

19. Murder is where a person of sound  
 memory and discretion unlawfully kills  
 an reasonable Creature in peace under  
 the peace of the State with malice  
 aforethought either express or implied;  
 Given Geo Rogers.

20. A Conviction Cannot be had upon  
 the testimony of a accomplice unless  
 Corroborated by other evidence tending  
 to Convict the Defendants with the  
 commissions of the offense.

Given Geo Rogers.  
 As to each and all of which defendants  
 accepted at the time and still accept  
 as such foray that their Bill of  
 exceptions be argued be need be called  
 and made part of the records which  
 is accordingly done - and the Court  
 thus likewise makes a part of the  
 records the instructions lettered G. H.  
 J. L. M. A. B. J. L. R. S.

which are as follows.

That if they believe from the evidence that  
 any one of the defendants was absent  
 from the killing of Harvey King and  
 gave no aid Counsel or assistance  
 in killing him they must find such  
 defendants not guilty Given

Geo Rogers

H

The Court instructs the jury that if they believe from the evidence that which the train was thrown off the track and the passengers robbed and the proceeds of the robbery was divided amongst the robbers the effect of any conspiracy and combination between them was accomplished and they separated and went to their several homes or elsewhere on their separate business and that after this Harvey Lowry was killed by one of those who formed or jointly ~~and~~ the conspiracy to rob the City &c they can only find the one or more who killed and killed or aided, counselled or assisted in doing so guilty of his murder.

Given Geo. C. Rogers.

I.

The Court instructs the jury that if they believe from the evidence that any of the witnesses introduced by the Commonwealth have been offered as reward of \$1000 or any other sum for the arrest and conviction of each one of the persons against whom they testify it is a circumstance which they have a right to consider in fixing the degree of credit to which such witness may be entitled

Given Geo. C. Rogers.

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K. That it is the province and right of the jury in Criminal Cases to judge of the testimony and of the law as is provided by the Court and if they believe that the statements & Confessions of Cornwell are & Cornwell have been in the first instance intended by promises or assurance of persons in whose custody they were or by other in whom they had Confidence in substance that it would be better or go lighter with them or that if convicted at all they would have a shorter term of imprisonment to serve than the jury may consider the same in fixing the Credit due the testimony of said Cornwell & Cornwell.  
Given Geo. C. Ragen.

L. The Court instructs the jury that it is the duty of the Commonwealth to make out its case and the guilt of the persons with such certainty as to exclude any and every reasonable hypothesis of their innocence and if the jury come to the conclusion by all the reasonable doubt that one or more of the prisoners killed Heaney & King, but entertain a reasonable doubt which one or more killed him - they must find all not guilty. Given  
Geo. C. Ragen.

M. That they must give the Defendants the benefit

of every reasonable doubt on the question of their guilt. That in ~~consequence~~ <sup>consequence</sup> of the law. It is a maxims that to doubt is to acquit.

St. The Court instructs the jury that to authorize them to find the prisoners or any of them guilty of the murder of Kennedy, the proof on that point only, to be consistent with the prisoners guilt but inconsistent with any rational <sup>other</sup> ~~conviction~~ <sup>conviction</sup> - It is not enough that the evidence goes to show their guilt it must be inconsistent with every reasonable supposition of their innocence.

Given Geo. C. Rogers.

Q. The Court instructs the jury that when the prosecution - introduced the letters or confessions of a prisoner as evidence against him the value of said letters or confessions, as well what is favorable as what is unfavorable to the prisoner is evidence before the jury, who and authorized to give to each and every part such credit as they believe it entitled to and they are not bound to give every part equal credit. Given Geo. C. Rogers.

P. And the Court further instructs the jury that when on the trial of a Criminal charged as fact is proven upon which fact a construction may be placed

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favorable to the innocence of the prisoner and a construction may be placed unfavorable to the prisoner, the law in favor of human life & liberty authorizes & requires the jury to give the fact or evidence the construction favorable to innocence  
 Given Geo. C. Rogers -

The Court instructs the jury on Matters of the defendant that whilst it is their duty in Civil Cases to weigh the evidence and decide according to the greatest weight or preponderance of testimony yet in this case the prisoners are entitled to the benefit of the legal presumption in favor of innocence which is doubtless true in always sufficient to throw the scales in the prisoners favor. Given Geo. C. Rogers.

