

Comith

Kennedy & Papers &
of

1826 May Term Convict
of Rape & Indecency 10 years
imprisonment & and Suffered
for the trial &c.

Costs of Prosecution which
Accrued before Conviction -
to wit

~~Costs to wit~~

Cost for Call^d Court . . . \$3.50
Shelf for Sess. Court . . . 4.20
Cost for Sess. Bench . . . 3.00
for expenses of Jury . . . 30.00

Witness, all the same at Call^d Court . . . 10.00
in Sup Court . . . 85.00
95.00 at \$52.15

53 cents per day
Folio for Post & Physicians
into . . . \$92.85
25.66
\$118.51

remarked that it was too late as the
prisoner had elected him unless by
consent & no consent being given he
remained on the Jury. [#] - All which
facts & circumstances being considered the
Court overruled the said Motion
to which opinion the Prisoner
excepted & prayed that there
his exception should be said to
him & that it is done accordingly

Wm Smith
Clerk

~~Commonwealth~~

vs
Kennedy

[#] The Witness Gray being sworn in open Court
to answer questions, stated in addition to the
facts stated in his affidavit, that when the
jury were up & down in the kitchen, turned on
of the door mentioned in the said of rooms
described in Smith's affidavit ^{for a very short time} was closed
and two of the jury ^{and Smith the Sheriff} was in it. Gray
further stated that when the Sheriff was near
to him when he ^{spoke to} ~~conversed with~~ Mooney -
that Mooney was

Letting G. Bell have been sworn in Court & I know he was on the
Oath when Gray the jurymen spoke to Mowry - he heard Mowry to
tell his wife something but when he could not say - he heard Mr Duff
ask Mowry how he came to talk to the jury & heard him say if the judge
were to find it out he would take up your britches Mowry replied
no body heard me & seen me talk to the jury - Mr G. in the state that
he was present at the same time referred to by Genl Baldwin
in his affidavit, he stood ^{a little} near to the window on which Gray was
sitting at the time ^{he was standing & Genl Baldwin was sitting down} he spoke to Mowry then Genl Baldwin did
Mowry he thinks made ^{nothing, did not return} no reply to what Gray said & of the
the Sheriff ^{det} state that one of them was always in attendance in
the jury & that they knew of no intercourse between the jury & any
other person which was not authorized by the Sheriff, & that was his
duty by the Sheriff ^{was only} that some directions should be given by
a jurymen as to some private business & this is the business
of the jury Sheriff. He the Sheriff however has admitted a jurymen by the
name of weighing to direct his attention to do some private business
the Courtroom proved in Court that the jurymen who was the
Genl Baldwin speaks of as being in Court did not to interfere with
the jury, did not return & then advised when he was
off, he did not return, but in the first instance went very near
to the house, but he might be mistaken as to a few steps ~~that~~
he proved that he did not ~~have any~~ ^{think} the other that he
he heard might have moved from the jurymen in the window
& not from the person on the outside - The fact that
John Emery one of the jurymen appeared
to serve with reluctance is also stated,
after he had been elected by the prison
and sworn, some person was called as a
juror but objected to ^{be} on the ground that
he was not a Freeholder - Emery then
applied to the Court to be discharged ~~for~~
on the same grounds but the Court

Memorandum after the verdict rendered
in this case the prisoner was unbound
and ^{to bail &} afterwards being out to the Bar
he moved the Court for a New
Trial upon the grounds and for
the cause set forth in the affidavits
of Briscoe & Baldwin, John Cartwright,
James Duff & Richard Robinson
which affidavits are in the words
& figures following to wit. "Rockingham
County v." [here copy the affidavits
above mentioned] and thereupon
the Attorney for the Commonwealth
~~proposed~~ in opposition to said
motion gave in evidence the
affidavits of James Gray, Archibald
Bentleyford, Robert Mooney, ~~the~~
Archibald W. Austin, Edward A. Smith
& John Embury, which affidavits are
in the words & figures following to
wit. "Rockingham v." [here copy the affi-
davits at full length]

Rockingham County (to wit)

This day came before me the Subscriber a
Justice of the peace Archibald Hutton Deputy
Sheriff who made oath ^{that} he on Tuesday
evening being the same evening on
which General Baldwin speaks of the
conversation as having taken place
in the dining Room that he the said
Hutton was in the Room from the time
the jury were in until they came out
though heard nothing of that conver-
sation which may have been caused by
the noise of the jury as to regards
the situation of the room he the said
Hutton thought to a good situation and
called General Baldwin in ~~to~~ to exam-
-ine the place and he told ^{his deponent that} ~~it~~ was
a very suitable place

and this deponent states that he did
place the doors open & directed the
livery frequently to keep them open
and that this deponent at no time
saw any one of the doors shut

Given under my hand this
22nd day of May 1896.

