

12706

No. _____

Supreme Court of Illinois

Barney

vs.

People

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John Barney
vs.

The People of the State
of Illinois.

17 P. 12

1859

no. for 1859

The State of Illinois } Circuit Court thereof
Bureau County, Is. } September Term A.D. 1858

The People of the }
State of Illinois } Indictment for Rape
vs. }
John Barney }
}

Be it remembered that
on the trial of this cause, at the September
Term of the said Circuit Court, in the
year of our Lord Eighteen Hundred and
Fifty-eight, the plaintiffs, to maintain the
issue on their part, produced John S. Farnum,
a witness on the part of said plaintiffs, who
was then and there sworn, and who then
and there testified in chief to the jury
aforesaid, as follows, to wit:

My wife's name is Elizabeth Farnum. About
three years ago she was sick. She had a
pain in the breast and vomited blood, and
about six weeks before we went to Dr. Barney's
had miscarried. A man by the name of
Riley said he had had a pain in the breast
and that Dr. Barney had cured him. Myself
and wife went to Dr. Barney's about the
middle of July 1855. When we went there
Dr. Barney said my wife looked weary,
and had better lay down. A gentleman

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and little boy was there. Dr. Barney passed round victuals. The gentleman then went off. I did not see him any more & Dr. Barney then asked my wife if she had the toothache. She said she had not. He asked what did ail her. She said she had a pain in the breast, and had had a miscarriage. Then Spellman and his wife came in. Dr. Barney said, but not in the presence of Spellman or his wife, that my wife was in the family way again; that he could tell by making an examination. He took her out into the office to make an examination. When she came back Spellman and his wife had gone away. He said, he Barney, had made an examination, and that my wife was like for another child. While we were talking there Spellman and his wife stepped in again. Then Dr. Barney asked us both out into the office and talked with us. He said my wife was with child, and that the only way was to get rid of it, and that the way he did such things was to upset it with an instrument; that it was a safe operation; that he had upset children for respectable women; that he had upset one for this Mrs. Spellman only a few weeks since, and she was getting along fine.

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I wanted to be present when he was operating, but he said no one should be present, no one had ever been present; that if the lawyers got hold of it they would take us all down the river. I insisted on being with her. He said I could not; that no one had ever been present. He said that he and my wife ~~should~~ go out to the necessary, as that was a nice clean place; that there was only one room in the house; that the partitions were only studding. He said it was a nice clean place in the necessary. He said he wanted that he should get his instruments and then he would go out and she should follow. He said it was the only way to save her life. After a while I consented and all three of us went into the house. Before he went in he promised to use her well. He said she was a nice, decent woman and he would treat her as such; that I need not be afraid to trust her in his care. When I went in Spellman and his wife were in the house. When we went in Dr. Barney went to the drawer and took out something. I don't know what it was. Directly my wife went out. This Mr. Spellman and his wife were just fixing to start off on a ride. As they went out I went out

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as far as the bars with them; then, after they started I walked down towards the necessary. I went down towards the necessary. There were some timbers there and a horse-rake. I stood and looked at the horse rake a minute or two. I heard my wife groan. Then I went up a little nearer to the necessary. I heard her groan again. I spoke twice. I says, doctor! doctor! Then he opened the door and was very much frightened, and said I had scared him so that he had not quite time to get through. My wife stepped out then, and she was so weak she could hardly stand, only as I held her up. The Doctor said if I had stayed a minute longer he would have been through; - Now. I had seen him perform I must never tell any one of it. She went into the house and I helped my wife on to the bed, and she was in a great deal of pain. The doctor got a glass of water and gave her, and she seemed to feel a little better. Then he said he had lost his instruments, and he would go out and find them. He stepped out to find his instruments and I stepped up to the bed and asked her if he had misused her. She said he had. She said the

doctor had threatened to kill her and me both, that is, the one to whom she told it. She said as soon as we should get away she would tell all about it. Then the doctor came in. He said he could not find his instruments; that he had hung them on his pants and they were gone. He would go and look for them again. He went out the second time. He was gone a minute and came back and said he could not find them. I asked him if he could give her any medicine. He said he thought he could, and got a vial and fixed up something. About that time there was another gentleman came in, and then we went and started for home. The doctor followed out as far as the wagon and said she must not say anything about it. If she did it would take us all down the river. We started, and as soon as we started she told me what had happened. We went home. I told my brother-in-law. Went and got a State warrant and went back next morning and took him. He was not prosecuted here. We took him to Stark County. It was in Stark County. We had not known Doctor Barney. Had never seen him. He

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lived 10 or 12 miles from us. My wife had been sick more than a year; at times had been prostrated with sickness; - was very weak at the time. We had been married about a year. We lived at that time in Bureau County. We live now in Henry County. We did not take the medicine home. I broke the vial before we got home. I did not see Spellman and his wife any more till next morning. The necessary was about six or eight rods from the house. I don't know the exact distance. I was down by some timbers and a horse rake, about two rods from the necessary, when I heard my wife groan. I started towards the necessary, and heard her groan the second time. I helped her to the house. We remained at Doctor Barney's from fifteen to thirty minutes after they came out of the necessary. Spellman and his wife said they ^{were} going out for a ride. This Mrs. Spellman is the Doctor's niece. When Spellman and his wife came to Doctor Barney's they acted very friendly and shook hands. I never was at Dr. Barney's house, with my wife except at the time mentioned. And the said witness, John S. Farnum, on his cross-examination then and there

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testified to the jury aforesaid, as follows,
to wit:

It is 3 or 4 rods from the door of Barney's ^{house} to the fence. My team stood there, just outside of the Doctor's fence. It was hitched to the buggy and tied to the fence. It had been there in the morning. We had been there before Spellman and his wife went away, about an hour, but could not say for certain. Myself, wife, and Dr. Barney had conversation in the presence of Spellman and his wife, but not much about the case in the presence of Spellman or his wife. The Doctor wanted to lease me a piece of land. I can't recollect what was said about it. I did not say anything about making a contract in the conversation. There was not more than one man there after they came out of the necessary. We did not talk of renting land in his presence. I don't think we said anything about it. My wife was lying on the bed when the man came. She remained lying on the bed. Soon after she got up ^{we} went out to the carriage. It was not long. I am sure my wife was on the bed when the man came. I think so. I am not right positive. After

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She got off the bed she immediately commenced putting on her things, I think, and I think I did not sit down at all after they came from the necessary. I might have sat down while the Doctor was fixing the medicine, but am not certain. I and my wife and the doctor were not sitting down altogether after my wife got off the bed. I don't recollect that the Doctor, myself, and wife, all three, sat together. The Doctor did not give us refreshments after my wife got off the bed. We did not take any refreshments after they came out of the necessary. I saw Barney's bureau and cabinet of curiosities on it. After my wife got off the bed she and the Doctor stood at the bureau several minutes. It might have been a minute or more. I think she asked him about something that was on the bureau. I did not think she was cheerful. She and the Doctor had no cheerful conversation that I noticed. The doctor went out with us when we started. I don't know how long we stopped at the buggy before we started. We talked a minute or two after we were in the buggy. My wife

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made the disclosure to me before we got out of sight. She commenced telling me before we got fifteen rods from the Doctor's house. My wife and the Doctor were in the necessary from 5 to 10 minutes. I was 2 rods from the necessary when she groaned. The Doctor opened the door of the necessary, and said I had scared him so that he had not quite got through. Doctor said he had not misused her and I might ask her. I did not ask her till we got into the house. I did not accuse him of misusing her. Nothing was said about satisfaction, or twenty-five dollars. I and my wife went into the house first I think. I was not inside of the necessary myself. When I helped my wife from the necessary to the house I took hold of her arm and put my arm round her waist. After the Doctor and my wife went in ^{to} the necessary I left the bars and went down to the necessary. I went because I was anxious about my wife. I did not tell Abram Spellman, the morning we went to arrest Barney, at Barney's or elsewhere, that I had brought my wife to Barney's the day before to get a child upset. I had a conversation that morning with Spellman, at Barney's.

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Some one came up while we were talking, but I don't recollect who it was. I think the person who came up cautioned me not to talk anything about it. We had whiskey at Barney's, ^{I drank a little,} but can't say whether it was before or after they went into the necessary. After they came from the necessary I asked the Doctor whether he could not give her some medicine. We came to the Doctor's near noon, and went away between one and two o'clock. My wife went to Princeton, about 8 miles, & back next day. She was in Princeton three or four hours. She rode in a buggy. She went to Toulon the next day, about 20 miles, and the next day returned. At the time myself and wife went to Dr. Barney's she was living at her father's. She had not worked much since she had had her miscarriage. And be it further remembered that on the trial of the said cause at the said term of the said Court, the plaintiffs, to maintain the issue on their part, produced Elisabeth Farnum, a witness on the part of said plaintiffs, who was then and there sworn and who then and there testified, in chief to the jury aforesaid as follows, to wit: After I was married my health was very