The Court instructs the jury that the Confessions of the accomplices John Ewing & Stephen Kemmell as to the Commission of the felony is not sufficient Confirmation, the law requires a Confirmation of the accomplices in said fact which you to fix the guilt on the particular persons charged, And that if they believe the accomplices are not sufficiently confirmed as to one or more of the facts charged - they (the jury).

shall acquit such persons or persons  
the guilt of whom is not then confirmed  
Gavin, Geo. C. Rogers

8. On Motion of one of the Attorneys  
for the defendants. The Court instructed  
the jury that first before Conviction  
it must be clearly shown & proven  
that the parties are guilty and that  
there is no reasonable  
doubt of their guilt. Given Geo. C. Rogers

Which were all the instructions that were  
given to the jury upon the Motion and  
in behalf of the defendants and the  
Court also makes a part of the  
record the instructions asked for by  
the Commonwealth but which were  
refused numbered, 21. 22. 23. 24. 25.  
and are as follows.

21 On Motion of Attys for the Commonwealth.

The Court instructed the jury that if  
they believe from the evidence that a  
Conspiracy was entered into by the defendants  
to obstruct the L & N Rail Road track  
so as to throw the train of cars running  
thereon from the track - that is an  
unlawful assembly and Criminal in  
its Character and if they further believe  
that said Conspiracy is do said

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manifested act was done with a view to rob. and plunder said train and passengers. and they shall believe from the evidence that such was done by them that this offence was in furtherance of the original Common design for the perpetration of which all are equally guilty who acted or done any thing in furtherance of said original design. And if they further believe from the evidence that Henry King was one of said Conspirators and that they the defendants entered in said Conspiracy and in furtherance of their Common Design. Entered into and took upon themselves an obligation that should any of them reveal the fact of their Communication or who was present at said train Robbery, that he should be killed that this is also a part of the original Common design and enters fully into the Conspiracy. and of the belief that Henry King divulged what was done and the prisoners or any one of them knew that Henry King had then disclosed the train robbery asked was the day after that information reached the prisoners killed, that the Law raises a strong presumption that said

81  
87. He is' was murdered in furtherance of  
Said Common Pleas.  
Refused Geo C Rogers.

22. On Motion of the Commonwealth the Court  
admitted the jury that if they are satisfied  
that Samuel Weaver is either of them  
spokes the truth in their evidence in this Cause  
in Said Material part of their testimony  
in which the jury. See said witnesses are  
confirmed by unimpeachable evidence  
they are authorized to believe that they  
Samuel Weaver. also spoke the  
truth in part as to which there may  
be or is no Confirmation

Refused Geo C Rogers  
23. The jury are authorized in making up  
their verdict in this Cause to take into  
consideration the Conduct & deportment  
of defendant Abraham Adams. when  
arrested, the fact that Mr. O'Brien  
loaned Said Adams his pistol for  
Saturday evening and the fact that  
Said pistol was returned by Adams  
on Monday with blood on it, and  
that Abe Adams had an opportunity  
& a motive to commit it the murder  
provided that said facts existed and  
have been proven beyond a reasonable  
doubt. Refused Geo C Rogers



24 If the jury believe from the evidence beyond a reasonable doubt that Wm. Henry Davis & Abraham Owen, John Aubrey, Joseph Payne, Charles Lupton, W. R. Hancock & Mr. Gunn, Henry Shier, and Robert Ray M. L. did on or about the 14<sup>th</sup> day of last November, come together and conspire to rob the Car. & passengers thereon and to kill any one of the conspirators who might disclose or reveal, their concerted design or designs and if they further more believe from the evidence beyond a reasonable doubt that Henry Shier did reveal or disclose any secret in ~~whole~~ violation of their agreement then adopted and in consequence thereof the Right Abraham Owen, or any of the aforesaid parties did kill & murder said Henry Shier as charged in the indictment, then the jury must find them all guilty of Murder unless it shall appear from proof that they or some of them before the killing disagreed to or dissented from said killing and then such only as they disagreed to or dissented from the killing are excused