A. W. Sherman

N^o 4

A. K. Thompson

Rockingham County, to wit;

This day, Prisioner G. Baldwin made oath before me, a justice of the peace for said county, that ^{tuesday or} on ~~wednesday~~ evening last, ~~as he believes~~, he was in that porch of Mr. ~~Burke~~ ^{Burkholder} which fronts the tavern of Mr. Ruff on the opposite side of the street. Messrs. Grotter & Lewis were in the same porch at the same time. This affiant observed several persons looking out of the windows of Mr. ~~Burke~~ ^{Burkholder}'s dining room, & was under the impression that they were members of the jury who were impaneled in the case of the Com. vs. Kennedy, & he supposed that the whole of the jury were at that time in said dining room. The said dining room is situated beyond the said porch on the same side of the street & extends ~~to the end of~~ to or near the ^{south} end of said porch. This affiant while in said porch with said Grotter & Lewis as aforesaid, observed some person approach one of the said windows to within the distance of perhaps five or six yards, & speak to one of the persons in said dining room, in an ordinary tone of voice, as this ^{affiant} ~~deaf~~ believes, & this affiant is under the impression but will not be positive that something was said in reply by the person thus addressed or some one near him. This affiant either was not near enough ^{there} or was too much noise in the vicinity, to hear what conversation passed as aforesaid. The person who thus approached said window, whose name is unknown to this affiant, was ~~as~~ briefly spoken to by Mr. Grotter, who told him he must

not speak to the jury. He then retired, with apparent reluctance
& indecision, to the middle of the street or perhaps further,
& perhaps once returned a few paces. In the course of his
thus moving either from or returning towards the window,
this affiant thinks the latter, he again spoke to some per-
son in the said dining room, but whether the same
he had just addressed or not, this affiant is unable to
state, though he thinks it was the same; upon which
Mr. Grotter, as this affiant believes, again spoke sharply
to him, & in substance ordered him away, & he then fi-
nally retired. This affiant cannot say with certainty
whether any reply was made from the dining room,
the last time the person aforesaid spoke as above men-
tioned; but thinks there was or an attempt to reply.

The conversation attempted as aforesaid, was open,
& without any attempt to conceal what passed in the
conversation aforesaid, & this affiant supposes that
what was said must have been heard by those in
the dining room, who were attending it, & there were
several at the windows - Given under my hand, this
29th day of May, 1826 -

Sam. Leoty

Baldwin
affiant

~~John C. Leoty~~
~~John C. Leoty~~

Rockingham County to wit

This day John Embury, one of the Very Unparoled
for the trial of Thomas Kennedy & who was tried
for committing a Rape before the Superior Court of
Law held for Rockingham County in May 1826
appeared before me a Justice of the peace in and for
said County and made oath that he had never
heard that there was a prisoner in ~~the~~ ^{of said County} Jail until
~~on his way to court,~~ and that at Magdohes ^{Dawn}
about 12 miles distant from the Court House he was
informed that there was a ~~prisoner~~ ^{criminal} to be tried at Court
But affiant did not ~~allege~~ understand, with what
crime the prisoner stood charged until, ~~until~~ he
arrived at the Court House, and was summoned
as a by Stander by the Sheriff, and was informed by
the Sheriff that he summoned him as juror in the
Court House and ~~an~~ affiant wished to be Excused from
serving on the jury: on the ground that he was
not a freeholder; But affiant was not Excused by
the Court, the prisoner did not challenge affiant
and he consequently sat on the trial of said prisoner
affiant has no recollection ^{that} he ever had seen the
Prisoner Thomas Kennedy, before he was called
summed by the Sheriff as before stated; Nor did
ever hear his name or the crime with which he
stood charged, until he was Unparoled or
called upon by the Court to know whether he
had either found or expressed an opinion
respecting the guilt or Innocence of the
Prisoner &c., and he is ~~sworn~~ ^{sworn} that he cannot
be mistaken ~~and~~ now positively swears that
never had expressed any opinion prior to said
trial relative to the guilt or innocence of said
Prisoner, being an entire stranger to him as before
stated, affiant lives at least twenty five miles
distant from the Court House of said County, given
under my hand this 17th day of May 1826

