L .

For The People. ----- States Atty. I H. Webb.

and J. W. Hale.

For The Defendant. ----- Hon. T. B. Stelle.

Reported by Wm. Leach

(Official Reporter)

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BE IT REMEMBERED --- That on the trial of this cause that, the People in order to maintain the issue on the part of the People, introduced the evidence of the following persons who before testifying were each and every one duly sworn to testify the truth in regard to the matter at issue, and who did testify as follows -- To wit.

NANCY COOK.

Called for the People.
Examined by Mr. Dale in chief.

State your name.

A My name is Nancy Cook

Q Now you may tell the jury where you lived before you was brought to town and put in jail.

A I lived east of Broughton, about two miles and a half, in Hamilton County Illinois.

Q State with whom you have been living for the past few years.

A I have been living with John Campbell since the old man and the old lady died.

Q Who do you mean by the "Old man."

A I mean Uncle Jenny Campbell.

Q How long have you been acquainted with ^{John} Campbell the defendant in this case.

A About 13 or 14 years

Q You know him well.

A Yes sir.

Q Point him out.

A There he sets. (pointing to defendant)

Q State where you first became acquainted with him.

A In Kentucky, I moved from Kentucky to Arkansas with them.

Q How old was you when you first went to live with them.

A I was fifteen years old as near as I can recollect.

Q How came you to get with them in the first place.

A When my parents died Mrs. Campbell came and got me to live with them, they moved from Kentucky and I went with her. I was living at my grandfathers when she got me.

Q Where did you go from Arkansas.

A We moved over to Indiana and stayed there a while.

Q How long did you live in Arkansas.

A Some six or seven years.

Q Where did you move to from there.

A To Indiana, we stayed there a while then we moved over to White County and lived there a year may be a little longer. Then we came to this County (Hamilton.)

Q How long have you lived in Hamilton County in this State.

A Four years

Q State with whom you have been living since you came to Hamilton County.

A I lived at Mr. Campbells till the old lady died then I lived with John and Henry Campbell

Q Did you keep house for them.

A Yes till he married.

Q When did he marry.

A Last June

Q Did you live in the house with him.

A Yes I lived in the house with them.

Q What did you do while you was living in the house with them

A I worked in the house and worked out of doors.

Q Did you help to do the farm work, and work in the house too

A Yes sir.

Now state to the jury in what capacity you lived there, was it as a hired girl or as one of the family

A I lived with them as one of the family.

Q Miss Cook you may commence at the beginning and state if you are unmarried.

A Yes I aint married.

Q Are you the mother of any children.

A Yes sir, I have a boy living.

Q How many children are you the mother of altogether.

A Three.

Q And you have a boy living.

A Yes sir.

Q How old is he

A He is ten years old last month.

Q What was the next one.

A It was a girl, it was two years and eleven days old when it died.

Q Now about the third one when was it born.

A About the last of last October

You may state to the jury what becone of that child, and who is the father of it. State first who was the father of it.

A John Campbell there, the defendant.

Q State what becone of that child

Stelle for defendant objected to this as it was simply a conclusion of the witness.

THE COURT--- The objection will be over-ruled
Defendant Then and there excepted

THE WITNESS--- One day they were killing a beef, Mr. Campbell and Mr. Clark helping him. John Campbell asked me to go and water the fattening hogs I said yes, and went down to the wagon and got a bucket of water from the barrel in the wagon. I jumped out at the hind end of the wagon, and I had the most curious feelings I ever had. After supper I told John that I was sick and I told him he had better go after some one, he said to wait and see I said no I am sick and for him to go and get some one, he said I will after a while, for me to wait and see, he said wait till further along and he said if you need any one. I will go for some one, but, he did not go we went to bed. He and his brother and two nephews were sleeping in the house in the east half, I was sleeping in the west half, with my little boy in bed with me I was suffering and he came through his room and asked how I was getting along.

Q How many times did he come into your room.

A Some four or five times may be afterer, he went out on the back porch to get water and came back into the house where I was and he stopped and made a fire in the stove. He stood betwixt me and the stove till the child was born. He then came to the bed and taken it out. It was born on an old quilt, he took it and wrapped it up, I saw him go out of the door with his back towards me, that was the south door, I lay with my head north and he went out at the south door. He said to me before that, when I was talking with him as we went to the Baptist meeting one Sunday, We took his wife over to her nothers, after that, we went to the meeting. We was talking about this matter, I said to him " I am going to leave you as long as there is any law to do any thing with you " He said to me, " If you will never pester me when the child is born, you shall never be bothered with it " I was not thinking of anything of this kind. I think we did not have any more talk about it that evening about sundown we went over to the church.

Q How long was this talk before the child was born.

A It was along in September, I dont know exactly what time, the child was born in October

Q Can you say when you became that way.

A It was about the first of last April.

Q You spoke about him coming in the house, what time of the night was that.

A It was between nine and ten. O clock, or about that late.

Q What was there between the room the boys was sleeping in and your room.

A There was Just a partition, but the beds were not setting against the partition.

Q When he came into your room state how he would open and shut the door.

A He would open it very carefully, as he opened it he would just push it to a little.

Q Was the floor carpeted.

A No sir.

Q How would he walk about the floor.

A He went very light over the floor.

Q Did he have his shoes on while going over the floor.

Stelle Objected to leading the witness.

Witness--- The first two or three times he had his shoes off, then he put them on, he did not strip off his clothing he still kept them on.

Q How was the child seperated from you when it was born.

A He took his knife and cut the cord

Q Did you see anything in his hand, did you see any instrument in his hand

Stelle objected again to leading the witness.
THE COURT --- Ask what he said.

Witness--- He did not speak as he was taking it, nor he to ^{him.}

Stelle--- If you heard any noise state it.

A Yes I heard the child making a fuss.

State what it was.

A It kind o cried, I cant state, but I think it cried I was in such a condition. I did not pay much attention.

Q Have you any recollection at what time it made that noise.

A Directly after it was born.

Q Can you state whether it was before or after he severed it from you

A It was before.

Q Which way was your head and feet and how was you lying.

A I was lying with my head north and my feet south.

Q What part of the house was the door in that he took the child out at.

A It was right in the corner like that one there (pointing)

Q In what direction was it .

A It was south.

Q When did you see him next.

A He came back into the room in about thirty minutes, or may be longer. and asked me if I was wanting anything, I said no he then went to bed and there was no more said that night. The next morning he got up about four O clock and he made a fire in the heating stove and said to me to tell Zina when she gets up and asks you why you did not get up, tell her you had a chill.

Q What occurred then.

A She jumped up and came in there.

Stelle to witness-- Was he in there then.

Witness--- No he had stepped out.

BY NAME --- You need not state what his wife said to you:
you may tell the jury if you know, when the After-birth
came from you.

A It was the next day after I got up.

Q What time of the day was it.

A It was about eleven or twelve o'clock.

Q What was done with it.

A I put it in the heating stove.

Q Was any one else in the room.

A No sir, no one but me, the little boy was out at the barn
feeding the horses

Q Now I will ask you if you ever saw that child any more after
he carried it out.

A No sir, I never saw it nor heard of it.

Q Did you ever try to hear of it.

Stelle Objected to this Objection. Over-ruled.

Witness--- I tried to get round him to ask him what he had done
with it, he would never be in my company after that,
when I would go to where he was he would go off, and he
would have nothing to say about it, I never got to
ask him, and we did not have any talk about it.

Q How long did you stay after this occurrence.

A Some three or four weeks

Q Where have you been since.

A I have been up here in jail, in the Grand Jury room.

Q What was you doing in the grand jury room.

A They had me a prisoner.

Now tell the Jury if you know, whether the child was born alive.

Stelle Objected on the ground that it was for the
jury to determine that question.

COURT TO WITNESS--- It is proper for you to state anything you
know, whether the child was alive or not, if you
know anything about it, you may state it. Tell the
jury what you know about it.

WITNESS--- It was born alive.

BY HALL --- How do you know it.

Witness--- It made a fuss and moved, I spoke of that too.

Q How do you know it moved.

A any one can tell

Q Do you mean while it was being born, or after it was born.

A After it was born.

Q You say it moved after it was born.

A Yes it moved after it was born.

Q You may state further about the noise, is that another means you have of knowing.

A Yes sir, it made a fuss.

Q You may state whether it was a bastard child.

A Yes sir.

Q Can you tell the jury who the father of that child was.

A That defendant setting there John Campbell

Q How long had he been married when this took place.

A He had been married four or five months, he was married in June and this happened in October.

Q In what county and State did this happen in.

A In Hamilton County in Illinois.

State the month and year.

A In April, 1893.

Q What do you mean, you say it happened in April 1893.

A Why he got me in the family way. In April 1893.

Q I will ask you to state when the child was born and taken away from you as you have stated.

A It was in October of 1893 It was the last week in October I do not remember what day of the month it was.

Q Now name all the persons in the house when the child was born.

A John Campbell, Rosina Campbell (his wife) Henry Campbell his brother, Billy Williams, and Jenny Williams.

Q How old is Henry Campbell

A I dont know exactly how old he 19 or 20

Q You say the other two were the Williams boys.

A Yes sir .

Q How old are they.

A From fourteen to eighteen.

Q Any one else.

A No one else

Q Where was your little boy.

A He was in bed with me.

Q How old is he.

A Nine years old going on ten

Q Did he know anything about Campbell being in the house that night

A No sir he was asleep and did not know anything about it, no one knew anything about ^{it} only me and Campbell.

Q Was you up when the family went to bed ~~again~~ that night.

A Yes sir.

Q Give your best judgment as to the length of time they ^{had} been gone to bed when the child was born.

A They had been in bed about three hours when the child was born, they had went to bed tolerably. ^{early}

Q You may tell the Jury if at the time he took the child from ^{you} and wrapped it up in a quilt, if you had any idea as to what he was going to do with it.

A No sir, I had no idea, I was in such a condition I was not thinking much about it.

Q If there was anything said by you or him either one, state what it was

A No nothing was said betwixt us, at that time he asked me if the child was born.

Q Did the child have any name.

A No it was not named.

Q Do you know whether it was a boy or a girl.

A No sir, I did not know what it was.

Q You say you got up the next day.

A Yes about eleven or twelve ¹ o'clock.

Q What did you do then.

A I went round in the house, Jenny asked me if dinner was ready I said I did not know whether John had left any dinner, he said there is as much as I will eat he went in the kitchen and eat,

Q How long did you stay up

A I lay down and got up in the evening and was fixing to get supper when she came home .

Q Who did get the supper.

A I got the supper.

Q When did you go to bed again

A Not till I got the night work done up I got up next morning and helped to milk and did up the house work.

Q Did John say anything about it.

A No sir, he did not say anything to me about it, nor me to him.

Q You say you never saw nor heard of the child from that day to this.

A No sir I have not.

Q You said a while ago you tried to speak to him, what did you say to him.

A I was going to catch him sort of to himself, so as to keep his wife from hearing our talk

Q What did you do.

A He never gave me a chance to talk to him about what I was going to ask him, he never gave me a chance to have any talk with him about it.

Q What is your age.

A As near as I know I am 27 years old this last January, that is as near as I know.

Q What was your age when your father died and when your mother died

A I was seven when mother died and ten when father died.

Q You think you are 27 now, do you know the age of John Campbell.

A No sir, but I heard his mother talk about his age.

Q You may state if you can read and write.

A A little but not much.

Q If you have any idea from any date you may have seen in the family Bible or from what he may have said.

Stelle Objected to this.

BY THE COURT.---- She cant testify about the family Bible if it can be produced here

HALS to COURT-- I am asking her if she has any knowledge to state it.

THE COURT--- Take some other course.

Hale to Witness--- Do you know what his age is.

Witness-- I think when he was married he was 27, he will be 28 this Summer, Mr. Howard can tell you how old he is.

Hale--1 Something has been said about them calling you Dick that is just a nick name, your real name is Nancy Cook.

Witness-- Yes that is a nick name that they callme in the family.

Hale to Mr. Stelle--- That is all you may cross examine.

NANCY COOK

Cross examined by MR T B Stelle

Q Where was you born.

A In Kentucky.

Q In what part of Kentucky.

A I dont know in what part.

Q What was your father's name.

A William Cook.

Q What was your mothers name.

A Her maiden name was Strawnak, her given name was Manatha.

Q How long did you live with your parents in Kentucky.

A I lived there about seven years as near as I can tell. I was small when mother died my father moved to Missouri and and died out there.

Q Did you move there with him.

A Yes sir.

Q How old was you when he died.

A I was ten years old.

Q Who besides your father and you went.

A He married out there, he was not there long till she died

Q Who was left.

A No one but me.

Q How old was you then.

A I was ten years old.

Q Where did you go then

My uncle came out after me.

Q Who was your uncle.

Rufus Cook.

Q What did he do with you.

A Took me to his fathers.

Q What was his fathers name.

A Erastus Cook

Q Where was you then.

A In Kentucky, in Caldwell County.

Q How long did you stay with your uncle.

A Not very long, I stayed with Grandfather till I was fifteen.

Q What was your grandfather's name.

A Erastus Cook.

Q Then what did you do.

I then went to live with Campbells.

Q Why did you leave your grandfather.

A He died.

Q Did you have any other relatives there.

A Yes sir, then John Campbell's mother came and got me to live with her, she had no girl.

Q How old was you then.

A About fifteen years old.

Q Where was you living then.

In Caldwell County, in Kentucky.

Q How long was you there.

A I was there three years and four months before we moved to Arkansas.

Q You say you was seven years old when your mother died, and ten when your father died, how long did you live with your uncle.

A I lived with my uncle four years.

Q You said you lived with your grandfather a while.

- A My uncle was living with my grandfather, they lived together.
- Q After the four years where did you live.
- A I went to Jem. Campbells in Caldwell County
- Q How long did you live there.
- A Till they moved, we went to Arkansas and stayed a short time, then moved to Indiana, then moved over to this County.
- Q How long have you lived here.
- A Four years.
- Q And you are 27 years old.
- A Yes sir.
- Q You say you got in the family way last April.
- A Yes, by John Campbell.
- Q How can you tell it was by John Campbell.
- A Cant any one tell?
- Q Can you tell us whether it was by John or somebody else.
- A I guess I can, I was living with him.
- Q Can you tell whether it was him or some other boy
- A It was no other one, I know, because I can tell.
- Q Have you any means of knowing positively.
- A Yes sir.
- Q What means have you.
- A good many of them.
- Q How can you tell, you had other Beaux.
- No sir I did not run round with other boys
- Q You had other folks that waited on you.
- A No sir.
- Q Did you meet any of the other boys around.
- No sir, I never.
- Q You never done that way with anybody except John.
- Yes sir, but not in this country.
- Q You have had three babies and never have been married.

A No sir I have never been married

Q You have not told how you know you was in the family way by John

A Because any woman knows.

Q Have you any other reason.

A Yes I have, no one has had anything to do with me only him.

Q Do you swear that positively.

Yes sir.

Q In 1893.

A Yes sir at no time in 1893.

Q You say you got that way about the first of April.

A Yes sir.

Q How do you know you got that way.

A Any one can tell by their natural life.

Q How do you get at the day, you had a miscarriage.

A I went down to the wagon to water the fattening hogs, John asked me to water them.

Q What did you do then that caused you to get hurt.

A I stepped down, or jumped out of the wagon

Q You jumped out of the wagon?

A No I did not jump clean to the ground, I sat down on the hind end of the wagon and jumped down like, the hind gate was out of the wagon.

Q Did you feel it hurt you

A Yes I had curious feelings from that on.

Q Did you understand that the child was injured.

A No sir.

Q How did you feel.

A I felt curious.

Q Have you not had curious feelings before.

No sir.

Q Now tell what kind of curious feelings you had.

A I have told you, I cant tell you any more about it.

Q Was it in your limbs.

A I felt curious all over, I stood there for a little while

I was feeling bad, then I went to water the hogs.

Q What time did you commence having pains that evening.

A About sun-down, I got hurt about four o'clock.

Q In about two hours after you commenced having pains.

A I dont think it was quite that late.

Q You say this was about the last of October

A Yes sir.

Q How close to the last of October was it.

A I dont know, but it was the last week of the month.

Q What day of the week was it.

A It was on Tuesday night.

Q If the month was out on Tuesday, that would make it on the 24th: is that right?

A I think it is, it was on Tuesday night, and the last day of the month was Tuesday.

Q You remember it?

A Yes sir.

Q About an hour after you got out of the wagon you commenced having pains.

A It was later than that, I went to help them with the beef.

Q You helped with the beef after that.

A Yes I went to where they was, and done one thing and another.

Q They was killing a beef that evening.

A Yes sir.

Q You was helping to cut it up.

A No.

Q Who was cutting it up.

A John Campbell and Mr. Clark, I went down there after they had killed it.

Q What did you do.

A I told you a minute ago, I done first one thing and then another they had me hand the axes and the knives

Q What did they want the axes for.

A To cut up the beef.

Q You was still feeling curious.

A Yes sir.

Q You stayed there and saw them cut up the beef.

A Yes sir.

Q You saw the blood on the beef.

A Yes sir.

Q Did you see them kill the beef.

A I did not see them knock it down, but I saw it before they took the hide off it.

Q Did you see it before it was plum dead.

A No sir.

Q You was still feeling curious and stayed where they were skinning the beef.

A Yes, they had me there to help them they wanted the lard taken off the insides, his wife said she knew nothing about it, and I said I can take care of it.

Q Now what time in the evening was it till you commenced your labor pains, you know what they are.

A Yes, I commenced about seven o'clock.

Q Was it not sooner than that.

A Not the real labor pains.

Q How long after was it when you commenced to have labor pains

A I commenced having pains about dark.

Q You had had some pains before that.

A Yes sir.

Q You commenced having regular pains about seven o'clock

A Yes or a little after.

Q What time did you get supper that evening.

A About six o'clock.

Q Was you having some pains before supper.

A I told you a minute ago that I had some pains.

Q And you was having them during supper, and the heavy pains begun about seven o'clock.

A No sir, a little after

- Q You said a while ago that it was after nine o'clock when the child was born, do you think it was that late.
- A I think it was that late. I do not know exactly what hour it was, the time piece was not running.
- Q About what hour was the child born
- A Between nine and ten o'clock I think.
- Q Where was you from seven o'clock till the child was born.
- A I was right there.
- Q Where was you at.
- A Doing up the work around.
- Q What time did you get the work done
- A It was about six o'clock, may be a little later.
- Q From seven o'clock on, where was you at.
- A I was on the bed.
- Q What time did you go to bed
- A I dont know about 8 o'clock.
- Q Where was you between seven and eight o'clock
- A In the house sitting round the stove with the family till they went to bed.
- Q Which room is the stove in.
- A In the west room in the room where I slept.
- Q Is that the room on the west side of the house
- A Yes sir.
- Q Which room did they sleep in.
- A In the east room
- Q There is just a partition between them.
- A Yes sir
- Q What kind of partition.
- A Studding and bought ceiling, no plastering.
- Q Is there a door opening between them.
- A Yes sir.
- Q What kind of a door.
- A Jus a common door.
- Q Like what they keep at the lumber yard. Ans- Yes sir.

Q Was that door open when you went to bed.

A It was kind of pushed to.

Q How many beds in your room.

A Two beds.

Q Who slept in the other bed.

A Not any one slept in it.

Q How many beds was in the other room.

A Three.

Q How many slept in that room that night.

