Jury - June 29, 1962

E. Warren Denton, Jr
H. Bruce Slaven
Raymond R. Chenault
Paul Coffman
C. J. Callender
Charles Brown
John W. Cook
Willie S. Breeden
Ralph Fahrney
John F. Good, Jr
Glen O. Swank
Erwin Lee

Docket No. 3983

JUN 1962

COMMONWEALTH of VIRGINIA

VS. Indictment } Felony (rape)

GARL SUTTLE (alias WILLIAM BENNETT)
jail

Beverly B. Bowers allowed $100.00 p. d.
Own ( ) Appointed (x)

1962
June 18. Return of Grand Jury. 11/17

Accused arraigned and plea of not guilty entered; case set for June 29. 11/18

June 29. Jury impanelled, etc.; verdict of guilty returned and punishment fixed at 20 years in Pen. 11/28.

CIRCUIT COURT OF ROCKINGHAM COUNTY, VA.

KEYSTONE ENV. CO., PHILA 33, PA.
NO. 34758

Costs

| | |
|---|---|
| Com. Atty | 25.00 |
| Clerk | 12.50 |
| Co. Court | 2.00 |
| Sheriff | 64.98 |
| J.P. (Leake) | 2.00 |
| Jury | 131.32 |
| Atty. fee | 100.00 |
| | $ 337.80 |

COUNTY COURT

Criminal Docket **No. 38304 A**

Commonwealth

V.

William Bennett

Defendant

alias Gaylord Suttle

Appearance Date 5-21-62

Trial Date 6-8-62

Grand Jury 6-8-62

WJ-2

I, Earl Suttle, having been advised of my right under Section 19.1-163.1 of the 1950 Code of Virginia, as amended, to a preliminary hearing upon the question of whether there is reasonable ground to believe that I committed the within charge of rape, do hereby voluntarily waive said preliminary hearing this 8th day of June, 1962.

Earl Suttle

WITNESS:

Peter R. Green

DISTRICT COURT OF THE UNITED STATES
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

COMMISSIONER'S DOC. 12
CASE NO. 4790

| | | |
|---|---|---|
| UNITED STATES OF AMERICA | ) | |
| | ) | |
| -vs- | ) | W A I V E R |
| | ) | |
| GARLAND SUTTLE, | ) | |
| alias William Bennett | ) | |
| | ) | |

I, GARLAND SUTTLE, alias William Bennett, having been arrested in the Northern District of Ohio, on a warrant based on complaint filed July 26, 1961, before the United States Commissioner of the Western District of Virginia, at Harrisonburg, charging me with, on or about July 22, 1961, at Harrisonburg, Virginia, unlawful flight from the State of Virginia to avoid criminal prosecution on a charge of statutory rape instituted July 22, 1961, and having been taken before HERBERT A. HORN, U. S. Commissioner for the Northern District of Ohio, Eastern Division, who explained my rights to me, under and by virtue of the extradition laws of the State of Ohio, and who further explained to me my rights to obtain an attorney and file action contesting such extradition in the Common Pleas Court of Ohio, do hereby waive the necessity of the issuance of an extradition warrant by the Governor of the State of Ohio, and do hereby waive my right to appeal to the Common Pleas Court of Cuyahoga County, Ohio, and waive every and other right granted me by the laws of that State as applying to extradition, and consent to be removed to the Western District of Virginia, at Harrisonburg, by the duly authorized officers of that State, and hereby signify my intention to voluntarily consent to such removal.

Garl Suttle

On the 3rd day of May, 1962, the above named GARLAND SUTTLE, alias William Bennett, signed the above Waiver in duplicate in my presence.