Henry Welch

406
Embryos appear

Rockingham county to wit

This day James Duff personally appeared before me Saml. Cooley a Justice of the peace for said county and stated on oath that on Tuesday evening last whilst sitting on his porch he heard Mr Peachy Grat-tan tell some person that they must not be talking to the Jury, and this affiant then enquired who it was, and some person told him that it was Mooney, and Mooney was passing by at ^{the} time this affiant made the enquiry, upon which this affiant challenged the said Mooney for talking to the Jury and he the said Mooney replied no person knew who he was talking to, and pass'd on, this affiant says this was the same Jury that was impannell'd to try the case of the Commonwealth vs Kennedy, this affiant further states that the Jury appeared to be in separate rooms while they were in the house of Mr Rushnell ~~given under~~ this affiant states that he observed to Mooney at the time he challenged him as above stated, that if the Judge found out he was talking to the Jury he would scorch him Given under my hand this 19th day of May 1826

Saml Cooley

3
Car. Duff
Affiant

Rockingham County to wit

This day John Carthrae personally appeared before me Sam. Neotts a Justice of the peace in said county and stated on oath that this affiant whilst sitting on the eastern part of Henry Bushnells porch on Tuesday evening ^{last} he seen a man approach the window of the dining room of said Bushnells house in which the Jury were, ~~who~~ were unpannelled to try the case of the commonwealth vs Kennedy, and appeared to be in conversation with some of ^{the} Jury but ^{my affiant} did not understand what passed between them in consequence of their speaking in a low voice, this affiant's attention was particularly drawn in consequence of ^{Deputy} Mr. Grattan telling ~~him~~ ^{the person engaged speaking to them} that he must not be talking to the Jury. Given under my this 19th day of May 1826

Sam. Neotts

Mr. Carthage

affidavit

Rockingham County to wit

This day Richard Robinson of sd
County made oath before me the subscriber a Jus-
-tice of the Peace for sd County, that on the 16th
day of May in the year 1826, about half an
hour before, the Superior Court of Law for the
County of Rockingham, set on the trial of
Thomas Kennedy for a rape committed on the
body of Marcella Perry. He heard a certain
John Emery, who was afterwards empannelled
on the Jury called for the trial of thos^d Kennedy
say that the said Kennedy was doomed
for the Penitentiary — that he would go to
the Penitentiary if he even attempted to com-
-mit a rape Given under my hand &
seal this 18th day of May in the year 1826

Geo. Clarke C. J.

4
Reed Roberts on
Affairs

The Commonwealth of Virginia to the Sheriff of Rockingham County, Greeting:

YOU are hereby commanded to summons *Weldon Wilbur*

to appear
before the Judge of the Superior Court of Rockingham County at the Court-House ~~on~~
~~the~~ *day of North* Court next, to testify and the
truth to say in behalf of *the Commonwealth*

in a certain matter of controversy in
our said Court, depending and undetermined, between *the Comth and*
Thomas Kinada

And this *he* shall in no wise omit under the penalty of £100.

And have then there this Writ. Witness HENRY J. GAMBILL, Clerk of our said Court
at the Court-House the *17th* day of *May* 182*6*,
and in the *50th* year of the Commonwealth, *H. J. Gambill*

Comth
in 3rd Spec
Kinada

Enacted South Wellinver Spec

Packery
Shawhan S M

The Commission of the Court of the County of Wellington, Canada, Chief Justice

The Commonwealth of Virginia to the Sheriff of Rockingham County, Greeting:

YOU are hereby commanded to summons *William Blain.*

Nathaniel Wood. Elijah Dundore

to appear

before the Judge of the Superior Court of Rockingham County at the Court-House ~~on~~
~~the~~ *day of Northwith* ~~Court next~~, to testify and the
truth to say in behalf of *the Commonwealth*

in a certain matter of controversy in
our said Court, depending and undetermined, between *the County and*
Thomas Kinada

And this ~~that they~~ shall in no wise omit under the penalty of £100.