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poor. I was sickly. I had a severe pain
in the breast. In the spring after I was
married I miscarried and lost a child.
I was unable to keep house, and so I went
home to my father's. While I was stopping
there Mr. Riley came there, and said he had
been troubled in that way and Dr. Barney
had cured him, and he advised me to go
there. He said he had cured him and
he thought he would cure me if I would
go there. So I went, about the middle
of July 1855. When we went there my
husband asked if that was where Dr.
Barney lived, and he said he was the
man, and asked us to come in and sit
down. When we went there, there was a
man there, with a little boy to be doctored.
Dr. Barney said he thought I was weary
and sick, and he thought I had better
lay down and rest. I laid down on
the bed and the Doctor went and got
some medicine for the man's little boy,
and pretty soon this man and the boy
went away. Dr. Barney then came and
sat down on the bed, felt my pulse,
and asked if I had the toothache, and
I told him I had not. He asked me
if I had been sick long. I told him I

had a pain in the stomach, and had been vomiting and spitting blood; that a few weeks before that I had lost a child, and had still continued to grow worse. After the man went away Dr. Barney brought some pie and cakes, and we eat some. I eat a very little. Pretty soon Mr. Spellman and his wife came in and the Doctor introduced them. They got themselves something to eat and waited upon themselves, and whilst we were talking Dr. Barney said he thought I was in the family way. He could not tell certain, but could tell by examination. He said if I was in the family way it would have to be destroyed; that I was in such a weak prostrate condition that I would not be likely to live but a few months. Then I stepped out into his office. He made the examination and said I was in the family way. We came back and I sat down on the step. He said that was a nice place. He said he had upset several children for other women; that he had upset one for his niece, Mrs. Spellman, a few weeks before, and that she was getting along finely. I was then sitting on the

step of the office, and then we went in the
 house where my husband was, and Spellman
 and his wife came in, and then he asked
 us both out into the office. He said it
 was perfectly safe to have a child upset;
 that some doctors gave strong medicines
 which would destroy health, but said that
 he never did that way. Then he talked
 with us and I wanted my husband to be
 present, and he said he never allowed
 anyone to be present; that if the lawyers
 got hold of it they would take us all
 down the river. We both insisted that
 my husband should be present. He
 said I was a nice respectable lady
 and he would treat me as such; that
 it was safe, as near as I can remember.
 This Mr. Spellman and his wife had
 been for a walk, and had come back
 about this time, and were preparing for
 a ride. The Doctor said, as there was no
 room in the house he would go to the
 necessary; that it was a nice place,
 not used much, and said he would
 get his instruments, and go out, and
 then I should go out. I went out
 and went into the necessary, and the
 doctor came in and shut the door and

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locked it. I asked him what he locked
the door for, and he said I would see
after a while. He told me to stand
with my back to him and lean forward
and my head and arms rested on the
seat of the privy. Then he took hold
of me and said now he had got me
there where I could not help myself,
and he would do what he wanted to.
Then when he took hold of me I became
frightened and raised up, and he pushed
my head down on the seat so hard that
it hurt me very much, and said, God
damn you, I'll kill you, if you make
any noise or resistance. Then he still
kept swearing and talking, and asked
me if I would not like to come and
live with him, that he would not ask
me to do anything, but wash a shirt
or so, and allow him what privileges
he wanted. He kept swearing and asked
me if I would not tease my husband to
come and live with him. I told him,
no. He kept talking and swearing and
asked me if I would tell any one. I
told him I did not know. I expected
if I did, he would kill me before he ever
let me go. During this time he was having

connection with me. He commenced as soon as he took hold of me. This conversation was while he was having connection with me. He said he was well armed and well prepared, and that if I ever told of it he would kill me and then that I should tell. This was while he was having connection with me, and he did have sexual connection with me there in Stark County, Illinois, in July 1855. Pretty soon my husband spoke, and said doctor, doctor, what's the matter? I begged of him to let me alone. When I would go to raise up he would push me back, and swear he would kill me. I groaned a good many times. He had been in connection with me five minutes, or longer, when my husband spoke. When my husband spoke he asked me if I thought my husband would come in. I told him I thought he would. Then he stepped to the door and unlocked it. He seemed to be very much frightened. I could not hardly stand. My husband took hold of me. Barney said I was very weak and sick, and my husband's speaking had frightened him. If he had waited he would have been through, and

now he might go in the house and see it done. Then we went in the house, and I was so sick and faint I could hardly stand. My husband laid me on the bed, and Dr. Barney brought me a glass of water. Then he said he had lost his instrument and would go and find it. He stepped out of the door, and stepped round so that he could listen to what we would say, instead of going to hunt his instruments. He stepped round a step or two to listen to what we should say. My husband stooped down over me and asked me what made me so sick, if the Doctor had misused me, and I told him he had, but not to say anything about it, as he had threatened to kill both of us; that I would tell him all about it after we had got started. After a few moments the Doctor came in, and said he could not find his instruments; that he would hunt again. Then he went out and came in again, and said he did not know where they were. Then my husband asked him if he could not give me some medicine that would do me some good. He said he could

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and stepped out and got a little bottle
of medicine of some kind; and said, take
that three times a day. I don't remember
how much I was to take, and we were
getting ready to start away, and just
before we started away there was a man
came there. Then we went out to the
fence, and he told us we had better
not say anything about what had hap-
pened, as the lawyers would get hold
of us and send us all down the river.
He asked us if we knew of any girl
who would work out; that he wanted
a girl, and I mentioned a young lady,
an acquaintance of mine. I only mentioned
this young lady in order to get away. I
thought that by telling him and recom-
mending to him someone, we might get away
and get rid of him. Then we got in
our buggy and started home. As soon
as we got out of sight I spoke to my
husband about it. I had never seen
Doctor Barney before that day. I had
never heard anything about him, but
very little, what Riley told me. Barney
lived 12 or 14 miles from where we lived.
I think I was not in the family way then.
I did not take the medicine. It got

broke on the way. We got refreshments before we went into the necessary. We got no refreshments after we came out of the necessary. I don't know the man who came just before we started. I don't think he had been there more than two or three minutes before we started. I was in my 19th year at that time. I had ~~but~~ not been married quite a year at that time. Was raised in Bureau County, about one and a half miles from Tiskilwa. About 8 miles from Princeton. I had never been in Doctor Barney's neighborhood. Father did not know of our going. We went from Mr. Bosworth's. I could not work any at that time. My health is not very good now. I continued ailing until cold weather. I had been sick, not well, for 6 or 8 months before.

And the said Elizabeth Farnum, then and there, also, on cross examination testified to the jury aforesaid, as follows, to wit:

I could not tell exactly what time we started to Dr. Barney's. It must have ^{been} 8 or 9 o'clock in the morning. We drove slowly. I don't know what time we

got there. My best judgment is that it was one or two o'clock. I can't tell how long we were there. We were there two or three hours. We saw Dr. Barney first. He was standing in the door. We did not get out before my husband spoke to him, and asked if Dr. Barney lived there. Dr. Barney said he was the man. Our horse was hitched to the fence. The horse remained there all the time we were there. We went in the house. A man and little boy were there. I don't know his name. He had brought the boy there to be doctored. He stayed I could not say how long, only a few minutes after we came there. Man and boy went away before any one else came. It was a quarter or a half an hour before any one else came. Then Mr. Spellman and his wife came there. They did not stay a great while, till they went for a walk. I cannot say how long after they came till we went to the privy. About half an hour, may be not so long. We were in the privy from 5 to 10 minutes. It was not more than ten minutes after we came out of the privy until we went away. The man who

came after I left the privy came only two or three minutes before we left. They were talking about the country &c before we went to the privy. There was no conversation about leaving the place before we went to the privy. There was no such conversation at all before we went to the privy. Dr. Barney said I was pregnant. Examination was made in the office. No one was present. My husband was in the house. It had been talked of in his presence. I don't remember whether he requested to be present or not at the examination. I don't know as the Doctor went out to get medicine. I went with the Doctor. I don't know which went first. I don't know who shut the door. I was standing when the examination was made. He made the examination with his finger. I think I had not before that suggested to him that I might be in a state of pregnancy, and did not tell him so. I had not supposed so at all. It had been 5 or 6 weeks since I had miscarried. I had had connection with my husband before going to see the Doctor and since my miscarriage. I have told all that I remember that

Passed between me and the Doctor at the time of the examination. The arrangement was that the Doctor should go in to the necessary first. I went in first. He came in a minute after. He shut the door when he came in. The privy was as large as common, or larger. He shut the door and locked it ^{He did not lock it} with a key. I could not tell what kind of a lock it was. I did not say before the Justice that he locked the door and put the key in his pocket. I sat down on the seat of the privy when I first went in. It was only a short time I remained in that position likely. I asked him what he locked the door for. He said I would see. Next, he told me how to stand, and I stood as he told me. He took hold of me by the hips. I should think he held me with force sufficient to hurt me. He held me with a hand on each hip, and held me so all the time. He gripped me so firmly as to hold me fast in that position all the while, until my husband called. I have repeated all the conversation that I remember while we were in the necessary. He did not say anything about the farm. I don't think I swore that he did before

the Justice. If I said so before the Justice it was true. I don't think he said anything about the farm. If he did, I don't remember it. He did say he would let us have the farm and I should only wash a shirt or so, and let him have what privilege he wanted. I tried to raise up two or three times. I am sure he did not say be still. I did not scream. I did not scream because he said he would kill me instantly. I did not know but he had weapons. He did not say how he would kill me. As quick as my husband spoke the doctor asked if he would come in. I said, yes. He said we might all go in the house and see it done. I stepped to the door. There was nothing said about misusing me. My husband took me by the hand, and helped me to the house. I don't know which came out of the necessary first. The doctor did not say he would leave it to me whether he had misused me or not. Nothing was said about pay. On the way from the necessary to the house I bore most of my weight on my husband. I groaned after he made threats. I could not help but groan.

