

etc. We do not understand that Mowrer's signature to the note was disputed. Plaintiff had a genuine note and he was entitled to the benefit of a clear understanding of that fact by the jury as the basis of his case. The issue was whether he had fraudulently altered the amount."

Judgment was reversed.

In Kelly vs. Eby, 141 Pa. 176, the defendant testified that the loan was made to her husband. The husband, then solvent, renewed the note from time to time and paid the interest, but never paid the principal. There was evidence that the plaintiff exhibited the note to her brother on the day she received it, and knew that it was the note of the husband.

In such case it was misleading and prejudicial to the defendant to instruct the jury that "if the defendant asked and received a loan of money, and, in fact, a note of the husband, then insolvent, was given to a woman ignorant of its contents, that would not change the character of the loan."

Judge McCollum, in delivering the opinion of this Court, says: "As there was nothing in the testimony to justify the inference that 'a note of the husband, then insolvent, was given to a woman ignorant of its contents,' the charge was misleading in this respect and prejudicial to the appellant."

Judgment was reversed.

The question here is not, was the death caused by the abortion? that is admitted, but was the abortion justifiable?

W. S. M'LEAN,  
J. B. WOODWARD,  
Counsel for Appellant.

We hereby certify that the cases cited otherwise than from State reports are not reported in the State reports.

W. S. M'LEAN,  
J. B. WOODWARD,  
For Appellant.

## APPENDIX.

GEORGE A. WELLS, <i>Administrator,</i> vs. N. E. MUTUAL LIFE INSURANCE CO.	}	In the Court of Common Pleas of Luzerne County, Pa.  <i>Assumpsit.</i>  No. 99, May Term, 1893.
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The above entitled cause came on for trial Dec. 7th, 1898, before Hon. John Lynch, A. L. J., and jury, in Court Room No. 2, Wilkes-Barre, Pa.

Appearances:—Hon. H. W. Palmer and Hon. J. T. Lenahan appearing for plaintiff; W. S. McLean, Esq., and J. Butler Woodward, Esq., appearing for defendant.

Jury having been duly sworn at 10:30 a. m., Mr. Palmer opens for plaintiff.

Plaintiff offers in evidence: Policy of insurance, with copy of application attached, No. 93,404, issued by the New England Mutual Life Insurance Co. of Boston, Mass., on life of Helene Roberts. Premium \$102.60. Signed by Benj. F. Stevens, president, countersigned by the secretary and assistant secretary. (Policy and application read to jury.) Policy dated 13th August, 1891.

13th August, 1891, receipt of New England Mutual Life Insurance Co., signed Benjamin F. Stevens, president, countersigned by William C. Conover, agent, for premium on policy No. 93,404, life of Helene Roberts, \$102.60, paid in cash Sept. 5th, 1891.

13th August, 1892, receipt similar to above, \$102.60, less distribution \$11.20, amount paid in cash \$91.40; counter-signed and paid for August 25th, 1892.

28th November, 1892, letters of administration granted to George A. Wells on the estate of Helene Roberts, late of Wilkes-Barre, Luzerne County, Pennsylvania, deceased, together with certificate of Register.

On notice to defendants death proofs furnished the company are produced, dated 8th day of December, 1892. These are offered to the Court.

George A. Wells sworn for plaintiff.

Examined by Mr. Palmer:

Q. You are administrator of the estate of the late Helene Roberts? A. Yes, sir.

Q. When did she die? A. I think it was in the year 1892, in November.

Q. (By defendant's counsel.) Do you know what date? A. I don't remember the date.

Plaintiff's Counsel: I think the proofs of death show the date to be 26th November, 1892.

Cross-examination.

By Mr. McLean:

Q. You are an insurance agent, and were at the time this risk was taken? A. Yes, sir.

Q. You placed this risk in this company, did you not? A. Yes, sir, I did.

Q. You were not at that time the agent of the company? A. No, sir, I was not.

Q. You didn't place this risk in this company at the application of Helene Roberts, did you? A. Not exactly at her application. She wished to be insured. My own company do not write ladies, and I had been in the habit of placing ladies in this company.