A Five of them, John Campbell and his wife, Henry Campbell and Billy and Jemmy Williams.

Q They were all there.

A Yes sir

Q Who went to bed first.

A They went to bed first.

Q How do you know.

A Because I know it

Q How do you know it.

A They went to bed first, because I was getting by the stove and went and fixed the bed for them

Q Did they go to bed while you was in there.

A Yes sir.

Q What was you doing in the room while they were undressing.

A They did not care for undressing before me, I went in there and fixed the bed for them to go to bed, and then I went out, I went to see if the stove was all right, to keep the house from getting on fire.

Q While you was in the kitchen they went to bed.

A No sir they went to bed while I was in there

Q What time did Mrs. Campbell go to bed.

A About 8 o'clock.

Q what time did John go to bed.

A He did not strip off and go to bed like you would.

Q What time did he go to bed.

A He did not take his bed to sleep till about ten o'clock.

Q I ask you what time John went to bed that night.

A He went to bed but kept getting up backwards and forwards.

Q Did not you say a minute ago that they all went to bed.

A I said those young men.

Q Where was John when they went to go to bed.

A He was sitting by the stove with his wife.

Q You said that you went to see about the fire and that they all went to bed

A Yes sir.

Q Did you go back into the other room to see that they all went to bed.

A No sir, the door stood open.

Q You say that they had went to bed and you fixed the fire.

A Yes sir.

Q What time ~~was~~ was that.

A About 8 o'clock.

Q What time did you go to bed.

A Just as quick as I came out.

Q Had they shut the door.

A They pushed or pulled it to a little, I looked in to see if they had all gone to bed, and I pulled it a kind of to.

Q Was there a lock on the door.

A Yes, but it was not locked.

Q Was there a latch to it.

A Yes sir.

Q Did you use it.

A No sir.

Q You left it partly open. Ans-- Yes sir.

Q Now if you was having these hard pains from seven to eight o'clock what was you running about so much for.

A I had to do the work.

Q You had to work pain or no pain:

A Yes or let it go undone.

Q Your baby was born an hour or two after

A Yes three of them.

Q You said it was born between nine and ten o'clock, that would be less than two hours. You say you lay in bed with your head north.

A Yes sir.

Q And they were in the room east of you.

A Yes sir.

Q How far was your bed away from the door.

A My bed was setting at the back of the house.

Q How close to the door leading into the room where the family was sleeping.

A I cant tell you it was a sixteen foot room.

Q Did you go out of the house any more after looking into their room.

A No sir I did not.

Q Did you see any more of those folks after you went to bed.

A No sir, none of them got up.

Q Now what time did you go to bed.

A Just a little after 8 O Clock

Q A few minutes after 8 o'clock you went to bed and undressed.

A Yes I pulled off my top dress

Q What kind of clothes was on your bed.

A Just common clothing.

Q Was there a mattress on it.

A No sir, a straw tick under a feather bed.

Q Was there any blankets on it.

A Yes and two quilts on the bed, but no comforts Of course there was a sheet on it, I was lying on it.

Q What color of a sheet was it.

A It was not black, of course it was a white sheet.

Q Was there anything else on the bed when you went to bed.

A I put an old piece of quilt on it just an old cotton quilt.

Q You lay there in these pains expecting your child to be born.

A Yes sir.

Q You knew it was not the natural time.

A Yes sir.

Q You supposed you had hurt yourself and was going to have a mis-; carriage.

A I told you a while ago I was not thinking of anything of the kind

Mr Hale objected to this style of cross examination
THE COURT--: I think it is proper.

Stelle--: You was expecting to have a miscarriage

A I was having something of the kind.

Q You knew it was not the natural time.

A Yes sir.

Q And you knew you had hurt yourself.

A I did not think about hurting myself.

Q You had been feeling ^{bad} and had queer feelings that afternoon.

A It was not afternoon it was after four o'clock.

Q Your pains began to get harder.

A Yes sir

Q Did anybody help you in childbirth:

A No sir

Q Did you help yourself. Ans--: Of course I helped myself.

Q Did you assist nature with your hands in producing the birth of the child

A No sir. I did not.

Q You just let the natural pains produce the birth.

A Yes sir

Q Was not you in great pain and agony immediately after the child was born.

A I was not in a very good condition.

Q Was not you in very great pain and suffering

A Not immediately after, but when the child was born I was.

Q Do you say you felt the child move while being born.

A Yes sir.

Q And you think you heard it make a noise.

A Yes sir, I heard it make a noise.

Q Can you describe the noise exactly.

A No not exactly.

Q Did it sound like a child gasping for breath.

A It cried out like a young baby making a fuss when first born.

Q It cried like it was getting its breath.

A It made a fuss like crying

Q You do not mean to say it cried like a child does after it gets able to nurse and cry., do you mean that, what kind of a noise was it, describe it.

A I told you a minute ago.

Q Was it just once.

A Yes it made a fuss once.

Q Did it instantly after it was born.

A Not as quick as it was born.

Q In a moment afterwards.

A It was in a few minutes after it was born.

Q How long did it lay there before it was taken away.

A Just a few minutes.

Q How many minutes.

A I dont know how many minutes, he walked from the stove and taken it.

Q Instantly after it was born ?

A Yes sir.

Q What do you mean when you say it was but a few minutes when when you heard it cry.

A It seemed to me like a few minutes.

Q Did you ever see the child.

A No sir.

Q Did you hear it make a noise but that once

A No sir, but I say it was living for it moved.

Q You felt it move.

A Yes sir.

Q You felt it against your person.

A Yes sir.

Q After it came away from you.

A Yes sir I did.

Q How soon after it came away from you.

A I dont know exactly how soon.

Q Almost immediately.

A Yes sir.

Q After that you did not hear it make any noise or movement.

A Yes sir it made a noise after it moved.

Q After it made the noise you heard nothing more, nor felt anything more.

A Yes sir, it moved again.

Q After it made the noise?

A Yes sir

Q Then, what?

A It was taken away and I dont know what was done with it.

Q You heard no noise after he took hold of it.

A No sir.

Q You saw no movement nor heard no noise from the time he took hold of it.

A No sir.

Q How did he take hold of it.

A He raised the cover and took the child out of bed from me.

Q As far as the child is concerned you did not hear any noise nor feel any movement except those already stated.

A No sir.

Q They occurred before he took it up.

A That is all I know.

Q Do you know whether the child was living when he took it out of doors of your own knowledge.

A No sir, I cant speak of that, that is unknown to me.

Q Can you say the child was living when he took it?

A I can say I think it was living.

Q Can you say you know it was.

A Yes I know it was, it moved before he wrapped it up.

Q How long before was it.

A It was Just a few minutes.

Q What is your judgment as to a few minutes?

A Some two or three minutes may be.

Q Then after that it never moved any more after he took it.

A After he taken it, it moved then, it cried.

Q Did it move any more.

A Yes sir, it moved as he was taking it.

Q When he took it out it moved

A Yes sir

Q Do you know whether it moved of itself or by him.

A It moved itself.

Q How do you know

A He was cutting the cord.

Q Did it move any more after that.

A I cant tell you he wrapped it up in this piece of quilt.

Q How long had you been in the family way before you had this miscarriage.

A About seven months as near as I can tell.

Q Do you know whether that child is alive now or not.

A No sir, I cant tell you that.

Q For all you know it may be alive yet.

A It may be for all I know.

Q You dont know whether it is dead or living.

A No sir I do not.

Q You say you never heard the defendant say a word about it since then.

A No sir.

Q In no way shape or form?

A No sir.

Q Have you ever seen the child since then.

A No sir I have not.

Q You have never seen its dead body nor its living body ^{then.} since

A No sir.

Q Now what did you do that night, did you go out of doors.

A No sir, my boy went out of doors, I never got up after lying down on the bed.

Q How many times was you out doors after seven o clock.

A I never went out on the ground after seven o clock.

Q Will you swear that you did not go out.

A No sir for I dont know.

Q Dont you know that you was out on the porch after dark.

A Yes sir.

Q Dont you know you went away from the house.

A No sir.

Q Will you swear that you did not.

A Yes sir.

Q That you never went away.

A Yes sir the little boy went out doors.

Q Was the little boy in bed with you all the time you was having the trouble.

A Directly after I lay down he went out doors and came back and lay in bed with me and went to sleep.

Q What did you do about the bed clothing getting soiled.

A I did not have any soiled only that piece of quilt.

Q What about the sheets.

A There was nothing on the sheet.

Q Was it not wet.

A No sir there was no soil on it.

Q The bed clothes were they soiled.

A No sir

Q How big was this quilt.

A Pretty near a half of it.

Q Did you have any oil-cloth on the bed.

A No sir.

Q There was no bed clothes but that piece of quilt soiled in any way.

A No sir, none of the bed clotehes.

Q Was there anything different about the birth of that child that you observed different from the birth of children ordinarily.

A No sir.

Q It came naturally the same as others do.

A I think it came naturally but it came too quick.

Q What did you do the next morning.

A I did not do anything.

Q How long did you stay in bed.

A Till eleven or twelve o'clock, then I got up.

Q You say that John told you to tell his wife that you had had a chill

A Yes I told her that, she will tell you the same.

Q Then she went over to her mothers.

A Yes sir.

Q When she went over you got up to get dinner.

A There was no one there to get dinner for, I did not eat any dinner nor breakfast.

Q What was you doing.

A I did not do anything.

Q Where did you go when you got up.

A I stayed round in the house.

Q You got supper, that night.

A Yes sir, most of it. His wife sliced up some beef.

Q You say you did not get up till eleven o'clock.

A Yes sir.

Q Who made the fire.

A There was not any fire made that day.

Q When was the first fire made in the house that day.

A John Campbell made it at four o'clock but that fire went out, his wife put some wet wood in the stove when she went over to her mothers.

Q What time did she go over to her mothers.

A I dont know exactly what time it was, along in the day

Q Tell as near as you can, was it before nine o'clock.

A I reckon it was.

Q Where was she when the after-birth came from you.

A She was gone to her mothers.

Q Where was you.

A I was in the house.

Q What was you doing.

A I was not doing anything.

Q Was not you cooking.

A I was not cooking when that happened, I did not cook any that day till supper.

Q Did you know what had happened when you got up

A Yes sir, I was still paining till the after-birth happened.

Q What did you get up for if you knew it had not happened.

A I had to get up to do most of the work.

Q There was nobody there.

A Not till along in the evening.

Q What did you get up for if there was nobody there.

A I did not want to lay in bed all day, in the evening I got up and lay down again, I saw she was not there to get supper so I got up to get supper, I had the fire made in the stove when she got home that evening.

Q Where was she when this came from you.

A I cant tell you, she was gone, she said she was going to her mothers.

Q Do you remember making a statement in regard to this matter once before, in regard to the after-birth coming from you. Do you remember saying you picked it up and threw it in the stove.

A I told you I put it in the stove, that is what I told you, in the heating stove.

Q It came from you while you was cooking supper.

A No sir, I never said I was cooking, I said I was going round in the house.

Q Is it not a fact that you was walking round when it happened.

A Yes I was walking round, she had not left any water and I went on the porch to get a drink and as I came back it happened.

Q As you was walking along it came from you.

A Yes sir, right by the heating stove, I picked it up and put it in the heating stove. then I went and lay down; then I got up and got supper I did not get up right then; it was not supper time..

Q You got supper about five or six o clock.

A Yes after the boys quit work.

Q Did you sleep in the same room that night.

A Yes sir.

Q What did you do the next day.

A I got up and patched the boys shirts and fixed up some cloting for them.

Q Who got breakfast that morning.

A Me and her.

Q What else did you do the next day.

A First one thing and then another.

Q Did you get dinner.

A She put dinner on, I helped to finish it.

Q What did you do with these bed clothes.

A I did not have any bed clothes to do anything with; they was on the bed as clean as anybody's clothes, was not soiled a bit, the top clothing was not.

Q You say the sheet was not soiled a particle.

A No sir, it was not.

Q You was arrested about this business shortly afterwards.

A Yes sir.

Q How long afterwards.

A Three or four weeks I dont recollect exactly.

Q Who had you arrested.

A John Campbell's wife.

Q For what did she have you arrested.

A She said I had made away with the child.

Q You have been in prison on that charge since then

A Yes sir.

Q Do you know one Thomas Campbell.

A Yes sir, I know him.

Q How long have you known him.

A Four or five years.

Q Do you remember having a conversation with him since you have been in prison.

A Yes sir, I know the words we had.

Q Do you remember the time of the day.

A I do not know what time of day it was.

Q Did you have but one conversation

A No sir.

Q Did you state to him in that conversation " That it was just a little wad of something that came from you and that there was no life about it "

A No sir, I did not give the whole true facts about it, I did not say it.

Q Did you say that in substance.

A No sir I did not say it.

Q Did you say it was a miscarriage, and there was no ~~life~~ life about it "

HALE TO STELLE--~~11~~ Fix the time and place.

STELLE--~~11~~ To witness--~~11~~ Q Do you know Mr. Crouch the officer who brought you up here.

A Yes sir.

Q Do you remember having a conversation with him as he brought you up here.

A Yes he tried to get me to tell it you know.

Q Did you have a conversation with him.

A Yes sir.

Q I will ask you if you stated to him that your child was dead when it was born.

A No sir, I told him to wait and he would see.

Q Did you state that in substance.

A No sir, he asked me, and I said you wait and see He did try to get me to tell him, and he will tell you so on the stand if you will ask him.

Q Do you remember stating to Mr Crouch: " You will know all about it when Court sets "

A Yes sir.

Q And that it was born dead.

A No sir, I never told him it was born dead He tried to get me to tell him , and I would not tell him.

Q Did you go right along doing the work.

A I told you a while ago I helped to do the work.

Q What was the trouble between you and Mrs. Campbell.

A She was jealous hearted and quarrelled and kept up a fuss, and was determined ^{to carry} news betwixt John and me.

Q When did you first get mad at her.

Defendants Counsel objected to this as Mrs. Campbell was not on trial and did not have anything to do with this case.

THE COURT --- I think it is proper.

Stelle to Witness--- What is the state of your feelings towards Mrs. Campbell.

Witness--- I dont exactly think I can tell all of it, the first time she got mad at me was about Jenny.

State what is your feelings towards her.

Witness--- I aint got any feelings about her.

Q What did you get mad at her about .

A Because she has a high temper, and would fuss and quarrel, she would get right mad, but I never got right mad at her.

Q She had you arrested.

Ans--- Yes sir.

Q For concealing the death of your bastard child.

A Thats what she stated.

Q Did you state anything like you have stated here in your trial down there.

A No sir, I did not.

Q Who first talked to you about this evidence.

A I did not have any one talk with me about giving it.

Q Who did you communicate it to, that you was going to give this evidence.

A I dont have to tell you.

STELLE--: I submit it to the Court.

COURT TO WITNESS--: You say you did not give evidence to this fact before the Justice of Peace.

Witness--: No sir.

Q You testified there did you?

A Yes sir.

Q Did you afterwards conclude to change your evidence

A Yes sir.

Now if any one has spoken to you and got you to promise anything you may state it.

Witness--: No sir I did not promise any one.

BY STELLE--: Who spoke to you first.

A John Vanwinkle was the first.

Q Who was the second.

A Anderson Porter, Porter asked me if I could tell on the stand what I told him and I said yes.

Q Who did you first communicate to about telling what you have testified to here.

A To John Vanwinkle.

Q What did they promise you.

A They never promised me anything at all.

Q Who did promise you anything.

A No one.

Q Did you never tell the officers about it.

A No sir.

Q At no time?

A Mr Crouch was present when I talked with these folks

Q Which folks?

A Mr. Porter and Vanwinkle.

Q How did they come to where you was at.

A They came to see me.

Q Who brought them.

A They brung themselves.

Q Who came with them.

A Crouch came with them.

Q Did he come in the room with them.

A Yes.

Q What did they say to you.

A They first came in and asked me about something that was missing, and I told them.

Q What did they say to you in regard to testifying against John.

A They never told me anything.

Q Did you tell them anything.

A No sir, I never told them what I was going to do.

Q Didnt you first tell them that you was going to swear against John Campbell.

A I did not tell any one I was going to swear against him.

Q Who did you tell first the facts that you have sworn to here to day?

A To Vanwinkle.

Q Just like you tell it here to day. Ans-- Yes sir

Q When was it.

A I dont know when it was it was not since I have been in the grand jury room.

Q How long before the Court was it.

A It was before the County Court.

Q Do you mean before the last January term of Court.

A Yes sir.

Q You told him about it.

A He asked me if such things was so, and I just up and told it all, he said he had aimed to come and talk with me, I just up and told him all about it, how it was.

Q Do you understand that you are charged with the murder of your child.

A Yes that is what they got out the Writ for, to swear against me.

Q Who did that?

A Rosina Campbell.

Q Is that the way you understand the writ was got out, charging you with the murder of your child.

A I think that is the way it was.

Q Did not she accuse you of concealing the death of your child.

A She accused me of killing and concealing it.

Q Do you understand that you are now in this Court indicted for the murder of your child.

A Yes I understand that.

Q You claim you do not know whether the child is dead.

A No sir, I do not know whether it is dead or not.

Q You do not know how long it lived after it was born.

A Just exactly I dont.

Q You know it was over a seven months child.

A No it was not over a seven months child, it was a seven^{child} months.

Q When was you unwell the last time.

A The first of April.

Q When did you miss your regular monthly sickness.

A The first of May

Q That was the first time you knew you was in that condition.

A Yes sir.

Q Do you know that you got a jar when you first got out of the wagon.

A Yes sir, I felt curious.

Q You felt curious from that time on.

A Yes sir

Q Did you ever miscarry before.

A No sir.

Q Did you ever feel curious that way before.

A Not till that happened that evening.

Q The pains commenced getting harder till the child was born.

A Yes sir.

Q You was not out of the house that night at all .

A Not after I pulled my shoes off, I was not out of the house.

Q Who told you that Mrs. Campbell had you arrested for murdering your child.

A It was stated in Court, she stated it in court, then she had witnesses to swear that I was in that condition.

Q That you was in the family way.

A Yes sir.

Q That was true.

A Yes sir that was so.

Q You understand that they are trying you for the murder of the baby.

A Yes sir.

Q Therefore you went before the Grand Jury and had him indicted for murdering the baby.

A I went and told them the true facts.

Q Who told you to do it.

A Nobody.

Q Knowing you was charged with the Murder, you went voluntarily before the grand jury and charged it on John

A I went before the grand jury to tell the honest truth.

Q And you told it like you have done here to day, did not you.

A Yes sir I did.

Q Do you understand you are now indicted for murder.

A Yes I think that is what they indicted me for.

Q And you want to have him indicted.

A I want to indict the one that done it. I had the child and he got away with it. I acknowledged that to the Court.

Q You swear you did not harm the child any way.

A No sir, I did not.

Q He carried it out.

A Yes sir.

Q What he did with it you do not know?

A No sir.

Q You never had any talk with him afterwards.

A No sir.

Q And you do not know whether it was alive when he took it out.

A Yes it was alive when he wrapped it up in the quilt.

Q How do you know that.

A Because it moved when he took it up.

Q As far as you know it may be alive yet.

A Yes sir.

Q You say you never saw the child.

A No sir, I never saw it only the bulk wrapped up in the quilt.

Q Did you examine your sheet next morning to see if it was soiled.

A No sir.

Q Did you make up your own bed.