He said if I made any loud noise he would kill me. After we came from the necessary I laid only a few minutes on the bed. I took nothing to eat after I came from the privy. I did not stand up by the cabinet of curiosities with the doctor after I came from the necessary. I had no conversation with the doctor before the cabinet of curiosities. I would remember it if I had. We had no conversation about the farm. I did not stand up with the Doctor. I thought it was not more than ten or fifteen minutes after we came out of the necessary till we left. Only one man was there after we came out of the privy. We did not converse more than a minute or two in the buggy. I don't recollect of promising him to go with him after the girl, when we were at the buggy. We had gone a mile, perhaps it was not so far, when I told my husband about his abusing me. I don't ^{know} when it was that the farm was first mentioned. I think it was in the privy. I don't know as my clothes were torn. I had no bonnet on. I don't remember whether my hair was torn down, or not. I heard him lock the privy. I suppose there was a lock there or he could not have locked it. The privy seat was of the usual height. I do not know

my height or weight. My first child after that was born in September A. D. 1857.

And the said Elisabeth Farnum ~~after~~ then and there testified to the jury aforesaid upon her re-examination, as follows, to wit:

I felt very bad when I came out of the privy. I began to feel better in a few minutes. I felt bad for a few minutes.

And be it further remembered that on the trial of the said cause, at the said term of the said Court, the plaintiffs, to maintain the issue on their part, produced Lucy Bosworth, a witness on the part of the plaintiffs, who was then and there sworn, and who then and there testified to the jury aforesaid, as follows, to wit:

Mr. and Mrs. Farnum went from our house to Doctor Barney's. Mrs. Farnum was quite feeble, not able to do her work. She complained of a pain in her breast and looked unhealthy. Her health had not been good for a long time. I was with ^{her} when she miscarried. She was healthy before her marriage. She had a child the 25th of last September. I saw her after she got home from Dr. Barney's. I noticed her clothes. They had a peculiar mark, rather a bloody stain. ^{her clothes, were sullied} I don't know whether

she had her courses then, or not. She was afraid the Doctor would kill her for several ^{weeks} ~~months~~ after that. One day when some one was coming in ^a ~~the~~ buggy she thought it was the Doctor coming to kill her, and ran and jumped out of a window, and ran and hid in the cornfield.

And be it ^{further} remembered that on the trial of the said cause, at the said term of the said Court, the plaintiffs, to maintain the issue ~~on~~ their part, produced Mrs. Miller, a witness on the part of said plaintiffs, who was then and there sworn and who then and there testified to the jury aforesaid, as follows, to wit:

I am acquainted with Mrs. Elizabeth Farnum and live in the same neighborhood. I had heard that she was not in good health about the time of her visit to Doctor Barney's.

And be it further remembered that on the trial of said cause, at said term of said Court, the plaintiffs, to maintain the issue on their part produced Mrs. Tompkins, a witness on the part of said plaintiffs, who was then and there sworn, and who then testified to the jury aforesaid, as follows, to wit:

I am acquainted with Elisabeth Farnum. At the time of her visit to Doctor Barney's her health had been poor for some time. She complained of a pain in the breast, and some six weeks before her visit to Doctor Barney's she had a miscarriage.

And be it further remembered that on the trial of the said cause, at the said term of the said Court, the defendant, to maintain the issue on his part, produced Abraham Spellman, a witness on the part the said defendant, who was then and there sworn and who then and there testified to the jury aforesaid, as follows, to wit:

I know Mrs. Elisabeth Farnum. I know where Dr. Barney lived in July 1855. In July 1855, on Sunday, near one o'clock, myself and wife went to Dr. Barney's. We got there about one o'clock P. M. We staid while my horses ate and while we ate, about twenty minutes. Myself and wife then walked to Irwin's, about $\frac{3}{4}$ of a mile and back. Farnum and his wife were there when we first came. I heard no conversation between Farnum and his wife and Dr. Barney. When I saw Barney and Mrs. Farnum going in to the privy I standing at the bars. About two o'clock

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P.M. myself and wife left Dr. Barney's with horses and carriage. About the time we left I saw the Doctor and Mrs. Farnum go into the backhouse. I was then standing at the bars and Farnum was on his way to the backhouse. The Doctor and Mrs. Farnum were in the backhouse, ~~when~~ when I left. I saw them go in and had not seen them come out. The time, from the time the Doctor and Mrs. Farnum went into the backhouse till Farnum started to the backhouse, was a very short time, while I could walk from the bars to the house and back to the buggy. We drove away and went East. The Doctor went into the backhouse first. As I drove away we met Robert Hay, between a quarter and a half a mile from Doctor Barney's. Hay was riding a sorrel, ball faced mule. He was riding very fast. We were driving in a fast trot. We drove nine miles before returning and made two stops on the way, one of about five minutes, and one of about fifteen or twenty minutes. As I returned I saw Robert Hay again. Met him about the same place where I first saw him. We were gone long enough to drive nine miles in a good smart trot

and make the two stops. I saw Farnum the next morning at Doctor Barney's, ~~When they came to~~ when they came to arrest Barney & I asked Farnum what the fuss was, ~~about~~ and he said Dr. Barney had misused his wife the day before and they had come to arrest him. I asked him what he fetched his wife there for, if she was sick. He said he brought his wife there to get a child upset, as several Doctors had told him to come to Doctor Barney, as he was a skilful physician in that line. While I was talking with him some man came up and told Farnum not to talk to me, or to beware what he said to me, or words to that effect. I did not know the person but I think he was some of the crowd who came to arrest Barney; and then Farnum said no more. I saw Mrs. Farnum at Doctor Barney's when I came there first. She was lying on the bed. I testified before the justice to the same conversation between me and Farnum. I testified the same as now. I said, if the question was asked me, that Barney went into the back house first, before the justice.

And be it further remembered that on the trial of the said cause, at the said term

of the said Court, the said defendant, to maintain the issue on his part, produced Margaret Spellman, a witness on the part of the said defendant, who was then and there sworn and who then and there testified to the jury aforesaid, as follows, to wit:

I saw Farnum and his wife at Doctor Barney's, on the Sunday spoken of. Dr. Barney gave us an introduction to them as his friends. We came to Dr. Barney's I think about one o'clock. I saw Mrs. Farnum go into the wood house, which is called the office. I saw her go to the necessary. I saw the Doctor go there. The Doctor went into the necessary first, and she went in afterwards. They had not come out when we left. I saw Farnum going towards the necessary. We then went to Boyd's Grove and returned. It was about 2 o'clock when we started. I know Robert Hay. We met him as we went, ~~about~~ between a quarter and a half mile from Dr. Barney's. We also met him coming back, somewhere near the same place. We travelled about nine miles and made two stops, one of five, and one of fifteen minutes. The Doctor and Farnum

and his wife were talking private talk nearly all the time I was there. I did not hear any talk about a lease. Mrs. Farnum was walking about the house part of the time while I was there. I am a niece of Dr. Barney. I had been married to Mr. Spellman about 6 weeks when this happened. I was standing in the door when I saw them go into the necessary. My husband was standing pretty near me. My husband had the horses hitched at the bars at the time. And be it further remembered that on the trial of the said cause, at the said term of the said court, the said defendant, to maintain the issue on the part of the said defendant, produced Robert Hay, a witness on the part of said defendant, who was then and there sworn and who then and there testified to the jury aforesaid, as follows, to wit:

I know the defendant Dr. Barney. I know Farnum and his wife. I saw them at Dr. Barney's. I never saw them there but once. It was on Sunday. As I went to Dr. Barney's I met Spellman and his wife about 120 or 30 rods from Barney's house. I was riding in a tolerably fast trot, as fast as a mule could trot.

When I got to Dr. Barney's I found Mr. and Mrs. Farnum there. I did not notice any timepiece but I think it was between 3 and 4 o'clock, not later than 4 ~~when I~~ ~~got there~~ o'clock. When I got there the Doctor and Farnum and his wife were all sitting in the dining room facing each other, and were all talking. I did not know what they were talking about when I first went. Dr. Barney proposed something about letting them some land. They were talking some length of time about that. I could not just tell how long, perhaps ten or fifteen minutes. There was no bargain concluded that I heard. Mr. Farnum went out, stepping about whittling a stick. Mrs. Farnum was walking about passing some words with Dr. Barney, and then went up to the Cabinet of Curiosities and asked him questions, and he answered her questions. Barney and she stood close together, so close that their clothes touched. She seemed to be quite friendly, passing the time in a social way. She was as much so as ladies generally would be. Something was said between them about going home, and the Doctor went and got some medicine and gave it to

Farnum, and Farnum took out his pocket book and asked what was to pay, and the doctor said he did not charge anything, he could pay when he got more, or something to that effect. The Doctor handed round some victuals on a plate. Mrs. Farnum took some and ate. They went out to start home and the doctor went with them, and they stood and talked some time after Farnum and his wife got in the biggy. I did not take notice what they said then. I might have heard what they said if I had paid attention. I stayed there about three quarters of an hour after they left. I then went home and as I went I met Spellman and his wife, about the same place where I met them coming to the Doctor's. I should think Farnum and his wife stayed at the doctor's an hour and a half after I went, while I was there. I saw no reluctance on the part of Mrs. Farnum to talk with the doctor. She walked around about as nimbly and cheerfully as most ladies would. I saw her laugh sometimes at the doctor's jokes while there.

And be it further remembered that the

Said Robert Key on his cross examination then and there testified to the jury aforesaid as follows, to wit:

I did not see but that Mrs. Farnum was a well woman. I came there in a hurry to see the Doctor. My little boy was sick. I thought my boy was dangerously sick when I left home. I told the doctor how he was and the doctor said there was no danger; that he would get me some medicine for him; not to be uneasy or in a hurry, and I waited until they went away, and stayed three quarters of an hour, I should think, after they left. I was chatting with the Doctor. I think it was 3 or 4 o'clock when I went there. Mrs. Farnum ^{and the Doctor} talked about some stuffed birds in the cabinet of curiosities. They talked about a duck of some kind. I think the doctor told her it was a wood duck. They talked about some other kind of a bird, I forget what they called it, and they talked about an eagle's claw. She asked him what it was, and he told her it was an eagle's claw. I lived a mile and a quarter east of Doctor Barney's. I have lived on that place about 8 years. I own the farm and built a house on it.