Herbert A Horn
HERBERT A. HORN
U. S. Commissioner

DISTRICT COURT OF THE UNITED STATES
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

COMMISSIONER'S DOC. 15
CASE NO. 4490

| | |
|---|---|
| UNITED STATES OF AMERICA | |
| -vs- | MAIAER |
| CARMAND SOTTILE, alias William Bennett | |

I, CARMAND SOTTILE, alias William Bennett, having been arrested in the Northern District of Ohio, on a warrant based on complaint filed July 25, 1951, before the United States Commissioner of the Western District of Virginia, at Martinsburg, charging me with, on or about July 25, 1951, at Martinsburg, Virginia, unlawful flight from the State of Virginia to avoid criminal prosecution on a charge of grandjury true indicted July 25, 1951, and having been taken before HERBERT A. HOHN, U. S. Commissioner for the Northern District of Ohio, Eastern Division, who explained my rights to me, under and by virtue of the extradition laws of the State of Ohio, and who informed explained my rights to me in the extradition matter by the governor of the State of Ohio, and do hereby waive the necessity of the presence of an extradition warrant by the Governor of the State of Ohio, and do hereby waive my right to object to the common Pleas Court of Cuyahoga County, Ohio, and waive every and other right granted me by the laws of that State as applying to extradition, and consent to be removed to the Western District of Virginia, at Martinsburg, by the duly authorized officers of that State, and hereby signify my intention to voluntarily consent to such removal.

Carmand Sottile

On the 3rd day of May, 1951, the above named CARMAND SOTTILE, alias William Bennett, signed the above waiver in duplicate in my presence.

HERBERT A. HOHN
U. S. Commissioner

COMMONWEALTH OF VIRGINIA

COUNTY OF ROCKINGHAM, to-wit:

In The Circuit Court of Rockingham County, June Term, 1962

The Grand Jurors of the Commonwealth of Virginia, in and for the body of the County of Rockingham, now attending the Circuit Court of the said County, upon their oaths present that Garl Suttle, alias William Bennett on or about the 15th day of February, 1961, in the County aforesaid, with force and arms, feloniously did make an assault in and upon the body of one Linda Mae Waggy, she, the said Linda Mae Waggy, then and there being a female child under the age of 16 years, to-wit: the age of 10 years, and her, the said Linda Mae Waggy, then and there unlawfully and feloniously did abuse, ravish and carnally know against her will and by force, against the peace and dignity of the Commonwealth of Virginia.

Upon the evidence of Linda Mae Waggy and Julius F. Ritchie, witnesses sworn in open court and sent to the Grand Jury to give evidence.

rape 3983

June 29

COMMONWEALTH

V.

GARL SUTTLE (alias WILLIAM BENNETT)

A TRUE BILL

Leonard A. Thomas

Foreman

James R. Sipe
Commonwealth's Attorney

William Bennett warrant
hold for lie detector test.
5-11-62

Witness Subpoena

Commonwealth of Virginia:
County of Rockingham, to-wit:
To the Sheriff of said County, Greeting:

You are hereby commanded, in the name of the Commonwealth of Virginia to summon Zella Wagy, 137 Lawn St.
Linda Mae Wagy

to appear before The County Court of said County, sitting at Harrisonburg, Virginia, in said County, on 8th day of June, 1962, at the hour of 2 PM of that day to give evidence in behalf of Com'th

in the pending case of Com'th

v. William Bennett

Given under my hand this 28th day of May, 1962

Ada C Swartz, Clerk

Clerk
Asst. Clerk

EXECUTED 5/31/62 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN Summon

TO Zella Waggy

IN PERSON

A. L. STRAWDERMAN ..... S. R. C.

..... D. S. R. C.

By S. P. Martin

RECEIVED MAY 29 1962 SHERIFF'S OFFICE ROCKINGHAM COUNTY

The County Court

Docket No. 30384

Com'th

V.

Witness Subpoena

William Bennett

To 6-8-62

Not finding Linda Mae Waggy at his usual place of abode, Executed May 31, 1962 by delivering a true copy of this Summons to Zella Waggy Her Mother in person, at said 137 Lewis St. usual place of abode Linda Mae Waggy, being a member of his family above the age of 16 years, and explaining the purport thereof to her.

A. L. STRAWDERMAN

..... S. R. C.