A I done it that day.

Q How do you know it was not soiled.

A Where is my eyes?

Q Did you look to see.

A Any one could tell whether it was soiled or not

Q When you got up did you look to see

A Yes sir.

Q You say you lay there after the child was born, and the after-birth did not come from you, and you lay there till nine or ten o'clock next morning, and the white sheet was not a bit soiled, Now be honest is that true.?

A Yes sir.

Q Did anybody promise you that the case against you should be dismissed if you would testify thus.

A No sir.

Q Did anybody tell you they would try to get it done.

A No sir, no one had any talk with me.

Q What relation is John Vanwinkle to you.

A None at all .

Q Did he live close to where you was

A He did this last Summer a year ago.

Q How long have you been acquainted with him.

A I have been acquainted with him about two years now.

Q Did you send for him to come to see you.

A No sir.

Q Where was you being kept at that time.

A I told you I was in the grand jury room up stairs in jail.

Q Did he explain what he wanted when he came to see you.

A No sir he did not explain what he came to see me for.

Q Did you tell him you wanted to talk to him about it.

A No sir, I aint ashamed to talk to anybody to tell the truth.

Q Why did not you tell it all before.

A I did not want to tell everthing I knowed.

Q When did you change your mind about it.

A Along this Winter while I was in jail.

Q Why did not you tell the truth then?

A He said I could acknowledge to it, I did not want to tell anything on the stand that day.

Q Was not you sworn to tell the truth as a witness.

A Yes but they asked questions that I never answered

Q Did not you swear a while ago that you never had any conversation after the baby was born, with John.

A He told me something the night the child was born.

Q What did he tell you.

A He told me he would take it----

Q What did he tell you .

A I am telling you He said if that child is going to be born, I will take it in hand where you will not see it."

I said the child is going to be born to night he said do you have labor pains, I said yes, he had better go for some one. he said I did not need any one, and when the child was born he took it.

Q Was that all that occurred.

A Yes sir.

Q You say you never could get another word with him afterwards.

A No sir if I went where he was he would shy round.

Q You have never had a word with him since.

A No sir

Q Explain why you did not tell the truth when you was sworn before the Squire.

A Because he (Meaning John Campbell) said if I did not tell anything he would not tell.

Q When was that.

A The night the child was born.

Q You did not repeat that a while ago.

A I was going to tell you.

Q Why did not you tell Mr Webb in your examination in chief.

A I just want to tell you the true facts about it, you want to know so bad. He is present hearing it.

Q Why do you now add that to your statement at this time?

A I will tell you all of it, Mr Webb did not ask me, like you do.

Q He asked you to tell every thing that happened.

A Yes sir.

Q I have been asking you a good while, why didnt you tell it a while ago, can you explain about that.

A I want you to understand that I know something about it.

Q You have not explained why you did not tell the jury all this thing when you stated it a while ago, can you tell me what was the first thing you heard John say that night that you was having these labor pains, about this business.

A Yes the first word I said was " John I am going to be sick and you had better go for some one, he said " it aint time " I said I know it aint time, but I am going to be sick he said " How can you tell " I said any woman who has had children could tell we went on to the front porch and he said " if you think you are going to be sick, I will go for some one," but he didnt go for any one.

Q What did you say.

A I did not say any more to him, I went back in the house.

Q Then what, what is the next thing.

A He kept passing backward and forwards and asking if the child was sure to be born; and he said when it is born " I will take it " When it was born sure enough he took it.

He was gone from he house a while and came in and asked me if I wanted anything, I said no. He said When Zina comes in here you tell her you had a chill last night She came in and said Dick why did not you get up, I said I had a chill last night Rosina.

Q Is that all that occurred between you that night.

A Yes sir.

Q After that you could not get another word with him.

A Not any secret talk.

Q If this all occurred why did not you tell that before.

A They did not swear me to tell everything I knowed.

Q Didnt they swear you to tell the truth.

A They swore me to tell the truth, but they did not swear me to tell everything.

Q Why didnt you tell it.

Mr Hale Objected to this.

THE COURT -- I dont think it is improper yet.

Stelle--3, Tell the jury why you did not tell it.

A Because they did not ask me such questions.

Q You went voluntary before the grand jury and told it,
Why did not you go voluntarily before the Justice of Peace
and tell it.

A I was summonsed before the grand jury.

Mr Stelle to Webb (States Attorney) Did you send for
this woman to go before the grand jury when you had her
in jail.

Mr Webb--4, Yes sir.

Stelle to Witness--4 When did you first get mad at John.

A I never got mad at him, he got mad at me.

Q When was he first mad at you.

A It was his wife that was the trouble.

Q If he had not got any wife there would have been no trouble.

A I dont think there would, his wife has stirred up trouble
ever since she has been in it.

Q It is her that you want punished.

A I want to punish the one that helped to do the work.

Q You dont want to punish her but John.

A John done the work.

- Q What kind of work do you mean.
- A I mean he took the child out and got away with it.
- Q Have you ever seen the child since.
- A No sir, that makes three times you have asked that.
- Q Was Mrs. Campbell away from home after that, before you was arrested.
- A She kept trotting backward and forwards over to her mothers.
- Stelle-- Trot, trot, trot, was it?
- Witness-- Yes every morning she would not stay till evening
- Q Did you pad after , where did those other ladies live.
- A Henry and John went to work over the creek. the Williams boys went to scool sometimes.
- Q Did John come home to dinner.
- A Not while working over there.
- Q Who done the milking.
- A I did. the feeding. and milking of the cow, and the boys fed the horses. John saw that the feeding was done.
- Q What was his wife doing .
- A Running around and watching him.
- Q Was not she watching you.
- A She might have been.
- Q When John was out feeding you talked to him didnt you.
- A I was not milking where they was feeding.
- Q You did meet John in the feed lot. and you talked to him.
- A Of course we talked, but no secret talk.
- Q You talked when nobody e lse was there.
- A There was always some one else present most of the time, I never had any secret talk after it happened at all .
- Q You had some talk when no one else was there.
- A Not after the child was born, no secret talk at all .
- Q Did you ever talk with him when there was no body else round.
- A Yes sir before that happened I did.
- Q After it happened.
- A We was not alone after it happened.

- Q You was out in the barn lot.
- A Of course I went in the barn when he was there.
- Q Anybody else there.
- A Yes other parties was there.
- Q Did you ever try to find out from him.
- A Yes I tried to get to talk with him and ask him what he done with it.
- Q Why didnt you go to him.
- A She would have been at once right by me.
- Q She kept bothering you all the time.
- A She followed round most of the time.
- Q How could she be trotting after you and trotting over to her mothers.
- A He was working at her mothers.
- Q You thought she was mighty fresh going to where her husband was.
- A I did not think much about it.
- Q Would she come back before he did.
- A No sir.
- Q Did you go anywhere where he was working.
- A I dont know that I did.
- Q Did he work out any after you had this miscarriage.
- A He cut and hauled some wood and some saw logs and hauled the wood up to the house.
- Q What was she doing all this time.
- A She ^{was} down at Port Campbells.
- Q John was getting up wood.
- A Some of the time he was.
- Q You was there at the house working.
- A Yes sir.
- Q The other boys what was they doing.
- A Henry was helping him, and the other two goin to school.

Q Did Henry stay round with John all the time.

A No Henry did not stay round all the time.

Q You never got a chance to have one private word so as to ask him where the baby was.

A No sir I never did. If his wife was not with him Henry was some one else was there besides Henry.

Q Did they have dinner while hauling wood.

A Yes I got dinner for them.

Q Do you understand the nature of an oath?

A I think I do or I would not be on the stand.

State what it is.

A I said I did, but I do not know exactly what it is.

Q Do you understand the nature of an oath.

A I do not exactly as I said a minute ago, ~~only~~ only to swear the truth about it.

Q Do you understand what would be the consequences if you swore a lie about this case.

A I aint swearing any lie, gentlemen.

Q Do you understand what would be the consequences.

A I do not know what they would try to do.

Q Do you know what the consequences might be.

A No sir.

Q Have you no idea.

A They would try to punish me some way or other from your talk

Q Your talk, do you think that is all the punishment you would get.

A I have not stated anything that is false.

Q Do you think that is all the punishment you would get (talk)

A I cant tell you about that.

Q You do not know of any other punishment.

A No sir.

Q You have no idea of any other punishment, except Cross-examination.

A No sir.

Q If there is any other punishment that would be likely to be given you, you have no idea of it.

A No sir.

Q Have you made this statement with that idea in your mind, just as you have stated it.

A That is all .

Q You do not know the nature of an oath.

A I said a minute ago that I did not.

Q You do not know anything about any punishment except that you can be cross examined that is all the idea you have about it, is that so?

NOTE --- Witness made no answer to the last question.

Q You think Rosina went over to her mothers every day after the child was born.

A She would go somewhere pretty near every day.

Q You do not know where she went.

A When it came wash day she would be sick, and I would have to go on the creek and wash, and when I got back she would be gone to her mothers. or somewhere else.

Q Did you have to do all the washing.

A I done the most of it.

Q Did you still continue to do the washing till you was arrest^{ed}

A The week the child was born there was no washing done, I was not able to do it.

Q Was you away from home at any time after you lost the baby till you was arrested.

A Yes I went down to Mrs Johnsons once, and I went down to Ports from John G. Wins.

Q When did you go to Johnsons.

A I never counte when it was.

Q How long after you lost the baby.

A The Sunday before I was brung up here.

Q Where else did you go.

A I passed back and forth from John Gwins carrying water after the child was born, and before too.

Q How long afterwards.

A About a week afterwards.

Q Explain how you got hurt there.

A I told you a minute ago and I aint going to tell you any more.

Q Was you in the wagon bed.

A I climbed up in the wagon to get a bucket of water I climbed up at the hind gate it was out, When i got out I swung my foot and jumped, and I had curious feelings, and I stood there for a little while.

Q Did the wagon bed tilt up with you.

A No sir, I just sat down in the wagon bed and swung my foot and took my hands and jumped down; then I commenced having the curious feelings, then I went to water the fattening hogs.

Q What else did you do

A They was killing a beef and I went to them and helped them some, after supper I milked the cows.

Q Where was John all this time.

A Him and Cicero Clark was dressing the beef.

Q Did they get done before supper.

A Yes sir.

Q Did Cicero take supper there.

A Yes sir

Q How long did he stay after supper.

A I dont know how long, I think he went home as soon as he had supper.

Q What time was that.

A Between six and seven o clock I think.

Q Then it was the time you had supper that your pains got so bad

A Yes sir.

Q You knew you was going to miscarry.

A I knew something was going to happen.

Q You thought you was going to lose your baby.

A Yes sir.

Q You never miscarried before.

A No sir.

Q You say John said he would get the doctor if it was necessary

A He never said anything about a doctor I told him I was going to be sick and he had better get somebody. He said it was not time for me to be sick I said I know I am sick from my feeling

Q Did he tell you no, it was not your time

A Yes he said it aint time for you to be sick, but my feelings told me I was going to be sick, I could not doubt it.

Q How many days did John haul wood there.

A They was not hauling all day nore a day.

Q How many days was they hauling .

A ^{Some}~~Some~~ times they would haul two loads.

Q How many days did he do that after you lost your baby.

A I dont know how many days ~~xxxxxxxxxxxxxxxxxxxx~~

Q Was it five or six days.

A No sir they would go and get a load, sometimes two loads at once.

Q Did anybody ever explain to you the nature of an oath.

A No sir.

Q Do you say you do not know what would be the consequences if you was to testify false?

A I do not think I have testified false.

Q Do you think you have any idea what the consequences would be. do you know what the consequences would be if you testified to anything not true?

A I told you I did not a moment ago.

Stelle to Court -- That is all

NANCY COOK

Re-examined on behalf of the People
By Mr Hale.

Q You was subpoenaed before the grand jury. *Ans — yes Sir*

~~Mr. Cragg~~ subpoenaed me before the grand jury.

Q When Mr Stelle asked you if you understood the nature of an oath, you said you understood you was obligated to tell the truth.

A I told him I was here to tell the truth.

Q You started to answer when he asked you if you knew what the consequences would be or that you would be punished, Now state further if you have any further statement to make.

BY THE COURT --- What did you say.

Witness --- I said I knew they would punish me .

Hale --- I ask you was you sworn to tell the truth so help you God.

A Yes sir.

Hale --- Was your understanding, you was under obligations to your Creator.

Stelle Objected to these questions as entirely leading.

Hale to witness --- State what your understanding was from your oath.

Witness --- I stated a minute ago I told him I thought they would punish me.

Q Now state when you took that oath to tell the truth, so help you God, what was your understanding about that obligation

Witness --- That I was to come up and swear the truth, and tell the truth on this stand.

Q You do not know anything about the laws of the Country.

A No sir I dont know anything about law.

That is all

NANCY COOK

Re-cross examined by Stelle.

Q Dint you tell me a while ago that you didnt not know anything about punishment, except cross examination.

A I told you I thought it was punishment.

Q Didnt you tell me you did not know anything about punishment except that.

Hale objected to this examination on the ground that he had called out nothing new.

Stelle to witness---: Did not you tell a while ago, that you did not know anything about punishment for testifying falsely except a cross examination

A Yes, that is what I explained to you, I told you that they would punish me, that is the way I explained it to you.

Q Did not you say you did not know anything about punishment, except cross examination.

A The first answer I said yes, then I told you no.

Q Did not you tell me you did not know what the punishment was for testifying falsely.

A Yes sir.

Q Or whether there was any or not.

A I have told you two or three different times.

Stelle to Court That is all .

SARAH GWIN.

Called for the People by States
Attorney Webb.

Q Are you the wife of John Gwin.

A Yes sir.

By STELLE -- What is your name? Ans-- Sarah Gwin.

Stelle to Court -- No such name has been given to me.

The COURT- : They may change the name in the indictment.

BY WEBB~~ER~~ You are the wife of John Gwin.

A Yes sir.

Q Tell the Jury whether you live close to where Miss Cook was living when her child was born.

A Yes sir, I live within a quarter of the house.

Q Now tell the jury what Miss Cook's condition was about being pregnant last October.

A I think she was pregnant.

Q How often did you see her.

A Nearly every day.

Q State why you saw her every day.

A Because she carried water past our house.

Q Do you know what time in October she gave birth to the child.

A No sir I do not, I did not pay any attention to it.

Q Do you know about her giving birth to a child.

A I dont know really that she did, I know that she was that way, because she told me so.

State to the Jury when you first noticed her appearance about having a child.

A I noticed her looking that way last Summer I dont know just what time.

Q Now state when it was that you noticed that she had changed in her appearance.

A I think it was about the first of November.

Q How did you happen to notice .

A Because I saw her carrying water, and I knew that she was smaller than what she had been, that was about the first of November but would not be positive.

Q Did you ever hear the defendant here say anything about that child what become of it.

A No sir I never did.

Q You say you lived within a quarter from the house.

A Yes sir from where she was living at that time. She was living with John Campbell.

Q You are acquainted with him.

A Yes thats him sitting there by Judge Stelle.

State if you and others made a search for the child. after you discovered her condition.

A Yes sir we made a little search.

Q What search did you make

A Just searched round in the field and thicket where we supposed it might be.

Q Who helped you.

A Bell Campbell and Betty Swafford, Eliza Brown and Rosina Campbell. Wife of John Campbell .

Q Whose premises did you search round.

A Round the premises of John Campbell .

Q When did they do that.

AO On Sunday after this happened on Tuesday before.

Q You never heard John say anything about it.

A No sir I did not.

Q Did you make any discovery of a child.

A No sir, I dont think I went in the house, I went on the porch. the party did not go in the house when I was there.

That is all

SARAH GWIN

Cross examined by Stelle.

Q When did you first notice her in that condition.

A I said it was along last Summer, I dont know just what time.

Q When did you make the search.

A I think it was the first Sunday in November, it was the

it was the first Sunday after it was supposed she had the child.

Q Had you seen her previous to that during that week.

A Yes sir I had seen her one day.

Q When was the last time you had seen her before that.

A I cant tell you.

Q Did you see her that Sunday, or where was she gone.

A She, was gone visiting in the upper settlement.

Q Had you seen her on the day before that.

A If I did I dont remember it.

Q Had you seen her any day that week before that.

A Yes sir.

Q What day.

A I cant tell you.

Q Was it before or after she was supposed to have miscarried.

A It was afterwards.

Q What was she doing

A Coming for water. She came past our house to Brown's well.

Q You do not know whether it was Friday or Saturday.

A I do not know what day it was.

Q Did you ever talk with her about it.

A I did not.

Q Where did you search.

A We searched round in the field

Q In whose field.

A In Campbell's field

Q Did you look anywhere else.

A No we never looked anywhere only around Campbells field.

Q How long was you looking there.

A About an hour.

Q Did you see any baby. Ans-- We did not.

Q Did you see any sign of a baby.

A No sir.

Q Did you see any sign where any one might have been.

A No sir we did not see any sign.

Q Did you see anything that ^{might} be supposed to have been a baby

A No sir.

Q You did not see her at home that day.

A No sir I never saw her I only went to the first house from ^{there.} ~~there~~

Q Did you see John.

A No sir he was not at home.

Q Where was he at.

A I dont know.

Q Was anybody at home.

A His wife was there, but I think there was no other folks there.

Q When did you first notice that this woman was not as large as she had been.

A I think it was the week before we hunted for the child on Sunday.

Q It ^{was} when she was carrying water that you noticed she was not as large, You dont know whether she had a baby or not.

A No I cant say whether she had or not.

That is all

WEDNESDAY MORNING SESSION

JERRY MCELVANE

Called for the People in chief

Examined by Mr Webb.

Q Are you acquainted with John Campbell.

A Yes sir.

State if this defendant John Campbell ever had any conversation

with you in regard to this child.

A We had a conversation once about it.

Q ~~Wh.~~ When was it..

A It was last Fall sometime. I dont know when it was.

Q ~~Wh.~~ Where was you at
~~Wh.~~

A At the race track in White County.

State what that conversation was.

A I dont know that I can give it just as we had it. I remeber me and John sat on a log we talkd about as neighbor boys talk as well as I remember I askbd him about the guilt or innocence of this woman; He told me, or gave me reason to think she was guilty. I was not at the trial we was talking about it. It was after the trial at Broughton. I asked him if he reckoned she was guilty, and he gave me reason to think she had had a child and got away with it some way, I did not pay much attention to it, there was a big crowd there and I dont remem-ber all that passed.

Q qq You remember about him saying anything about hearing a child

A I dont remember whether he did or not.

Thats all

JERRY McELVANE

Cross examined by Stelle.

Q You was talking about this woman being prosecuted for concealing the death of her child.

A Yes sir.

Q John told you without hesitation that she had had a bastard child and was concealing it some way.

A Yes that is about the idea I got.

Q He had no hesitancy in talking about it.

A No sir he did not seem, to try to keep anything back.

Q Did he tell you that she had been pregnant, in the family way.

A I dont know that he did. He said he had cause beyon^d reasonable doubt to think that she was guilty of having a child. and of concealing it.

That is all

JOHN SNEED.

Called by States Attorney Webb.

Q Are you acquainted with the defendant in this case.

A Yes sir

Q State whether you had a conversation with him in regard to this charge.

A Yes I had a little talk with him.

Q Where was you at.

A I was at Campbells house.

Q When was it.

