

ty-second and thirty-third bill of exceptions, all of which is hereby made a part hereof as fully as if the same were herein repeated at large, witness MRS. RACHAEL E. STEWART, called on behalf of the defense, being first sworn, deposes and says:

MRS. RACHEL E. STEWART, a witness of lawful age, called on behalf of the defense, after having been duly sworn, testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Brady): Where do you reside? A. 194 East Port, Annapolis, Maryland.

Q. 149 what street? A. 194 First street, Eastport, Annapolis.

Q. What is your occupation? A. State licensed maternity nurse.

Q. How long have you been practicing? A. I have been practicing nursing for about twelve or thirteen years, but I have not had my State certificate that long.

Q. You have not had your certificate that long? A. No, sir; because I was under training under Doctor Carpenter and Doctor Parker before I went to Johns Hopkins, before I could get my certificate.

Q. Have you much experience in attending women?

(Objected to.)

Q. What has been your experience during the twelve years? A. My experience has been very broad, very wide experience, I nursed among the Naval people there at Annapolis, the majority of my work lays with the Navy people; I handle a great deal of work with the city doctors, but I am assigned to a great deal of work in the Naval Academy and also on the outside practice, but the enlisted men's wives there I handle a great deal of work for them and a great deal outside of the enlisted men's wives; I work all of East Port, South River, Annapolis and in Baltimore and Washington and go in and out and over

the West Annapolis and East Port and all around the country, I have a team that I go in.

Q. How many women do you think you have attended during the twelve years, pregnancy cases? A. I can't say exactly, but I can tell the number of visits I have made last year.

Q. Give an idea? A. I handled quite a number, because in the year 1916, there were a great many married men here in the Navy and I handled them; I can't tell you, I have a record at home.

Q. Give an idea? A. I have handled, I can tell you this much, the day Mrs. Burch's baby was born. Doctor Haden and I handled five births that one day and I have handled as high as nine a week.

Q. Did you know Mrs. Lottie Brandon? A. I did.

Q. How long had you known her? A. I can't recall just now exactly how long I had known her, but I was nursing some friends around and was introduced to Mrs. Brandon as being in a delicate state and that she wanted a nurse and these people said they had recommended me to Mrs. Brandon and Mrs. Brandon came to see me.

Q. How long was that, before the 8th of August, when her body was found dead? A. I really could not tell you exactly, Mr. Brady.

Q. Two weeks, or three weeks or four weeks? A. No, it was longer than that; I might say a month or six weeks, to my best ability.

Q. Had you talked to Mrs. Brandon and advised with her, when she told you of her condition and how she was affected? A. I did advise her.

Q. What did she tell you that she was suffering with?

(Objected to; objection sustained.)

Q. Did you visit her frequently during that time? A. I did.

Q. How many times? A. From the time I was engaged in the case, my usual way of calling on my patient is from the time they become to a certain stage in their condition I call on them twice a week; my calling days on Mrs. Brandon were Tuesdays and Fridays of the week, but if I was busy on those days I called on Wednesday or any time I could get to call, but my usual calling time was twice a week.

Q. When was the last call that you made on Mrs. Brandon?
A. My last call on Mrs. Brandon was the Thursday previous to the death.

Q. Did she tell you how she was suffering?

(Objected to.)

(The Court): Give me an authority on that?

(Mr. Brady): I can't, not directly.

(Objection sustained.)

Q. What, if anything, did Mrs. Brandon say to you regarding her trouble?

(Objected to; objection sustained.)

Q. I only want her physical trouble?

(Objected to; objection sustained.)

(The Court): I think you can go so far as to say that complaints were made, if they were.

(Mr. Brady): What is that?

(The Court): I think you can go as far as to say complaints were made, but not what they were.

(Witness): They were.

(Mr. Green): Now, never mind.

(Witness): I beg your pardon.

Q. Did Mrs. Brandon tell you anything?

(Objected to.)

(Objection sustained.)

Q. Did Mrs. Brandon ask you what to do when suffering with certain symptoms?

(Objected to.)

(Objection sustained.)

(Mr. Brady): Note exception to those.

Q. Have you had any experience with eclamptic patients?

(Objected to.)

(Objection sustained.)

(Exception noted.)

To which ruling of the Court the traverser by his counsel excepted and prays the Court to sign and seal this his Thirty-fourth Bill of Exceptions, which is accordingly done this 23rd day of September, 1918.

(Signed) FRANK I. DUNCAN. (Seal)

TRAVERSER'S THIRTY-FIFTH BILL OF EXCEPTIONS.

