

NEW JERSEY, ss.

The State of New Jersey, to the Court of Oyer and Terminer and General Jail Delivery in and for the County of Camden, assigned to hold the said Court of Oyer and Terminer and General Jail Delivery in and for the County of Camden, Greeting.

Forasmuch as in the record and proceedings, and also in the giving of the judgment and verdict on an Indictment for murder against John Ware,

which was pending in our said Court of Oyer and Terminer and General Jail Delivery, between the State of New Jersey and John Ware, defendant, as it is said manifest error hath intervened to the great damage of the said John Ware, as by his complaint we are informed; we being willing that the error (if any may be) should be in due manner corrected and full and speedy justice done to the parties aforesaid, in this behalf do command

you that if judgment be thereupon given them, without delay you distinctly and openly send under the seal of your court, the record and proceedings aforesaid, with all things touching the same, to our said Court of Errors and Appeals, on the Third Tuesday of June, next, before the Judges thereof, at Trenton, together with this writ, that the record and proceedings aforesaid being inspected, we may further cause to be done thereupon, what of right and according to law ought to be done.

Witness the Honorable Abraham O. Zabriskie, Chancellor of the State of New Jersey, at Trenton, this Twenty-Fifth day of April, Anno Domini, Eighteen Hundred and Seventy-one.

HENRY C. KELSEY, Clerk.

JAMES M. SCOVEL, Atty.

The answer of the Court of Oyer and Terminer and General Jail Delivery within named. The record and proceedings whereof mention is within made, with all things touching and concerning the same, we do certify and send to the Court of Errors and Appeals, in the last resort in all causes as heretofore in a certain schedule to this writ annexed, as within we are commanded.

GEO. S. WOODHULL, [L. S.]

ASA P. HORNER, [L. S.]

RALPH LEE, [L. S.]

JOSHUA SICKLER, [L. S.]

## STATE OF NEW JERSEY.

I, Henry C. Kelsey, Secretary of State of the State of New Jersey, and "Ex-officio" Clerk of the Court of Errors and Appeals in this last resort in all causes, do hereby certify the foregoing to be a true copy of the "Writ of Error" in the above stated cause, and of the "Answer" thereto as the same are taken from and compared with the original now remaining on file in my office.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal this 16th day of June, A. D., 1871.

HENRY C. KELSEY.

*In the Court of Oyer and Terminer and General Jail Delivery in and  
for the County of Camden.*

Be it remembered that at a Court of Oyer and Terminer and General Jail Delivery, holden at the City of Camden, in the County of Camden, State of New Jersey, before the Honorable George S. Woodhull, one of the Justices of the Supreme Court of Judicature of the State of New Jersey, and Asa P. Horner, Ralph Lee and Joshua Sickler, Esquires, Judges of the Court of Common Pleas of said County, on the second Tuesday of January, in the year of our Lord, one thousand eight hundred and seventy-one, according to the statute in such case made and provided, a certain issue joined upon an indictment there lately found, presented to and pending in said Court of Oyer and Terminer, against John Ware, for the murder of John A. Ware, came regularly on to be tried by a Jury of said County, empanelled to by said issue, (pro ut the pleadings) and in the presence of Richard S. Jenkins, Esquire, Prosecutor of the Pleas of the said State in and for said County in behalf of said State, and of James M. Scovel and Alfred Hugg, Esquires, Counsel of the said prisoner, John Ware; and the said Richard S. Jenkins, Prosecutor of the Pleas, as aforesaid, having called and examined several witnesses to maintain and prove the said issue on the part of the State, among whom were one Mary Ann Champion, otherwise called Mary Ann White, whom on the part of said State, in her direct examination had testified to many matters to prove said issue, and more especially in substance and to the effect that she was present at the time of the homicide of John A. Ware, in question, and saw the said prisoner shoot the said John A. Ware, and having rested his cause: Whereupon the said Counsel of said prisoner, called as a witness one Samuel Champion to maintain and prove the issue on the part of said prisoner; and it being then and there a material

matter in said cause, whether the said Mary Ann White was a credible witness, Samuel Champion, (he having testified that he knew the said Mary Ann, and that she was his wife, but that they were and had been living separate for some time previously,) the following questions, to-wit:

“Do you know what the character of Mary Ann White or Champion is for truth and veracity in the neighborhood where she is known?”