A I cant say exactly sometime three or four weeks ago. I was down that was probably at his house with some papers that day. Mr Campbell asked me what I thought they would do with Dick, I said I cant tell you John. He said he thought she would give out facts but not enough to convict her. He said " I heard something cry, or heard something, but he said I cant tell whether it was in her room or out doors. " That was about his statement. If I aint mistaken he said he thought he heard something cry, but would not swear whether it was in her room or out doors he said it might have been in the yard" That was about the statement he made to me. He raised the conversation himself, He asked me what I thought they would do with Dick,

Q That was referring to Nancy Cook.

A Yes sir.

JOHN SNEED

Cross examined by Stelle.

Q You was serving papers, subpoenaing parties before the grand jury.

- A I dont remember whether it was at that time or not.
- Q You served the summonses on Campbell and his wife to appear before the grand Jury.
- A Yes but I cant state whether that was my business that day or some civil matters.
- Q John knew that you had a subpoena for them didnt he.
- A If they had been subpoenaed he ~~had~~ did. I had other papers on other matters.
- Q He knew that she had been bound over on a charge of concealing the death of her bastard baby.
- A Yes I suppose that he did.
- Q He simply asked you what you reckoned they would do with Dick
- A Yes sir.
- Q And he said he reckoned that she would come out with other facts but dont know enough to convict her..
- A Something like that, and he said he thought he heard something that night.
- Q Where did he say he was at.
- A He did not say where, he said he thought he heard something I would not be positive whether he said he heard something cry, but he said " I would not swear whether it was in her room or not, it might have been out doors.
- Q You dont know whether you got that impression from others or from what John said.
- A I would not be positive whether he said CRY or not.
- Q He did not say a word about having anything to do with it ^{self} him-
- A No sir.
- Q He talked freely about it, and didnt seem to conceal anything
- A I did not pay much attention to that part, he raised the subject himself.
- Q He talked freely with you so far as you could see.
- A Yes as far as I could see.

That is all

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INMAN HAMILTON

Called for the People.

Q Are you acquainted with this defendant here.

A Yes some.

Q Was you present at the trial of Nancy Cook before esquire Howard

A Yes sir.

Q Did you hear John Campbell testify as a witness in the case.

A Yes sir.

Now tell the jury what his statement was, in regard to hearing a child cry.

A I dont know that I can give his statement in full.

Give your best recollection of what he said.

Witness--- He said something about hearing a noise, and that his wife spoke to him and said " There Dick has got her baby "

Q Who said that.

A Johns wife spoke to him and said " There Dick has got her baby John said no, its a cat, or something to that amount. When he was speaking about the baby, I did not pay particular attention to his statement.

Q Did he state anything about hearing anything.

A He said he heard some kind of a noise.

Q Where was that at.

A At their house.

Q At what time.

A It was in the night, I think he said he heard some kind of a noise, he said he did not know for certain what it was,

Q What time was hereferring to.

A It was in regard to this Miss. Cook on the night she brought her baby.

Q Is that all you recollect about the matter.

A About all I did not pay attention.

That is all

IMMAN HAMILTON

Cross examined by Stelle

Q Was this trial before you.

A No sir.

Q It was a prosecution against this woman for concealing the death of a bastard child.

A Yes sir.

Q That prosecution had been filed by Campbell's wife.

A Yes sir.

Q A change of Venue was taken to Squire Howard.

A Yes sir.

Q You went to the trial.

A Yes sir.

Q Among other evidence John testified in the case.

A Yes sir.

Q You remember he said he had heard something, heard a noise.

A Yes he had heard some kind of a noise.

Q You say he said he thought it was a cat.

A Yes he said he thought it was a cat I would not be positive whether he stated it was a child's cry or not, but something was said to that amount.

Q You say he said his wife called his attention to the fact, that Dick had got her baby.

A Yes sir.

Q And he said he thought the noise he heard was a cat.

A Yes sir.

Q Did he state, whether it was in the house or out doors.

A I don't recollect him stating where it was.

Q Where did he say he was when he heard it.

A He was in the room with his wife.

Q Did he state who else was in the room. where he was

A I dont remember that he did.

Q He said he was in the room where his wife was, and she called his attention to it.

A Yes I think so.

That is all

W. F. HOWARD.

Called by Webb for the People.

Q Are you acting as Justice of Peace.

A Yes sir.

Q Are you acquainted with John Campbell.

A Yes sir.

Tell the jury Mr. Howard as well as you recollect, what his testimony was in the case agains Nancy Cook on the trial before you tell the jury what his conversation there was as a witness in the case in regard to the birth of this child.

A I believe he stated that Nancy Cook was sick that night, and he said also that he heard some noise. resembling a cat, or a child.

Q Where did he say that was at.

A The way I understood him, it was in the room where Miss Cook was.

Q That was on the trial against Miss Cook before you.

A Yes sir.

Q Do you remember any other statement he made in regard to it.

A The question was asked him about Miss Cook's condition at the present time, and he said there was no child about her. Or that it was a slim chance for a child or something of that kind.

That is all

W. F. HOWARD

Cross examined by Stolle.

Q He had reference to the time of the trial.

A Yes sir.

Q He was asked whether he thought she was pregnant at the time of the trial.

A Yes sir.

Q He said he did not think she was.

A Yes sir.

Q Where did he say he was when he heard this noise.

A I think him and his wife was in bed.

Q He testified in that same evidence that they was in bed in another room.

A Yes sir.

Q Did he say who else was in that room.

A I dont know that he stated who else was in the room.

Q Did he state about his brother Henry and the Williams boys being in the room.

A one of the witnesses stated about some persons being in there I dont remember whether it was him or not.

Q Who did he say called his attention to the noise.

A His woman.

Q Who questioned Mr Campbell.

A Mr. J. P Riley Ferry (or Ferris)

Q He stated what he knew about it.

A Yes sir.

Q Gave his statement freely .

A Yes he did not seem to hesitate or hold anything back.

Q He made a fair statement in your judgment about it.

A Yes sir .

Q And without any hesitation.

A Yes sir.

-----Thats all-----

JOHN GWIN

Called by the People in chief.

Q Are you acquainted with John Campbell the defendant.

A Yes I know him when I see him.

Q How close did you live to him last Fall during October.

A Some three hundred steps quartering across a field.

Q Tell the jury what you know about Nancy Cook having given birth to a child there last Fall if you know.

A I cant tell you when it was, I did not pay much attention to it.

Q You lived within three hundred steps of her, did you live there last Summer.

A Yes sir.

Q Did you see her frequently .

A Yes I saw her every day or two.

State what her condition was as to being pregnant or otherwise.

A My judgment was that she was in that way.

Q Now tell the jury if you noticed after giving birth to the child if you noticed any difference in her appearance after

A Yes I noticed it.

Q When did you notice it.

A I dont remember exactly but it seems to me it was two or three weeks before much was said about it. I would not be certain when they commenced talking about it.

Q How did you happen to notice her.

A I noticed her by hearing others talk that caused me to notice.

Q Did you have occasion to see her frequently after you heard it had occurred.

A I saw her every once in a while, she carried water past our house, which was pretty close I saw her every few days when I was about the place

Q How long before she was arrested did you notice the difference in her appearance.

A I could not tell you how long a few days.

Q How long before that had you noticed when you thought she was pregnant.

A I did not pay much attention to it, they was talking about it as they generally are in a neighborhood. Of course I noticed her in passing, that was my opinion she was that way then it disappeared and this talk come up I was like everybody, I took notice, and that was my opinion but I cant just state when it was.

Q It was a few days before the trial.

A Yes it was but a few days though.

Q Did you ever hear John Campbell say anything about the case.

A Yes I heard him say a little not very much.

State what you heard him say.

A The most I heard him say was on the day of the trial.

Q What did he say that day.

A The best of my understanding is that John said his wife called his attention to this noise that he thought it was a cat. but, he said since everything had occurred he thought his wife was r ight about it, that is the best of my recollection.

Q What did he mean by right.

A She told him that Dick had got her baby, when she heard the noise, but he said he thought it was a cat at that time. But since he said, things had turned out as it had, he was satisfied his wife was right about it, that is the best of my recollection about it, and that is all I heard him say of it.

Q Did he say where the noise was that he thought was a cat.

A I dont think he did, he just said he heard it.

Q Was he testifying when you heard him make that statement .

A Yes I did not hear him say but little about it before that time.

I might have heard him speak of it but that was on the day of *trial*
Tell the jury whether you helped to make any search ~~there~~ *not*

A No sir, well yes I did, on the day of the trial the boys spoke about something bing in my field in a little briar thicket some one said they could hardly pass the road, me and and Uncle Sam Brown and John Campbell went down and found it was a hog.

JOHN GWIN

Cross examined by Stolle.

Q In all the statements made by Campbell he made substantially the same statement and in the same way.

A Yes sir.

Q He seemed to talk freely.

A Yes he did not appear to be bashful about it.

Q He seemed to give you a fair statement of all he knowed about it.

A Yes sir.

Q He told you and so testified at the time that he heard this noise that was supposed to be a child he told you that he was in the room with his wife at that time.

A I dont know whether he did or not.

Q Did he testify that he was in the room and his wife called his attention to it.

A I think probably he did.

Q Did he testify about oother parties being in the room at the same time.

A I dont think he did I dont remember him saying that.

Q He said he was in another room with his wife at the time the child was supposed to have been born.

A Yes sir

That is all

REPORTER'S NOTE--- At this point Miss Nancy Cook was re-called by States Atty Webb and examined by Hale.

NANCY COOK

(RE-EXAMINED)

State more fully the conversation that Judge Stolle asked you about having with Thomas Campbell while you was a prisoner. tell the Jury more fully what you said to him.

Witness--- He came up there to see me, we was talking he asked me how I came up there. I told him the trouble and I told you that I had had the child and that they bound me over and had me in jail. He said to me why didnt you try to get

some one to go on your bond. I said I did, he said why didnt you see uncle Joe. I said I did, he said would not he go on it I said no, he said what is the reason he did not go on your bond I said she went into trial and talked to Uncle Joe. and told him not to go on my bond, He said if he done that he is lower down than a dog He said whose child is it I said it was Johns He said that is worse than ever, He said do you know what it was, I said no, He said do you know whether it was a boy or a girl, I said I did not know whether it was a boy or a girl. he said if I had money I would take you out of here before night, he said I have got no money and I cant go on your bond, if I was a land owner I would put it up to take you out of here ,that was the conversation betwixt him and me.

Q Did he ask you any further about the child.

A No he just asked what it was. I said I did not know what it was.

Q Did he say anything more about the child.

A No sir.

Q You was asked about the sheet and bed clothes at the time the child was born, You stated to Judge Stelle that the bed clothes were not soiled Now you may state why they were not.

Stelle Objected as this had been gone over.

Court --- Over-ruled and Defendant excepts.

Witness--- Because I had enough underclothing to keep them from getting soiled, and to keep his wife from knowing it, I had on three undershirts and under clothing I had on a very thick skirt to keep anything from showing on the bed I had on a heavy skirt one thicker than the other.

Q Did you have a quilted one on.

Stelle Objected to this leading the witness,

THE COURT--- You must not ask questions that way.

Hale--- State what kind they were.

Witness--- one was quilted, the other two was thick heavy under-skirts.

Q Why did you put those on.

A I put them on to keep anything from showing on the bed I had a clean nice bed, and I wanted to keep it clean.

That is all -----

NANCY COOK

Re- ;cross examined by Stelle.

Q Who have you seen since you was on the witness stand.

A I have seen Mr Hale.

Q Where did you see him.

A He came up this morning.

Q He came up and you had a talk with him.

A We did not have much talk.

Now I will ask you if you have detailed all you said to Thomas Campbell.

A Yes sir, that is all we ^{had} a conversation about.

Q You said in your cross examination yesterday that you never had any beaux.

Hale--- Objected to this and asked that Stelle be confined to what he had asked her, they had asked about this yesterday.

BY THE COURT--- You called her back to ask something you had omitted, I can not now refuse him, You overlooked some things yesterday and I allowed you to re examine, now Judge Stelle wants to ask her some questions.

Stelle to Court --- Yes I want to cross examine her further.

Now Miss Cook I want to ask you if it is not a fact you did have beaux last spring.

A Not in the Spring, I did in the Summer, I went to Salem church with Charley Martin and came home with him.

Q Who else did you have.

A No one else.

Q Did you have Elijah Sneed.

A Yes but it has been two years ago since he went with me I have not seen him since last Winter

Q What about Biggerstaff.

A He came to our house to invite John.

Q did you ever have him for a Beaux.

A No sir, I never had him for a beaux.

Q Did you go with him any where.

A I went with him from Miss Ferrys (Mrs Brown it is now)

Q Did you go to a little creek and get water.

A No sir.

Q id you go away together to get water.

A I dont know that we did.

Q did he try to get the little girl to go and get water.

A No sir.

Q Did you hear him try to get the little girl to go and get water

A He asked her if she had any water.

Q There was nobody there but the little girl.

A No sir.

Q Did you try to get the little girl to go to get water?

A No sir I did not.

BY THE COURT ---; I dont see how that has any bearing on the case

By Stelle--- Did you know that Biggerstaff was married.

Witness--- He said he was not. I was going myself to get some water to Ferrys---

Q Was that the first time you had seen him.

A I had seen him at several places.

Q Did you try to get a buggy for him to take you out buggy riding

A No sir, I dint.

Q You testified yesterday that no one except John had had any connection with you.

A No sir they had not, not in this State.

Q At no time?

A Yes sir.

Q What did you tell me your father's name was.

A My father's name was Cook.

Q What was your mother's name.

A My mother's name was Strawnat, her mother's name was Dixon,
They called me Dick because of the name Dixon.

You stated to Mr Hale just now you had on more underclothing,
what did you have on.

A I had some underclothing on.

Q Did you have a white gown on.

A Yes sir it was white, I don't propose to wear black clothing

Q What else did you have on besides a gown.

A I had on some under skirts.

Q How many.

A I had on three.

Q Whose were they.

A Mine.

Q What kind are they.

A Two was white ones.

Q What was the other .

A One was a quilted one.

Q You say you had this child on this piece of quilt.

A Yes sir it was born on the piece of quilt.

Q You had to remove your skirts to get that quilt under you did
you not.

A Yes sir.

Q You may state miss Cook what you did with these clothes.

A I washed them, I did not throw them away.

Q When did you wash them.

A After I got well enough to wash.

Q When was that ---- Ans -- Next week.

Q Where did you have them between that time and the time you washed ~~xxxxxx~~ them?

A I had them doubled up under the bed. on the bed stead.

Q Did you take them all off.

A I took them off.

Q Where did you put them.

A I told you a minute ago, I put them under the bed.

Q When ?

A The next day. I took them off me.

Q Did you put on other clothes.

A Yes I put on other clothes.

Q Did you take them off before or after the after-birth came from you.

A It was after the after-birth came from me.

Q Do you remember what kind of clothes you put on next morning.

A Yes I put on a white chemise, an underskirt and a gown.

Q How many undershirts did you have.

A Five or six. I dont know how many.

Q Let me ask you if before you gave your evidence yesterday in this case, if you heard the States Attorney Mr Webb say he would not use your evidence against you in your trial.

A He was talking something about it yesterday.

Q You heard him say that your evidence should not be used against you in your own trial.

A He said something that way.

Q You understood it that way.

A He did not say every bit of it.

Q What you now testify to in this trial, you heard him say that.

A Yes sir. He said some of it he would not use.

Q Did you hear him say it.

A Of course I stood right there.

Q Did not you hear him say that the evidence you gave in this trial against John Campbell he would not use it in your trial.

A He said some of the evidence is the way I understood him to say.

Q You understood that the whole statement you made here in giving evidence against John Campbell that they would not use it against you in your trial or when they tried you.

A I understood him to say some of it, I did not understand him to say all of it.

Q You understood him to say you would be protected when you testified .

A You heard what he said.

Q Didnt you understand that you would be protected.

A Yes sir.

Q You testify that you would be protected by the States Attorney.

A He said he would use some of my evidence.

Q You understood you would be protected when you testified against John?

A I did not exactly understand it.

Q You understood that if you testified against John that Mr. Webb would protect you so far as your evidence was concerned.

A He said part of it.

Q He would not use your evidence against you.

A Yes sir.

Q And you have testified against John with the understanding that your evidence was not to be used against you.

A Some of it.

Q You understood that enough would kept out so they would not convict you.

A No sir I did not understand that at all

Q You have two Attorneys in this case, Judge Eckerley and Mr Hale

A Yes sir.

A Of course I stood right there.

Q Did not you hear him say that the evidence you gave in this trial against John Campbell he would not use it in your trial.

A He said some of the evidence is the way I understood him to say.

Q You understood that the whole statement you made here in giving evidence against John Campbell that they would not use it against you in your trial or when they tried you.

A I understood him to say some of it, I did not understand him to say all of it.

Q You understood him to say you would be protected when you testified .

A You heard what he said.

Q Didnt you understand that you would be protected.

A Yes sir.

Q You testify that you would be protected by the States Attorney.

A He said he would use some of my evidence.

Q You understood you would be protected when you testified against John?

A I did not exactly understand it.

Q You understood that if you testified against John that Mr. Webb would protect you so far as your evidence was concerned.

A He said part of it.

Q He would not use your evidence against you.

A Yes sir.

Q And you have testified against John with the understanding that your evidence was not to be used against you.

A Some of it.

Q You understood that enough would kept out so they would not convict you.

A No sir I did not understand that at all

Q You have two Attorneys in this case, Judge Eckerley and Mr Hale

A Yes sir.

Q Did you arrange with Hale to prosecute John in this case.

A No sir I did not.

Q I will ask you if you did not understand when the Court explained to you yesterday in regard to the effect of your testimony in this case as a witness, if you did not understand from the statement of the Prosecuting Attorney, when the Court was present, that your evidence should not be used against you, when your trial came on.

A He said some of it.

Q Do you swear that is the way he said it.

A I think it is the way he spoke it..

Q You are testifying with the understanding that you are to be protected in part of your evidence so it can not be used against you in your trial.

A Yes sir.

Q And you testify with that understanding.

A Yes sir.

That is all

BY Mr. HALE. When you spoke about Webb's statement did not he say at the same time that you had made similar statements to others that^w would make here.

NOTE--: Witness did not seem to comprehend

HAle--: Was not it your understanding that he would use other statements than what you stated here.

A Yes sir.

Q And that you would make a similar statement here that you had made to other parties.

A Yes sir that is what I understood.

Q I ask you if you are making exactly the same statement here

Stelle Objected to this and objection was sustained

Hale --: I will ask you if that statement influenced you in any particular here, in making your statement here.

A No sir it did not.

~~That is all~~

BY STELLE --: It caused you to testify didnt it.

Hale--- Objected Objection over-ruled.

Stelle--: Under that representation and the advice of your Counsel, that caused you to testify.

A Yes sir.

BY WEBB States Attorney--: Was not you willing to come and testify in this case notwithstanding that statement being made.

A Yes I wanted to come and testify in the case

BY STELLE --: You was mad at John.

Witness--: No sir, I was not mad, I wanted to tell the truth about it.

That is all .

REPORTER'S NOTE--: Here the People rest.

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FOR THE DEFENDANT

NOTE--; And now comes the Defendant John Campbell in his own proper person, and represented by Counsel, who in order to maintain the issue on the part of the defendant introduce the evidence of the following persons, who before testifying were each duly sworn to testify the truth in regard to the matter in controversy, and who did testify as follows --; To Wit.