Refused Geo. C. Davis

25- If the jury believe from the evidence beyond a reasonable doubt. That the defendants W. Perkins, Abraham Currier, Horner Currier, West John Jacob Payton, Charles Smith, John Calcutt, W. R. Williams, William Hicks & Robert Gray. M. C. in conjunction with deceased Harvey Kline took upon themselves an oath or obligation to rob the Great Road Car or passengers thereof and to kill any one of the party taking such oath or obligation in the event he disclosed or revealed the secret and further more if they behave like wise believe that the deceased Harvey Kline did disclose or reveal the secret and in consequence of which Abraham Currier or any of said defendants did kill & murder said Kline as set forth in the indictment and he was encouraged or incited to do so by the terms of said oath; Then they are all equally guilty of the killing & murder of Kline (stipulated unless their beliefs from the testimony that before the killing was perjured that some of said defendants disagreed to or

90.  
dissenters from said Milling and  
their only those who dissented or  
dissented to the Milling and their  
protected  
Refused

Yes to Rogers,  
And they the Court will have before  
it all the instructions which were  
asked by either party, those given  
& those refused. (as well as  
those given by the Court. See  
Ex parte)

Yes to Rogers (Sent)

91  
Recommendations of Kentucky set  
after full consultation with all the  
judges of the Appellate Court were  
official is referred in this case  
February 22, 1867

J. W. Wellenreuther

Judge Appellate Kentucky

After a careful examination of the  
evidence contained & set forth in the written  
record, and examined with a desire to find  
reason to extend clemency, my judgment  
is forced to the painful conviction that  
the parties were guilty of the murder for  
which they were convicted, and that  
the law should take its due course.

The killing was done by the persons  
with Mr. King's pistol furnished the  
evening before for that purpose about 7<sup>45</sup>  
& a block on Sunday morning; and  
upon concert and arrangement  
between the convicts. This is the clear  
conviction of my mind, and so clear  
that as a jurymen with full knowledge  
of the law and giving the accused all benefit  
of its humanitarianities - I should have been  
constrained to find. Pardon refused. The question of  
commuting to life imprisonment <sup>and they</sup> E. Bramlette  
have

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State of Kentucky  
 Sampson County Court. I, J. H. Baugh, Clerk  
 of the Circuit Court aforesaid, Certify that  
 the foregoing 89 pages contain a  
 full true and complete transcript  
 of the record and proceedings  
 had and used in the case

95  
mentioned in the Captain's report  
Gavin under my hand as Clerk of  
Said Court this 28<sup>th</sup> of January 1864

AM

Saml H Forline

CSB



Lincoln Illinois

11 Febury 1867.

Gen Thos E Brandette

Frankfort Ky.

Learning: That an

effort will be made to secure the pardon of Capt W P King and private Abraham Queen, convicted of murder in the Simpson Circuit Court, and being requested to state what I may know in their behalf, I make this statement.

I was Direct Col of the 52 Reg Ky mounted Infantry, W P King. Col commanded a Company in said Regiment and Queen, was a member of Capt King's Company. I know that they were both, ladies, darning, and good soldiers, obeying all orders with cheerfulness, and in all their deportment while in military service, was praiseworthy. The neighborhood in which they resided was impeded with rebel guerrilla's.

And they (Kury & Acunyo) with many  
 other Mexican men in that region  
 had were hunted down by them  
 and had before going into the Army  
 to sleep in the forests for their  
 safety. After their military service  
 elapsed, their safety was little if any  
 better, Guerrillas murderers, thieves  
 & robbers in that region were not  
 averted or prevented. And while  
 this is no excuse on the part  
 of my program for committing  
 crimes, it may be considered  
 as a reason for spending them  
 any and every of Kury & Acun-  
 yo.