After the occurrence of the matter set out in the first second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first, thirty-second, thirty-third and thirty-fourth bill of exceptions, all of which is hereby made a part hereof as fully as if the same were herein repeated at large, witness RACHAEL E. STEWART, continuing, says:

Q. You recall the evening of August 8th, when the body of Mrs. Brandon was found dead? A. I do.

Q. Who called you, if you know, who first told you of it? A. My daughter, I was in Wardor, I had a patient and my daughter called me and said there was a case on West street and I had better try to get over as soon as possible, that Mrs. Fenton had called and I told her as soon as possible I would get there, as soon as I could handle my patient.

Q. Tell who called you there? A. That is what I am trying to explain who called me and how I got there, there were several calls; Mr. Brandon, my daughter said, was so excited that he called and my daughter called and I got my call through my daughter.

Q. You got the call by phone and went there? A. Yes, sir.

Q. What time did you arrive there? A. Twenty minutes of six o'clock.

Q. Who was in the house when you reached there? A. There was Mr. Brandon, he was on the couch in the living room, Mrs. Sarles and Mrs. Burch were also there, there were other ladies down there; I went through to the bedroom where Mrs. Brandon's body was on the bed and Mr. Green was there, Doctor Joyce and Doctor Welsh was there.

Q. Who is Doctor Welsh? A. He is one of the physicians in the city.

Q. Is Doctor Welsh of Annapolis? A. Yes, one of the doctors in Annapolis. That was all that were in the room when I went in the bed room.

Q. Now, describe as minutely as possible everything that you did after you went in there and what you saw? A. When I entered in Doctor Joyce said, Mrs. Stewart, this is too bad and I said yes—

(Objected to.)

Q. Tell what you did and saw? A. I am trying to get to what I did. I then laid my hand on the forehead and found

she was dead and I said, Doctor, what has happened here, and he made the reply, I won't say what reply, and then—can I say I was asked to do these things?

Q. Just what you did? A. Well, then, I took the body by the knees and turned the body from the left side on the back; the body was lying in this position (indicating) with the head turned towards the left, and the hands clinched; I took the knee—one knee was bent up very much and the other knee was partly straightened; I took the knee that was bent up very much, of course it was stiff and I pressed it over and when I did so, why then I made an examination of the head. I reached for a hair pin out of my own head—

Q. Say what you did then? A. There was a wound in the forehead nearer to the left side about along here (indicating) as near as I can recall, I presume it was about that long (indicating); I reached to my own hair to get a hair pin to see how deep that was; the thought struck me not to touch the hair, I walked over a little distance from the bed and on the dresser were hair pins on the tray, I presume they were Mrs. Brandon's—

(Objected to.)

(Witness): I picked up one of the hair pins and walking back to the bed and took the blunt end, that is the head, and put it down in the wound to see how deep it was and I found—

(Objected to.)

(The Court): She is simply telling you what she did.

Q. Was Dr. Joyce there at the time? A. Dr. Joyce and Dr. Welsh both were there.

(Mr. Green): Was I there?

A. You were in the kitchen as far as I can remember, I didn't see you in there.

Q. Did you do that at the suggestion of the doctor? A. I did.

Q. Go ahead and tell the depths of the wound that you noticed? A. The hair pin didn't go very far into the wound so I laid the hair pin down again.

Q. What was the size of the wound? A. I think I tried to state just now.

Q. The length? A. The length of the wound, it was a long wound, I might say about an inch, three-quarters of an inch long or an inch long.

Q. Now, go ahead, now you indicated by your finger how deep the wound was, will you be so good as to tell how deep it was? A. The length of the wound I said was between three-quarters to an inch long, and the depth of the wound was not but very little.

(Objected to.)

(The Court): She can give it as she saw it.

(Mr. Brady): The doctors won't give us anything. I am trying to get Mrs. Stewart to give us something.

(Witness): The hair pin didn't go very far in the wound, I can't say how deep the wound was and would not. But I did see when I put the hair pin in it was not very deep, it didn't seem to go deep into the wound.

Q. What else did you find on the body? A. I found on the body on the right knee a scar, to the left a little I found another scar, that was further down, if I can remember distinctly, it was further down the side of the limb or the shin, near the shin bone, that was the left limb. I found on the foot, if I am not mistaken, on the left foot, over top the instep, a scar. I found on the face a few scratches, I might say, on the neck I found nails, prints of nails, as if they had been——

(Objected to.)

(The Court): Describe the marks you saw.

