

(Mr. Green): I want to offer these photographs that have been introduced.

(Mr. Brady): We have objected to those?

(The Court): Yes.

(Exception noted.)

The traverser having excepted to the Court's ruling, prays the Court to sign and seal this as his Fourth Bill of Exceptions, which is accordingly done this 23rd day of September, 1918.

FRANK I. DUNCAN. (Seal)

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#### TRAVERSER'S FIFTH BILL OF EXCEPTIONS.

After the occurrence of the matters set out in the first, second, third and fourth bills of exceptions, and after the evidence had been introduced as therein stated, all of which is hereby made a part hereof, as fully as if the same were herein repeated at large

DOCTOR WALTON H. HOPKINS, a witness of lawful age, called on behalf of the State, after having been duly sworn, testified as follows:

#### DIRECT EXAMINATION.

Q. (By Mr. Green): Your name, Doctor? A. Walton H. Hopkins.

Q. What is your profession? A. Physician.

Q. Where do you live? A. Annapolis, Md.

Q. How long have you been a practicing physician? A. Since May, 1904.

Q. What school are you a graduate of? A. University of Maryland.

Q. Has your experience been limited to general practice of medicine alone? A. I am the County Health Officer.

Q. Do you include in the general practice of medicine surgery, too? A. Yes.

Q. Were you called in to help make the autopsy on the body of Mrs. Lottie May Brandon? A. I was.

Q. What time did you first see this body? A. Some time between nine and ten o'clock that evening.

Q. Where was the body when you first saw it? A. It was lying on the bed in the middle room of a house, the second room.

Q. What position? A. It was lying with the head to the foot of the bed on the back, with the left side of the head turned towards the bed.

Q. The left side of the head down? A. Down.

(Mr. Brady): Down towards where?

(Witness): Left side of the head turned down and the legs were not exactly crossed, one leg I remember was straight and the other leg bent slightly at the knee.

Q. Was the body nude? A. No, sir; it had on what you call a middy blouse and some kind of a skirt, when I saw it the skirt was up nearly to the hips.

Q. The lower part of the body was then exposed? A. Yes, sir.

Q. At that time Doctor, did you notice any bruises or abrasions or contusions or wounds on the body? A. Yes, sir.

Q. What did you notice at that time, Doctor? A. At that time I noticed a bruise, a bad contusion on the forehead, there were contusions on both sides of the neck, and both knees were badly bruised, the anterior surface.

Q. When did you perform the autopsy? A. Late that night.

Q. At the time you first saw the body, Doctor, would those photographs represent the condition as you recall it? A. Yes, sir.

Q. Was that the condition of the body when turned over to the undertaker in Annapolis? A. With the exception of the marks made by the postmortem.

Q. They don't show on there? A. No, sir.

Q. Where did you perform the autopsy? A. One was performed in Annapolis and the second in Washington.

(Objected to.)

Q. What was the answer? A. One performed in Annapolis and one in Washington.

Q. Were you present at both autopsies? A. I was.

Q. Give in detail, if you will please, what you found and what you examined and the conditions you found at both autopsies?

(Objected to; any but one autopsy, the one in the City of Annapolis.)

(The Court): You had better go into that first, confine your question to the first there may be some question about the second one.

Q. Tell us what you found on the autopsy in Annapolis? A. Well, in going over the body—I should have mentioned before at the house, in addition to those bruises that were found, I noticed a peculiar odor about the body of the person and on examining I found—while the woman was lying on the bed—I found a mucous secretion between the legs right near the vulva, and on the hairs.

Q. Was the odor very perceptible? A. Yes.

Q. Was the odor something that you recognized and knew what it was from? A. It smelt like semen. When we got to the hospital I made a general examination of the body and in

going over the body I found a large bruise in the forehead, a little to one side of the center, I think, the skin was broken, on the neck, both sides of the neck there were several contused areas and the middle line of the neck and front some abrasions there that looked like might have been made from finger nails, both elbows and skin scraped off of them and were contused and around both knees there were areas of contusion about the size of a dime and over the front of one foot there was a contusion, and the scalp was removed, the head opened, the skull opened, a portion of it removed. When we removed the skull there was quite a lot of blood run out, then the brain was removed and examined and the skull for fracture and we found no fracture, the external surface of the brain was examined carefully and no specimens were taken from it, the lobe was lifted up and the brain from general appearances was normal, the abdomen was opened and I found an enlarged uterus which was opened and from which we took a fetus about seven months, the intestines and the stomach were examined and the liver and to all external appearances they were normal. On this mucous secretion between the legs I took two specimens which I kept until the next morning when I went to Baltimore and took them to the University Hospital, to Doctor Puttz, turned them over to Doctor Puttz and asked him to strain them and examine them which he did in my presence and after the examination they were returned to me and I took them back to Annapolis and turned them over to the State's Attorney.

Q. I will ask you right there, before we pass it, will you look at these and say if these are the slides that you had Doctor Puttz make an examination of and turned over to me? A. Yes, sir.