Q. F. V. Rockafellow was the first one, he asked you

to put this risk in this company, didn't he? A. I think he asked me that first, yes, sir.

Q. Helene Roberts never asked you? A. No.

Plaintiff rests at 11:35 a. m.

Mr. Woodward opens for the defendant.

Defendant's counsel offer in evidence, the deposition of Dr. John B. Crawford taken in pursuance of a rule of Court before James L. Morris, commissioner, on the 31st of July, 1893, and filed in the prothonotary's office of this Court January 4th, 1894, after notice to the plaintiff in accordance with the court rules.

Deposition read to jury, as follows:

J. B. Crawford, being produced, sworn and examined on the part of the defendant, deposes as follows:

Q. What is your residence and occupation, doctor? A. My residence is Wilkes-Barre, that is my home; spend my summers up here (Harvey's Lake.) I am a physician and surgeon.

Q. How long have you practiced in the profession in Wilkes-Barre? A. Twenty-three years in Wilkes-Barre -- forty-three in Wilkes-Barre and vicinity.

Q. Did you know Helene Roberts in her life time? A. I knew her the last few days of her life. I knew her by reputation before, but did not know her personally until called to attend her.

Q. Whether or not you attended her in her last sickness? A. I did.

Q. Whether or not you made out the proofs of death for the New England Mutual Life Insurance Company? A. I made an affidavit stating the facts of her case and all that, I think at the solicitation of George Wells, but some one interested in an insurance policy which she held. I don't recollect just who it was; I think it was Mr. Wells.

Q. What did she die of? A. I say she died from the effects of an abortion.

Q. What is the medical term for the —? A. To be

specific. I say she died of septicaemia, or blood poisoning, the result of blood poisoning.

Q. What is an abortion? A. Abortion is a premature delivery of a woman who is pregnant.

Q. Do you know what caused the abortion in the case of Helene Roberts? A. I know only from the statement which she made to me, and such other reasons as I have become cognizant of since, but my opinion I formed chiefly from the statement made to me as well as the condition in which I found her.

Q. What in brief was the statement made to you by her regarding her condition? Just tell us the conversation.

A. I was called to her, I think, the 24th of November—I believe that was the month and the date. I will just see, as I have it in my memorandum—on the 24th of November; on the night of the 23rd and 24th, sometime, I was called to see her at her boarding house, and I recognized the fact, upon going into her room, that she had recently been delivered, and she was in what we call “puerperal” condition. I recognized that from the odor of the room, which is unmistakable. I told her at once that I recognized the condition she was in and that she had recently been delivered, and that she had an abortion. I asked her if she was a married woman. She told me she was not married, but expected to be. I cannot recollect all the conversation that took place, but I recognized the fact, or what I regarded the fact, that she was certainly going to die, and told her that her condition was such as in my opinion precluded all hope of recovery. She said, “Oh, no, I am not going to die. I have had as many as six abortions, or had an abortion produced as many as six times, and I have always gotten well, and I will now.” I told her I thought no woman ever recovered from the condition that she was in then. Her temperature was very high, I think as high as one hundred and five or six. I don’t recollect exactly. It was very high. Her pulse was very rapid—between 140 to 150 per minute. She had general and severe peritonitis. The abdo-