WILLIE WILLIAMS

Called by Stelje in chief.

Q What is your name.

A Willie Williams.

Q How old are you.

A About fifteen or sixteen.

Q Do you remember where you lived the last of October, last Oct. who did you live with.

A With Mr John Campbell.

Q Do you remember about the time they killed a beef last October.

A Yes sir.

Q Who was living at John's house at that time.

A Yes I remember.

Q Tell the jury who was living there.

A Miss Nancy Cook was living with us.

Q Who else.

A John Campbell, Henry Campbell, Jenny Williams and me.

Q What was your brothers name.

A Jenny Williams.

Q Is he here.to day.

A No sir.

Q Do you know why. Ans--; Yes he is blind with sore eyes.

Q Do you remember the night they killed a beef last October

A Yes sir.

Q Do you remember where you slept that night.

A Yes sir.

Q Tell where Nancy Cook slept that night, what room did she sleep in.

A She slept in the west room.

Q What room did you sleep in.

A In the east room.

Q Who else slept in her room.

A Nobody but her and her little boy.

Q Who slept in the room you did.

A Henry Campbell Jenny Williams and John Campbell and his wife.

Q What time did you go to bed that night.

A About 8 o'clock.

Q Do you remember whether you had had supper.

A Yes sir.

Q State what time you did have supper.

A About seven o'clock.

Q Was there anything the matter with anybody in the room where you was sleeping that night.

A Yes sir.

Q Who was it.

A I had the ear ache.

Q Can you remember about the time you went to sleep.

A Yes sir.

Q Was there any clock in the room.

A No sir, no clock in the room.

Q You say you can remember about the time you went to sleep.

A Yes sir. I do.

Q What time was it

A It was about nine o clock.

Q When did you next wake up.

A About one o clock.

Q Do you know what waked you up.

A Yes sir.

Q What was it.

I think it was my ear aching woke me up
State what anybody was doing for your ear if you remember.

A No sir.

Q Who else waked up about one o clock..

A John Campbell Henry and Jenny .

Q What woke them up.

A I guess I waked them.

Q What was you doing.

A Taking on with my ear. crying.

Q How long did your ear continue to hurt you ^{till you} went to sleep.

A I did not go to sleep any more that night.

Q Do you remember what time the folks got up the next morning.
in the room you was in.

A Yes sir.

Q What time was it.

A About five o clock.

Q If you remember any one getting up in the room you was in tell
who it was and when it was and all about it.

A John got up a little after I waked up he went out on the porch.
to get a drink of water and turned and came back.

Q How do you know he stepped on the porch.

A I seen him.

Q How long was he gone.

A About a minute.

Q Could you hear any noise in Nancy Cooks room.

A No sir.

Tell the Jury if you know whether John stopped in that room.

A No sir he did not stop.

Q Next morning what time did you get up Willie.

A Alittle after five o clock.

Q Do you remember what time you had breakfast that morning.

A About six o clock.

Q Do you remember about Nancy Cook next morning whether she got up

A No she didnt get up.

Q Where did you go and stay the next day.

A I went to school.

Q What time did you get back Willie?

A I think it was about four o clock. When the teacher turned out.

Q How far was the school house from your house.

A About a mile.

Q Did you go right straight home.

A Yes sir.

Q Where was Nancy Cook then.

A She was in the house.

Q Do you remember what she was doing.

A No sir.

Q Do you know who got supper.

A Yes sir.

Q Who got it.

A Rosina here Johns wife.

Tell the Jury whether John was out of the house any more that night after you went to bed as far as you know.

A No he was not out of the house any more.

Q You say he was only gone out about a minute.

Hale Objected to leading witness in that way.

Q Where was the water bucket.

A On the porch.

Q How would a person go there from Johns room through what part of the house.

A He would go right through the corner of the house where the door^{was} ~~was~~.

Q Which door did he go out at.

A At the one he went in.

Q How many doors was in the room.

A Two doors.

Q Where did they open out to.

A One opened in the north the other in the south.

Q If you wen, out at the one opening north, where would you be.

A You would be out doors.

Q When you went through the other door where would you be.

A You would be on the porch.

Q In passing on to the porch would you have to go through any other room.

A Yes you passed through the corner at the door.

Q How many doors had they to go through.

A Two doors.

Q What room would they pass through at the corner door, who was sleeping in that room.

A Nancy Cook and her little boy.

Q What length of time was he gone out.

A About a minute.

Q Do you know who was awake in your room at that time.

A John Campbell, Rosina Campbell, Henry Campbell and ^{Williams.} Jemmy

Q While you was awake suffering with your ear, if you heard any one else do anything or go out of anywhere tell the Jury.

A About a half an hour after^I awoke, Nancy went out, and stayed out a little bit..

Q How do you know it was Nancy Cook.

A I know it was, I heard her open the door..

Q Where was John at that time.

A He was lying in the bed.

Q Were they doing anything for your ear ache or trying to do any thing for it.

A No sir.

Q That was the night they killed the beef last October as you remember it.

That is all

WILLIE WILLIAMS

Cross examined

Q Your name is Willie Williams.

A Yes sir.

Q Are you a nephew of John Campbells.

A Yes sir.

Q You live there with him.

A Yes sir.

Q You think John Campbell and Henry Campbell and your brother were all sleeping in the same room.

A Yes sir.

Q And you went to bed about 8 o'clock. and went to sleep about 9 o'clock. and then you woke up about one o'clock

A Yes sir.

Q And after you waked up John went out to get a drink of water and went through Nancy Cooks room on to the porch.

A Yes sir.

Q You could not see him go on the porch could you.

A Yes the way he had to go he stopped when he got on the porch.

Q Whereabouts was your bed with reference to the door.

A Right at the door.

Q Was the door closed between the room where you was sleeping

and where nancy Cook was sleeping. (75)

A No sir.

Q It was open was it.

A Yes sir.

Q Where is the other door that led on to the porch.

A Heres is a door not in my room, and right over there is a door that steps out on the porch.

Q You think in about a half an hour after John had come back in the house, you heard some one get up and go out in the other room.

A Yes sir.

Q You did not see anybody go in there.

A No sir.

Q You did not know who it was.

A I knowed it was Nancy Cook.

Q Was not her boy sleeping with her.

A Yes sir.

Q Might not it have been him.

A No sir.

Q How do you know it was not.

A I think it was not.

Q You only suppose it was her when you heard some one go out.

A I think it was her.

Q You have not anything to make you think so, except you think he never got up.

A Yes sir.

Q How do you know he never got up, you did not sleep in the same room and could not tell how often he did have to get up at night could you?

A He rarely ever got up.

Q How do you know you didnt sleep in the same room and dont know how often he got up.

A He never got up that night.

Q How do you know? Ans-- I know he didnt.

Q You dont propose to ~~swear~~ swear he never got up.

A I think he never got up.

Q You are just supposing when you heard somebody get up that it was her. You made up your mind then who it was.

A Yes sir.

Q You say she was out a little bit.

A I dont know how long it was.

Q That is all you know about it.

A Yes sir.

Q Have you been talked to about what you was going to swear in this case.

A No sir.

Q Do you say you have not spoken to anybody, John Campbell or Judge Stelle as to what you was going to testify to.

A No sir.

Q You have not told any one. at all.

A No sir.

Q How old are you.

A About fifteen

(That is all

HENRY CAMPBELL

Called for Defendant in chief.

Q You are a brother of John Campbell the defendant.

A Yes sir.

Q Where did you live last October.

A I lived with John Campbell

Q Do you remember, the occasion about the last of October when you killed a beef there.

A Yes sir.

State first if you know Nancy Cook.

A Yes sir.

Q What name is she commonly called by.

A Dick Cook, I never knew her by any other name. I heard some here call her Nancy cook.

Q How long has she been living in the family with you and your parents.

A I suppose it has been about thirteen years.

Q I will ask you if you understand how she came to be called Dick

A I have heard father say -----

Webb Objected to this.

THE COURT --; It is not important how she came to be named in that way.

BY Stelle-- About what time did you get the beef dressed that evening.

A it was abut dark.

Q Do you remember seeing this woman out there helping where you was killing the beef.

A Yes I think she was down there once.

Q What time did you have supper that evening.

A It must have been about seven o clock.

Q What time did you go to bed.

A It was getting towards 9 o clock. I suppose.

Q Did you have any time piece.

A The time piece was not running.

Q How many rooms is there in that house.

A Two big rooms and a cook room.

Q Which room did Nancy sleep in.

A In the west room.

Q Who slept with her usually.

A Her little boy slept with her that night.

Q How old is he. Ans-- Ten years old first of this month.

Q Who slept in the other room.

A Me and John Campbell and his wife, Billy Williams and Jenny.

Q How many beds was in that room.

A Three beds.

Q Do you know whether there was anything the matter with any of the folks in your room.

A Yes sir/ Billy Williams had the ear ache.

Q Do you remember what time you went to sleep that night.

A I guess about an hour after I lay down.

Q Do you know anything about anything occurring in Nancy Cooks room that night.

A I heard some^{one} go out of the house out of her room.

Q What time in the night did you hear somebody go out of her^{room;}

A I suppose it was between twelve and one o'clock.

Q What waked you up.

A That boy waked me up with the ear ache

Q What was he doing.

A He was crying I got up and lit the lamp and put some coon oil in his ear.

Q Was it before or after you got up that somebody went out of her room.

A It was afterwards.

Q I ask you who was in the room you was in at the time you heard somebody go out of her room.

A John Campbell, Rosina, Campbell Billy Williams and Jenny Williams and myself.

Q Where was John at that time.

A He was in bed.

Q Who was in bed with him.

A His wife.

Q Do you remember John going out of the room that night.

A He went out to get a drink.

Q How long was he gone.

A About a minute I suppose.

Q How would he go to get the water.

A He would have to go by my bed and across the corner of her room and step on the porch to get a drink.

Q How long was that before you heard somebody else go out of the room.

A He got a drink before I heard any one go out of her room.
State whether you could see or hear whether he passed to where the water was.

A Yes he came by my bed.

State to the jury whether he was any where else except to the water at that time, or did he go anywhere else.

A No sir he did not.

Q Do you know of any conversation between him and any one else while he was gone.

A No sir.

Q Did you hear any noise in her room.

~~Mr. Webb Objected to leading the witness~~
~~-----~~

ByStelle --- Did you hear anything except him passing out.

A No sir.

Q How long after was it you heard somebody go out of her room.

A It must have been a half or three quarters of an hour that I heard somebody go out of her room.

State whether you went to sleep any more after the boy waked you up with the ear ache.

A Yes sir.

Q Did you go to sleep any more that morning.

A Yes sir.

Q What time did you think you went to sleep.

A I must have been awake two hours or an hour or so.

Q Where was John all the time you was awake.

A He was in the room with me.

Q What time did you get up the next morning.

A About four o'clock.

Q What was the cause of your getting up that early.

A We was going to work for Lindley I got up and made a fire and we had to grind our axes and we ground our axes. I came in to her room and made on the fire.

Q What did you see in there when you went in.

A I saw her in bed.

State whether she was asleep or awake.

A I spoke to her and told her to get up and get breakfast that we wanted to work for Lindley that day. She said I am sick I have had a chill. I stepped back to the door and told Johns wife to get up and get breakfast as Dick said she was not able to get up she got up and me and John went and fed.

Q What time did you have breakfast as near as you remember.

A It must have been an hour after.

Q Had Dick got up before you went away.

A No sir

Q What time did you come back.

A About sun-down.

Q Where was Dick then.

A She was in the cook room. I think, helping to get supper.

Q What did you do next day, or state whether she was up all the time that day.

A She was not in bed any more that I knowed of.

Q Who was you working for.

A I was working for Mr Lindley.

Q How long was this before she was arrested, on the charge of concealing the death of her bastard baby.

A It must have been two weeks I guess.

That is all

HENRY CAMPBELL

Cross examined by Webb.

Q Your name is Henry Campbell.

A Yes sir.

Q How old are you.

A Twenty two years old.

Q You live with your brother John Campbell.

A Yes sir.

Q At the same place you lived last October.

A Yes sir.

Q You remember the day the beef was killed.

A Yes sir.

Q What makes you remember that night about the boy havina the ear ache. How do you happen to remember him having the ear ache

A I know he had it that night.

Q What makes you remember it as being on that night. In other words, how do you know it was the night you killed the beef.

A I know it was that night.

Q How do you know.

A I know he waked me up that night we killed the beef in the evening.

Q Did he evbr have the ear ache before.

A Yes sir.

Q And since?

A I suppose he has.

Q He has it frequently.

A I think he does.

Q What makes you remember that night specially.

A Because we killed the beef and he had the ear ache.

Q Was that the only beef you killed that Fall.

A Yes sir.

Q You think you went to bed about 8 or 9 o'clock somewhere.

A Yes sir.

Q And had supper about seven o'clock. How long was it after supper before you went to bed.

A It must have been about two hours.

Q You think you went to sleep in about two hours.

A In an hour or an hour and a half I don't know how long I lay there.

Q It is hard to tell is not it, unless you have a clock.

A Yes sir.

Q You say that this boy waked up between twelve and one o'clock again, crying with the ear ache and you got up and doctored the ear.

A Yes sir.

Q How do you know it was that late.

A I supposed it was about that time. I would not be sure.

Q After you had doctored his ear you lay down and went to sleep.

A Not right straight.

Q How long did you lay awake.

A A right smart bit.

Q How long did you lay awake think you.

A A couple of hours I guess.

Q You say that you got up and doctored the ear, and that John Campbell got up and went out door.

A He went to get a drink.

Q Would he have to go through Nancy Cook's room.

A Through one corner.

Q He would go through her room to go out on the porch, is that the way he would go.

A The door is in the corner of the house.

Q There is a door leading south from her room.

A Yes sir.

Q He went out at and went on the porch to get a drink, and you think he was not gone more than a minute.

A Not more than a minute and a half.

Q You think you heard some one go out of her room.

A Yes sir.

Q You say then in about an hour after you think you went to sleep.

A I said in about an hour and a half.

Q You say you got up the next morning and made the fire.

A Yes sir I did.

Q Did you make the fire in the cooking stove.

A No sir.

Q You say you asked Nancy to get up and she said she had a chill.

A Yes sir.

Q You called Johns wife then.

A Yes.

Q Then you went out and fed and came back to breakfast. ground
your axes and went to Lindleys.

A Yes sir.

Q And when you got back at night Miss Cook was up helping Mrs Campbell to get supper.

Q You say John went to get a drink, had you left the light burning in your room.

A I lit the lamp to put the oil in the boys ear. I dont think it was burning.

Q You think you blew the lamp out, how could you tell who it was that went out after water.

A I could tell pretty well, I hear^d him tell his wife he wanted to get a drink, he stepped by my bed and went out.

Q It was by his voice you could tell who it was.

A I could tell who he was without his voice.

Q Could you see him.

A Yes sir.

Q It was a light night was it.

A The moon was shining not very bright, but was giving a little light.

Q You could tell who it was without his voice.

A I think I could.

Q You say you got up and made the fire that morning.

A Yes sir.

Q How did you come to do that.

A Because I generally made the fires in the morning.

Q Is it not a fact that John makes the fires.

A No sir.

Q Is it not a fact that John got up and made the fire and called you once or twice.

A No sir.

Q John did not call you at all that morning.

A No sir. I knowed I had this work to do, and I knowed it was getting up time.

Q You got up and made the fire without John speaking to you.

A Yes sir.

Q And you think it was four o'clock.

A Yes somewhere along there, I cant tell there was not any time piece running.

Q You went in and made the fire in her room.

A Yes sir.

Q Was you consulted about what you was going to swear in this case have you been talked with about what you was going to swear to by John or Judge Stelle.

Stelle Objected did not think this proper.

Webb-- I ask you if you have been talked to by John or Judge Stelle in regard to what you was going to swear to.

Witness-- I have not talked to John.

Q Have you told anybody what you was going to swear.

A I never let people know what I am going to swear.

Q You did not tell anybody in this case.

A No that I know.

Q You would be likely to know if you had told any one would not you.

A It looks like I would.

That is all

MONROE CROUCH.

Called for the defendant by Stelle

Q Do you know Nancy Cook here.

A I think I do.

Q Did you bring her up to jail when she was committed on the the charge of concealing the death of a bastard child.

A Yes sir.

State whether or not she said to you on that trip that her child was born dead, or it was dead.

A That was my understanding.

Q She did state that to you.

A That is my understanding and recollection now.

That is all

MONROE CROUCH

Cross examined by Webb.

Q What else did she state to you.

A I cant tell you all she said. I was questioning her about the case, I asked her for the facts about the crime, I asked her several questions, I asked her a good many questions.

Q I will ask you if she did not say to you in the same conversation "Wait till Court or the case comes up and you will hear the facts."

A Yes sir.

Q She hesitated to tell you.

A Yes, she did not want to tell me anything about it.

Q She finally told you when the case came up for trial you would learn all about it.

A Yes sir.

Q Did she tell you afterwards that it was not dead.

Stella Objected to this The Court Thought it was not proper .

By Webb-- You was the acting officer that brought her up here.

A Yes sir. ----- That is all

CHARLES MARTIN.

Called for Defendant by Stella

Q Do you know this party Nancy Cook.

A Yes sir

Q I will ask you to state if you ever kept company with her.

A I walked along one night from meeting with her, part of the way, but I never said anything about going with her.

Q You went with her.

A I walked along the road a piece with her.

Q When was that.

A I dont know just when it was, sometime along last Summer

Q Do you remember what month it was in .

A No sir, I dont remember that.

Q Where did you go with her to meeting.

A I did not go to meeting with her.

Q What meeting did you go from.

A From Salem.

Q How far from where she was living.

A About two miles.

Q Was anybody else along with you.

A Yes all the meeting folks was along or in the same crowd.

Tell the jury whether or not there was any portion of the time when you went to her house, when you and her was alone.

A I dont recollect now.

Tell the Jury whether or not you had connection with her that night when you went home with her.

A No sir I did not.

Q Did you at any time last Spring.

A No sir I did not.

Q You say you dont remember whether you was alone with her at any time or not.

A No sir I do not.

Q Is that the only time you kept company with her.

A Yes sir.

Q Did you go all the way to John's House with her.

A Yes sir.

Q How long have you known her.

A Four or five years. ----- That is all

CHARLES MARTIN

Cross examined by Webb.

Q You say you had been to Salem Church.

A Yes sir.

Q And as you went home you walked along with her.

A Yes sir.

Q You never said anything to her about keeping her company.

A No sir.

Q You went with her as with the neighbor girls.

A Yes sir. ----- That is all.

THOMAS CAMPBELL

Called for defendant by Stelle
Examined in chief.

Q Your name is Thomas Campbell .

A Yes sir.

Q Where do you live.

A Here in McLeansboro.

State if you are acquainted with Nancy Cook who has been in jail
here for some time..

A Yes sir.

State if you had a conversation with her at one time on this sub-
ject.

A I did.

State whether she said to you in that conversation that " it was
a miscarriage" or that in substance.

A Thats what she told me.

State whether or not she said to you in that conversation that
" When the child came there was no life about it " or that
in substance.

BY WEBB --- Fix the time and place Judge Stelle

Mr. Stelle--- We will recall Nancy Cook thereupon

NANCY COOK
WAS RE-CALLED BY STELLE

Q Do you remember the conversation with Thomas Campbell while in
jail on this charge.