S. H. Johnson

L.H. 1862. 1-2 7/10/10

Thomas C. Bramlette,

GOVERNOR OF THE COMMONWEALTH OF KENTUCKY,

TO ALL WHO SHALL SEE THESE PRESENTS, GREETING:

WHEREAS, It is represented to me that *Abram Coward* *Wm. D. King* was convicted of the crime of *Murder* at the *Commonwealth* term, 1867, of the *Simpson* circuit court, and sentenced to be hung:

AND WHEREAS, It appears from satisfactory evidence that the case of the said *Coward* *King* presents strong considerations for the interposition and indulgence of the Executive: *until after the full term of the said Court to give them the benefit of any developments on the trial by the other cases*

*Now Know Ye*, That in consideration of the premises, and by virtue of the power vested in me by the Constitution, I do hereby grant to the said *Abram Coward* *Wm. D. King* A RESPITE of the sentence aforesaid, until the *25th* day of *June*, 1867, on which latter day, between the hours of sunrise and

sunset, the judgment of death must be executed by the Sheriff of *Simpson* county, by hanging the defendants by the neck, until *they are* dead; and I direct that all officers of this State respect this Respite.

In Testimony Whereof, I have caused these letters to be made patent, and the seal of the Commonwealth, to be hereunto affixed. Done at FRANKFORT, the *14th* day of *May*, in the year of our Lord one thousand eight hundred and *67*, and in the *27th* year of the Commonwealth.

By THE GOVERNOR:

*John D. Campbell*

, SECRETARY OF STATE.

Commonwealth Office—Wm. E. HUGHES, State Printer.

*Wm. D. King* *Wm. D. King* *Wm. D. King*

Imperial City Co  
(n

Wm P King

Abram Owens  
Respite

noted

28<sup>th</sup> June/67

24 May/67

Franklin Simpson County Ky

June 22<sup>nd</sup> 1867

Gov Bramlett

Dear Sir: The undersigned Citizens of Simpson County would respectfully represent to your Excellency, that they have just learned that a most singular proceeding is on foot the object of which is to reach the clemency in your hands Constitutionally given - to be bestowed on Wm King and Abram Owens. If upon a fair and just showing they could convince your Excellency that they are unjustly sentenced to death, We would not say one word; but we are much opposed that you should act upon false facts and 'ingenious trickery'.

We have just learned that Piley Tow an important witness against what ~~that~~ are known here as the train robbers, and who defused when they were tried for the murder of one of these Confederates 'Harvey King' has just been arrested for his murder - The mode of his arrest is We understand it is exceedingly singular, viz: Our Circuit Court adjourned only two days since, the Grand Jury in session all the time, and if there was any realty in this prosecution, some effort would have been made before that tribunal to indict him, but we are advised that almost immediately after, if not before adjournment of that body (the grand jury adjourned on Wednesday) and on that day a warrant of arrest was issued by a magistrate living in the voting precinct in which the train robbers live, returnable before him and his next nearest Magistrate. The singularity in this is, that there are many Officers of the Law living in the town, authorized to issue process, writs, and Piley Tow was a witness in the undetermined case against the train robbers, and was a constant attendant on the Court, until they were enabled to continue their cases, much against the wish

of the Commonwealth's Attorney, the Commonwealth  
being ready against all the prisoners.  
Another strange affair is, that all the prisoners sought  
continuances, except King and Owens already con-  
demned, and the Commonwealth's Attorney thought  
it useless to try men that wonder the sentence of the  
Court, stood not in being - another exception should  
be made in favor of Charles Smith who pleads guilty  
and was sentenced to the penitentiary.  
He makes these statements so that you may not be  
overreached in this matter, and, after acting, you may  
not have to regret your action on the ground that  
you were not fully posted. It was on the 12th of  
November 1886, that Harvey King was killed,  
and under the guardians and protectors of his mem-  
ory no warrant of arrest was issued against his  
murderer until on Wednesday last, unless an exception  
be made in favor of the one obtained on the oath of Wm  
King against the Owens. On the morning after Owens  
was arrested as one of train robbers. We are convince  
ed in our own minds, that the arrest of Riley  
Jaw is but a trick and device to mislead  
your Excellency. We are most respectfully

Your fellow citizens,  
John Wail

W. B. Brown  
C. N. Mitchell

L. M. Moore

Joseph W. Brown

Geo. W. Maule

Chas. H. Potter

Wm. R. Lusk

Wm. B. Clark

W. G. Barker

J. C. McLaughlin  
C. E. Cummings

Wm. H. Hearn

H. G. Harris