By S. P. Martin ..... Deputy Sheriff

COMMONWEALTH VS. Carl Suttle (alias) William Bennett

## DESCRIPTION OF PRISONER

Last known address Harrisonburg Virginia

Color White Height 5-5 Eyes Blue Hair Brown Weight 135

Marks

Age 50 Occupation Laborer

Date of Trial June 29 - 1962

Result 20 years State Penitentiary

COMMONWEALTH VS. Paul Kelly alias William Brown

## DESCRIPTION OF PRISONER

Last known address Hanover Prison

Color White Height 5-5 Eyes Blue Hair Brown Weight 131

Marks

Age 20 Occupation Farmer

Date of Trial June 2 1921

Result 20 years Hill Penitentiary

**In the Name of the Commonwealth of Virginia:**

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

Linda Mae Waggy - 137 Lewis St., Harrisonburg, Va.

Chief J. F. Ritchie

RECEIVED JUN 13 1962 SHERIFF'S OFFICE ROCKINGHAM COUNTY

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 9:30 o'clock, a. m., on the 18th day of June, 19 62, to testify and the truth to say in behalf of the Commonwealth before the Grand Jury, against

Garl Suttle

who stands charged with ~~and indicted for~~ a felony ~~misdemeanor~~.

And this you shall not omit under penalty. And have then and there this Writ.

Witness, JAMES R. SIPE, Commonwealth's Attorney for Rockingham County and the City of Harrisonburg, Virginia, at the Court House, the 12th of June, 19 62, and in the 186th year of the Commonwealth.

James R. Sipe
Commonwealth's Attorney

.80 not pd.

EXECUTED 6/14/62 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN Summons TO J. F. Ritchie IN PERSON.

A. L. STRAWDERMAN ..... S. R. C.

By L. L. Martin ..... D. S. R. C.

EXECUTED 6/14/62 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN Summons TO Linda Mae Waggy IN PERSON.

A. L. STRAWDERMAN ..... S. R. C.

By L. L. Martin ..... D. S. R. C.

**In the Name of the Commonwealth of Virginia:**

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

Zella Waggy - 137 Lewis Street, Harrisonburg

Linda Mae Waggy - 137 Lewis Street, Harrisonburg

Chief Julius F. Ritchie

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 9:30 o'clock, a. m., on the 29th day of June, 19 62, to testify and the truth to say in behalf of the Commonwealth ~~before the Grand Jury~~, against

Garl Suttle

who stands charged with and indicted for a felony ~~misdemeanor~~.

And this you shall not omit under penalty. And have then and there this Writ.

Witness, JAMES R. SIPE, Commonwealth's Attorney for Rockingham County and the City of Harrisonburg, Virginia, at the Court House, the 26th of June, 19 62, and in the 186th year of the Commonwealth.

James R. Sipe
Commonwealth's Attorney

120 not Rd.

EXECUTED 6/27/62 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN Summons TO J. F. Bitter IN PERSON.

A. L. STRAWDERMAN ..... S. R. C.

By F. L. Martin ..... D. S. R. C.

EXECUTED 6/28/62 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN Summons TO Zella Waggy IN PERSON.

A. L. STRAWDERMAN ..... S. R. C.

By F. L. Martin ..... D. S. R. C.

EXECUTED 6/28/62 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN Summons TO Linda Mae Waggy IN PERSON.

A. L. STRAWDERMAN ..... S. R. C.

By F. L. Martin ..... D. S. R. C.

COMMONWEALTH

V.

SUTTLE

CHARGE TO JURY

If you find the accused guilty of rape, as charged in the indictment, you will say so and fix his punishment at death, or by confinement in the penitentiary for life, or for any term not less than five (5) years.

If you find him not guilty, you will say so and no more.

We, The Jury, find the accused guilty of rape, as charged in the indictment, and fix his punishment at Confinement in the penitentiary for a term of 20 years.

Irvin C. Lee

Foreman

COMMONWEALTH

v.

GILLIE

CHANCE TO TALK

If you find the accused guilty of rape, as charged in the indictment, you will say so and fix his punishment at death, or by confinement in the penitentiary for life, or for any term not less than five (5) years.

If you find him not guilty, you will say so and no more.

Jurors

Jno. G. Moss

Foreman

Jany 19 1898

Jury 18 Friday

A true list of jurors

Comp. Form 18

STATE OF VIRGINIA
~~COUNTY~~ City OF Harrisonburg } To-Wit: No.