Q. Were you present when the Doctor made the examination? A. I was.

Q. Do you feel qualified to speak as to what was shown by those slides? A. Not as an expert.

Q. Not as an expert? A. No, sir.

Q. Now, go ahead, from that point please? You opened the stomach and examined the liver and the stomach? A. And the intestines and the uterus—

Q. (Interrupting): What condition did you find the uterus in? A. The uterus was in a general normal condition for that period of gestation.

Q. The fetus itself, what condition was that in? A. It was dead.

Q. What condition was that in? A. Good condition, apparently normal.

Q. Any evidence or indication of any premature birth? A. No, sir.

Q. There was no laceration of the fetus? A. No, sir; I forgot to mention in my examination before opening the body, I looked into her mouth to examine her tongue to see if the tongue had been bitten and if any blood there and I didn't find any indication of biting the tongue or blood in the mouth.

Q. What kind of wounds were those on the neck, Doctor, describe them? A. They were contusions that looked like as if they had been drawn backwards as if the pressure had been made from the front and drawn back.

Q. From the front you mean? A. From the front and drawn backwards, as though they had—

(Objected to the further testimony of the Doctor on the appearance of those wounds, as the photographs show themselves how those wounds are located and I think are rather complete in itself, if accepted as such without further description from the Doctor.)

(The Court): I don't think they eliminate the Doctor.

(Objection overruled; exception noted.)

Q. From these wounds, I understand you to say, they looked as though they had been made from behind and pressed back?

(Objected to.)

A. From the front.

(The Court): I assume the objection is because it is leading? I don't think he said that they came from the back.

(Note.—Previous answers read.)

Q. Just explain what you mean by looking as though they had been made from behind and drawn back?

(Mr. Grason): We objected to the question and we don't want to be objecting all along, but our objection is that Mr. Brady stated that: the jury by looking at the photograph are as capable of judging whether the force was applied from the front or back as the Doctor and that is our reason for objecting. If you will allow us the exceptions?

The traverser having excepted to the Court's ruling, prays the Court to sign and seal this as his Fifth Bill of Exceptions, which is accordingly done this \_\_\_\_\_ day of April, 1918.

(Exception refused.)

F. I. D.

DR. HOPKINS' testimony continued:

A. The appearance was she had been grabbed from behind and the pressure had been made from before, backwards, like that (indicating), it looked like there had been a dragging backwards of the hand.

Q. Would you say these bruises and contusions were made by hand? A. They had the appearance of it, in the front part of one or two of these bruises there were impressions there that looked as if though they had been made by finger nails.

Q. Which way was that curved? A. That curve was, the convex portion of the curve was forward.

Q. Did you notice the blood stain on the bed, where that was? A. That was under her head.

Q. Did you see any blood anywhere else? A. I am not positive of that Mr. Green, whether I saw any blood on the floor, under the bed or not, I didn't see any around the room anywhere.

Q. What is your opinion, Doctor, was the cause of the death?

A. Shock as result of the injuries to her neck and the blow on her head and probably attempted assault or rape.

Q. Shock from all three? A. Yes, sir.

(Mr. Brady): We ask that be stricken out as not being contained in the indictment, the charge in the indictment is she died from the blow on the head and strangulation of the throat.

(Mr. Hartman): There is not anything in the indictment about eclampsia, but there is a good deal in evidence about it.

(The Court): I think there is one element in that question that ought to be eliminated at this time, that is the last one.

(Note.—Answer repeated.)

(The Court): Strike out about the attempted rape.

Q. What did the condition of the genital organs and immediately outside that you found, what did that indicate? A. That somebody had attempted intercourse with her.

Q. When you consider that an intercourse was had with Mrs. Brandon on Tuesday night at ten o'clock, could that condition that you found there have existed from that intercourse? A. No, sir.

Q. Why not? A. Because the heat of the body would have dried it up in that length of time.

Q. What did the presence of that mucous there in the quantity that you found it indicate as to the time when intercourse was attempted or had, with relation to the time of her death? A. That it occurred very shortly before death, or maybe afterwards.

Q. Afterwards? A. Shortly before or afterwards.

(The Court): You say shortly before or afterwards?

A. Shortly before or afterwards.

Q. (Mr. Green): Why? A. Because if she had been alive any length of time the heat from the body and the friction of the legs would have dried it up and made it disappear.

Q. From the position of that body on the bed, the location of that blood stain under her head, in your opinion, was that wound in the forehead—where was Mrs. Brandon when she received the wound in her forehead? A. She was on the bed, in the position in which she was found.

Q. From those indications, did that body move after receiving that blow? A. No, sir.

Q. From that wound in that part of the head, Doctor, what would be the relative flow of blood, more or less? A. Be quite a large quantity, because the scalp bleeds very freely, more freely when injured probably than any other portion of the body.