I did not testify before the Justice of the Peace. I went to Toulon in Stark County to Court to testify, but the case did not come on. I did not know of the case before the Justice until after it was over. I know H. B. Smith the Constable. I remember when he came to subpoena me. I do not recollect of saying to him that I would do all I could to clear the doctor. It was late in the evening when I left. It was about sun down when I got home.

And be it further remembered that on the trial of the said cause, at the said term of the said Court, the said defendant, to maintain the issue on his part, produced George Scott, a witness on the part of the said defendant, who was then and there sworn and who then and there testified to the Jury aforesaid, as follows, to wit: I saw Farnum and his wife going to Doctor Barney's between 9 and 10 o'clock in the morning. I was at Irwin's about three quarters of a mile east of Barney's. I saw Spellman and his wife Pass going east, I think after two o'clock in the afternoon, riding in a carriage. I saw Robert Hay Pass going west within a few minutes of the same time, riding a

corned mule. About an hour and a half after Hay passed, going west, I saw Farnum and his wife pass going east. I saw Hay go back east afterwards, but I do not recollect how long afterwards. Spellman and his wife came to Irving's, on foot, about two o'clock.

And be it further remembered that on the trial of said cause, at the said term of the said court, the plaintiffs, to maintain the issue on their part, produced Egbert Norton, a witness on the part of the said plaintiffs, who was then and there sworn and who then and there testified to the jury aforesaid, as follows, to wit:

I was the officer who took Barney from Princeton to Toulon. I was at the trial before the Justice. I think Spellman testified before the Justice that ^{Mrs.} Farnum went into the necessary first. I think Spellman did not testify before the Justice that Farnum told him he had brought his wife to Dr. Barney's to get a young one upset. I don't remember it if he did and I think I heard all the testimony.

And be it further remembered, that on the trial of the said cause, at the said term

of the Said Court, the Said Plaintiffs, to service the issue on their part, Produced Nathaniel Bosworth, a witness on the part of the Said Plaintiffs, who was then and there sworn and who then and there testified as follows, to wit:

I heard Spellman testify before the Justice of the Peace, but I can't recollect what he swore about the conversation with Farnum. I was in the crowd that arrested Barney. I do not recollect of telling Farnum to beware, or not to talk to Spellman, or words to that effect; nor did I hear Farnum say to Spellman that he had brought his wife to Barney's to get a child upset.

And be it ~~further~~ remembered that the counsel for the plaintiffs then and asked said witness Bosworth the following questions to wit: "State whether you and Farnum in July 1855 owned a piece of land together," to which question the Said defendant then and there objected, but the Said Court then and there overruled the objection of the Said defendant, and permitted the said witness Bosworth to answer said question, who then and there, answered to the Jury aforesaid, as follows, to wit: "We did", to which decision of the Said Court

the said defendant, then and there, ~~excepted~~,
 and the counsel for the said plaintiffs, then
 and there, asked the said witness Bosworth
 the following question, to wit: "Where was it?",
 to which question the said defendant then
 and there objected, but the said Court,
 then and there, overruled the said objection
 of the said defendant and permitted the
 said witness to answer the said question
 last mentioned, who then and there answered
 to the jury aforesaid, as follows, to wit: "It
 was on the road from Providence to Buda,
 5 or six miles from Dr. Barney's," to which
 decision of the said Court the said
 defendant, then and there, ~~excepted~~. And
 the counsel for the said plaintiffs, then
 and there, asked the last said witness
 the following question, to wit: "State what
 arrangements, if any, you ^{and her} had made in
 relation to the occupation and cultivation of
 that land the next year;" to which question
 the said defendant, then and there, objected
 but the said Court, then and there, overruled
 said ^{last} objection of the said defendant, and
 permitted the said witness to answer the
 same, who, then and there, answered to the
 jury aforesaid, as follows, to wit: "I don't know
 as we had made any. She had been on the land

breaking that year," to which last decision
 of the Said Court, the Said defendant, then
 and there ~~excepted~~; - And the Said Counsel
 of the Said plaintiffs, then and there, asked
 the last Said witness the following question,
 to wit: "How much was there of the land?"
 to which Said last question the Said defendant,
 then and ^{there} objected, but the Said Court, then
 and there overruled the Said last objection
 of Said defendant, and permitted the Said
 witness to answer the last Said question, who
 then and there answered to the Jury afore-
 said, as follows, to wit: "About 160 acres",
 to which last decision of the Said Court,
 the Said defendant, then and there, ex-
 cepted; - And the Said Counsel of the Said
 plaintiffs, then and there, asked the last
 Said witness the following question, to wit:
 "How much of it was broken then?", to which
 last Said question the Said defendant, then
 and there objected, and the Said Court,
 then and there, overruled the last, ^{Said} ~~man's~~
 objection of the Said defendant, and
 permitted the last Said witness to answer
 the last Said question, and the last Said
 witness, then and there answered the same,
 to the Jury aforesaid, as follows, to wit:
 "Some where from 120 to 140 acres; he had

done most of the breaking," to which last said decision of the said Court, the said defendant, then and there excepted; - And be it further remembered that on the trial of the said cause, at the said term of the said Court, the said plaintiffs, to maintain the issue on their part produced Mr. Miller, a witness on the part of said plaintiffs, who was then and there sworn, and who then and there testified to the jury aforesaid as follows, to wit; I was one of the men who went to arrest the defendant. I did not caution Farnum not to talk with the witness Spellman, nor did I hear Farnum tell Spellman he had brought his wife to Barney to get a child upset.

And be it further remembered that the said plaintiffs on the trial of the said cause, at the said term of the said Court, produced John Calef, a witness on the part of the said plaintiffs, who was then and there sworn and who then and there testified to the jury aforesaid, as follows, to wit: I was one of the men who went to arrest Barney. I did not caution Farnum not to talk with Spellman, nor hear any one else do it, nor did I hear Farnum tell Spellman that he had brought his wife

to Barney's to get a child upset. And be it further remembered that on the trial of the said cause, at the said term of the said Court, the plaintiffs then and there produced Mr. Gallagher, witness on their part, who was then and there sworn and who then and there testified to the jury aforesaid, as follows, to wit: I was one of the men who went to arrest Barney. I did not caution Farnum not to talk to Spellman, nor hear any one else do it, nor did I hear Farnum tell Spellman that he had brought his wife to Barney's to get a child upset. And be it further remembered that on the trial of the said cause, at the said term of the said Court, the said plaintiffs produced Samuel H. Mitchell, a witness on their part, who was then and there sworn and who then and there testified to the jury aforesaid, as follows, to wit: I was one of the men who went to arrest the defendant. I did not caution Farnum not to talk to Spellman, nor hear any one else do it, nor did I hear Farnum tell Spellman he had brought his wife to Barney's to get a child upset. Myself, Nathaniel Bosworth, Mr. Miller, John Calif.

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* Mr. Gallagher, who have all testified. here were all the persons who were present, except Spellman; at the time of the defendant's arrest.

And be it further remembered that on the trial of the said cause, at the said term of the said Court, the plaintiffs produced H. B. Smith, a witness on the part of the said plaintiffs, who was then and there sworn and who then and there testified to the Jury aforesaid, as follows, to wit: When I went to Subpoena Robert Hay, he asked if the Doctor would get his trial. He said I need not come any more with a Subpoena for him; he would come without it; that he was willing to do what he could to get the Doctor out of the scrape.

And be it further remembered that on the trial of the said cause, at the said term of the said Court, the plaintiffs produced Mr. Riley, a witness on their part, who was then and there sworn and who then and there testified to the Jury aforesaid, as follows, to wit: I advised the prosecutrix, Mrs. Farnum, to go to Doctor Barney's. She complained of a pain in the breast; ~~and~~ She was in a poor state

of health. I tolde her I had been troubled with a pain in the breast, and that Doctor Barney had cured me, and I thought he could cure her.

And be it further remembered that on the trial of the said cause, at the said term of the said Court, the said plaintiffs produced Alvin Ballou, Joseph Shugart and J. Allen Paddock, witnesses on the part of said plaintiffs, who were each then and there sworn, and who each then and there testified to the jury aforesaid, ~~and~~ that he ^{was} a physician and Surgeon, and that in his opinion it is impossible to tell by manual examination, whether a woman is pregnant, within five or six weeks after conception.

And be it further remembered, that on the trial of the said cause, at the said term of the said Court, the said defendant, to maintain the issue on his part, produced Milton J. Peters, a witness on the part of the defendant, who was then and there sworn and who then and there testified to the jury aforesaid, as follows, to wit: I was the attorney for the prosecution on the examination of the defendant before the justice of the peace. I think there was

such testimony as that Farnum had a conversation with Spellman, or some one, in which he said he brought his wife to Barney's to get a young one upset. I think there was such testimony came out on the trial, but I can't say whether Spellman gave it or not;—which testimony in this bill of exceptions mentioned and set forth was all the testimony in the said cause. And be it further remembered that on the trial of the said cause, at the said term of the said Court, after the evidence aforesaid was given to the jury aforesaid, the said plaintiffs then and there prayed the said Court to instruct the said jury aforesaid, as follows, to wit:

"The Court instructs the jury for the People, et. That if the People have proved that the defendant, in the year 1855, in the County of Stark and State of Illinois had sexual intercourse with Elizabeth Farnum, without her consent, then the jury will find the defendant guilty, and fix his term of imprisonment in the Penitentiary, for a term not less than one year, and may extend it to during his natural life."