men was greatly distended. I told her I didn’t wish to be unnecessarily inquisitive—that she could do as she pleased about revealing to me or to others the circumstances, causes of her present condition; how or by whom the abortion was produced or procured. She said she would not tell me then, but would tell all about it when her mother came. I told her that I thought it important that I should know at least by what means and when the operation—she told me in the meantime that she had undergone an operation, she had an abortion—I told her that I thought it important that I should know by what means and when and where the operation was performed. She told me that it was not done in this town (that means in Wilkes-Barre); that it was done in Nanticoke one week, I think, or about one week, prior to that time; that it was done by the insertion of an instrument into her womb. She told me, too, that several previous attempts had been made by the same person to produce the abortion; that those attempts had failed. At the time she mentioned (a week before) she had again visited the abortionist, and that he then performed a different operation—that he did what he called dilating her womb, that is, introduced in and forced it open. She told me, too, that he hurt her very much, caused her very much pain in that operation, and wanted to know if I didn’t think he had made a botch of it (to use her own words.) I told her that he evidently had; at least the result was very bad, and that she was going to die. She wanted me to make every effort to make her comfortable and relieve her and cure her. She seemed to be very hopeful that she would get well. I treated her according to the usual methods—established methods for treating diseases of that kind; but she grew worse steadily. I attended her a number of times that day—during the 24th—and also on the 25th. She continued to grow worse. I was satisfied that she was going to die, and asked her again—spoke to her perhaps several times during the attendance in regard to making any statement. I told her I thought she would certainly die; that if she wished to see a clergyman; if she wished to expose to the

authorities the author of her death, that she could inform the authorities. She then expressed a desire to see a clergyman, and I think Dr. Boyle was called in—a Methodist minister. I told her further that it was a crime that ought to be exposed; it was criminal in the party to do it. I regarded it as criminal myself to keep from the authorities the knowledge, the fact, that such a crime had been committed; and that while I would do everything that I could to make her comfortable and restore and save her life, that I was unwilling to be the custodian of criminal knowledge or criminal secret; that it would be necessary for me to acquaint the authorities with the fact that this crime had been committed, which I did. I think that was on the 25th. On the morning of the 26th she consented to a consultation which I previously requested. I called in Dr. Guthrie and Dr. Murphy. They informed her, as I had done, that she would not get well. At that time I think she was satisfied that she would not recover. She repeated the statement there that she had undergone an abortion. She died on the 26th. That was the last I saw of her. The coroner took charge. The post mortem was made, as I understood; Dr. Kirwin took charge of the performance. An inquest was held, and I stated before the coroner as I have stated here—the facts I have stated here. Dr. Kirwin related the observations that he made at the post-mortem. Dr. Stoeckel, a lady physician, who has an office in Wilkes-Barre, Franklin street, had attended her before I saw her, but was absent from the city when I was called.

Q. Did you attend the coroner's inquest? A. I did.

Q. Did you take any part in the inquest? A. I gave testimony.

Q. You testified? A. Yes.

Q. Substantially as you have here? A. Substantially as I have stated here.

Q. Did you examine any of the witnesses? A. I requested of the coroner the privilege, or asked if he would allow me to ask a question or two of Dr. Kirwin. And Dr. Kirwin stated the condition in which he found the womb

of this woman. I asked Dr. Kirwin whether in his opinion it would be possible for any woman to recover from the condition in which he found that womb, or whether the injuries and lacerations and the accumulation of pus as he described as having been in the womb would necessarily result in death. He said he thought it would be impossible for any one with the womb in the condition in which he found that.

Q. Did you question him as to what caused the abortion? A. No, sir. I heard his testimony in regard to the condition, having found the womb lacerated and torn, evidently by violent means, and the question that I put to him was predicated upon that statement which I had heard him make.

Q. Did he testify as to the cause of the abortion from his examination of the womb? A. Well, I don't think that—so far as he could he stated the condition in which he found the womb. He said he found it was torn, badly lacerated. I think he described three distinct lacerations in the neck of the womb. He said there was a pocket of pus—accumulation of pus in the womb; that the condition of the womb bore unmistakable evidence of abortion. I asked him whether he found the spot of placental attachment, that is, the spot in the interior of the womb to which the placenta was attached. He said he did. That we regard as an unmistakable evidence of recent abortion and recent delivery, but it is an unmistakable evidence of recent delivery whether abortion or birth at full term.