TO ANY SHERIFF OR POLICE OFFICER:

Whereas, Zella Waggy (137 Lewis Street)

has this day made complaint and information on oath before me, John G. Leake (Name)

Justice of The Peace (Title) of the said ~~County~~ City, that

Garland Suttle alias William Bennett in the said ~~County~~ Rockingham County

did on or about the 1st day of February, 19 61: Unlawfully and feloniously

with force and arms, did ravish and carnally know one Linda Mae Waggy, a minor female child, to-wit: the age of 10 years, in violation of section 18.1-44 of the 1960 Code of Virginia, against the peace and dignity of the Commonwealth of Virginia

These are, therefore, to command you, in the name of the Commonwealth, to apprehend and bring before the County Court of the said County, the body (~~bodies~~) of the above accused, to answer the said complaint and to be further dealt with according to law. And you are also directed to summon Rockingham:

_____ color _____ Address _____ ☐

_____ color _____ Address _____ ☐

_____ color _____ Address _____ ☐

_____ color _____ Address _____ ☐

_____ color _____ Address _____ ☐

as witnesses.

Given under my hand and seal, this 21st day of July, 19 61

John G. Leake (Seal)
(Title of Issuing Officer)
JUSTICE OF THE PEACE

STATE OF VIRGINIA—COUNTY OF _____, to-wit:

I, _____ a Judge of the County Court / Justice of the Peace in and for the County aforesaid, State of Virginia, do certify that _____

and _____, as his suret_____, have this day each acknowledged themselves indebted to the Commonwealth of Virginia in the sum of _____ Dollars ($_____), to be made and levied of their respective goods and chattels, lands, and tenements to the use of the Commonwealth to be rendered, yet upon this condition: That the said_____, shall appear before the Circuit / County Court of _____ County, on the _____ day of_____, 19____, at _____. M., at _____, Virginia, and at any time or times to which the proceedings may be continued or further heard, and before any court thereafter having or holding any proceedings in connection with the charge in this warrant, to answer for the offense with which he is charged, and shall not depart thence without the leave of said court, the said obligation to remain in full force and effect until the charge is finally disposed of or until it is declared void by order of a competent court; and upon the further condition that the said _____ shall keep the peace and be of good behavior for a period of _____days from the date hereof. Nonappearance shall be deemed to constitute a waiver of trial by jury.

Given under my hand, this_____ day of_____, 19____.

_____ Judge. J. P.

DOCKET NO. 38304

COMMONWEALTH

vs.

WARRANT OF ARREST

William Bennett

Tenth Legion

Executed this, the 10 day of [illegible], 19[illegible]

[illegible]

Upon the examination of the within charge, I find the accused

Upon motion of the within charged defendant that preliminary hearing be waived and upon signing of said waiver, it is hereby ordered that the defendant be held for action by the Grand Jury of Rockingham County, Virginia.

Given under my hand this 8th day of June, 1962.

[signature]

ROCKINGHAM COUNTY JUDGE

To - 6-8-62 2:PM

BOND 2500.00

Plea N.G. 5-21-62 [illegible] June

The following witnesses were recognized to appear before the Circuit / County Court of _____ County, Virginia, at _____, Virginia, at _____ M., on the _____ day of _____, 19____, under penalty of $_____

COSTS

| | |
|---|---|
| Warrant | $ 2.00 |
| Trial | 2.00 |
| Bail | |
| Arrest | 1.00 |
| Mileage | 60.48 |
| Clerk | 1.25 |
| Jail Fee and Board | 50 |
| Witness Attendance | |
| Summoning Witnesses | 1.00 |
| Commonwealth Attorney | 5.00 |
| Total Costs | $ |
| Fine | |
| Total | $ |

Fine $

Costs

Total $

COMMONWEALTH

v.

SUTTLE, alias BENNETT

INSTRUCTION NO. 1

The Court instructs the jury that in law the accused is presumed to be innocent of the crime with which he is charged and that presumption follows him throughout every stage of the trial. Moreover the plea of "not guilty" denies every essential allegation of the indictment and puts upon the Commonwealth the burden of proving every element of the crime charged and the accused's guilt beyond reasonable doubt.