"2nd That if the Jury believe the testimony of the prosecutrix, Elizabeth Farnum, it is sufficient to warrant the conviction of the defendant."

"3rd That although the Jury should believe that the offence charged could have been prevented by the Prosecutrix calling out, and that she did not, yet, if the defendant had sexual intercourse with the prosecutrix, against her consent, as charged in the indictment, he is guilty, although she did not call out, ~~if~~ if she was deterred from making resistance to such intercourse by threats of death made by the defendant to her at the time of such intercourse."

"4th That it is not necessarily a presumption against the prosecutrix that she made no outcry at the time of the commission of the alleged rape, if the Jury believe she was prevented from making such outcry through fear of death or duress, caused by threats made to her at the time by the defendant; It is enough that she made no outcry or resistance through fear, caused by such threats, and not whether her fears were well founded, or not; and it is perfectly immaterial whether her fears were well founded or not, if they actually existed

and influenced her to make no outcry or resistance."

"5th That the Jury are not authorized to disregard the testimony of the prosecutrix and consider her testimony wholly false because there have been partial and unimportant contradictions between her testimony and that of other witnesses, unless the jury really believe that she is devoid of credit and has sworn falsely;" to the giving of each of which instructions to the Jury aforesaid, by the Said Court, the defendant then and there objected, but the Said Court then and there overruled the Said objections of the Said defendant to each of Said instructions, and then and there gave each of Said instructions to the Jury aforesaid, to which decisions of the Court in overruling the Said objections of the Said defendant, ~~the Said~~ and in giving each of Said instructions to the jury aforesaid the Said defendant then and there excepted; and thereupon the Said defendant then and there prayed the Said Court to give to the Jury aforesaid each of the following instructions, to wit:

"1st Unless the Jury believe beyond a reasonable doubt that the defendant is guilty, in manner and form as charged in the indictment, they should find the defendant not guilty."

"2nd Unless the jury believe, beyond a reasonable doubt, that the defendant penetrated the body of Elizabeth Farnum with his penis they should find the defendant not guilty."

"3rd Unless the jury believe, beyond a reasonable doubt, that the defendant penetrated the body of Elizabeth Farnum, with his penis, forcibly and against her will, they should find the defendant not guilty."

"4th Although the testimony of Elizabeth is admissible evidence, yet the jury should carefully consider all the facts proved in the case for the purpose of ascertaining whether her evidence is reliable."

"5th If the jury believe, from the evidence, that after the alleged rape, the prosecutrix, Elizabeth Farnum, voluntarily remained for the space of an hour, or half an hour, in the house of the defendant, conversed cheerfully with him, ate with him, and conducted herself in a friendly manner with him, this is a material circumstance for the consideration of the jury in determining whether a rape had been recently committed on her by the defendant"

"6th The fear, by reason of which sexual intercourse connection is obtained, must be an actual, existing fear, at the time when the connexion is had, and by means of which the connexion

is obtained; whatever the threats made at the time were, the prosecutrix must have regarded them as being in earnest, at the time, and acted through the fear of their execution in submitting to sexual intercourse, or the connection would not be rape."

"7th If the Jury believe from the evidence that, from the circumstances stated by the Said Elizabeth Farnum, it was impossible that a connection could have been had as stated by her, they should find the defendant not guilty."

"8th If the Jury believe that the witnesses on behalf of the prosecution, or of the defence, have contradicted the testimony of Elizabeth Farnum, and that such witnesses are reliable, and that the evidence of the Said Elizabeth, upon the points where she was contradicted, is untrue, this raises a strong presumption against the reliability of the entire evidence of the Said Elizabeth."

"9th If the Jury believe, from the evidence, that the Said Elizabeth Farnum deliberately swore to that which she knew to be untrue, upon any point in her evidence, then the Jury should disregard all her evidence, unless she was corroborated by another, or other, reliable witness, or witnesses."

"10th If the Jury believe, from the evidence, that at the time of the alleged rape in this

case, there were persons within the hearing of the outcries of Elizabeth Farnum, if she had made them, and that she knew at the time that such persons were within hearing distance of such outcries, and that she made no such outcries, this is a very material circumstance to be considered by the jury in determining whether a rape was committed "

"11th The Jury should be careful, that in coming to a verdict, their decision should not be influenced by public opinion, assertions of counsel not based upon testimony, or by anything but the law and the testimony."

"12th Although the Jury should believe, from the evidence, that the defendant had sexual connection with the prosecutrix, yet if they have any reasonable doubt, from the statement made by her, or from other testimony, whether such connexion was forcible and against her will, then they should find the defendant not guilty."

"13th If the Jury believe, from the evidence, that the husband of the prosecutrix was, at the time the rape is alleged by her to have been committed, an able bodied man, and was at the said time within a few rods of the said place where the rape is alleged by her to have been committed, that he might

easily have heard her had she made any outcry, that the prosecutrix made no outcry, that she and her husband remained for an hour or an hour and a half with the defendant in a friendly manner, then these circumstances raise a strong presumption that no rape was committed."

"14th If the Jury are satisfied that the prosecutrix has knowingly testified falsely as to whether she stood up with the defendant before a cabinet of curiosities, and conversed with him in a friendly manner immediately after the time ~~that~~ she swore that the rape was committed upon her, or as to any other particular of her testimony, then the jury are not warranted in finding the defendant guilty upon her testimony."

"15th The jury are bound, in law, to presume the defendant innocent until he is proven, by testimony, which the jury fully believe to be true, beyond a reasonable doubt to be guilty."

"16th It is ^{not} enough that the Jury should believe, from the evidence, that it is extremely probable that the defendant is guilty, but the jury must fully believe, beyond a reasonable doubt, that the defendant is guilty before the Jury can find him guilty."

"17th Although the Jury should believe,

from the evidence, that the defendant is a bad man, that he had sexual intercourse with the prosecutrix, and that his conduct deserves punishment, yet unless he is proven guilty of the crime of rape, in manner and form as charged in the indictment, beyond a reasonable doubt, they should find the defendant not guilty."

"18th If the jury believe that the testimony of the witness Hay is inconsistent with the guilt of the defendant, then, unless the jury believe such testimony to be false, they should acquit the defendant."

"19th - If the jury believe, from the evidence, that the testimony of Hay is inconsistent with the guilt of the defendant, and should be merely doubtful whether it is true, or not, they should acquit the defendant"; - and the said Court then and there gave the jury aforesaid the said first, second, third, fourth, fifth, sixth, ninth, eleventh, twelfth, fifteenth, sixteenth, seventeenth and eighteenth instructions as prayed for by the said defendant; - but the said Court then and there refused to give to the jury aforesaid the said seventh instruction as prayed for by the said defendant, but then and there gave the said seventh instruction

with the following qualifications, to wit: "that in order to convict the defendant it is not necessary for the Jury to believe that the defendant had connection with the prosecutrix just as stated by her in her testimony. It is sufficient that the Jury believe from the evidence, that the defendant is guilty as stated in the indictment, although the Jury may believe the prosecutrix wrong in some parts of her testimony;" - to which decision of the said Court in refusing to give the said Seventh instruction as prayed for by the said defendant, and in qualifying the same, and giving said instruction as qualified, the said defendant then and there excepted; - and the said Court then and there also refused to give to the Jury aforesaid the said tenth instruction as prayed for by the said defendant, but then and there qualified the said tenth instruction by directing the said Jury that the same was qualified by the aforesaid 4th instruction given to the Jury aforesaid on the part of the said plaintiffs, to which decision of the said Court in refusing to give the said tenth instruction to the Jury aforesaid as prayed for by the said defendant and in giving to said Jury the same as qualified as aforesaid, the said defendant

then and there excepted. And the Said Court then and there wholly refused to give to the Jury aforesaid the Said eighth, thirteenth, fourteenth and nineteenth instructions prayed for by the Said defendant, to which decision of the Said Court, in refusing to give to the Jury aforesaid the Said eighth, thirteenth, fourteenth and nineteenth instructions prayed for by the Said defendant, the Said defendant then and ^{there} excepted; and the Said Jury then and there found a verdict against the defendant in the words following, to wit: "We the Jury find the defendant guilty as charged in the indictment, and fix the time of imprisonment in the penitentiary at three years and six months". And thereupon the Said defendant then and there moved the Said Court to set aside the Said verdict in the Said Cause and grant a new trial therein to the Said defendant for the following reasons, to wit: First, the Said verdict is against the law. Second, the Said verdict is against the weight of evidence in Said Cause. Third, the Court permitted improper evidence to go to the Jury on the part of the Prosecution, which was objected to by the Said defendant. Fourth,

the Jurors who tried Said Cause were not legally sworn. Fifth, a part of Said Jurors were not legally sworn. Sixth, the Said defendant was illegally ordered into the custody of the Sheriff of Said County, and thereby prevented from obtaining a fair trial in Said Cause. Seventh, the Jury in Said Cause was illegally permitted to separate, and mingle with other persons, after having been accepted as Jurors in Said Cause. Eighth, Some of the Jurors in Said Cause so were permitted to mingle with other persons after being accepted. 9th The Court gave improper instructions, at the request of the People's counsel, which were objected to by defendant's counsel. Tenth, the Court refused proper instructions which were prayed by defendant's counsel. 11th The Court improperly qualified instructions prayed for on the part of the defendant. Twelfth, The Jury who tried the Said cause were improperly influenced by the applause of the mob given to the People's counsel in open Court in presence of the Court and Jury. Thirteenth, the defendant had not a fair and impartial trial of Said Cause. And the Said motion for a new trial was then and there heard by the Said Court and upon the hearing thereof the following