Q. Could the lacerations of the womb as described by Dr. Kirwin have been produced by an abortion other than a criminal abortion? A. Well, perhaps, that may be a hard question to answer. Lacerations of the womb sometimes occur from spontaneous delivery, but usually not at an early period, at full time. Where the foetus is large the womb is sometimes ruptured, but I don't think that in delivery at an early date. I would say, however, if it is proper, that the condition, the lacerations that Dr. Kirwin described would correspond fully with the description which she

gave to me of the operation that had been produced—the violence that was done to her womb at the time of the operation.

Q. How long had she been pregnant when the abortion occurred? A. I don't know; I didn't see the foetus, didn't see the womb, and consequently have no knowledge from which I could fix that term.

(Signed) John B. Crawford."

Dr. Louise Stoeckel sworn for defendant.

Examined by Mr. Woodward:

Q. Where do you reside? A. No. 26 North Franklin street, this city.

Q. How long have you been practicing medicine in this city? A. I have been a practicing physician since 1890.

Q. What institution are you a graduate of? A. The Women's Medical College of Philadelphia.

Q. Did you know Helene Roberts, the insured in this case? A. I knew her as a patient.

Q. When did you last treat her? A. I think perhaps about a year and a half previous to her death.

Q. Whether or not she was a patient of yours off and on after that until the time of her death? A. Occasionally she was a patient.

Q. Was she married or single? A. Single.

Q. Did you know her age? A. Twenty-six she told me.

Q. What was her physical condition at the time of her death?

Plaintiff's Counsel: We object, and ask what is proposed to be proved by this witness.

Defendant's Counsel: We propose to prove by the witness on the stand that she treated Helene Roberts in her last illness. That she delivered the foetus in this case, and what the age of the foetus was. That the insured was, as to her physical formation, normal, and that her condition was good before this operation.

Plaintiff's Counsel: On what theory do you offer that testimony?

Defendant's Counsel: To be followed by expert testimony to the effect that under those circumstances an operation for abortion was unlawful.

Q. (By plaintiff's counsel:) Whatever information you got of the condition of Miss Roberts you obtained as her attending physician, I suppose? A. Yes, sir.

Plaintiff's Counsel: We object to the testimony on the ground that it is forbidden by the Act of 18th June, 1895.

The Court: Was the information which you received at that time necessary to enable you to act in your capacity as a physician? A. It was.

The Court: The opinion of the Supreme Court in this case has been submitted to us on this trial, and while this court has the greatest respect for the authority of the Supreme Court, and will always obey it, still this court, until it is further instructed by the Supreme Court in this matter, is of the opinion that this matter was not passed upon by the Supreme Court, and for that reason we sustain the objection. Exception noted for the defendant, bill sealed.

Court adjourned to two o'clock this p. m.

Now, two o'clock p. m., court met pursuant to adjournment.

Mrs. Catharine Harvey sworn for defendant.

Examined by Mr. Woodward:

Q. Where do you live? A. 65 and 67 Public Square.

Q. Where were you living in 1892? A. 65 and 67 Public Square.

Q. You were keeping a boarding house there, were you not? A. Yes, sir.

Q. State whether or not Helene Roberts boarded with you? A. She did.

Q. Were you present when Mr. Whalen and some other



gentlemen called upon her the morning of the day she died?

A. I was present, I am not positive it was the day she died, but I was present one time when Mr. Whalen and two other men called. I didn't know the other gentlemen, but Mr. Whalen was one.

Q. That was shortly before she died, wasn't it? A. Yes, sir.

Q. Just state what was said there at that time. A. As nearly as I can remember Mr. Whalen said —

Q. (By Plaintiff's Counsel.) Who was there? A. Mr. Whalen and the two men, and Mrs. Roberts.

Q. (By Plaintiff's Counsel:) Mrs. Roberts? A. Yes, sir; Helene Roberts's mother.

The Court: Mr. Whalen, two gentlemen, and Mrs. Roberts? A. Yes, sir. And the nurse. I have forgotten the name of the nurse.