And have then there this Writ. Witness HENRY J. GAMBILL, Clerk of our said Court

at the Court-House the *16th* day of *May* 1826

and in the *30th* year of the Commonwealth. *H J Gambill.*

and in the ... of the Commonwealth.

at the Court House the ... day of ... 1833

And there then this ... William Henry T. Gwynne, Clerk of our said Court ...

and said Court's deliberating and undetermined, between

the certain matter of controversy in

Comth
vs 3 Spa
Kenada

Comth
vs 2
Kenada

County of ... at the Court House on

County next to testify and the

to appear

Examined Joseph Melvin of the
of Hawaiian Is all

YOU are hereby commanded to answer

the Complaint within a fortnight to the Clerk of the said Court, to wit: George ...

The Commonwealth of Virginia to the Sheriff of Rockingham County,

Greeting:

YOU are hereby commanded to summons ~~Jamuel Burr~~
and his Wife, ~~Michael Minnick~~ and his daughter
and Two Sons of ~~Barbara Minnick~~
~~John Minnick~~ ~~John Lottus~~ ~~Michael~~
~~Robinson~~ ~~Le~~ ~~Southard~~ ~~Rephum~~
to appear before the Judge of our Superior Court of Rockingham County,
at the Court House, on the *First* day of *May* Court
next to testify and the truth to say in behalf of *Thomas Kenney*

in a certain matter of controversy in our
said Court depending and undetermined, between *the Commonwealth*
and said Kenney

And this *They* shall in no wise omit under the penalty of £100.

And have then there this writ. Witness *Henry J Gambill*, Clerk of our
said Court at the Court House the *9th* day of *May*
1826 and in the *50th* year of the Commonwealth.

H. J. Gambill

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and in the

Test of the Commonwealth.

and Count the Court House the

the of

And have then there this with. Witness Henry A. Campbell Clerk of court.

And this

shall in no wise cut under the penalty of \$100.

and Court depending and undetermined, between

in a certain number of counties in our

the County, and the north to say, in behalf of

the County, on the

the of

Count

Kennedy
and 3 Spa

Comth (Spa)

YOU are hereby commanded to return

To the Court House of the County of the State of New York, County of

The Commonwealth of Virginia to the Sheriff of Rockingham County, Greeting:

YOU are hereby commanded to summons *Benjamin Denton, Simon Denton, Philip Denton, Jacob Haley, John Haley, Anthony Nicoley and his Wife, James Lee, George Cowshan, Isaac Waggy and his Wife, Thomas Robinson, Mifflin Hart, Widow Susan Robinson, Thomas Gilmore and his Wife, Daniel Gavan, Elinor Gavan, William Robinson* ~~to~~ *to appear*

before the Judge of the Superior Court of Rockingham County at the Court-House on the *Fifth* day of *May* Court next, to testify and the truth to say in behalf of *Thomas Kennedy*

in a certain matter of controversy in our said Court, depending and undetermined, between *Commonwealth and Said Kennedy*

And this *They* shall in no wise omit under the penalty of £100.

And have then there this Writ. Witness HENRY J. GAMBILL, Clerk of our said Court at the Court-House the *5th* day of *May* 1826 and in the *50th* year of the Commonwealth.

H J Gambill

Excuses are all the parties accept to Rice

Arch. W. Weston after

P. Harris on 20th

Kennedy
ad 3rd Pa
6th

John Robinson, George Rice, Margaret Campbell
Isaac Sumner, Betty Sumner, The Wife of John
John Henry Boar, wife of Anthony Boar.

The Commonwealth of Virginia to the Sheriff of Rockingham
County Greeting: We Command you that you Cause to Come
before the Judge of the Superior Court of Law to be held for the
said County, on the Monday before the third Tuesday in May
next, two good and lawfull freeholders of your County,
residing as near as may be to the place where the felony
~~of which Thomas Henry~~ was committed of which
Thomas Henry is accused, every one of whom is
possessor of a Visible estate Real and personal of the Value
of \$300 at the least, to Recognize on their oaths whether
the aforesaid Thomas Henry be guilty of the felony
aforesaid or not, and have then their names of the
said freeholders, and this Writ: Witness Harry Gambill
Clerk of our said Court, at the Court house the 18th day
of April 1826. and in the 50th year of the Commonwealth.