affidavits were read on the part of the said
 defendant, to wit: State of Illinois, Bureau
 County, ^{of Bureau} Bureau Circuit Court, September
 Term A. D. 1858. The People vs. John Barney.
 Indictment for Rape. John Barney the
 said defendant being duly sworn says
 that nine of the jurors who tried the said
 cause, that is, Samuel Whittington, Peter
 H. Martin, William Russell, A. E. Blodgett,
 William Dunham, O. G. Wilcox, O. W. Giles,
 Abel Mills, Samuel Burnet were not sworn
 in the said cause to try the issue in said
 cause, so far as this affiant knows or
 believes, that said jurors were not sworn
 to try the said issue in this affiant's presence,
 and if they ever were so sworn this affiant
 had no opportunity to object to the form of
 the oath administered to them, and that he
 is informed and believes that they were not
 so sworn. This affiant further states that
 after four of said jurors were impanelled
 and received and accepted as jurors in said
 cause they left their seats and went and
 mingled with a crowd of people for the
 space of ten minutes without the assent of
 this affiant, and as this affiant is informed
 the merits of, ^{said} ~~this~~ cause were a subject mat-
 ter of discourse in said crowd where said

last mentioned Jurors mingled, that the names of Said last mentioned Jurors are Peter H. Martin, O. G. Wilcox, O. W. Giles and Abel Mills, and this affiant believes that Samuel Whittington, Asaph E. Blodgett, and William Durham, Jurors in Said Cause, were with the Jurors aforesaid, that the leaving of Said Jurors and their mingling with Said Crowd ^{was} entirely without the assent of this affiant, and entirely against his will and wishes. And affiant further says that the whole of the Jurors who tried Said Cause were upon the trial of Said Cause improperly influenced as this affiant believes by open demonstration of applause given by the ~~Court~~ mob in presence of the Court and Jury, while in the trial of Said Cause, to unjust portions of the address of the Counsel for the prosecution; and further says he is not guilty of the crime of rape, charged against him, and that he verily believes that he has not had a fair and impartial trial upon Said charge.

State of Illinois
Bureau County, Ill.

John Barney

I sworn to and Subscribed
before me J. S. Williams

a Justice of the Peace
of Said County this
20th September 1858

Joseph S. Williams Justice of Peace *Seal*

State of Illinois } Circuit Court
Bureau County Jo. } September Term A.D. 1858.

The People of the }
State of Illinois }

vs.

John Barney }

George W. Stipp being
duly sworn according to law deposes and
says that after some of the jurors who
tried said cause had been accepted on
the part of the People and the defendant,
and before all of the jurors had been
accepted by both parties, some of said
jurors who had been accepted, and affiant
believes nine of them, left their seats and
went out of the court-room, and were
gone a short time, that affiant knows
positively that O.G. Wilcox, O.W. Giles,
and Peter H. Martin were among those
jurors who so went out, that affiant
saw them go out, and affiant further
states that his attention was called to
them at the time they were going out.

that he saw no officer with them, and heard no order of the Court to send an officer with them, ^{and verily believes that no officer was with them,} and verily believes that no order was made for an officer to be with them at that time.

+ Subscribed and sworn } Geo. W. Stipp
to before me this 29th }
day of September 1858. }
E. M. Fisher Clk. }

x And then and there, upon the hearing of the said motion for a new trial, the following affidavits were read on the part of the said plaintiffs, to wit:

The People &c. vs. John Barney, Indictment for Rape. State of Illinois, Bureau County, Jo. Justin H. Olds being duly sworn says, that Samuel Whittington, Peter H. Martin, William Russell, A. E. Blodgett, William Danham, O. G. Wilcox, O. W. Giles, Abel Mills and Samuel Burnett were duly sworn as jurors of the regular panel, at the commencement of the week when the above cause was tried, to try and decide all such Criminal Causes as should be submitted to them, according to law & evidence, and that at the time, George W. Stipp, then and now one of the attorneys of said defendant, was present and made no objection to the

Same, and that Said trial was then set for Said week, and that when the jury was impanelled this affiant administered the regular oath to the takersmen, and the other nine jurors were of the regular panel and had been sworn as above stated; that at the Jury were impaneled and the takersmen sworn, the defendant and his counsel, Messrs. Stipp & Manning, were present and made no request to have Said Jurors otherwise sworn than as above stated; and that the parties proceeded to trial without objection. Subscribed & sworn to } Justin H. Olds
before me this 20th day }
of September A. D. 1858 }

E. W. Fisher Clerk

Per W. M. Hall Jenkins Dep. Clk.

The People }
vs. } Indictment for Rape
John Barney }
State of Illinois }
Bureau County Is. }

O. W. Giles being duly sworn Says, that the affidavit of John Barney, that this affiant, Peter H. Martin, O. G. Wilcox & Abel Mills after they were

impaneled, accepted and received as Jurors ~~left~~ in Said Cause left their seats and mingled with a crowd of people for the space of ten minutes, or any other space of time, is untrue; that all the Jurors, from the time they were impanelled on the Jury in Said Cause until their verdict was received in open Court and the Jury discharged, were all the time in charge of a sworn officer of Said Court; and that they did not separate or disperse; and that this affiant had no conversation with any one during Said time about Said Cause, nor does this affiant believe that any of the other Jurors had, & that this affiant would have been likely to have known it if any such thing had occurred. This affiant further says that the demonstrations of applause in open Court, & unjust portions of the address of Counsel for the prosecution in open Court, did not influence the verdict of Said Jury in the least; that Said Jurors would seem to render a verdict by or under such influences, and such demonstrations did not influence their verdict in the least.

O.W. Giles

Subscribed and sworn
to before me this 20th day
of Sept. 1858.

E. W. Fisher Clerk
by J. H. Olds

State of Illinois }
Bureau County }
J. H. Olds }
J. H. Olds }

O. G. Wiley being
duly sworn says, that the above affidavit
is true and correct as this affiant well
knows.

O. G. Wiley

Subscribed and sworn to
before me this 20th day of
Sept. A. D. 1858.

E. W. Fisher Clerk
by J. H. Olds

State of Illinois }
Bureau County }
J. H. Olds }
J. H. Olds }
Peter H. Martin
being duly sworn says, that the within
affidavit is true and correct.

P. H. Martin

Subscribed & sworn to
before me Sept. 20. 1858.

E. W. Fisher Clerk
by J. H. Olds

And thereupon Said Court then and there overruled the Said motion of the Said defendant for a new trial in Said Cause and refused to grant a new trial therein to Said defendant, to which decision of the Said Court in overruling the Said motion ~~the Said defendant~~ ^{to grant} for a new trial, and refusing a new trial in Said Cause to the Said defendant, the Said defendant then and there accepted. And thereupon the Said defendant then and there moved the Said Court to arrest the judgment in the Said Cause, for the reasons, first, that there is no sufficient indictment in the Said Cause. Second, that there is no sufficient record upon which to render judgment in the Said Cause. Third, that there is no sufficient evidence of the finding of the Said indictment. Fourth, that the Said indictment was not filed in ~~the~~ Said Cause. Fifth, there is no sufficient certificate of the clerk of the Circuit Court of Stark County upon the record of that County; — but the Said Court then and there overruled the Said motion of the Said defendant in arrest of the Said judg-

ment, and then and there rendered judgment upon the said verdict against the said defendant; to which decision of the said Court in overruling the said motion of the said defendant in arrest of judgment, and in rendering judgment upon said verdict against the said defendant, the said defendant then and there excepted, and prayed the said Court to sign and seal this his bill of exceptions, and it is done accordingly.

M. Ballou Judge ~~Seal~~
of 23^d Judicial Circuit Ill.

At a Circuit Court begun and held at the Court House in the Town of Soule within and for the County of Stark in State of Illinois, on Monday the Twenty-first day of April in the year of our Lord One Thousand, Eight Hundred and fifty-six, Present the Honorable Jacob Gale, presiding Judge of the Sixteenth Judicial Circuit, Joseph Blanchard Sheriff, and Jefferson Winn Clerk.

The Sheriff returned into Court the venire for a Grand Jury issued by the Board of Supervisors of said Stark

County whereby it appears that the following named persons had been by Said Board of Supervisors Selected and by the Said Sheriff summoned, Washington Frickle, Geo. W. Harsen, Joseph Palmer, Nelson Grant, Jonathan Hodgson, Jacob Jamison, Stephen Ordaway, John B. Brown, William Miller, Joseph Cox, Benjamin Packer Jr., Joseph Perry, Jesse Lickens, Dennis Maibey, James Buswell, Laten Fuller, Jesse Funk, Joseph Nicholas, J. H. Hathaway, Abraham Shade, Adonijah Taylor, Bradford S. Foster, George W. Longmire, who were severally called, appeared, and answered to their names except Abraham Shade, whereupon the Court appointed Jonathan Hodgson as foreman, who, together with the other Jurors in attendance were severally sworn and charged by the Court and retired to consider of their presentments as Grand Jurors.

And now on this day the Grand Jury came into Court and presented to the Court a bill of indictment against John Barney, for Rape, indorsed as a true bill.

The People of the }
 State of Illinois }
 vs. } Indictment for Rape
 John Barney }

On this day came the People by E.G. Johnson their States Attorney and on his motion it is ordered by the Court that Capias Instantur issue. Bail fixed by the Court at Two Thousand Dollars.

And afterwards, to wit: On the second day of the said Term of this Court, it being Tuesday April 22^d 1856, the following proceedings were had to wit:

The People of the State }
 of Illinois } Indictment
 vs. } for Rape
 John Barney }

And now on this day comes the said People by E.G. Johnson their States Attorney, and the said defendant after having been furnished with a copy of the Indictment in this Cause, together with a list of the witnesses, and also with a list of the petit jurors in attendance at this term of this Court, comes in proper person as well as by Julius Manning his Attorney, and enters his plea of Not guilty

in manner and form as charged in ^{said} ~~the~~
^{said} Indictment.