A Yes sir.

State whether or not you said in that cynversation it was a mis-
carriage" or that in substance.

A No sir. I told him it did not come at its time.

Q Did you state to Thomas Campbell or in his presence, that when
the child came there was no life about it." did you state that.

A No sir he was asking me what it was I told him I did not know
what it was.

Q Did you state to Thomas Campbell " That when the child came there was no life in it "

A No sir I did not tell him any such.

Q Did you state to him " That it was as dead as a Nit and was only a little lump of something "

A No sir I never.

Q Did you state to Thomas Campbell in that conversation " That when the child come there was no more life in it than in a stick of wood lying there "

A No sir I never.

Q Did you state to him in that conversation " That if John Campbell and wife swore they heard it cry, they would swear to a lie. "

A No sir I didnt, he never asked and I did not answer no such questions.

Q Did you state to him " That ^hwhen it came it ^{was} just a little bunch, and that there was no life in it "

A No sir ----- That is all

NANCY COOK

Re-cross examined by Hale

State to the jury what you did say to him.

BY THE COURT-- Do you remember testifying yesterday

A Yes sir He asked me some questions about it and I did not tell it all

Q Do you remember what you did tell .

A Yes sir.

Now if there be anything you did not mention you may tell the jury

Witness-- Mr Campbell came to see me that evening, we was talking and he asked me the trouble, what brung me up there he said who had you arrested, I said John and his wife, he said I didnt think that of her, he said what did John say about it, I said he had accused me of concealing the child, he said do you have an attorney I said no sir, I dint have any, he said did you get any one to go on your bond, I said I went to see some one, he said why did not you see Uncle Jo. I said I did

he said would not he go on the bond, I said no, John went over that evening and tried to get him not to go on my bond, he said I never thought that of John, he said any one that will do like he did was meaner than a dog I never thought about him treating you like he has, he said Uncle is coming up here to-morrow, and I will go and get him to go on your bond, he said I would go on it this evening if I had the money, and if I had the money I would take you out of ^{here} but he said I aint got any land and I aint got any money if I had I would come and get you right out of here. He then asked me who was the father of the child I told him, he said John ought to be ashamed to treat me like he had. He asked what the child was, I told him I did not know what it was, that is what I said-----

By Hale--- Have you anything further to say

Witness--- He just asked who the father of it was, I told him John was the father of it, and he said I would not have thought John would treat you like he has.

BY STELLE Did you state that the same or in substance before

Witness--- Witness Yes I did this morning.

THOMAS CAMPBELL

Was then called back to the stand
by Mr. Stelle.

Q In this conversation you had with this woman, I will ask you to state whether or not, she said in that conversation, speaking about the child that it was a miscarriage"

Witness She told me -----

Stelle--- Answer yes, or no.

Witness--- Yes sir she said that.

State whether she said in that conversation that when it was born it was dead" and that it had no more life than a stick of wood"

A That is what she said.

State whether or not she said in that conversation, " That if John Campbell and wife swore they heard the child cry, they would swear a lie" to get rid of her "

A Yes sir Thats what she said.

Q State whether she said it was a little bunch of something.

A She said it was a little Wad of something.

STELLE -- She details a further conversation state your recollection of that.

Witness-- She asked me to see Jo. Blake (or Black) and get them to go on the bond I said I would do it. I thought he would be up next day and I would speak to him.

Q Did she say anything else to you on that subject.

A I dont remember that she did. I told her if I was able to, I would take her out myself, or would go on her bond

Q When was this conversation.

A While she was up in jail I do not know exactly how long after she was put in

Q You may tell the jury how you came to be up there.

A The Deputy sheriff. told me she wanted to see me.

Q Which Deputy was that.

A It was Mr Irvin I think.

Q You went up at her request.

A Yes sir.

Q She made this statement to you.

A Yes sir.

Q State whether she made them voluntarily and whether the officer was present.

A He was standing in the door way I guess, in the stair way.

That is all

THOMAS CAMPBELL

Cross examined.

Q What relation are you to John Campbell.

A Cousin.

Q You have known Nancy Cook for severa l years.

A Yes sir

Q She has lived with your aunt since Uncles death.

A Yes sir.

Q As one of the Campbell family.

A Yes sir.

Q You say Seymore Irvin is the man that told you, and you went up with him.

A Yes sir.

Q You stated that he was the Deputy Sherrif.

A He was feeding the prisoners in jail.

Q Have you stated all the conversation you had with her.

A About all I recollect now.

Q Did she state who the father of the child was.

A Yes sir she stated that.

Q She stated to you also that John Campbell had kept Blake from going on her bond.

A She said she thought he had.

Q How long was it after she came up here.

A It was but a short time.

Q She wanted to see you about trying to get some one to go on her bond.

A Yes sir.

Q You think she told you in that conversation that when the child was born it was dead.

A Yes sir.

Q What else did she state.

A That it had no more life than a stick of wood.

Q What else.

A That it was a wad of something and that it had no life about it.

Q What else?

A That if John Campbell and his wife swears that they heard the child cry, they will swear to a lie. to get shut of me. I told her that was a poor way to get shut of her.

Q And that they had mistreated her.

A Yes sir.

----- That is all

JOHN CAMPBELL (The defendant)

Examined in chief by Stelle.

Q You are the defendant in this case.

A Yes sir I am.

Q Your name is John Campbell.

A Yes sir.

Q You have heard this charge against you.

A yes sir.

Q You remember the time of the killing of the beef.

A Yes sir.

Q When was it if you remember.

A It was last October sometime.

Q I will ask you first what you know, judging from her appearance as to Nancy Cook being Pregnant before that time.

A Her looks showed that way. but I do not know for sure.

State whether or not you was the father of the child she was pregnant with.

A No sir.

Testify to this jury whether you had carnal connection with her at any time in 1898.

A No sir, I have in time before, but it had been four years before.

Tell if you had any connection with her at any time by which you could have been the father of this child.

A I never had.

Q You say you never had within four years before.

A No sir.

Hale Objected to these as leading questions

BY THE COURT -- The habit of repeating after the witness is not a good one, it had better be avoided.

Stelle to witness -- You heard her statement about killing the beef.

A Yes I recollect about killing the beef.

Q What time did you have supper that evening.

A About seven o'clock.

Q What did you do then.

A Stayed in the house till bed time, and went to bed.

Q About what time did you go to bed.

A About half after eight. I dont know for sure.

Q Which room did she sleep in.

A She slept in the west room.

Q Who else slept in that room.

A her little boy

Q How old is he.

A I reckon he is ten years old.

Q Which room did you sleep in.

A In the east room.

Q Who else slept in your room.

A My wife and Henry and them two boys.

Q Do you remember which one went to bed first in that room you slept in.

A I dont know for sure but think my wife did.

Q Do you remember whether anything was the matter with anybody in your room that night.

A I know the boy took on pretty bad.

Q What did he complain of. -- Ans Ear ache.

Q Do you remember what time you went to sleep if you know.

A I had a time piece but it was not runnig.

Q What time do you suppose it was. when you went to sleep.

A It would be guess work to me.

Tell the jury whether or not you went in Nancy Cooks room at any time before you went to sleep after you went to bed.

A No sir.

Q State what time you think you went to sleep as near as you can tell.

A It must have been eleven o'clock

Q What ^{were} keeping you awake.

A That boy taking on with his ear.

Q How long after he quit taking on was it till you went to sleep

A I dont know for sure.

Q Did you wake up any more that night after you went to sleep the first time.

A Yes sir.

Q What time did you wake up, what time do you suppose it was.

A I guess it must have been twelve o'clock.

Q What waked you up.

A That boy taking on with his ear.

Q What did you do after waking up if anything

A I did not do anything but wake up.

Q How long did you stay awake, do you remember.

A Not for sure, a man cant tell to an hour what time it was.

Q If you did anything that night after you went to bed tell the jury.

A I got up to get a drink of water. I had not been in bed but a little bit when I got the drink of water.

Q Had you been to sleep then.

A No sir.

Q Now state the way you had to go when you got the drink.

A I went through the corner of the room where this Cook girl was.

Q How long was you gone from the time you left your room.

A A half a minute, may be a minute.

Q Tell the jury whether you stopped any where.

A No sir I only went to get a drink and went right back to bed.

Q You heard her statement about the child being born, state whether or not you was present when she was delivered of the child.

A No sir.

Q Tell the jury whether or not you saw any child of hers.

A No sir.

Q Any new born babe.

A I did not.

State whether or not you knew anything of it, if there was one born.

A I knew nothing about it sir.

State whether or not you carried any new born baby out of the house that night.

A I did not

Q She said she spoke to you about going for a doctor, what about that.

A No sir she never did.

State whether or not you told her to claim that she had had a chill the next morning.

A No sir I did not.

State if you know from your own knowledge or from anything you heard that night, whether she had had a baby, If you heard any noise you may tell it.

A I will tell all I know about it. After we went to bed we was lying there may be an hour and a half my wife heard some thing and she said Dick has got her baby I said I guess not She said I heard something like a baby, I said it may have been a cat, she said no, it went like a baby: we lay still and didnt hear any more we lay in bed and talked.

Q Did you hear the noise.

A I cant say for sure whether I heard anything or not. We lay there talking may be for a half an hour or longer I then heard some^{one} get up in the room where she was laying and they went out.

Q You heard some one go out of that room.

A Yes sir.

Q Do you know who it was.

A No sir I do not know who it was.

Tell the jury whether you was in that room at any time except the time you passed it to get a drink of water.

A No sir I was not.

State whether you in any way directly or indirectly had anything to do with concealing her baby, or destroying it in any way whatever?

Webb objected to leading the witness

Stelle-- You heard the statement of this woman, in regard to your going in, or being in there when she had a baby and of you taking it and wrapping it up in this piece of quilt and carrying it out, Now tell the jury whether that is so or not.

A No sir, not a word of it, it is not true.

Q Do you know if she had a baby anything about where it is.

A No sir.

Q Or what become of it.

A No sir not a word about it any way.

Q Who made the fire the next morning.

A Brother Henry.

Q Who was in the habit of making the fires.

A Henry.

Q You was a witness in the prosecution against her before Squire Howard was you.

A Yes sir.

State the substance of your testimony there as near as you can. in regard to what you heard.

A I have already told it.

Q It is as you have stated here to day.

A Yes sir. as near as I know how.

Q Judging from her appearance how far do you think she was gone how long had she been in the family way.

A I cant tell you I had no idea.

Q She said you told her that night it was not her time, state if such a conversation occurred between you.

A No sir it did not.

She speaks of a conversation whch she and you had before in which she told you she was going to law you and you said " If she would not bother you the child should not bother her " was there such a conversation.

A No sir nere a word of it.

Q Mr Campbell how long was it after the time you killed the beef that this woman was arrested. tell as near as you can remember.

A It must have been two weeks

Q I will ask you to state whether or not at any time after that if you sought to avoid being where she was. any more than you had before.

A She was living in the house with me.

State whether you was where she was and whether she could have talked to you if she had wanted to.,

A Yes sir.

Q Where at.

A At home.

Q Did she ever say anything to you about wanting to have a private conversation with you.

A No sir.

Q Did she ever say anything about her baby or her miscarriage or anything of that kind.

A No sir.

Q State whether or not she had opportunities to do so.

A If she had wanted, it looks that way to me.

State whether or not any time when you was there and she was there and your wife was away if she had a chance to speak privately to you.

A I think she would have, my wife would not follow her up all the time. She was not tied to her.

Q What appeared to be her treatment of your wife after you was married

Hale Objected to this question

THE COURT-- You may inquire as to the state of feeling between them, but not go into details of their difficulties. You may inquire in a general way.

Stelle John tell the jury if you know, what appeared to be your feelings towards your wife. That is after you was married.

A They are pretty bad.

Tell the jury on your oath, whether you are guilty of this charge or not

A No sir.

Q You are not?

A No sir. ----- That is all.

JOHN CAMPBELL

Cross examined by Webb.

Q How old are you.

A About 27 years old.

Q How long have you lived in this County.

A About four years.

Q You say Nancy Cook was living with you as one of the family.

A Yes sir.

Q She was living with your family before your mother died.

A Yes sir.

Q How long has your mother been dead.

A A little over a year, a year ago to day she was buried.

Q Did Miss Cook still continue to live with you after your mother died.

A Yes sir.

Q Still kept house for you boys didnt she.

A Yes sir.

Q Did the work there didnt she.

A Yes sir. Till I married then my wife and ^{her} both done it.

Q When did you marry.

A Sometime in June.

Q She still continued to live with you after xxx you was married till she was arrested .

A Yes sir.

Q Did you say you never had any connection with Nancy Cook till the last Spring of last year.

A I told you it was about four years ago. You can count any way you want to.

Q You are not the father of her child born last Fall .?

A No sir.

Q Had had nothing to do with her at all

A No sir.

Q Now I will ask you if you did not a short time after your mother died commence having connection with Nancy.

A I told you it was about four years ago.

Q Well I will ask you that question.

A No sir I did not.

Q You claim you did not have any connection with her at all last Spring.

A No sir I did not.

Q It is over four years since you had anything to do with her.

A Yes sir.

Q She still lived in the house all the time and you saw her every day.

A Yes when I was at home I go away some.

Q You say in the Summer you noticed she was in the family way

A It looked that way.

Q When did you first discover that.

A I dont know for sure when.

Q You have some idea, what is your best idea, as to when you first noticed her in that condition.

A I cant tell you for sure when.

Q You knowed she was in that condition.

A No sir I did not.

Q You told Judge Stelle that on the night you killed the beef, that you heard something while you and your wife was in bed and that your wife spoke about Dick having got her baby.

A No sir, I did not say that, I said that my wife heard it.

Q You did not hear anything? is that it?

A I dont know for sure.

Q You dont know for sure?

A No sir.

Q You recollect talking with your wife about it.

A Yes sir.

Q Now I ask you if you lay there talking about this matter if you did not know then that the woman was in that condition.

A How did I know? what was the matter with her, how did I know it.

Q Did you ever talk about it with Nancy Cook.

A No sir.

Q I will ask you if on Sunday at the Baptising at the bridge near the lower fork bridge, if you did not talk with about her being in the family way.

A No sir I did not.

Q Didnt you leave your wife at your mothers and didnt you talk with Nancy about this matter

A No sir I did not.

Q Did you say to her " If she would not prosecute you the child should not bother her "

A No sir, I did not I never had any conversation with her about the matter.

Q At no time ?

A No sir.

Q neither before the child was born nor after.?

A No sir.

Q Do you think the statement made here by Hamilton Howard were correct as to your statement on the trial.

A I told him what I knowed about it.

Q Have you told here all that you know about it.

A Yes sir.

Q You remeber now about your wife calling your attention to it and about you and her talking about it .

A Yes sir.

Q Was Nancy Cook able to be up the next morning.

A She did not get up. I went off before sun-up and she was not not up then.

Q What was her excuse.

A She said she had a chill, she tolde Henry that.

Q You told Judge Stelle that you was not in her room after going to bed, I understood you to say shortly afterwards you got up to get a drink of water.

A Yes sir.

Q How long was it till you got up to get the water.

A Not over an hour.

Q Why didnt you get the water before you lay down.

A I did not want it, a man dont drik ⁿ till he wants it

Q You decided after you went to bed you wanted to get a drink.

A I didnt decide it, I knowed it.

Q Is that the only time you went out.

A Yes sir.

Q You say that is the only time you went out that night.

A That is the only time.

Q That must have been what time in the night.

A About nine o'clock.

Q When you went to get the water?

A Yes sir.

Q And that is the only time you went out at all

A Yes sir

Q Then you went to sleep.

A Why no not just then.

Q How soon did you go to sleep.

A I dont know howsoon after that boy took the ear aene. We lay there talking till I got the drink of water, My wife talked I guess may be a half an hour may be longer, till I heard some one get up in the other room where she was laying, I dont know who it was

Q How long was it after you got up till the boy commenced complaining of the ear ache.

A I dont know for sure.

Q What is your best impression, as to the time your attention was called to him.

A I think it was about ten o'clock.

Q What is your impression as to the time that Henry got up to put the stuff in his ear.

A He was taking on but a little bit till Henry got up.

Q What is your idea as to the time that Henry got up.

A I told you a little bit after he took on.

Q Do you think it was eleven o'clock.

A No it was not eleven.

Q What time was it.

A It might be after ten.

Q You remember Henry getting up and putting oil in the little boys ear?

- A Yes sir.
- Q What did Henry do then.
- A He lay down.
- Q How soon after did you go out again.
- A I did not go out any more.
- Q What time did you get up next morning.
- A I guess a little after four o'clock, Henry got up and built the fire and told Dick to get up.
- Q Did you hear him tell her to get up.
- A Yes sir, and she said she did not feel right she had had a chill. He turned to me and my wife and said get up get up John so we can go to work my wife and I got up.
- Q What did you do.
- A I went out to the barn and fed.
- Q Then what did you do.
- A I went to the wood pile and chopped some wood then we ground the axes.
- Q Your wife called your attention to the fact of this woman being in that condition next morning you found her with a chill, and you just went off and left her in that condition. You paid no attention to her.
- A She said she had had a chill.
- Q You did not inquire whether she had had a baby.
- A No sir.
- Q Didn't make any inquiry at all .
- A No sir.
- Q When did you discover she had got away with the baby.
- A It was two weeks before she went down, I did not know whether she had one or not.
- Q You could not tell anything about it.
- A No sir.
- Q It was two weeks before you knew any different.

A Yes sir.

Q Was she arrested about that time.

A It was a day or two before they had her took up.

Q You had not suspicioned anything, and it was two weeks after that you noticed she had gotten away with the child.

A I would not say for sure about that. She was down the same shape she is now.

Q How long before she was arrested that you saw her in that shape

A Just a little bit.

Q Was that the first time you had any idea of her getting away with the child.

A Yes sir.

Now let me ask you was it before or after you got the drink of water that you heard this noise.

A After I had got the drink and went back to bed.

Q Neither you nor your wife went in to ask anything about it that night.

A No sir.

Q Nor to do anything of that kind.

A No sir, we did not. ----- That is all

NOTE-- Here Court adjourned for dinner.

Court Re-convened at One o'clock when

LOREN BIGGERSTAFF

Was called for defendant by
Stelle in chief.

Q are you acquainted with Nancy Cook.

A I have seen her a few times. I am not very well acquainted with her.

Q How long have you been acquainted with her.

A The first time I saw her was in the latter part of May or June that was the first time I saw her to know her.

Q Where did you see her at.

A At John Campbells.

Q Who else was there when you saw her.

A John and Henry and some children was there, and some one else came while I was there, but I did not know who it was.

Q Did you see her any where else that day.

A I heard of her over at a neighbors house who lives next to John. I dont know who lives there.

Q How did she come to be over there.

A She went with me over there.

Q How did she come to do that.

A I asked her to go a piece with me , she was going that way.

Q You asked her to go a piece.

A Yes.

Q What for.?

A I did not have any particular reason I was Joking her to go and she went.

Q Whose house did you go to when you went over there.

A I did not know whose house it was.

Q Who was there when you got there.

A The girl was there.

State whether or not you tried to get the girl to go away from the house.

A I aint certain that I did I asked her where the water was was about all

Q What else did you say.

A I asked her where the water was, and she said on the porch. she went out with me and we took some water.

Q I ask you if anybody tried to get the girl to go away from the house that evening.