H. J. Gambill

Presented on the following for holding to wit
David Rees Jr. J. R. & Leonard, Dr. Rees
& Sam Rees David John & William Rees
Jas. Hunt Thomas & David Good Jr. & John
Jr & John Rees
Arch. & M. Hunter & John
Davidson & John

Comm with
Kennedy & Venia
facies

Sup. Court

Rockingham County to wit

Edwards & Smith Deputy

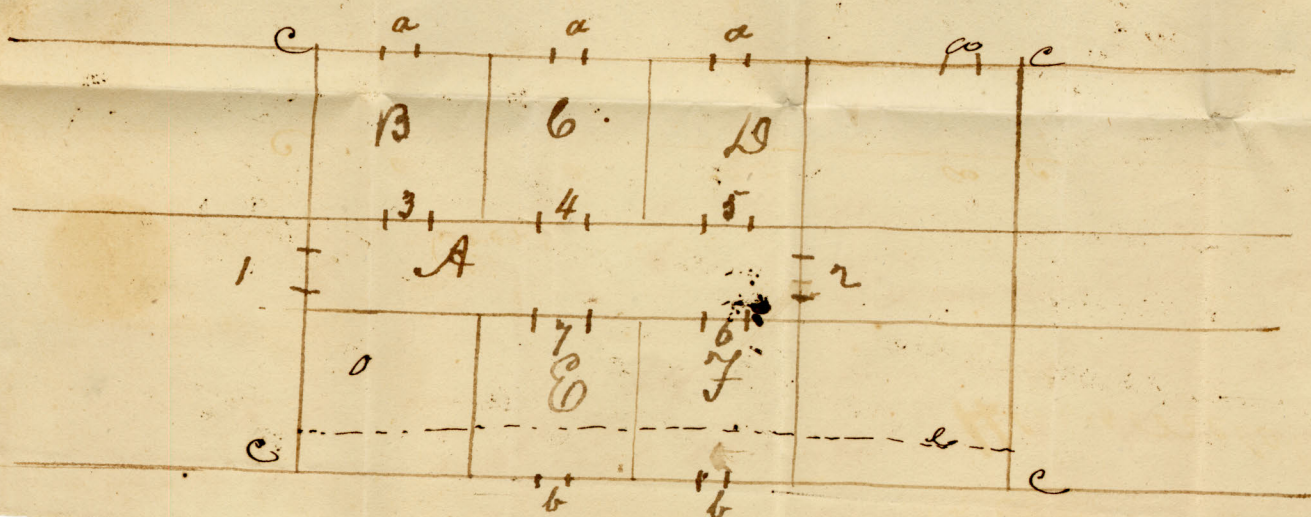
Sheriff personally before me a Justice in for said County made oath that the plot heath Announced Exhibited a suit of rooms upstairs as well as a dining room in the Barron of Henry Bushnells in which the Jury Impaneled for the Trial of Wm. Kanakas were kept Except when they were taken to Breakfast or supper or taken out under my care as Sheriff whilst I was with said Jury. A. Represents the passage B C D E of the Rooms 3. 4. 5. 6. 7 the doors to said rooms and Emptying in said Entry a a a a a the windows to said rooms 1 2 the doors at the south and north end and of passage A This affiant states the door marked 2 was kept locked as he believes it led into a back apartment with ^{which} the Jury had nothing to do the Jury Entered by the door No 1 this door was kept close as far as affiant knows the door of the different rooms were fully open but at one time ^{while} affiant was engaged in showing ~~in showing~~ he closed the door of the room in which he was showing nor does he know of the Jury being at any time separated Except by a call or of nature or so far as they were separated by said rooms This affiant was one of the deputy Sheriffs attending to the said Jury as before stated and further this affiant saith not

N.B. c c c c the dining room in the lower story marked out by the dotted line and a a a a the windows in front of said room

Sworn to before me This 2nd part of the term in 2nd the County of Rockingham This 22nd of May 1826