Q. Mrs. Roberts was her mother? A. Yes, sir.

Q. (By Plaintiff's Counsel:) Was Helene Roberts there? A. Helene Roberts was there.

Q. State what was said. A. Mr. Whalen came in and said as nearly as I can remember, "you are now about to die, about to appear in presence of the Almighty God, and will you tell me the name of the man that is responsible for your difficulty, and also the name of the doctor that performed the operation." She raised herself up and said "you are a brute, leave the room."

Q. What else did she say, if anything? A. She said "the man who is responsible for my condition, I love him yet; and the doctor, I sought him, I pleaded with him and begged him to help me, I will never tell you."

Q. Did she say anything else? A. Well, he said, repeated it again, something as he had said before—"you are about to appear in presence of the Almighty God, etc."

Q. He told her she was going to die? A. Yes, sir. And she said "Oh, shaw, I am not going to die; I have had this done two or three times before."

Cross-examination.

By Mr. Palmer:

Q. She was very ill at that time, was she? A. Very, very ill.

Q. How was it before she died? A. Well, I cannot remember. I was in a very nervous state, I was almost beside myself to think that it happened there in the house I had up to then for hours before supposed she was suffering from pneumonia. I hadn't the remotest idea of what was the matter with her.

Q. She was a very sick girl? A. She was very sick, and her arm was paralyzed at that time, I was rubbing her arm.

Q. This man over there, this large, able-bodied, red-faced gentleman — A. That is Mr. Whalen. He is the only one I know of the three gentlemen.

Michael Whalen sworn for defendant.

Examined by Mr. Woodward:

Q. You live in this city? A. Yes, sir.

Q. You have lived here how long? A. Since 1883.

Q. What position did you hold in 1892 in this county, what official position? A. County detective.

Q. What were your duties in that office? (Objected to, as of no consequence.)

Q. State whether you knew Helene Roberts? A. Well, I saw her only on the street, except the time I was sent there on this case.

Q. State whether you were present at this interview that Mrs. Harvey has just described? A. Yes, sir.

Q. How did you come to go there? (Objected to as immaterial and irrelevant.)

The Court: You may show that he went there as an official.

Q. State whether you went there as the detective of the county? A. Yes, sir.

Q. Who sent you there? (Objected to as immaterial.)

Defendant's Counsel: We propose to show by the witness on the stand that he visited the boarding house of Helene Roberts in his capacity as county detective and at the request of John M. Garman, the district attorney of Luzerne County at the time, with instructions from the district attorney to get information from Miss Roberts as to who performed the operation, and who was the person who was responsible for getting her into her trouble.

Plaintiff's Counsel: We do not object to their showing he went there in his official capacity, but we do object to their showing by whom he was sent, or what instructions were given by the person that sent him.

The Court: The first part of the offer, viz.: that he went there in pursuance of instructions or at the request of the district attorney, is allowed; the last part, as to what the instructions were, is disallowed.

Q. You can answer, Mr. Whalen. Who sent you there? A. The district attorney.

Q. What was his name? A. John M. Garman.

Q. Who went with you? A. Squire Davison, and P. A. O'Boyle, the assistant district attorney.

Q. Who was Squire Davison? A. This old gentleman over there.

Q. What was his position? A. He was an alderman in this city here.

Q. State what was said there by you and by Helene Roberts. A. Well, I tried to find out—(Objected to.) I asked her who had performed this operation, as I called it, and she would not tell me, and I tried to plead with her to tell me who it was. She would not tell me who they were or anything about it. She said they were too near and dear to her, and she would not tell me.

Q. Did she say anything else? A. Well, she said she had that done several times before, that she would get over it.

Q. Did you tell her you were the county detective sent there by the district attorney? A. I did.

Cross-examination.

By Mr. Palmer:

Q. And she told you you were a brute, didn't she, and to get out? A. She was pretty angry at me. I couldn't swear to that.

Q. You heard Mrs. Harvey testify here, didn't you? A. Yes, sir. That is the first time I remember it since. That is the first time I remember anything about it since.