There is no shifting of this burden, as it remains upon the Commonwealth throughout the whole trial. The accused is not required to prove his innocence and if, after considering the evidence for the Commonwealth and the defense, you entertain a reasonable doubt of the guilt of the accused from the whole trial it is your duty to, and you must acquit him.

You are instructed that the presumption of innocence is not a mere form to be disregarded by the jury at pleasure, but it is an essential and substantial part of the law of the land, and binding on the jury in this case; and it is the duty of the jury to give the defendant the full benefit of this presumption.

The Court further instructs the jury that mere suspicion or probability of his guilt, however strong, is not sufficient to convict, nor is it sufficient for the greater weight or preponderance of the evidence supporting the charge in the indictment, but to warrant his conviction his guilt must be proved so clearly that there is no reasonable theory consistent with the evidence upon which he can be innocent.

You are further instructed that the defendant is not to be

COMMONWEALTH

v.

SUTTLE, alias BENNETT

INSTRUCTION NO. 1

The Court instructs the jury that in law the accused is presumed to be innocent of the crime with which he is charged and that presumption follows him throughout every stage of the trial. Moreover the plea of "not guilty" denies every essential allegation of the indictment and puts upon the Commonwealth the burden of proving every element of the crime charged and the accused's guilt beyond reasonable doubt.

There is no shifting of this burden, as it remains upon the Commonwealth throughout the whole trial. The accused is not required to prove his innocence and if, after considering the evidence for the Commonwealth and the defense, you entertain a reasonable doubt of the guilt of the accused from the whole trial it is your duty to, and you must acquit him.

You are instructed that the presumption of innocence is not a mere form to be disregarded by the jury at pleasure, but it is an essential and substantial part of the law of the land, and binding on the jury in this case; and it is the duty of the jury to give the defendant the full benefit of this presumption.

The Court further instructs the jury that mere suspicion or probability of his guilt, however strong, is not sufficient to convict, nor is it sufficient for the greater weight or preponderance of the evidence supporting the charge in the indictment, but to warrant his conviction his guilt must be proved so clearly that there is no reasonable theory consistent with the evidence upon which he can be innocent.

You are further instructed that the defendant is not to be

prejudiced by the inability of the ~~Commonwealth~~ accused to point out any other guilty agent, nor is he called upon to indicate his own innocence by naming the guilty party. He rests secure in the presumption of innocence until proof is adduced by the Commonwealth which establishes his guilt beyond all reasonable doubt.

COMMONWEALTH

v.

SUTTLE, alias BENNETT

INSTRUCTION NO. 2

The Court instructs the jury that in this case, as in all criminal cases, the accused's plea of not guilty raises a presumption of innocence in his favor and places on the prosecution the burden of proving his guilt beyond a reasonable doubt, and not on the accused to prove himself innocent.

If, therefore, upon a consideration of the whole case, the testimony of the witnesses and the circumstances shown in evidence, there exists in the minds of the jury a reasonable doubt as to the guilt of the accused, they should find him not guilty.

H. H.

COMMONWEALTH

v.

POLLIE, alias BENNETT

INSTRUCTION NO. 2

The Court instructs the jury that in this case, as in all criminal cases, the accused's plea of not guilty raises a presumption of innocence in his favor and places on the prosecution the burden of proving his guilt beyond a reasonable doubt, and not on the accused to prove himself innocent.

If, therefore, upon a consideration of the whole case, the testimony of the witnesses and the circumstances shown in evidence, there exists in the minds of the jury a reasonable doubt as to the guilt of the accused, they should find that it is not guilty.

COMMONWEALTH

V.

SUTTLE

INSTRUCTION 3

In considering whether or not the Commonwealth has met its burden of proving the guilt of the accused beyond reasonable doubt, the Court instructs the jury that you should not overlook the word "reasonable" nor its meaning. A reasonable doubt is a doubt which is founded on reason, and is not to be confused with imaginable or possible doubt, for the law does not say that aman must be proved guilty beyond every imaginable, conceivable or possible doubt.