A. Just as I found them, they looked to be nail prints of fingers.

Q. Were they very large, or very small, when you saw them?
 A. When I saw them when Mrs. Brandon was on the bed they didn't look to be so awfully large.

Q. Awfully large, would you be so kind as to tell what you mean by that? A. Well, I mean this, that they might be a large woman's hand or a small hand of a man.

(Mr. Hartman): We move to strike out that answer.

(The Court): I think, gentlemen, that is a little too fine. I will strike that out.

To which ruling of the Court the traverser by his counsel excepted and prays the Court to sign and seal this his Thirty-fifth Bill of Exceptions, which is accordingly done this 23rd day of September, 1918.

FRANK I. DUNCAN. (Seal)

Witness RACHAEL E. STEWART, continuing, says

Q. Now, can you give a further description of those marks, can you describe them as to size, do you know what an eighth of an inch is? A. I do.

Q. Do you know what a quarter of an inch is? A. Yes.

Q. Now, can you give that as to measurement, what size they appeared to you when you saw them that evening? A. You mean the depth, I scarcely know how to answer that because I have been objected to to describe how the fingers were on the neck.

Q. Just a size, was it an eighth of an inch, a quarter of an inch or an inch?

(Objected to.)

(The Court): Let the lady describe, she has the idea.

A. The finger prints that I found in Mrs. Brandon's neck were nail prints down into the neck as if they had been——

(Objected to.)

(The Court): Just what you saw, how far apart were they?

A. You mean the finger nails on the neck?

(The Court): You are describing how far apart they were.

A. I might say in this way (indicating). Fingers like that (indicating).

Q. Were those marks oblong?

(The Court): Let her describe them.

A. I tried to do it the best I can. Of course, you all know the finger nails are round, they are not oblong.

(Objected to.)

(Witness): Well, I can't answer that question.

(The Court): The point now is, she is testifying to what she saw. If I found a wounded man, I am no doctor, but I can say whether a cut was a half inch long or three inches long. What you want to find out is what you saw. Describe the wounds that you saw; don't give any conclusions or illustrations about them.

A. I just say that there were finger prints in the neck.

(Objected to.)

(Witness): I don't know what else to say.

Q. Can't you describe how those marks looked, how they looked on the throat or neck? A. I can.

Q. You can? A. I can, I can describe how the fingers were on the neck.

Q. Well, describe the marks? A. Well, the marks on the neck were pressed back.

Q. How long were they? A. I don't know.

Q. Did you observe the dresser of the chiffonier or the bureau and other furniture in the room? A. I did.

Q. Will you tell me what you saw on the bureau? A. I can.

Q. Now, kindly describe what you saw on the bureau? A. The hair pins in the tray, comb and brush, and a bill laying by the tray; what kind of a bill that was, I am not capable of saying.

Q. What do you mean by saying it was a bill, money, what was it? A. I am not capable of saying how much it was, and some other little things lying around on the dresser.

Q. Did you see anything else there? A. I can't recall just now whether I did.

Q. What? A. Comb and brush.

Q. Don't get excited, try to recall what you saw on the bureau? A. A tray and some little odds and ends laying around.

Q. What was the condition of the hair? A. The hair was wrapped around the neck, the hair was down, wrapped around the neck.

Q. In order to see the wound on the neck you would have to remove the hair? A. I did.

Q. Now, I want you to tell me what you did at the suggestion of Dr. Joyce regarding the examination of the parts, of her parts? A. Through the direction of Dr. Joyce, I turned the body as I have stated; I put the hair pin in the wound; Dr. Joyce told me to open the legs; I took the knee that was the stiffest, that is the highest knee, bent the highest, and I shoved that aside with both my hands for Dr. Joyce.

Q. What did he do? A. He took his hand and laid it on the thigh, the left thigh and kind of pulled it aside.

Q. What did Dr. Joyce say then?

(Objected to.)

(The Court): If you want to contradict something that Dr. Joyce said at the time, it is certainly not part of the *res gestae*.

(After argument.)

(The Court): Did he make any statement to the lady?

(Mr. Brady): No, sir; Dr. Joyce was one of the most unsatisfactory witnesses I ever saw on the stand.

(Objected to.)

(The Court): No, that is not right. There is not any trouble about this at all. If Dr. Joyce made a statement at any time different from what he testified on the stand, then he should have been asked on cross-examination, if he didn't make that statement in the presence of that lady, then if he said no, he did not, then you could put her on the stand and give her the question that was asked the Doctor, and have it contradicted; that is the rule as I understand it.