A Miss Cook asked her to go and get some water. to the well.
State whether there was water in the bucket.

A There was some not much.

State what occurred between you and that woman.

Witness--- I dont know what you mean by that?

Q Did anything occur except what you have stated.

A We might have talked some nothing occurred more than that
in any other way.

Q Was you with her at any other time.

A No sir.

State what arrangement was made or said in regard to having
sexual relations .

A There was nothing said about it.

Q She said nothing nor you said nothing any way.

A No sir.

Q Did you know of her having improper relations with any one.

A No sir.

Q Can you explain what your object was in getting her to go over
there

Hale objected to this altho' it made no difference
in this case.

THE COURT--- I do not think it proves anything.

Stelle--- Did she ask you to come back.

A No sir.

Q Did she ask you to take her out a buggy riding

A No sir she did not ask me to do that.

THE COURT--- I dont see that it matters whether she did or
not.

Stelle--- You say that was the first time you ever saw her.

A That is the first time I saw her to know her.

Q How long was you at John's house with her.

A I dont know just how long, I ate dinner there and fed my horse, I dont know just how long I was there.

Stelle ----- -That is all

REPORTER'S NOTE--: There was no cross examination of Mr Biggerstaff and thereupon the Defendants Counsel Rested his case.

EVIDENCE IN REBUTTAL FOR THE PEOPLE.

JOHN F ELDER.

Called by Webb. In Rebuttal

Q Are you acquainted with John Campbell the defendant in this case.

A Yes I am acquainted with him. I know him when I see him

Q Are you acquainted with his general reputation for truth in the neighborhood where he lives.

A I do not know that I have heard any person say much about it.

Q Answer whether you are acquainted with his general reputation for truth

A No I am not acquainted with it for truth, I have not heard any person say much about it. ----- Thats all

W. C. INGRAHAM.

Called by Webb. in chief.

Q You are acquainted with the defendant are you.

A Yes sir.

Q Are you acquainted with his general reputation for truth in the neighborhood where he lives.

A Yes sir, with the general talk.

Q Is that reputation good or bad.

A It is pretty bad.

Q I will ask you if from that reputation whether in a case where he was interested whether you would believe him on oath.

A I dont think I could.

Q Are you acquainted with Henry Campbell.

A Yes sir.

Q Are you acquainted with his general reputation for truth in that neighborhood.

A yes sir.

Q what is that reputation, answer whether it is good or bad.

A It is pretty bad.

Q I ask you Mr Ingraham if from that reputation you would believe him under oath.

A I would not. ----- All

W. C. INGRAHAM

Cross examined by Stelle.

Q When did you hear anybody say anything about the truthfulness of John.

A I have heard it talked about in the store.

Q When?

A Along all Summer.

Q On the question of truthfulness.

A Yes sir.

Q Did you hear anybody say anything in regard to Henry's truthfulness.

A When they talked about one they talked about all . They would speak this way of the Campbell boys.

Q Did you ever hear anybody speak Henry's name in that way.

A Yes sir.

Q Who did you hear call his name.

A I cant say , it was in the store.

Q Cant you give any name.

A No not in particular.

Q Who did you hear call John's name.

A I have not much idea,

Tell one person that you heard say he was not truthful before this difficulty

A I cant pick out anybody right now.

Q I want to know who they are so I can have them brought and see about it. Give the name of a man that you heard say that John was not truthful.

A I have heard Mr Willard say it, and I have heard Mr Hamilton

Q You say you have heard Mr Willard (NOTE-- This name is either Willard or Laird it is a little uncertain in the shorthand notes)

Q Did you hear him say John was not a truthful man.

A He said he was constantly getting into trouble.

Q When was that, was it before this difficulty.

A I dont know when it was

Q You heard of this difficulty didnt you.

A Yes sir.

Q Was it before that.

A I cant say whether it was before or after.

Q You cant mention anybody you heard speak of Henry's truthful^{ness.}

A I cant say that I have, I testify from general reputation.

Q How far do you live from them.

A Something near 8 miles, I live in Broughton. -----All

J. R. FARRIS

Called by Webb.

Q Are you acquainted with John Campbell.

A Yes sir I know him.

Tell the jury whether you are acquainted with his general reputation for truth in the neighborhood where he resides.

A I cant say that I am he lives about three miles from me, and I have not heard much about him any way.

Q You cant say that you are acquainted with his general reputation for truthfulness.

A I cant say that I am, I know the man when I see him I never had any dealings with him. -----

That is all then

NICHOLAS LINDON

Called by Webb.

Q Are you acquainted with the defendant Campbell.

A Yes sir.

Q Are you acquainted with his general reputation for truth in the neighborhood, where he lives.

A Some.

Q That is from what the people say, are you acquainted with his reputation for truth.

A Yes.

Q Is it good or bad.

A It is bad.

Q From his reputation Mr Lindon in a case where he was interested would you believe him under oath.

A I could not do it. concientiously. ----- Alll

LINDON

Cross examined by Stelle.

Q Where do you live.

A In Broughton.

Q Have you ever been in the neighborhood where he lives.

A Yes sir, but not at his house.

Q When was you out in that neighborhood.

A Last week.

Q When was you out there before.

A About three weeks ago.

Stelle-- General reputation is what people say in regard to a particular trait of character, you was asked as to the reputation of this defendant as to truth and veracity. and you say you think you know what the people generally say .

A Yes sir.

Q Who have you heard speak on that subject.

A I have talked with other men, I will tell you one since you have asked me.

Q Give his name.

A I guess his name is McElwane or McElvane.

Q Was that to day.

A No sir, that has been over a year ago.

Q Who else did you hear talk about it before this difficulty came up.

A I cant tell you.

Q Can you give any other name.

A I do not know that I can, I have heard it spoken of frequently but I forget such as that, because it dont concern me much.

Stelle Just answer my question.

Witness-- I cant tell you.

Q When did you hear McElvane talk about it. Is that the only name you can give.

A That is the only name I can give now.

Q Have they been talking with you to day.

A Yes but on other subjects

Q And that is the only name you can give.

A Yes sir. -----All

JERRY MCEVANE

Called by Webb.

Q Do you know John Campbell here.

A Yes I have known him about four years.

Q Are you acquainted with his general reputation for truth, in the neighborhood where he lives.

A I cant say that I am ----- All

JOHN MOUTREY

Called by Webb for the People

Q Are you acquainted with the defendant Campbell

A Yes sir.

Q Are you acquainted with his general reputaitno for truth in the neighborhood where he lives.

A Not where he lives.

Webb I dont hardly get your answer, whether you are or not.

Witness--- All I know is what People says.

Q Are you acquainted with his reputation.

A I believe I am.

Q Is that reputation good or bad.

A Well it is not very good.

Q From that reputation in a case where he was interested would you believe him on oath.

A I dont hardly know how to answer that.

Webb--- You can state one way or the other, if you would believe him in a case where he was interested Reputation is made up from what the people say, not what they have seen.

A I dont know that I would say I would not believe his side, I never saw him in court before. I have not heard any evidence

Webb From what other people say?

Witness--- From what other peoplesay I dont believe I could, if they are right ----- All.

JOHN MOURRY

Cross examined by Stelle.

Stelle

It depends altogether upon what is sworn to does not it John.

A I think so.

Q You say you think you know what the neighbors generally say upon this subject.

A I know what some of the people says.

Q How many.

A I dont know how many.

Q Can you name any that you have heard speak of it.

A Yes I can name one man, T, J Allen.

Q Can you name any other one

A No sir.

Q From what Allen said you think you know his general reputation for truth and veracity.

A Thats all I know from what Allen said.

Q Allen lives south of Broughton.

A Yes about a mile and a half

Q How far is that from where Campbell lives.

A It is not quite five miles, it is probably four and half.

Q You have heard just one man speak of his truth and veracity.

A That is all I remember now.

Q Then you dont think you know what his general reputation is.

A Well I dont know, that I do, I have heard one man say that, and I have heard a good deal of talk about the Campbell boys.

Stelle--- You have heard a good deal of talk about everybody That is the only one question his reputation.

Witness--- That is the only one I have heard say he would not believe him.

Q That is the only name you can give.

A That is all I remember now. ----- Thats all.

JOHN L SNEED

Called by Webb

Q Are you acquainted with John Campbell

A Yes I have known him about three years.

Q Are you acquainted with his general reputation for truth.

A I do not think I am -----All

CICERO CLARK

Called by Webb.

Q Do you know John Campbell.

A Yes sir.

Q Are you acquainted with his general reputation for truth in at the neighborhood where he lives.

A I have never heard anybody say that he was a liar.

Webb-- Reputation is made up of what the people say Are you ac? quainted with his general reputation for truth.

A No sir I dont think I would be able to answer that.

CROSS EXAMINED BY STELLER

Q How close do you live to him.

A About a quarter of a mile away.

Well that all

HENRY BROWN

Called by Webb

Q Are you acquainted with John Campbell.

A I have seen him a few times.

Q How long have you known him.

A I can harly tell you about 17 years.

Q Are you acquainted with his general reputation for truth and veracity in the neighborhood where he lives.

A I cant answer the whole of that question.

Webb--: I will state it again, are you acquainted with the reputation of John Campbell for tputh in the neighborhood where he lives.

Witness Hesitating

The Court --- Do you know what is the general talk in the neighborhood if you do answer yes or no.

A I do not know that I can say that. ,,,, All

POOL HAMILTON

Called by Webb.

Q Are you acquainted with John Campbell.

A Yes sir.

Q Are you acquainted with his reputation for truth in the ne- ighborhood where he lives.

A I do not know that I am.

Webb Reputation is made up of what the people say.

Witness--: I dont know what most of the people say.

THE COURT He must have heard enough to know the general sentiment of the people or it would not be suffici- ent,

Witness I do not know that I know that. ----- All

G. W. DONLEY

Called by Webb.

Q Are you acquainted with John Campbell .

A I have seen him a few times.

Q Are you acquainted with his general reputation for truth in

the neighborhood where he lives.

A I hardly know whether I am or not.

Q That is made up from what the people say.

A I do not know whether I have heard a majority express them-
selves or not.

By The Court --- Have you heard sufficient as to able to
believe you know his general reputation that is
what they generally think of him. what do you
say as to that question.

Witness--- I do not know whether I can say I am or not.

Witness was excused.

T J HARDISTY

Called by Webb.

Q Are you acquainted with John Campbell.

A I have seen him a few times.

Q Are you acquainted with the general reputation of John Campbell
for truth in the neighborhood where he resides.

A For the truthful part I cant say that I am.

Q. That is the question, are you acquainted with his reputation
for truth

A I cant say that I am acquainted with his truthfulness that
has not been discussed in our settlement.

By Stelle You live on the adjoining farm.

A Yes sir ----- That is all

W. SHOTNER

called by Webb

Q You know the defendant Campbell .

A I have seen him a few times.

Q Are you acquainted with his general reputation for truth in the
neighborhood where he lives .

Ans I cant say that I am. -----ALL

IRA DILSWORTH.

Called by Webb.

Q Are you acquainted with John Campbell.

A yes sir.

Q How long have you known him.

A Less than two years.

Q Are you acquainted with his general reputation for truth, in the neighborhood where he lives.

A I dont hardly know.

Q From what the people say who talk on the subject. Say whehter you are acquainted with his general reputation for truth in the neighborhood where he resides.

BY THE COURT--- If you know the general opinion of his neighbors your answer must be yes, or no,

A Then I cant say ----- That is all

States Attorney Webb to Court. The people will close here

~~REPORTER'S NOTE~~ The foregoing is all of the evidence offered both on behalf of the People and on behalf of the defendant.

After the argument of the cause by the respective Counsel the Court gave the following Instructions to the jury.

(For the Instructions see page 120)

INSTRUCTIONS GIVEN FOR THE PEOPLE

No. (1)

The Court instructs the Jury in the language of the Statute Murder is the unlawful killing of a human being in the peace of the People with malice aforethought either expressed or implied.

An unlawful killing may be perpetrated by Poisoning, , starving, drowning, stabbing, shooting, or by any of various forms or means by which human nature may be overcome and death thereby occasioned.

Given

No. (2)

Express malice is that deliberate intention unlawfully to take away the life of a fellow creature which is manifested by external circumstances capable of proof. Malice shall be implied when no considerable provocation appears and where all the circumstances of the killing show an abandoned and malignant heart.

Given

(3)

The Court instructs the jury that whoever is guilty of Murder shall suffer the penalty of death or imprisonment in the Penitentiary for his natural life or for a period not less than fourteen years. If the accused is found guilty by the jury, the jury shall fix the punishment by their verdict.

Given

(4)

The Court instructs the jury, that what is meant by circumstantial evidence in criminal cases is the proof of such facts and circumstances connected with or surrounding the commission of the crime charged as tend to show that the crime charged was committed, and tend also to show the guilt or innocence of the party charged, and if these facts are proven

beyond a reasonable doubt by the evidence and are sufficient to satisfy the mind of the jury that the crime charged was committed and of the guilt of the defendant beyond a reasonable doubt as charged then such evidence is sufficient to authorize the jury to find the defendant guilty. The law exacts the conviction wherever there is legal evidence to show the defendant guilty beyond a reasonable doubt, and circumstantial evidence is legal evidence.

Given.

No. (5)

The Court instructs the jury as a matter of law that circumstantial evidence is just as legal and just as effective as any other evidence provided the circumstances are of such a character and force as to satisfy the mind of the jury that the crime charged was committed and of the defendant's guilt beyond a reasonable doubt.

Given.

No. (6)

The Court instructs the jury that the rule which clothes every person accused of crime with the presumption of innocence and imposes upon the State the burden of establishing his guilt beyond a reasonable doubt, is not intended to aid any one who is in fact guilty of crime to escape but is a humane provision of law, intended so far as human agencies can to guard against the danger of any innocent persons being unjustly punished.

Given

No. (7)

The law requiring the jury to be satisfied of the defendant's guilt beyond a reasonable doubt in order to warrant a conviction does not require that you should be satisfied beyond a reasonable doubt of each link in the chain of circumstances relied upon to establish the defendant's guilt. It is sufficient, if taking the testimony altogether you are satisfied beyond a reasonable doubt that the defendant is guilty in manner and form as charged.

Given.

No. (8)

The Court instructs the jury that although the law makes the defendant a competent witness in this case, still the jury are the judges of the weight which ought to be ~~given~~ attached to his testimony and in considering what weight should be given to it the jury should take into consideration all the facts and circumstances surrounding the case as disclosed by the evidence and give the defendants testimony only such weight as they believe it entitled to, in view of all the facts and circumstance found on the trial.

G Given

No. (9)

The Court instructs the jury that malice is not confined to ill-will towards an individual, but it is intended to denote any action flowing from a wicked and corrupt motive a thing done with a wicked mind and attended with such circumstances as plainly indicate a heart regardless of social duty and fully bent on mischief indicates malice within the meaning of the law.

Given.

No. (10)

The Court instructs the jury that as a matter of law that in considering the case the jury are not to go beyond the evidence to hunt up doubts nor must they entertain such doubts as are merely chimerical or conjectural.

A doubt to justify an acquittal must be reasonable and it must arise from a candid and impartial investigation of all the evidence in the case and unless it is such that were the same kind of doubt interposed in the graver transactions of life it would cause a reasonable and prudent man to hesitate and pause, it is insufficient to authorize a verdict of not guilty. If after considering all the evidence you can say and feel satisfied of the truth of the charge and have an abiding conviction that the defendant is guilty as charged, then you are satisfied beyond a reasonable doubt.

Given

No. (11)

If the jury believe from the evidence that the defendant John Campbell has been successfully impeached on this trial or that he has wilfully and knowingly sworn falsely as to any matter or thing material to the issues in this case then the jury are at liberty to disregard his entire testimony except so far as it has been corroborated by other credible evidence or facts and circumstances found in the trial.

Given

No. (12)

The Court instructs the jury that they are the sole judges of the weight to be given to the testimony of the defendant in this case, and that in judging of the weight to be given to his testimony the jury have a right to consider the reasonableness of the statement he makes and of the interest he has in the result of the case.

Given.

No. (13)

The Court instructs the jury that what circumstances will amount to proof of guilt can never be matter of general definition the legal test is the sufficiency of the evidence to satisfy the understanding and conscience of the jury, on the one hand, absolute metaphysical and demonstrative certainty is not required or essential to proof. by circumstances, it is sufficient if facts and circumstances are proven beyond a reasonable doubt which produce moral certainty of guilt as charged, to the exclusion of every reasonable doubt.

Given:

No. (14)

The law does not require that criminating evidence should be so strong as to establish the defendants guilt beyond the possibility of doubt, if, after a careful examination of all the evidence the jury can say and feel they have an abiding conviction of the truth of the charge

and are fully satisfied that the defendant is guilty of the crime charged in manner and form as set forth in the Indictment, they are satisfied beyond a reasonable doubt and should find the defendant guilty. Given.

By the giving of each and all of said instructions for and on behalf of the People of the State of Illinois the defendant is instructed that he is to be held innocent until proven guilty and that he is to be held innocent until proven guilty.

REPORTER'S NOTE-- In addition to the foregoing instructions, which were given on behalf of the People The Court was asked to the following instructions for the People, but declined to do so and so refused them.

No. (15)

The Court instructs the jury that in determining the weight to be given to the defendant's testimony you have a right to take into consideration his interest in the case and if you are satisfied that he has been successfully impeached in any material part of his testimony then you should disregard the whole of his testimony, unless corroborated by other credible testimony.

(correctly given in other instructions)

Refused.

No (16)

The Court instructs the jury that if they are satisfied from the evidence beyond a reasonable doubt, that the prosecuting witness Nancy Cook gave birth to a bastard child as charged in the Indictment, and that the defendant John Campbell took it from her alive, and took it out of the house that then it is his duty to account for it and unless he does so you may find him guilty of murder as charged in the indictment. -----,

Refused.

No. 17

You are instructed that although you may believe from the evidence that the prosecuting witness Haney Cook is the mother of one or more bastard children, yet you will not be warranted on that account in disregarding her testimony. Refused.

REPORTER'S NOTE--: The foregoing are all of the Instructions that were offered to Court on the part of the People.

INSTRUCTIONS ASKED FOR DEFENDANT.

No. (1)

The Court instructs the jury that you are the judges of the credibility of all the witnesses who have testified in this case and of the weight and value of their evidence and in determining as to the weight and value of the evidence of the various witnesses you should take into consideration the conduct and bearing of the witnesses on the stand, their means of knowledge as to the facts sworn to, their interest, or want of interest in the result of this suit, and you may bring to your mind, your knowledge and experience as men in considering as to the truth or falsity probability of the statements of the witnesses.

Given.

No. (2)

The Court instructs the jury that, if you believe from the evidence that any witness has made statements out of Court as to any material point different from their statements in Court, you may take into consideration such fact, in determining as to the weight and value of the evidence of such witness. If you believe from the evidence that any witness has knowingly and corruptly testified falsely as to any material matter in their evidence then you would be warranted in disregarding the whole of the evidence of such witness except where corroborated by other credible testimony.

Given.

No. (3)

If the jury believe from the evidence that the witness Nancy Cook was induced to become a witness and testify in this case by any promise that her testimony given in this case should not be used against her, or taken as proof against her or that it would go easier with her in case she testified in this case. Then the jury should take such facts into consideration in determining the weight which ought to be given to her testimony if obtained and given under the influence of such promise or hope.