In passing upon the sufficiency of the proof of the charge, the jury must limit its consideration to the evidence presented at the trial of this case, including the natural and reasonable inferences to be drawn therefrom. The jury cannot go beyond such evidence to create doubt, nor can you go beyond such evidence to find inferences of guilt.

Furthermore, the jury should bear in mind that any doubt arising from lack of evidence, from conflicting testimony or from questionable proof of any particular fact, should be a doubt of a material fact essential to the proof of the guilt of the accused and not a mere doubt concerning immaterial and nonessential circumstances.

If, after a reasonable and honest consideration of all of the evidence, your minds are left in such a state of doubt as to prevent you from reaching a convinced belief of the guilt of the accused, then the Commonwealth has failed to meet its burden.

If, on the other hand, after an impartial and reasonable consideration of all the evidence in the case, you have an abiding conviction of the truth of the charge, you are then satisfied beyond all reasonable doubt.

H. H.

COMMONWEALTH

v.

SUFFIX

INSTRUCTION 2

In considering whether or not the Commonwealth has met its burden of proving the guilt of the accused beyond reasonable doubt, the Court instructs the Jury that you should not overlook the word "reasonable" nor its meaning. A reasonable doubt is a doubt which is founded on reason, and is not to be confused with imaginary or possible doubt. For the law does not say that men must be proved guilty beyond every imaginable, conceivable or possible doubt.

In basing upon the sufficiency of the proof of the charge, the Jury must limit its consideration to the evidence presented at the trial of this case, including the natural and reasonable inferences to be drawn therefrom. The Jury cannot go beyond such evidence to create doubt, nor can you go beyond such evidence to find inferences of guilt.

Furthermore, the Jury should bear in mind that the doubt arising from lack of evidence, from conflicting testimony or from unsatisfactory proof of any particular fact, should be a doubt of a material fact essential to the proof of the guilt of the accused and not a mere doubt concerning immaterial and nonessential circumstances.

It, after a reasonable and honest consideration of all of the evidence, your minds are left in such a state of doubt as to prevent you from rendering a convinced belief of the guilt of the accused, then the Commonwealth has failed to meet its burden.

On the other hand, after an impartial and reasonable consideration of all the evidence in the case, you have an abiding conviction of the truth of the charge, you are then satisfied beyond all reasonable doubt.

COMMONWEALTH

V.

SUTTLE

INSTRUCTION 4

The Court instructs the jury that if you believe from the evidence beyond a reasonable doubt that the accused, Garl Suttle, had sexual intercourse with Linda Mae Waggy, and that the said Linda Mae Waggy was at the time of such sexual intercourse a female child under the age of fourteen (14) years, you will find the said accused guilty regardless of whether or not force was used by him in the accomplishment of such act and regardless of whether or not such act was done with or without her consent, and shall fix his punishment in accordance with the charge to the jury.

The Court further instructs the jury that the slightest penetration of the female organ by the male organ is sufficient to constitute carnal knowledge.

H. H.

COMMONWEALTH

v.

SUTTLE

INSTRUCTION 4

The court instructs the jury that if you believe from the evidence beyond a reasonable doubt that the accused, Carl Suttle, had sexual intercourse with Linda Mae Waggy, and that the said Linda Mae Waggy was at the time of such sexual intercourse a female child under the age of fourteen (14) years, you will find the said accused guilty regardless of whether or not force was used by him in the accomplishment of such act and regardless of whether or not such act was done with or without her consent, and shall fix his punishment in accordance with the charge to the jury.

The court instructs the jury that the slightest penetration of the female organ by the male organ is sufficient to constitute carnal knowledge.

COMMONWEALTH

v.

SUTTLE, alias BENNETT

INSTRUCTION NO. 5

The Court instructs the jury that before the defendant can be convicted of the charge in the indictment, the Commonwealth must prove beyond a reasonable doubt that there was an actual penetration to some extent of the prosecutrix's sexual organ by the defendant's sexual organ.

H. H.

COMMONWEALTH

v.