Henry Cordele

Front Street



Examiné et trouvé bon
le 10 Mars 1784

I have the honor to acknowledge the receipt of your letter of the 10th inst. in relation to the proposed purchase of the land for the purpose of building a new school house for the use of the colored children of the city of New York. I am sorry to hear that the Board of Education have not yet been able to reach a decision upon the matter. I am, however, confident that the Board will eventually reach a decision in favor of the purchase of the land, as it is a matter of great importance to the colored community of the city. I am, Sir, very respectfully,
 Yours,
 J. M. Smith

Smith's efforts

Rockingham Superior Court May Term 1826

Commonwealth

vs
Thomas Kennedy. Deft. & Upon an Indictment

On the motion of the Prisoner by his Counsel
it is ordered that Emma Boar, Anthony Boar,
Margaret Campbell, Mary Whitcomb & John Loftis
be ruled to show Cause ^{forthwith} why an
attachment should not be awarded against them
for non attendance as Witnesses on this day, ~~in~~
on behalf of the said Prisoner, (in the said prosecution,
it appearing to the Court that they had been duly
summoned).

attest

St. J. Campbell C. S. C. Me

Executed on Mary Riphart & Anthony
Emory Board not executed on Loggins by
order of the Prisoners Council. Margaret
Campbell not found a copy left
Edw. Smith Wm P. Harrison &c

Committee - Thomas Kennedy, for felony - charged with committing a
rape on the body of Darcus Berry - The said Darcus Berry being sworn
+ saith that on the 10th day of March (instant) she was at school, (the said
Prisoner being the Master) that he ^{into the schoolhouse & closed the door} disrobes all the scholars except the
Witness, whom he ^{called} back, and said (something) to her which she did
+ not understand, that the prisoner asked, the witness if she did not want
money, who replies that she did not, that he then took hold of her and
threw her down on the bench, she then got up, and the prisoner ^{desired}
her to get her book and come and read, and the prisoner ^{desired} her to
strip herself, the witness replies that she could not, he then took hold
of her and stripped of her coat, and made her lay down on the floor
he then got upon her, and entered into her body, - that after this she
got up and put on her coat, and went out, ^{the witness} being asked, if the
privates of the prisoner, entered into her privates, she answered that it did,
the witness being asked, who she first told of this business, she answered
that she first told her Mother, ~~that~~ ^{which} was on Friday the
10th of the instant, that when she went home her Mother asked her why
she came ~~late~~ home so soon, ~~she answered~~ she then told her what the
prisoner had done to her, the witness also stated, that the prisoner
told the witness at the time he ravished her, that he had wanted to do
so to her the night he had slept at her father's, - the witness
further stated that the prisoner undressed her coat, and that they then
fell down to her knees, and that the prisoner then made her take
them off - and that he also took off his pantaloons, before he got out,
The Witness was asked, if any other person ever attempted to do
any thing to her, before the prisoner, she answered that they did not.

The Witness also stated, that when the prisoner first got ~~her~~ into
the school house, and proposed doing what he did, that he ~~then~~ told her
(the witness) that if she made any noise he would ~~not~~ stab her.

Lucy Berry the Mother of (Darcus Berry) being sworn saith, that
when her Daughter came home, (which was on the 10th) she appeared
in much distress, and sat down on the bed, and said that she would
not go to school to the prisoner any more, and upon the witness
asking the said Darcus the reason why she would not go to school
she told the Witness that what the prisoner had done to her,
that he had pulled ~~out~~ of her clothes, had thrown her down
and had his will of her three terms, — that she also told the
Witness that the prisoner, ^{unbuttoned his} pantaloons and that they fell down to his
ankles — The Witness also stated, that she had told ^{the Court} what ~~she~~
her daughter had told her, ~~and when~~ when she came home, — she said
also that her daughter would be 12 years of old in May next, upon
being asked the Witness stated that she did not examine her child
but that she ^{saw} signs ^{that} ~~of~~ ^(convinced her) ~~that~~ ^{that} ~~the~~ ^{had} ~~been~~ ^{been} ~~committed~~ ^{committed} on her, improperly —