Given.

No. (4)

The jury are instructed that where the Prosecution relies on circumstantial evidence alone, for a conviction, the jury must be satisfied beyond a reasonable doubt that the crime has been committed by some one as charged in manner and form as charged in the indictment, and then they must not only be satisfied that all the circumstances established by the proof are consistent with the defendant having committed the act, but they must also be satisfied that the facts are such as to be inconsistent with any other rational conclusion ^{that} the defendant is the guilty person.

Given.

No. (5)

The Court instructs the jury that one of the material issues in this case, is, whether the bastard child alleged in the indictment to have been killed is dead or alive, and where the issue is upon the death or life of a person the proof of the death of the person lies upon the party who asserts the death.

In this case if it be shown by the evidence beyond a reasonable doubt, that the child lived, then the presumption of law is that it continues to live until its death is shown by the evidence beyond a reasonable doubt and to a moral certainty.

Given.

No. (6)

The jury are further instructed that the indictment in this case is of itself a mere accusation or charge against the defendant and is not of itself any evidence of the defendants guilt, and no juror in this case should permit himself to be to any extent influenced against the defendant because of or on account of the indictment in this case.

Given.

No. (7)

That the jury have no right to disregard the testimony of the defendant on the ground alone that he is the defendant and stands charged with the commission of a crime. The law presumes the defendant to be innocent until he is proven guilty beyond a reasonable doubt and to a moral certainty, and the law allows him to testify in his own behalf and the jury should fairly and impartially consider his testimony together with all the other evidence in the case and if, from all the evidence in the case, the jury have any reasonable doubt whether the defendant is guilty in manner and form as charged in the indictment, then it your sworn duty to acquit him and return a verdict of not guilty.

Given.

No. (8)

The jury are further instructed that if the evidence leaves a reasonable doubt in the mind of the jury whether the defendant is guilty of the precise crime with which he is charged in the indictment, then the jury should find the defendant not guilty.

Given.

No. (9)

The jury are instructed that mere probabilities are not sufficient to warrant a conviction nor is it sufficient that the greater weight or preponderance of the evidence supports the allegations of the indictment. Nor is it sufficient that upon the doctrine of chances it is more probable that the defendant is guilty.

To warrant a conviction of the defendant, he must be proved to be guilty so clearly and conclusively that there is no reasonable theory upon which he can be innocent, when all the evidence in the case is considered together.

Given.

No. (10)

The Court instructs the jury that in criminal cases even where the evidence is so strong that it demonstrates the probability of the guilt of the party accused, still if it fails to establish beyond a reasonable doubt the guilt of the defendant, then it is the duty of the jury to acquit the defendant.

Given.

No. (11)

The Court instructs the jury that before a conviction can be rightfully claimed by the People in this case, the truth of every material averment contained in the indictment must be proved to the satisfaction of the jury beyond any reasonable doubt and to a moral certainty. -----

Given.

No. (12)

That in order to fairly determine whether the defendant is proven guilty of the crime of murder in manner and form as charged in the indictment beyond any reasonable doubt as the law requires the jury should take into consideration all of the evidence elicited from the defendants witnesses as well as that detailed for the prosecution, and if, after a full and dispassionate consideration of all the evidence in the case you entertain any reasonable doubt as to whether the defendant committed the crime in manner and form as charged in the indictment, then you should acquit the defendant. -----

Given.

No. (13)

The Court instructs the jury that it is incumbent upon the prosecution to prove every material allegation of the indictment or one of the counts therein, as therein charged. Nothing is to be presumed or taken by implication against the defendant. The law presumes him innocent of the crime with which ~~he~~ he is charged until he is proven guilty beyond a reasonable doubt by competent evidence. And if the evidence in this case leaves upon the minds of the jury any reasonable doubt of the defendants guilt the law makes it your duty to acquit him. -----

Given.

No. (14)

No. (14)

And in this case if all the facts and circumstances relied on by the People to secure a conviction can be reasonably accounted for upon any theory consistent with the innocence of the defendant, then the jury should acquit him. ----- Given.

No. (15)

The rule of law is, that to warrant a conviction on a criminal charge, upon circumstantial evidence alone the circumstances should be such as to produce the same degree of certainty as that which arises from direct testimony and sufficient to exclude all reasonable doubt of the party's guilt. The circumstances ought to be of such a nature as not to be reasonably accounted for on the supposition of the prisoner's innocence, but be perfectly reconcilable with the supposition of his guilt.

Given.

No. (16)

In order to justify the inference of legal guilt from circumstantial evidence the existence of the inculpatory facts must be absolutely incompatible with the innocence of the accused upon any rational theory, and incapable of explanation upon any other reasonable hypothesis than that of his guilt.

----- Given.

Reporter's Note--

Defendant's Counsel asked the Court to give the following instructions, on behalf of the defendant, but,

The Court declined to give them to the jury. and the defendant then and there objected to the action of the Court in refusing to give such and all of the following instructions.

No. (1)

If there is a single fact proved to the satisfaction of the jury by a preponderance of evidence which is inconsistent with the defendants guilt this is sufficient to raise a reasonable doubt, and the jury should acquit the defendant.

Refused.

No. (2)

That, to authorize a conviction on circumstantial evidence alone, the circumstances should not only be consistent with the prisoners guilt, but they must be inconsistent with any other rational conclusion or reasonable hypothesis and such as to leave no reasonable doubt in the minds of the jury of the defendants guilt

(Duplicate of other instructions)

Refused.

No. (3)

That as a matter of law the defendant is presumed to be innocent of the crime charged in the indictment until such time as the guilt of the party charged is proved as alleged by competent evidence beyond any reasonable doubt and to a moral certainty.

Refused.

No. (4)

The Court instructs the jury that if there is any other reasonable hypothesis arising out of the evidence given in the case except the one that the defendant unlawfully killed the deceased then the defendant is entitled to the benefit of such Hypothesis and he ought to be acquitted.-----Refused.

No. (5)

The Court instructs the jury that in this case the law raises no presumption against the prisoner, but every presumption of the law is in favor of his innocence, and in order to convict him of the crime alleged in the indictment,, or of any lesser crime included in it, every material fact necessary to constitute such crime must be proved beyond a reasonable doubt, and if the jury entertain any reasonable doubt, upon any single fact or element necessary to constitute the crime, it is your duty to give the prisoner the benefit of such doubt and acquit him.

Refused.

No. (6)

In criminal cases where the prosecution rely upon circumstantial evidence alone for conviction, it is not enough that all the circumstances proved are consistent with, and point to the defendants guilt. To authorize a conviction upon circumstantial evidence alone, the circumstances must not only all be in harmony with the guilt of the accused but they must be of such a character that they can not reasonably be true in the ordinary nature of things and the defendant be innocent.

(Refused--- Duplicate of other instructions)

No. (7)

The jury are instructed as a matter of law, where a conviction for a criminal offense is sought upon circumstantial evidence alone, the people must not only show by a preponderance of evidence, that the alleged facts and circumstances are true, but they must be such facts and circumstances as are absolutely incompatible upon any reasonable hypothesis with the innocence of the accused, and incapable of explanation upon any reasonable hypothesis other than the guilt of the accused.

(Duplicate of other instructions and for that reason Refused)

No. (8)

The Court instructs the jury that the policy of our law deems it better that many guilty persons should escape rather than one innocent person be convicted and punished; so that unless the jury after a careful and thorough consideration of all the evidence in the case can say and feel that every material allegation in the indictment is proved beyond a reasonable doubt the jury should find the defendant not guilty.

Refused.

NOTE--- The foregoing are all of the instructions offered or asked to be given on behalf of the defendant.

Whereupon the jury retire to consider of their verdict

And the jury after considering the case returned the following

VERDICT.

we the jury find the defendant guilty of murder in manner and form as charged in the Indictment and we find that he is above the age of twenty one years and that his age as near as we can determine from the evidence is twenty seven years and we fix his punishment at fourteen years in the State Penitentiary.

Whereupon the counsel for the defendant filed the following motion for a new trial.

State of Illinois } ss. In Circuit Court
Hamilton County } February Term 1894.

The People of the State
of Illinois
vs.
John Campbell impleaded } Charge of
with Nancy Cook } Murder

And now comes the defendant and moves the court to set aside the verdict in above case and grant the defendant a new trial, for the following reasons:

- 1st Because the verdict of the Jury is contrary to the law.
- 2nd Because the verdict of the Jury is contrary to the evidence.
- 3rd Because the verdict of the Jury is contrary to the law and the evidence.
- 4th Because the Jury disregarded the instructions of the Court.
- 5th Because the Court refused proper instructions asked for defendant.
- 6th Because the Court gave improper instructions for the people.
- 7th Because the court modified and changed proper instructions asked by defendant.
- 8th And for other good cause appearing.

By J. B. Stettin, J. R. Gross and R. R. Barnett,
his attorneys.

But the Court overruled the said motion

Whereupon the Counsel for defendant filed the following motion in arrest of Judgment.

State of Illinois } In Circuit Court
Hamilton County } February Term 1894

The People of the State
of Illinois
vs.
John Campbell impleaded
with Nancy Cook } Charge of Murder
Motion in arrest of
Judgment.

And now comes the defendant and enters his motion in arrest of Judgment for assigns the following reasons:

- 1st Because there is no Record of the return of the Indictment by the grand Jury in to Court in open Court.
- 2nd Because there is no sufficient indictment in this case.
- 3rd Because there is no sufficient verdict.
- 4th Because there is no sufficient Record in this case to warrant a Judgment upon the verdict.
- 5th And for other good cause appearing.

By J. B. Stelle and J. R. Cross and R. R. Barnett,
his Attorneys.

But The Court overruled said motion, and gave Judgment upon the said verdict of the said Jury against the defendant, to which the defendant then and there excepted; and in as much as the matters aforesaid do not appear of Record, the Counsel for the defendant presents this bill of exceptions and prays that the same may be signed and sealed by the Court and made part of the Record in said case; and it is done accordingly. Dated June 13th 1894, Carroll C. Boeggs Clerk
Praying

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State of Illinois } ss
County of Hamilton }

Of the February term of
the Hamilton County Circuit Court, in
the year of our Lord One Thousand eight
hundred and ninety four.

The Grand Jurors, chosen,
selected and sworn, in and for the
county of Hamilton in the name and
by the authority of the people of the
State of Illinois, upon their oaths
present: That Nancy Cook and John
Campbell late of the county of Hamilton
and State of Illinois on the first
day of September in the year of our
Lord one thousand eight hundred, and
ninety three at and within the said
county of Hamilton the said Nancy
Cook then and there being a single
woman and then and there being
pregnant with a certain bastard
child whose name and sex is to the grand
jurors unknown at the time and place
last aforesaid the said bastard child
whose name and sex is to the grand
jurors unknown from her body did
then and there bring forth alive which
said bastard child whose name and

sex is to the grand jurors unknown then and there so born alive by the laws of the state of Illinois was then and there a bastard, and the said Stancy Cook and the said John Campbell did then and there on the first day September in the year of our Lord one thousand eight hundred and ninety three, at the county aforesaid with force and arms in and upon the said bastard child whose name and sex is to the grand jurors unknown in the face of the said people then and there being unlawfully feloniously, willfully and of their malice aforethought did then and there make an assault and the said Stancy Cook and the said John Campbell with their hands the said bastard child whose name and sex is to the grand jurors unknown in a certain cotton cloth unlawfully, feloniously, willfully and of their malice aforethought did then and there put place fold and wrap up by means of which said putting, placing, folding and wrapping up of the said bastard

child whose name and sex is to the grand jurors unknown in the said cotton cloth by her the said Nancy Cook and by him the said John Campbell as aforesaid, the said bastard child whose name and sex is to the grand jurors unknown was then and there choked, suffocated, and smothered of which said choking suffocation and smothering the said bastard child whose name and sex is to the grand jurors unknown on the day and year last aforesaid at the county aforesaid died. And so the grand jurors aforesaid upon their oaths aforesaid do say that the said Nancy Cook and the said John Campbell the said bastard child whose name and sex is to the grand jurors unknown in manner and form aforesaid on the day and year last aforesaid at the county aforesaid unlawfully willfully feloniously and by their malice afoutrought did kill and murder.

Contrary to the form of the Statute in such case made and provided, and

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against the peace and dignity of the
said people of the State of Illinois.

Isaac H. Webb

State Attorney in and for
Hamilton County

And the Grand Jurors aforesaid chosen selected and sworn in an for the County of Hamilton aforesaid in the name and by the authority of the people of the State of Illinois aforesaid upon their oaths aforesaid do further present that the said Nancy Cook and the said John Campbell late of the County of Hamilton and State of Illinois aforesaid on the first day of September in the year of our Lord one thousand eight hundred and ninety three at and in the County aforesaid did then and there in and upon one certain bastard child whose name and sex is to the Grand Jurors unknown in the peace of the said people then and there being in some way and manner and by some means instruments and weapons to the Grand Jurors unknown they the said Nancy Cook and the said John Campbell did then and there unlawfully, willfully feloniously, and of their malice aforethought inflict on and create in the said bastard child whose name and sex is to the Grand

Jurors unknown certain mortal injuries and a Mortal sickness a further description whereof is to the grand jurors unknown of which said mortal injuries and mortal sickness to the grand jurors unknown the said bastard child whose name and sex is to the grand jurors unknown on the day and year last aforesaid, at the county aforesaid did. And so the Grand Jurors aforesaid upon their oaths aforesaid do say that the said Nancy Cook and the said John Campbell, the said bastard child whose name and sex is to the grand jurors unknown in manner, and form aforesaid on the day and year last aforesaid at the county aforesaid unlawfully, willfully, feloniously and of their malice aforethought did kill and murder.

Contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the said People of the State of Illinois.

Isaac H. Webb
 State Attorney in and
 for Hamilton County

The People State of Illinois
vs

no 5-

Nancy Cook
John Campbell

Murder

And now

on this the fifth day of the term
the same being the 2nd day of
March A D 1894 come the People by
Isaac H Webb State's Attorney and
the Defendant John Campbell by
T. B. Stelle and John R. Cross his
attorneys and the Defendant Nancy
Cook by T. M. Eckley and L. J. Hale
her attorneys and motion is made
by Defendant to Quash each count
in the Indictment motion overruled
and Defendant excepts motion
to Quash each count as to the
Defendant Nancy Cook motion
overruled and Defendant excepts
separate trial granted on appli-
cation of Defendant John Campbell
Defendants each separately
arraigned in due form of law
and enter each the plea of not
guilty - copy of Indictment list
of jurors and witnesses
delivered to each of said Defendants

cases set for hearing on Tuesday
 March 6th 1894 That of John
 Campbell to be first called for
 trial. And now on this ninth-
 day of March A.D. 1894 come the
 people by Isaac H. Webb States
 Attorney and the Defendant
 John Campbell by T.B. Stelle and
 J.R. Cross his Attorneys and
 trial by Jury as to Defendant
 John Campbell, and the Defendant
 being now furnished with a copy
 of the Indictment list of Jurors
 and witnesses and for plea
 says that he is not guilty there-
 upon issue is joined and it is
 ordered by the Court that a Jury
 come whereupon come the
 following good and lawful men
 to serve as jurors in the trial
 of this cause viz:

W. H. Kennedy - A. J. Micalf
 Job Brock - D. P. Tate

L. C. Echols - J. H. York
 J. P. Echols - W. A. Hunt
 Abram Hart, Thomas Childers

J. J. Reeder and H. P. Bond who
 are chosen selected and sworn
 to try the issue herein joined
 and who after hearing the evidence
 the argument of counsel, and
 the instructions of the court, retire
 to consider of their verdict in
 charge of two sworn officers of this
 court and now on this 11th day
 of this term same being the 8th
 day of March A.D. 1894 come the
 Jury and Return into open
 court the following as and for
 their verdict to-wit: — On the
 Jury find the defendant John
 Campbell guilty of Murder in
 manner and form as charged
 in the indictment and we find
 that he is above the age of Twenty
 one years and that his age
 as near as we can determine
 from the evidence is Twenty-
 seven years and we fix his
 punishment, at fourteen years
 in the State penitentiary.
 Motion by defendant John Campbell
 for a new trial, Motion overruled
 and defendant excepts

motion in arrest and affidavit
of clerk taken orally in support
and minutes of clerks docket
read in evidence as to return of
indictment into open court and
motion overruled and defendant
excepts and again on this day
come the said people by Isaac H. Webb
State Attorney and the said defend-
ant John Campbell in his own
proper person as well by his
counsel L. B. Stille and J. R. Cross
also come and now neither the
said defendant nor his counsel
for him saying anything further
why the judgment of the court
should not now be pronounced
against him on the verdict of
guilty heretofore returned in this
cause. Therefore it is ordered, and
adjudged by the court that the
said defendant John Campbell
be taken from the bar of this
court to the common jail of
Hamilton County Illinois from
whence he came and from
thence by the sheriff of said

Hamilton County to the peniten-
 tiary at Chester and be
 delivered to the warden or keeper
 of said penitentiary, and the
 said warden or keeper is
 hereby requested and command-
 ed to take the body of said
 defendant John Campbell and
 confine him in said peniten-
 tiary in safe and secure custody
 for and during the term of
 Fourteen years from and
 after the delivery hereof Oneday
 of said term in solitary
 confinement and the residue
 of said term at hard labor and
 that he pay the costs of this
 prosecution and defendant
 excepts. defendant gives 120
 days in which to file bill
 of Exceptions.

STATE OF ILLINOIS,

Hamilton County, ss.

I, H. L. Maulding Clerk of the Circuit

Court of Hamilton County, in the State aforesaid, and keeper of the records and files of said Court, do hereby certify the above and foregoing to be a true, perfect and complete copy of

the Records. Bill of Exceptions and proceedings

in and by said Court ^{in a certain cause heard and determined} at the February Term thereof A. D. 1894
^{pending in said Court, on the} of the People of the State of Illinois ^{side thereof, wherein} against John Campbell
 defendant on charge of Murder

~~Defendant~~, as the same appear from the records and files of said Court, now in my office remaining and said Record contains a full and true proceedings in said cause.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the

Seal of said Court, at McLeanboro this

Eight day of November A. D. 1894

H. L. Maulding Clerk.



4-Over
Manuscript of Proceedings

IN SUIT.

CIRCUIT COURT,

Hamilton County,

February Term, 1894

In the Matter of

The People vs

John Campbell

John Horne, Compiler, Printers, Chicago.

Filed Nov. 9th 1894

Frank W. Howell

Att. Gen. Ch.

Assignment of errors on the Record:
and the defendant by J. B. Deane his attorney
Carrys and assigns errors on the Record
as follows:

- 1st The Court erred in overruling the motion
to quash the indictment,
- 2nd The Court erred in giving to the Jury in-
structions asked by the Prosecution,
- 3rd The Court erred in refusing to give to the
Jury instructions asked by the defendant,
- 4th The Court erred in overruling the motion for
a new trial and rendering judgment on the
verdict
- 5th The Court erred in rendering judgment on
the verdict against the defendant and in appointing
him to imprisonment in the State Penitentiary for ~~four~~
years
- 6th The Court erred in overruling the motion in
arrest of the judgment,
- 7th The Court erred in rendering judgment on the
verdict which is contrary to the evidence and the law
whereupon the plaintiff in error prays that the
said judgment may be reversed
By J. B. Deane
Att. Gen. Ch.