Q. How long did you remain at the home that night, Mrs. Stewart? A. From twenty minutes of six o'clock until five minutes of three o'clock in the morning.

Q. Now, would you be so good as to tell us whether or not you made an examination of the little flat that night, the Brandon flat or apartment.

(Mr. Green): At what time?

(Mr. Brady): At any time.

A. When I entered into the little home, of course, I had to go through the living room which was straight except the couch that Mr. Brandon and the ladies and gentlemen were all around, I don't know whether that was upset or not. I went through to the bedroom and as far as I could see there was nothing upset. Mrs. Brandon's body was lying on the bed at the foot of the bed. May I ask a question just now?

(Mr. Grason): Yes.

(Witness): Should I go on to say what I saw?

(Mr. Grason): Yes, say what you saw, describe in detail?

A. The body was lying on the bed, at the foot of the bed the head was——

(The Court): You went over that. We want the other part of the flat described?

(Mr. Brady): The furniture, etc.?

A. The furniture was all in place, I saw nothing upset whatsoever so far as I could see, I went through the kitchen, and in the center of the floor were two saucers sitting in one another; I took my foot, my right foot, and moved those two saucers to the side a little. On the table there was laying a white cloth, that was in the kitchen and near to the end of that table there were three dishes, a plate, a good sized vegetable dish and a small dish, they all three sat in one corner; the table cloth was to the end of the table as if some one had——

(Objected to.)

(The Witness, continuing): The table cloth was back; I saw the refrigerator on one hinge; the refrigerator being very small; there was one hinge; the top hinge of the refrigerator door was broken off; the door was wide open; the top of the refrigerator where the ice goes in sat up, it was open. The chairs were in place. I noticed nothing out of place only standing up by the stove, the range, was one low quartered shoe; that low quartered shoe sat up with the heel against the stove, and the toe down to the floor. I went out on the back porch and noticed nothing unusual there because it was a little dark.

Q. What is that? A. I noticed nothing unusual out of way on the back porch, but it was dark. In the bedroom where Mrs. Brandon's body laid I noticed on her bed where she laid a white spread that was folded about that square (indicating), that laid between four to six inches away from her head or facing the kitchen door, her face faced the kitchen door, and this white spread laid about four to six inches away from her face.

Q. Was that spread in order do you know? A. It was folded and laid there folded.

Q. What if any clothes were on the bed? A. Nothing was on the bed that I noticed, but the body of Mrs. Brandon laying on a sheet and a pillow.

Q. Was there any pillow there? A. I will take that back, I won't be positive.

Q. Did you observe the sheet Mrs. Stewart near where her feet were? A. Yes, sir.

Q. What was the condition? A. It was not out of place, that was rumpled sort of near the feet; it was rumpled near the feet.

Q. Did you go down the cellar? A. I did not go down in the cellar.

Q. Did you notice whether or not the cellar door was open?

(Objected to.)

(The Court): If she noticed the cellar door and its condition. Did you notice the cellar door?

A. I did.

(The Court): What was its condition?

A. It was open.

Q. Now, Mrs. Stewart, I will ask you again what Doctor Joyce requested you to do when he was examining the body and what did you do?

(Objected to.)

(The Court): She already testified to what she did. You want to renew the above question?

(Mr. Brady): Yes, sir.

(The Court): You want to know what the Doctor said when she was examining the body?

(Mr. Brady): That was what I was asking. I want to know what she said.

(The Court) : I think she said, he put his hands on her limb outside and then the question was what he said?

(Mr. Brady) : Yes, sir.

Q. Did you say anything further? A. I did not say anything further.

Q. Did you look? A. I did.

(Objected to.)

Q. I will ask you whether or not there were any hair pins in Mrs. Brandon's hair when you first saw her? A. None that I saw.

Q. Was the hair dressed? A. It was not, it was around the neck.

CROSS-EXAMINATION.

(Mr. Green) : Mrs. Stewart, you made a very careful examination of that bed, didn't you?

A. Of the bed?

Q. Of the bed? A. I noticed, Mr. Green, everything about the bed because I was there so long.

Q. You can't say whether a pillow was on that bed, can you?
A. No, sir; Mr. Green, I can not say that.

Q. You don't know whether there was a pillow on that bed?
A. As far as I can remember her head, she had no pillow under her head.

Q. Did you notice that the pillow laid at the head of the bed where her feet were, did you or not? A. You mean at the head of the bed?

Q. Yes, where her feet were? A. I can't say positively.

Q. Did you notice or not whether her feet had crumpled up that pillow at the head of the bed? A. No, I did not.