Statham Gladden age about 11 years of old, being sworn
saith that he was school, on the 10th Instant, that the prisoner let
out school, and after some time he called Darcus Berry into the
school house, and shut the door, and the Witness heard the prisoner
~~take~~ talking to the said Darcus, that he looked through the ^{windows} ~~door~~
and he saw the prisoner slap the said Darcus, — that she was crying —
and that he heard her screams and hollow, as if she was much
hurt, — that when the Witness saw, the prisoner, his pantaloons were
~~not~~ ~~at~~ ~~they~~ down, and not as they were when he let out school,
but that he could not see, whether they were off or not, and that
Darcus Coat was entirely off, that she put it on, and came out
and went home —

Philip^D Denton being first sworn saith

That on the Friday the 10th of the month, he
hears, screams and hallowing in the directions towards the meeting
house, (where the shoot was kept) and that he hears a Voise in the
meeting house, like the falling down of the benches — the witness
also states that he saw some persons like a woman, on the day
aforesaid going towards Berry. — But whether it was the said
Dareus, or whether it was the said Dareus that was screaming
& he cannot tell. — That the general opinion in the neigh-
bourhood was, that the witness Dareus would tell stories, and that
she would not be believed, (but whether on oath or not he could
not tell — the witness also states that he heard the screaming
hours 2 and 3 o'clock —

Cathy Denton being sworn, saith, that on the day stated above
she hears a hallowing and screaming in the directions towards the
school house, and that she heard some persons with a ~~loud~~ weak
Voise, cry out the Lord have mercy upon me, &c.

County
Kennedy & Papers
of

Call^d Court. which was
held the 22nd Mar^r 1876.
Prisoners sent
for further trial —

Rockingham County Court:

To the Sheriff of the Said County

Whereas Thomas Cannaday of Said County of Rockingham (Schoolmaster) Was this day committed to the Jail of this county by my Warrant for Suspicion of felony, in not having the fear of God before his eyes, but being moved and seduced by the ~~the~~ instigation of the Devil, on Friday the Tenth day of March Inst. - 1826. and in the 50th Year of this commonwealth, the said Thomas Cannaday (Schoolmaster) aforesaid, with force and arms, at the Schoolhouse, under his own care, commonly called Dentons Meeting - house on Dry River, in this said county of Rockingham. In and upon one Dorcus ^{Daughter of Thomas Berry of this county} Berry, an Infant under the age of Eighteen years To wit, of the age of Twelve years or upwards, in the presence of God and of this commonwealth, then and there, feloniously, did make an assault, and her, the said Dorcus Berry then and there, wickedly unlawfully and feloniously, did carnally ^{violate} know and abuse, against the form of the Statute in such case made and provided, and against the peace and dignity of the Commonwealth, Supportive by the Oaths of said Dorcus Berry and others -

It appearing to me that the felonious offence wherewith he stands charged ought to be examined into by the County Court: Therefore on behalf of the commonwealth, I require you that you summon at least eight of the Justices of your said county to meet at the courthouse on the Twenty ~~third~~ day of this instant, and then and there to hold a court for the examination of the facts with which the said Thomas Cannaday stands charged, and for such other purposes concerning the premises, as is by law required and directed, and that you have then there this Warrant. Given under my hand & Seal this 13th day of March 1826

C. H. Smith
Justice of the Peace

Rockingham County to wit

The jurors for the body of the County
aforesaid, on this or the present, the twentieth, to wit
on the tenth day of March, in the year eighteen
hundred and twenty six, at the County aforesaid, a
certain Thomas Cannady (alias Kennedy) Schoolmaster,
~~with force and~~ in and upon one Darius Berry shiner,
in the peace of the Commonwealth then and there
being, violently and feloniously did make an assault,
and hit the said Darius Berry then and there violently,
and against his will, feloniously did strike and
cruelly wound, against the form of the statute in
such case made and provided and against the peace
and dignity of the Commonwealth

Wth the fine M

We the jury find the prisoner guilty and do advise
and ascertain the period of his imprisonment in the pen-
itentiary and the city of Richmond to
the period of ten years
J. Hoffmann

Wth the jury find the prisoner guilty
of the charge he is indicted against him and
do advise he shall be confined in
the penitentiary house for the
term of ten years.
J. Hoffmann

Commonwealth
Indictment for Rape
Thomas Kennedy
At Test Bill
Jos. Maury foreman

Philip Denton
Catharine Denton
Lucy Berry Denton
Darius Berry
Nathl Gladwin
who are sworn to give evidence
to the Grand Jury
H. J. Gamble