And afterwards, to wit:
 on the fourth day of the said term of
 this Court, it ~~being~~ being Thursday April
 24th A.D. 1856, the following proceedings
 were had, to wit:

The People of the	}	Indictment for Rape
State of Illinois		
vs.		
John Barney	}	

And now on this
 day comes the People by their States Attorney
 E. J. Johnson, and the said defendant
 by Manning his Attorney, and the said
 defendant enters motion for reduction
 of the bail fixed by the Court at Two
 Thousand Dollars. And the Court
 being fully advised of and concerning
 the said motion, it is ordered and
 adjudged by the Court that said
 motion be overruled, and that the
 amount of bail in this Cause be Two
 Thousand Dollars.

The People of the	}	Indictment for Rape
State of Illinois		
vs.		
John Barney	}	

And now on this day comes into Court the said John Barney, as principal, and Nicholas ~~Starn~~ ^{Starn}, as security, and each acknowledged himself to owe and be indebted to the People of the State of Illinois in the sum of Two Thousand Dollars each, to be levied of their goods and chattels, lands and tenements as the law directs. Yet, upon this Condition that if the said John Barney shall be and appear before the Circuit Court of the County of Stark on the first day of the next term thereof, to be holden at the Court House in the Town of Toulon in the County of Stark and State of Illinois on the second Monday in the month of October next, and shall then and there abide the action of the said Court on a certain Bill of Indictment preferred against him in this Cause, Then this recognizance to be void, otherwise to remain in full force and effect.

And now on this day comes into Court Elizabeth Farnum and John S. Farnum, N. B. Bosworth, John Miller, Thomas Smith, Simon Kinney and Alexander Holbrook and each

acknowledged themselves to owe and be indebted to the People of the State of Illinois in the sum of One hundred Dollars, to be levied of their goods and chattels, lands and tenements, as the law directs.

Yet, upon this condition that if they, and each of them, shall be and appear before the Circuit Court of the County of Stark, on the first day of the next term thereof, to be holden at the Court House in the Town of Toulon in the County of Stark and State of Illinois on the second Monday in the month of October next, then and there to testify and the truth to speak on the part of the plaintiffs in a certain suit now pending in said Court wherein the People are plaintiffs and John Barney is defendant and shall not depart the Court without leave, then this recognizance to be void, otherwise to remain in full force.

And afterwards, to wit: at a regular term of the Circuit Court of said Stark County, began and held at the Court House in the Town of Toulon on Monday the 20th day of April A.D. 1857, Present, Honorable E.W. Powell, Judge of the 16th Judicial

Circuit Presiding, Henry Brees Sheriff,
Jefferson Warr Clerk, the following pro-
ceedings were had, to wit:

On the fourth day of the said
term of the said Court, it being Thursday
April the 23^d A. D. 1857.

The People of the
State of Illinois

vs.

John Barney

Indictment for Rape

Now, on this day
comes the People, by Alexander M. Coyle
their State's Attorney, and the said defen-
dant John Barney appearing in proper
person as well as by Julius Manning his
Attorney, and the said defendant pre-
sents to the Court here his petition sup-
ported by affidavit for change of venue
in this cause; and the said Court being
fully advised of and concerning the
said motion and facts as stated in
said petition and affidavit, it is
ordered and adjudged by the Court
that the venue in this cause be changed
to the County of Bureau in the State of
Illinois, and the Clerk of this Court
transcript to the Clerk of the Circuit
Court of the said County of Bureau

the papers in this cause, together with a copy of the proceedings herein, duly certified according to law, on or before the first day of the ^{next} term of Said Bureau County Circuit Court, to be holden at the Court House in Princeton in Said County on the first Monday in the month of September next.

Now, on this day comes in open Court Elizabeth Farnum, John S. Farnum, N. C. Bosworth, John Miller, Thomas Smith, Simon Kinney and Alexander Hallbrook and each acknowledged themselves to owe and be indebted to the People of the State of Illinois in the sum of One Hundred Dollars, to be levied on their goods and chattels, lands and tenements, as the law directs. Yet, upon this condition, that if they, and each of them shall be and appear before the Circuit Court of the County of Bureau, on the first day of the next term thereof, to be holden at the Court House in Princeton in the County of Bureau and State of Illinois, on the first Monday in the month of September next, then and there to testify and the truth to speak on the part of the Plaintiffs, in a certain suit now pending in Said

Court, wherein the People are plaintiffe, and John Barney is dependant, and shall not depart the Court without leave, then this recognizance to be void, otherwise to remain in full force ~~and effect~~.

The People of the
State of Illinois

vs.

John Barney

Indictment for Rape

And now on this day came into Court the Said John Barney, and Nicholas Sturm, of the County of Clark and State of Illinois, and each for himself acknowledged themselves to owe and be indebted to the People of the State of Illinois in the sum of Two Thousand Dollars, to be levied of their goods and chattels, lands and tenements, as the law directs. Yet, upon this condition, that if he, the Said John Barney, shall be and appear before the Circuit Court of the County of Bureau in the State of Illinois aforesaid, on the first day of the term thereof to be holden at Princeton in the Said County of Bureau on the first Monday of September in the year A. D. 1857, and shall then and there abide the action or judgment of the Said Circuit Court

of Bureau County on a certain bill of indictment for rape preferred against him, the said John Barney, by the Grand Jury of Stark County, then and in that case these presents shall be void, otherwise to remain in full force and effect.

State of Illinois?

Stark County, Ill.

I, Jefferson Winn, Clerk of the Circuit Court, within and for said County of Stark and State of Illinois, do hereby certify, that the above and foregoing is a true and full copy of the record of the proceedings had in the above entitled cause, and I further certify that the papers herewith, marked or numbered from No. One to No. Twenty-eight, are the papers and all the papers which are on file or have been filed in this cause.

J. J.

Witness my hand and official seal, at Toulon in said County on this 17th day of August A.D. 1857.

Jefferson Winn Clerk

Pleas before the Honorable Martin Ballou
Judge of the Twenty third Judicial Circuit
of the State of Illinois, at a term of the
said Circuit Court began and held
at the Court House in Princeton in the
County of Bureau, on the first Monday
in September in the year of our Lord
One Thousand Eight hundred and fifty
seven - Present Hon. Martin Ballou Judge

Edward M. Fisher Clerk

J. K. Waldron Sheriff

Geo. W. Stipp, State's Attorney

To wit; on the second day of said term.

The People. {

vs.

John Barney {

Indictment for Rape

This day this cause being
called, and it appearing to the Court
that Geo. W. Stipp, the Prosecuting Attorney
for this Circuit, had been employed by
said defendant, Milton J. Peters is appointed
Prosecuting Attorney pro tem. to prosecute
this cause; and the defendant comes by
Stipp, his Attorney, and in proper person,
and on motion of said defendant this
cause is continued to the next term of
this Court.

Pleas before the Honl. Martin Ballou Judge
of the Twenty-third Judicial Circuit of
the State of Illinois, at the January term
of the Circuit Court, in and for the County
of Bureau, begun and held at the Court
House in Princeton in said County on the
first Monday in the month of January
in the year of our Lord One Thousand
Eight hundred and fifty-eight.

Present Honl. Martin Ballou Judge
Edward M. Fisher Clerk
J. K. Waldron Sheriff
Geo. W. Stipp State's Attorney

To wit: on the first day of the said term.
The People of the State of Illinois
vs. John Barney
Indictment for Rape

Now comes the defendant,
by Stipp his Attorney, and on his motion
and affidavit filed herein, this cause is
continued to the next term of this Court.

Pleas before the Honl. Martin Ballou Judge
of the Twenty-third Judicial Circuit of the
State of Illinois at the April term of the
said Circuit Court begun and held at the
Court House in Princeton in the County of

Bureau on Monday the fifth day of April
in the year of our Lord One Thousand
Eight Hundred and fifty eight.

Present Hon. Martin Ballou Judge
Edward M. Fisher Clerk
J. K. Waldron Sheriff
George W. Stipp State Attorney

To wit: on the first day of the said term.

The People of the }
State of Illinois }

vs. }

John Barney }

Indictment for Rape

Now comes the defendant,
by Stipp his Attorney, and on his motion
and affidavit filed herein, it is considered
by the Court, that this cause be continued
to the next term of this Court.

Pleas before the Honorable Martin Ballou
Judge of the Twenty third Judicial Circuit
of the State of Illinois, at a term of said
Circuit Court begun and held at the Court
House in Princeton, within and for the
County of Bureau in said State, on
Monday the Sixth day of September in the
year of our Lord One Thousand, Eight
Hundred and fifty eight.

Present Hon. Martin Ballou Judge

Edward M. Fisher Clerk
 J. K. Waldron Sheriff
 George W. Stipp State's Attorney

To, wit: on the second day of said term.

The People }
 vs. } Indictment for Rape
 John Barney }

Now comes W. J. Peters
 special attorney for the People herein and
 the defendant comes by Stipp his Attorney,
 and it is ordered by the Court that this
 Cause be set for trial on Tuesday of the
 second week.

And afterwards, to wit: on the ninth day
 of the said term.