SUTTLE, alias BENNETT

INSTRUCTION NO. 7

The Court instructs the jury that before the defendant can be convicted of the charge in the indictment, the Commonwealth must prove beyond a reasonable doubt that there was an actual penetration to some extent of the prosecutrix's sexual organ by the defendant's sexual organ.

COMMONWEALTH

V.

SUTTLE

INSTRUCTION 6

The Court instructs the jury that they may find the accused guilty of rape, as charged in the indictment, on the uncorroborated testimony of Linda Mae Waggy alone, if the credibility of such testimony is sufficient to bring you to the belief that the accused is guilty beyond reasonable doubt.

H. H.

COMMONWEALTH

V.

SUTTLE

INSTRUCTION C

The Court instructs the jury that they may find the accused guilty of rape, as charged in the indictment, on the uncorroborated testimony of Linda Mae Waggy alone, if the credibility of such testimony is sufficient to bring you to the belief that the accused is guilty beyond reasonable doubt.

COMMONWEALTH

V.

SUTTLE

INSTRUCTION 7

The Court instructs the jury that the credibility of witnesses is a question exclusively for the jury; and from the appearance of the witnesses on the stand, their manner of testifying, the reasonableness and consistency of their testimony, their apparent candor and fairness, their apparent intelligence or lack of intelligence, the opportunity of the witnesses to know whereof they speak, the relationship of the witnesses to the parties, if any, the interest of the witness in the result of the trial, if any appear, and from all other surrounding circumstances appearing on the trial, the jury has the right to determine which witnesses are more worthy of credit and what is the relative weight of any such testimony and to give credit accordingly.

H. H.

COMMONWEALTH

v.

SOLE

INSTRUCTION

The court instructs the jury that the credibility of witnesses is a direction exclusively for the jury; and from the appearance of the witnesses on the stand, their manner of testifying, the reasonableness and consistency of their testimony, their apparent candor and fairness, their apparent intelligence or lack of intelligence, the opportunity of the witnesses to know whereof they speak, the relationship of the witnesses to the parties, it is, the interest of the witness in the result of the trial, it may appear, and from all other surrounding circumstances appearing on the trial, the jury has the right to determine which witnesses are more worthy of credit and what is the relative weight of any such testimony and to give credit accordingly.

COMMONWEALTH

v.

SUTTLE, alias BENNETT

INSTRUCTION NO. 8

The Court instructs the jury that upon the trial of a criminal case by a jury, the law contemplates a concurrence of twelve minds in the conclusion of guilt before a conviction can be had. ~~Not only is this true with respect to the guilt of the accused, but is likewise true with respect to the degree of the crime.~~ Therefore, if any individual member of the jury, after having duly considered all the evidence in this case, and after consultation with his fellow jurors, should entertain a reasonable doubt as to the guilt of the accused, ~~or as to the degree of the guilt of the accused,~~ it is his duty not to surrender his own convictions as to the guilt or innocence of the accused, ~~or as to the degree of guilt~~ simply because the rest of the jury entertain different convictions as to the guilt or innocence, ~~or as to the degree~~ The jury is further instructed that the jury room is no place for pride of opinion or obstinacy, but that it is the duty of the jurors to discuss the evidence in a spirit of fairness and candor with each other, and with open minds to give careful consideration to the views of their fellows, and, if it can be done without sacrifice of conscientious convictions, agree upon a verdict.

H. H.

COMMONWEALTH

v.

SUTTLE, alias BENNETT

INSTRUCTION NO. 8

The Court instructs the jury that upon the trial of a criminal case by a jury, the law contemplates a concurrence of twelve minds in the conclusion of guilt before a conviction can be had.

Therefore, if any individual member of the jury, after duly considering all the evidence in this case, and after consultation with his fellow jurors, should entertain a reasonable doubt as to the guilt of the accused, it is his duty not to surrender his own convictions as to the guilt or innocence of the accused, simply because the rest of the jury entertain different convictions as to the guilt or innocence. The jury is further instructed that the jury room is no place for bribe of opinion or obstinacy, but that it is the duty of the jurors to discuss the evidence in a spirit of fairness and candor with each other, and with open minds to give certain consideration to the views of their fellows, and, if it can be done without sacrifice of conscientious convictions, agree upon a verdict.