To which question the said Richard S. Jenkins, Prosecutor of the Pleas as aforesaid, then and there objected, as illegal, and that said witness ought not to be permitted to answer the same. Whereupon the said Court of Oyer and Terminer sustained the said objection, and would not permit the said witness to answer the same, on the ground that the same was illegal, because opposed to public policy. Whereupon the Counsel of said prisoner maintaining that said question was legal, and that said witness should be permitted to answer the same, excepted to the ruling of the said Court, and prayed that their bill of exceptions thereto, and that the said Court would allow and seal the same, and it is hereby allowed and sealed accordingly.

GEORGE S. WOODHULL,  
Presiding Judge.

And afterwards, to-wit: On the day and year aforesaid, the Counsel of the said prisoner further to prove and maintain the issue on his part, called as a witness one Louisa Ware, who after being duly sworn as such witness, and having testified in substance, that she well knew the said Mary Ann Champion, otherwise called Mary Ann White, who had previously testified on her cross-examination, when examined as a witness as aforesaid on the part of the State, she had not lived for eighteen years and upwards with one Aaron Wiltsey, the following question, viz:

“Do you know that Mrs. White lived with Aaron Wiltsey as man and wife for eighteen years?”

To which question the said Richard S. Jenkins, Prosecutor of the Pleas as aforesaid objected as illegal, and that the said

witness ought not to be permitted to answer the same; whereupon the said Court of Oyer and Terminer sustained the said objection and would not permit the said witness to answer the same, on the ground that the same was illegal and endeavoring to contradict a witness on a point not material to the issue. Whereupon the Counsel of said prisoner maintaining that said question was legal, and that the said witness should be permitted to answer the same, excepted to the ruling of the said Court, and prayed this their bill of exceptions thereto, and that the said Court would allow and seal the same, and it is hereby allowed and sealed accordingly.

GEORGE S. WOODHULL,  
Presiding Judge.

And afterwards to-wit. On the day and year aforesaid the Counsel of the said prisoner, further to maintain and prove the said issue on his part, called as a witness, one Louisa Ware, who having testified that she was a reputable person, and the mother of the prisoner and wife of the deceased John A. Ware, the following questions were asked said Louisa Ware, by Richard S. Jenkins, Prosecutor of the Pleas, aforesaid, to-wit:

“Were you not the cause of a good deal of trouble in your neighborhood between men and their wives on account of your own conduct at your own house?”

“Did you not cause the separation of Josiah Atkinson and his wife by allowing him to frequent your house with women and converse there?”

To both of which questions the said James M. Scovel and Alfred Hugg, Counsel for the prisoner objected then and there as illegal, and tending to criminate and disgrace the witness in a matter not material to the issue then pending, which issue was the guilt or innocence of John Ware under the indictment for murder then pending, and that said witness ought not to be permitted to answer the same. Whereupon the said Court failed to sustain the said objection, but did permit the said witness to answer the same, said question directly tending to

criminate and disgrace said witness before the jury. Whereupon the Counsel of the said prisoner maintaining that the said questions were illegal, and that the said witness should not be permitted to answer the same, excepted to the ruling of the said Court and prayed this their bill of exceptions and that the said Court would allow and seal the same, and it is hereby allowed and sealed accordingly.

GEORGE S. WOODHULL,

Presiding Judge.

And afterward, to-wit: On the day and year aforesaid, the Counsel of the said prisoner further to maintain and prove the said issue on his part, called Dr. J. Ray, a medico-legal writer on Insanity, of national name and fame; a medical expert, who after being duly sworn as such witness, and having testified in substance whether certain hypothetical cases presented indications of Insanity, was asked the following questions, viz.,

“If you had a son who twice in two years took Laudanum and endeavored to hang himself in the effort to commit suicide would you deem that evidence of Insanity or the reverse?”

To which question the said Richard S. Jenkins, Prosecutor of the Pleas as aforesaid, objected then and there as illegal, and that said witness ought not to be permitted to answer the same. Whereupon the said Court of Oyer and Terminer sustained the said objection, and would not permit the said witness to answer the same. Whereupon the Counsel of said prisoner maintaining that said question was legal when addressed to an expert in the treatment of the Insane, and that said witness should be permitted to answer the same, excepted to the ruling of the said Court, and prayed this their bill of exceptions thereto and that the said Court would allow and seal the same, and it is hereby allowed and sealed accordingly.

GEORGE S. WOODHULL,

Presiding Judge.