Q. You couldn't recall a little common thing like that, being told by a woman you were a brute? A. Oh, I am used to that, by people I was looking to find out things from.

John N. Davison sworn for defendant.

Examined by Mr. Woodward:

Q. You are a justice of the peace here in Wilkes-Barre? A. Yes, sir.

Q. You were a justice of the peace in 1892? A. Yes, sir.

Q. In November? A. Yes, sir.

Q. State whether you went to call on Helene Roberts with Whalen and Mr. O'Boyle? A. I did.

Q. Shortly before she died? A. On the morning of the day she died in the evening.

Q. Who told you to go there? What did you go for? (Objected to.)

Q. At whose request did you go to the boarding house of Miss Roberts? A. Michael Whalen came after me and said there was a woman died —. (Objected to.)

Q. What did he briefly ask you to do? (Objected to.)

Q. At whose request did you go to Miss Roberts's house? A. The county detective, Whalen.

Q. What did you go there for? (Objected to as immaterial and irrelevant. The question is what happened when he got there.)

Defendant's Counsel: This witness went there for the purpose of taking down the conversation of this woman if the testimony was such as to incriminate anybody in this matter. That is the purpose he went there for. I think we have a perfect right to show it and why he went there, what he was there for.

The Court: You may show he went, and what he did when he was there.

Defendant's Counsel: We will not press the question now.

Q. Now state, Squire, what was said there at that time.  
A. There were several persons around her bed. Michael Whalen stood at the foot, and Peter O'Boyle was there. I sat on one side of the bed and Dr. Stoeckel and one or two other women were there, and Michael Whalen and Peter O'Boyle was urging — (Objected to.)

Q. Tell what was said. A. Michael Whalen asked her who the person was that got her in trouble, and she refused to —.

Q. (By Plaintiff's Counsel:) What did she say? A. She did not give any name, And either Michael Whalen or Peter O'Boyle asked her who had performed the operation upon her, and she would not tell. And Dr. Stoeckel reminded her that she was a very sick woman, and that she would likely die. She answered that this was not the first time it had been done to her, and in answer to the question who got her in trouble she said the man was near and dear to her, and she would not give the name.

Cross-examination. No questions.

Dr. Louise Stoeckel recalled for defendant.

Examined by Mr. Woodward:

Q. Doctor, you were present at this time when Whalen and Davison and Mrs. Harvey and these gentlemen were present and told about? A. Yes, sir.

Q. State what was said there as you recollect it. A. Mr.

Whalen urged her to tell him who performed the operation, and she refused. That is about all I remember about it just now.

Q. Do you remember anything being said about her going to die? A. Yes, sir, Mr. Whalen told her that she would probably die, and she turned to me and said "that is not so, doctor, is it?" I told her yes, she probably would die, that she was very ill; and she said no she would not die, that this had been done before and she had always recovered.

Cross-examination:

By Mr. Palmer:

Q. You were there at the same time Mrs. Harvey spoke of, were you not? A. I don't remember of Mrs. Harvey being there then.

Q. You don't remember that she was present at the conversation that you heard? A. I do not.

Q. Then these men must have been there either before or afterward when Mrs. Harvey was there, urging this woman to tell something? A. I thought they had not been there before they saw her then.

Q. The conversation you were present at did she raise up and say to Whalen "you are a brute, get out?" A. I didn't hear that.

Q. Then if that occurred it must have been at some other time? A. Yes, sir.

Redirect-examination.

Q. State all the persons that you can recollect that were present there at that time? A. There was Helene Roberts, and her mother, and the nurse, and Mr. Whalen and Mr. O'Boyle, and Squire Davison and myself.

Q. At whose house was it? A. At Mrs. Harvey's.

Q. Where does Mrs. Roberts live, Helene Roberts's mother? A. In Rowena, Ohio, the last I knew of her.

Plaintiff's Counsel: While we are entirely satisfied with



the ruling of the court this morning, still we do not want an exception on the record in this case, and compel us to again go before the Supreme Court. We withdraw our objection to the testimony of Dr. Stoeckel, and the exception, and if the defendants say they desire Dr. Stoeckel to testify, they may call her and have her testify.