Rockingham County to wit

This day James Gray personally appeared before me a Justice of the Peace in and for said County who made oath that he was one of the jury impanelled to try Thomas J. Kennedy before the Superior Court of Law for Rockingham County on a charge of Rape - that on Tuesday evening the 16th instant, the trial not being finished the jury were taken to the Tavern of Henry Oushelle in the Town of Harrisonburg and ^{where supper was ready} introduced into the large dining Room of said Tavern - whilst in said Room, and before they were removed up stairs, where they were kept by the Sheriff, he was leaning on the window with his head rather outside of the window he observed his relative Robert Moony passing by, and wishing his family to be informed that he would be detained till night on the jury and desiring also to have his article he spoke to Moony who was about fifteen steps from him and requested him to go to the house of the Affiant and let his wife know that he was confined on the jury, and he could then be at home that evening and also requested Moony to get his article and deliver it to Mr. Huston the Sheriff who would hand it to him. This Affiant does not believe that Moony made any reply, he carried the message he believed, and this Affiant went from Huston the next day. This Affiant believes that all the jury were present when he made the foregoing observations to Moony and the Deputy Sheriff Huston was also in the room. The Affiant had no ~~other~~ conversation (except as above stated) with any person except that then the jury during trial unless he may have made some observations to the Deputy Sheriff in relation to some want, but of this last he has no recollection.

This affiant when in Court on Saturday stated it is his impression that the directions given to Mooney were uttered from the window upstairs, the dining room being down stairs. On further examination and reflection he believes in this he was mistaken. He would rather posit ^{one of the jurors} was leaning on the window at the same time that the affiant spoke as before stated to Mooney - and further this affiant swears not
May 22nd 1826

Henry Seale

Clark in the County to live

This day Archibald Rutherford personally appeared before me a Justice of the Peace in & for the County of Clark and swore that he was one of the jury impaneled to try Thomas Kennedy in a charge of Rape before the Superior Court of and for Clark County and that the trial not being finished, on Sunday the 16th instant they Deft Sheriff took the jury to the Tavern of Henry Bushnell in the Town of Harrisonburg - they were taken up stairs in the first instance, but when the supper was ready the jury were taken by the Deft Sheriff to the dining room in the Tavern, where the jury were all there and the Deft Sheriff also this affiant with James Gray ^{were} leaning on the window with their heads out of the window, a certain Robert Mooney happened to be passing by & May Gray observing him requested him to let his wife know that he was detained in the jury and would not be at home that night, he also requested him to get his watch and let give it to Mr. Bushnell the Deft Sheriff who would give it to him at that moment some person or persons sitting in the Parlor of Mr. Bushnell's Tavern spoke and said to Mooney "you must go away or you must not talk to the jury" Mooney made no reply to Gray and immediately went off. The above was all the remark made by Gray to Mooney, this affiant did not speak and further he swears not

May 22nd 1826

Henry Seale

Rockingham County to visit

This day ^{Robert} ~~James~~ Mooney knowingly appeared before me
a Justice of the Peace in & for Rockingham County who made oath that on
Tuesday the 16th instant late in the evening he had just left his shop
where he had been at work. His shop is on the opposite side of the
street in Harrisonburg, to Mr Henry Bushnell's Tavern. When he had
just come into the middle of the street he was addressed by James
Gray a relation of his, from the window of the dining room of Mr
Bushnell's Tavern. When Mr Gray commenced speaking the applicant
stopped. Mr Gray requested the applicant to tell his wife that he
was detained in the jury & would not be at home that night.
He also requested him to get his watch & give it to Mr. ~~Arthur~~
the Sheriff ^{who} would hand it to him; by this time Mr Gray had
made this request some person at home sitting in the parlour
at Mr Bushnell's Tavern spoke & I said to the applicant "you
must not speak to the jury & you must go away;" to this the
applicant nodded his head, giving his assent to the direction, & I
went off without making any reply to Gray. He said as he had
been requested by Mr Gray. The foregoing is all that occurred be-
tween me & Gray & this applicant during. While while Gray was in
the jury and further said not
May 22 - 1826

Henry H. H. H.

12. 3
To: Gray.

At the Bathursts

Robert Mooney.

Affection