Q. From the examination of the brain of the deceased, was there any evidence of apoplexy? A. No, sir.

Q. What is the effect, Doctor, usually in a pregnant woman, from eclampsia, on the fetus? A. Why, in a great many times in eclampsia the woman will give premature birth to the child, if the disease has been existing any length of time and the fetus is there; very often find the fetus lacerated, decomposition starting in.

Q. Was there any indication at all of that in the fetus? A. No, sir.

Q. Now, Doctor, you assisted in another or secondary, or another autopsy, where and when? A. In Washington, at the Emergency Hospital, one week later.

Q. When you first saw the body there, Doctor, did you recognize the incisions you had made at the first autopsy? A. Yes, sir.

Q. You recognized the sections of the skull? A. Yes, sir.

Q. Were there any other incisions or sections made than the ones you had made from the time you closed the body at the Emergency Hospital than when you saw it again in Washington? A. No, sir.

Q. Who was present at that second autopsy? A. Doctor Carr, Assistant Coroner Physician for the District of Columbia; Doctor Netlist, I think that is his name, was the Coroner; Mr. Dougherty, of the Baltimore detective force; Sheriff Sullivan, of Anne Arundel County; he was not in the room while the autopsy was going on; Doctor Joyce, of Annapolis, and myself and one or two doctors of the Emergency Hospital staff; I don't know their names.

Q. Of Washington? A. Yes, sir; and the morgue keeper of Washington.

Q. At that autopsy what was the particular line of your investigation?

(Objected to any statement of the Doctor in regards to the autopsy there.)

(The Court): Your objection.

(Mr. Brady): Your Honor, as I said before, this body, as I understood, was found dead about 5 o'clock on the evening of the 8th of August. It was then placed in the hands of the doctors for an autopsy, which was performed at the Emergency Hospital in the City of Annapolis, and it was supposed that morning when they were diagnosing the body that they would make a complete one. Now, after that autopsy had been performed at the hospital it was then turned over to the undertaker in the City of Annapolis, where the body remained for about, I think, until some time the following afternoon, and then it was turned over, as I have said before, which we expect to prove, to the husband of Mrs. Brandon, one of the suspects in this case, carried to Washington, and there again——

(Mr. Green, interrupting): We don't think that is a proper statement for my brother to make, even in addressing the Court.

(The Court): No; I don't think it is. I don't think the record would warrant your using that.

(Mr. Brady): I say we expect to prove that; that it remained for I don't know how many days and then placed in the hands of another undertaker, who prepares it as it were for burial, and then was buried, and the week following that it was exhumed and another autopsy made, for what purpose I don't know, but I would say that the Doctor from his statement has not shown conclusively to my mind that that body was in the condition that it was when it left him at the Emergency Hospital; that he does not exclude all possibility of tampering, and, under the circumstances, I think it would be a very dangerous procedure if such an autopsy, a second autopsy was made, to be allowed to go to this jury and this Court. Again, this second autopsy was not made until after the accused had been arrested. Am I right about this, Mr. Green?

(Mr. Green): I think that is right.

(Mr. Brady, continuing): That he was under arrest charged with this crime, and if I am correct in my views regarding the rights of an accused, notice should have been served upon him or his representative, to have been there to have participated in this autopsy in order to defend his rights, and I feel, your Honor, as I said before, but to allow this second autopsy, under those circumstances, with those two reasons given, that it would be a dangerous procedure to the liberty of a man.

(The Court): The body was removed from the house to the Emergency Hospital in Annapolis, and there the autopsy was held. Now, it appears that the body was then received by the undertaker for transportation to Washington, and I don't know whether the body had been interred then or not—possibly it had; but, anyhow, you have two undertakers who handled the body from the time of the first autopsy that ought to account for that body before this testimony is admissible.

(Mr. Green): All right, sir, we will do that.

(The Court): The Doctor will suspend on that second autopsy until you have laid the foundation for its admission.

(Mr. Hartman): Would your Honor want us to withdraw him now?

(The Court): You have finished with him on every other line, but that second autopsy? Anything to save time.

(Mr. Hartman): We don't want to be understood that we have finished with him.

(The Court): Did you want to examine him on any other feature of the case?

(Mr. Green): No, but we want to understand that we will have the right to bring the Doctor back for the second autopsy if we satisfy the Court it is admissible.

(The Court): Yes. Now, it strikes me that it would be better that the Doctor be withdrawn for the present or you can go ahead, just as you wish, it does not make any difference.

(Mr. Green): You want to cross-examine him now?

(Mr. Brady): No, I think we would rather wait. We don't wish to cross-examine him until we examine him on the whole case. Of course, your Honor with the understanding that if the State can't put him on the stand for the second autopsy, we expect under those circumstances to be able to cross-examine him on what he has said.

(The Court): Doctor, we will excuse you for the present.

(Examination suspended.)

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MRS. MARY PERKINS (Colored), a witness of lawful age, called on behalf of the State, after having been duly sworn, testified as follows:

#### DIRECT EXAMINATION.

Q. (By Mr. Green): Where are you living now? A. Washington, D. C.

Q. Where were you living on the 8th of last August? A. On Second street, 30 Second street.