Defendant's Counsel: The withdrawal of the objection to the testimony of Dr. Stoeckel is objected to by the defendants because when the court adjourned at noon the physicians, who were subpoenaed by the defendant as experts to give their testimony, which was to have been based upon Dr. Stoeckel's testimony, to which the plaintiff objected, and which objection they now withdraw, were told that they need not return in the afternoon because Dr. Stoeckel would not be permitted to testify, and their testimony could not be used because it would be based on Dr. Stoeckel's.

Plaintiff's Counsel: We now ask the names of the witnesses who were here in court and were notified not to be here, as we think they can be reached in fifteen minutes, if there were any witnesses here.

Defendant's Counsel: Dr. Stewart was here, Dr. Bullard was on his way here, we telephoned for him. We saw Dr. Guthrie at recess and he said he would be here at two o'clock if we wanted him, and we stated we did not want him.

The Court: The plaintiff having withdrawn his objection, and no other objection being made to the proposed testimony of Dr. Stoeckel at this time, the ruling is withdrawn.

Dr. Louise M. Stoeckel recalled for defendant.

Examined by Mr. Woodward:

Q. You attended Helene Roberts in her last sickness?

A. I did.

Q. You were there shortly after the foetus was expell-

ed? A. Yes, sir.

Q. What was the age of the foetus? A. About three months.

Q. How was Helene Roberts as to her physical formation so far as you know as her physician?

Plaintiff's Counsel: What is the purpose of the question?

Q. You did not assist in the removal of the foetus? A. No, sir.

Q. The foetus was this embryo child, so the jury will understand? A. Yes, sir.

Q. It was about three months' growth? How old was that foetus? A. About three months.

Q. Now, did you examine Miss Roberts, did you examine the womb? A. Yes, sir.

Q. Or the vagina? A. I did.

Q. At that time? A. Yes, sir.

Q. What examination did you make of the vagina and of the womb, or any other examination you made at the time? A. I made a digital examination, or with my hand —.

Q. Tell us what you discovered from your examination upon the vagina, or the womb, lacerations or otherwise? Tell us what you discovered? A. There was a high degree of inflammation of the womb and its surrounding parts. There was a laceration of the neck of the womb. That was all —.

Q. Did you examine the foetus with reference to its displacement from the placenta? A. It was expelled before I reached there and there were no placental membranes attached to it. There were none of the placentums attached to it.

Q. Did you discover or did you make an examination of the points of the foetus that had been attached to the placenta? A. No, sir.

Q. Tell us what the placenta is? A. The surrounding membranes, the membranes surrounding the foetus and at-

tached to the womb through which the foetus receives its nourishment from the mother.

Q. One end of the placenta is attached to what? A. To the umbilicus —.

Q. And the other end? A. The whole side of the placenta is attached to the womb.

Q. It is generally four or five inches in diameter and about half an inch thick? A. Not so early quite at three months.

Q. At three months about what would be its size? A. Perhaps three months scarcely so large as three inches in diameter.

Q. What keeps the foetus in the womb is that placental attachment is it not? A. Yes, sir.

Q. That is what fastens the foetus to the umbilicus? A. Yes, sir.

Q. Did you notice that displacement, that detachment of the placenta from the foetus, whether it had been recent or not? A. I didn't look for that at all. I merely looked to see whether the foetus had been expelled and the size.

Q. How did you make this examination, with your hand? A. With my hand.

Q. What was the character of these lacerations at the mouth of the womb from your examination with your fingers, touching it? A. The sides were torn asunder, really rent. Two or three rents in the neck of the womb.

Q. What were these lacerations made with if you know from your examination? A. They might have been made with an instrument. They might have occurred from the expulsion of the foetus, although I think scarcely so large, the lacerations might not have been so extensive from the size of the foetus.