The People of the }
 State of Illinois }
 vs. } Indictment for Rape
 John Barney }

Now comes the People
 by Peters and Cook, their Attorneys, and
 the defendant comes, by Stipp & Manning,
 his Attorneys, and in proper person, and
 the Court orders that a Jury be empannelled
 to try the issue herein, and a jury comes
 of twelve good and lawful men, to wit:
 Samuel Whittington, Peter H. Martin,
 William Russell, A. E. Blodgett, William

Dunham, O. F. Wilcox, O. W. Giles, Abel Mills, Samuel Barrett, John Mercer, Nehemiah Matson and Benjamin Newell, who are duly elected, tried and sworn well and truly to try the said issue, and a true verdict render, according to law and evidence.

To wit: on the tenth day of said term.
 The People &c. }
 vs. } Indictment for Rape
 John Barney }
 }

Now comes the parties aforesaid by their attorneys aforesaid and on motion of the People's Attorney, it is ordered by the Court that the defendant be taken into the custody of the Sheriff.

To wit: on the twelfth day of said term.
 The People &c. }
 vs. } Indt. for Rape
 John Barney }
 }

Now comes the parties aforesaid, by their Attorneys aforesaid, and the Jury empanelled as aforesaid and said Jury upon their oath say, "we of the jury do find the said defendant guilty, in manner and form as charged in said indictment, and fix the time said defendant shall be confined in the

Penitentiary at three years and six months." And the ~~Said~~ defendant by his Said Attorney moves the Court for a new trial.

To wit: on the 21st day of Said term.
 The People &c }
 vs. } Indt for Rape
 John Barney }

Now comes the parties by their Attorneys aforesaid and after argument of Counsel and being fully advised in the premises, it is considered by the Court, that Said motion for a new trial be overruled. It is therefore considered by the Court that the Said defendant John Barney be confined in the Penitentiary at Alton, for the term of three years and six months, one day of Said term in Solitary Confinement, and the remainder of Said term at hard labor, and that the Sheriff of Bureau County deliver the Said defendant to the warden or keeper of the Said Penitentiary at Alton, within ten days after the adjournment of this Court.

State of Illinois }
 Bureau County } Jo. I. Edward
 M. Fisher, Clerk of the Circuit Court

within and for said County in the State
aforesaid, do hereby certify that the
foregoing is a true and perfect copy of
the record in the foregoing entitled cause,
as the same appears of record in my office.

In testimony whereof I
have hereunto subscribed
my name, and affixed
the Seal of the said Court,
at Princeton in said County
this 4th day of October
A. D. 1858.

Edward M. Fisher Clerk
per Mrs. Hall Jenkins
Deputy Clerk.

The State of Illinois } Circuit Court thereof
Bureau County Jo. } September Term A. D. 1858.

The People of the
State of Illinois }

vs.

John Barney }

Indictment for Rape

I, Martin Ballou, Judge
of the said Circuit Court, and I, Edward M.
Fisher, Clerk thereof, do certify that in my
opinion the annexed record contains a full
and true history of the proceedings on the trial
of the cause aforesaid, at the said term of the said
Court.

M. Ballou Judge &c
Edward M. Fisher Clerk

L. J.

{ L. J. }

The following is a copy of the indictment referred to in the within record, to wit:

" State of Illinois } Of the April Criminal Term of
 " Stark ~~County~~ County } of the Stark County Circuit Court
 " In the year of our Lord 1856.

" The Grand Jurors chosen, Selected and Sworn,
 " in and for the County of ~~Peria~~ Stark aforesaid,
 " in the name and by the authority of the People
 " of the State of Illinois, upon their oaths present,
 " that

" John Barney,
 " late of the County of ~~Peria~~ Stark aforesaid, on
 " the fifteenth day of July, in the year of our
 " Lord One Thousand Eight Hundred and
 " fifty-five, at and within the County afore-
 " said, with force and arms, in and upon
 " one Elizabeth Hannum, then and there,
 " violently and forcibly, did make an assault,
 " and her, the said Elizabeth Hannum, then
 " and there, forcibly and against her will,
 " feloniously did ravish and carnally did
 " know, contrary to the form of the Statute
 " in such case made and provided, and
 " against the peace and dignity of the
 " same People of the State of Illinois
 " E. J. Johnson State's Attorney"

The following is a copy of the endorsement
upon the back of the said indictment, to wit,

Rape No. 1

People

vs.

John Barney

Atone Bill

Jonathan Hodgson

Foreman of the Grand Jury

Witnesses for Prosecution

John S. Farnum

Elizabeth Farnum

Simon Kinney

Thomas Smith

Alexander Holbrook

John Miller

Lydia Miller

Filed in Bureau Co. Ills.

August 19. 1857.

E. W. Fisher

Bail \$2000.

clk."

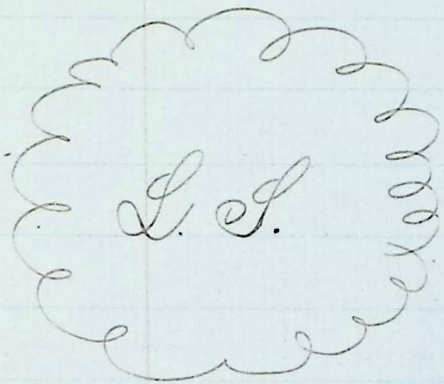
State of Illinois } Is.

Bureau County } }

J. Edward W. Fisher,

Clerk of the Circuit Court within and
for ^{the} said County and State aforesaid,

81 do hereby certify that above and foregoing is a true and perfect copy of the "indictment" referred to in the within record, as the same appears upon file in the papers (in this ^{said} cause) in my office, including the endorsements and all erasures.



In witness whereof I hereto set my hand and affix the seal of said Court at my office in Princeton in said County this 7th day of October A. D. 1858.

Edward M. Fisher
Ck.

per ^{Wm} Hall Jenkins Dep. Ck.

State of Illinois } ss
Bureau County }

I, Edward M. Fisher Clerk of the Circuit Court within and for said County in the State aforesaid do hereby certify the above and foregoing to be ~~truly~~ a true and correct transcript of the proceedings in the above entitled Cause as the same appears on the files and of record in my office.

In witness whereof I hereto subscribe my name and affix the seal of the said Court at my office in Princeton in said County this 19th day of April A. D. 1857.

Edward M. Fisher Clerk
per ^{Wm} Hall Jenkins Dep. Ck.

John Barney, Plaintiff in Error

The People of the State of Illinois, Defendants in Error

And the said John Barney, now Comes, and Says, that in the Record and proceedings aforesaid, there is manifest Error, in this, to wit: First The Court erred in giving to the jury aforesaid, each of the ^{said} first, second, third, 4th. and 5th instructions on the part of the said People

Second. The Court erred in refusing to give to the jury aforesaid ~~any~~ of the said 7th instruction as prayed for by the said John Barney, and in giving the same to the jury aforesaid as modified by the said Court as aforesaid

Third. The Court erred in refusing to give to the jury aforesaid the said tenth instruction as prayed for by the said Defendant John Barney, and in giving the same as qualified by the said Court

Fourth. The Court erred in refusing to give to the jury aforesaid, ^{each of} the said Eighth, Ninth, Tenth, fourteenth, and nineteenth instructions prayed for by the said John Barney

Fifth. The Court erred in refusing to grant the said Defendant John Barney a new trial

Sixth. The Court erred, in refusing to arrest the judgment aforesaid

Seventh. The Court erred in rendering the judgment aforesaid, the said judgment was given in favor of the said ~~Thompson~~ whereas by the laws of the Court it ought to have been given in favor of the said John Barney

Eighth. The Court erred in permitting the aforesaid witness, Nathaniel Roseworth to answer ^{each of} the questions objected to by the said Defendant John Barney, to the jury aforesaid: Whereupon the said John Barney prays that a Writ of Error and a ~~re~~ ^{sup} ~~per~~ ^{cedas} ~~may~~ ^{issue}, that the said judgment may be reversed, annulled, and held for nothing, and that he may be restored to all things he has lost by reason thereof

By Hipp & Beland
his Attorneys

Barney is the
People's

17
John Barney
vs

17

The People of the
State of Illinois

Appl of Mrs

Filed April 30, 1859
L. Leland
Clerk

Leland & Stupp
for petition in rem

5/11 p.d. CLK

State of Illinois } Supreme Court thereof
3rd Grand Division -
April Term AD 1839

John Barney }
as } And now come the
The People vs. } Since People say that
there is no error, nor
manner of error, in said judgment
record or proceedings.

Wherefore they pray:
that said judgment may in
all things be affirmed, and
that they recover costs in this
behalf.

W. Bushnell -
Att. Gen. for People

Barney
vs
Peiper

Lauder in error

Filed May 17, 1854
d. Deland
Clerk

State of Illinois,

Bureau County, ss

Geo. W. Stipp being
duly sworn according to law deposes
and says that he is acquainted with
Chauncey A. Dean, that said Dean re-
sides in Litchell, Bureau Co. Ills. that
said Dean is a sound dealer, that
he as deponent is informed and he
believes worth over and above his debts
about the sum of twenty thousand dollars
and is possessed of both Real and per-
sonal Estate and has resided in Litchell
about four years, and is a married man
Deponent further says he knows Isaac
Southland by reputation, that he resides
at Boyd's Horn in said Bureau Co. Owns
a good farm as deponent is informed
and truly believes, and as deponent
is informed and truly believes is worth
about six or seven thousand dollars

Geo. W. Stipp

Sworn to and subscribed

Before me, this 17th day of

Feb. 1858. Witness my
hand and the Seal of the Cir-
cuit Court of said Bureau

Co, this day last aforesaid

Edward M. Fisher Clerk
Pepp. Hall, Justice, Dep. CL

Aft. of Sufficiency
 of Channey & Dean &
 Isaac Lenthland
 as securities

Filed April 30, 1859
 L. Leland
 Clerk