Q. They were extensive lacerations you say. About what was the length of the longest laceration that you discovered? A. There was so much inflammation there, so much swelling that it was very hard to tell how extensive they might have been. They might have been half an inch or less or more, I am not certain about that.

Q. Where was Miss Roberts when you were asked to call upon her, where did you find her? A. At Mrs. Harvey's house, 65 Public Square.

Q. When had you seen her before? A. Some weeks before I saw her in Long's store.

Q. When had you medically treated her before? A. Perhaps six months before.

Q. Were you at the coroner's inquest? A. I was not. Yes, I was.

Q. You were at the coroner's inquest? A. Yes, sir.

Q. Did you make an examination there of the foetus or of the body? A. At the coroner's inquest?

Q. Yes. A. I understood the inquest was held here in the court house, wasn't it? The autopsy was at Mrs. Harvey's house.

Q. Were you present at the autopsy? A. No, sir. I was not.

Q. Did you discover in your examination any malformation of the womb? A. I did not discover any. As I said before there was so much swelling that it would be difficult to determine anything of that sort at that time.

Q. I ask you again now, what in your judgment caused these lacerations that you felt at the mouth of the womb? (Objected to, the witness has answered that fully.)

The Court: I understood the witness to say it might have been done by an instrument or by the expulsion of the foetus.

Q. In your judgment and opinion as a physician how was it done?

Plaintiff's Counsel: We object. It would be proper to inquire whether she made an examination which would be sufficient to enable her to give an opinion on this subject.

Q. State whether or not from the examination that you made there you can give an opinion in your judgment as to the cause of these lacerations, how they were made? A. As I said they might have been made by an instrument or

by the expulsion of the foetus, in certain conditions of the neck of the womb I think they might have been made by the expulsion of the foetus.

Q. Did you find such conditions in this womb so they might have been made by the expulsion of the foetus? A. At that stage I think it would have been impossible to tell that.

Q. How big was the foetus, how much did it weigh about? A. Its length was about three inches or three and one-half inches. I am not certain of the weight.

Q. What in your judgment and opinion from the examination that you made there was the cause of these lacerations; not what might have been, but in your judgment what was the cause? (Objected to; the witness has fully answered the question twice.)

The Court: The Court understood the witness did answer the question; but for fear that she did not she may answer it again.

Q. What I want to know from you is this: What in your judgment caused these lacerations, not what might have caused them, but what in your judgment and opinion as a physician caused these lacerations? A. When I gave you my answer I gave you my answer as a physician, and I cannot change that.

Q. Now, what probably caused these lacerations, if you can tell? (Objected to.)

Q. What in your judgment and opinion caused these lacerations? (Objected to, the witness has answered it.)

The Court. It seems to me that the witness has answered the question. As I understood Dr. Stoeckel, she stated that owing to the inflamed condition of the parts at that time it was impossible for her to answer.

Q. Is that what you mean, that owing to the inflamed condition of the neck of the womb and of the parts that it would be impossible for you to give the cause of the lacerations? A. As a physician, yes sir.

Q. As a physician, of course. Could you give it as an individual, and not as a physician? (Objected to.)

Q. And that is what I understand, that on account of the diseased condition of the neck of the womb and the other parts that it would be impossible for you to give the probable cause of the lacerations? A. Yes, sir.

Cross-examination.

By Mr. Palmer:

Q. Had this foetus been quickened in the womb, that is, had the mother felt motion? A. No.

Q. Whether from anything you discovered there there was or was not any good medical reason for this operation? Whether you could tell, if there was an operation performed on this woman, whether she had a good reason for it? Could you tell that or couldn't you? A. I couldn't tell that.

Q. Now, there are cases in which abortions are procured in order to save the life of the mother, are there not? A. Yes, sir.

Q. And physicians of regular standing, and of good repute, do it? A. Yes, sir.

Q. And it is regarded as perfectly proper and professional is it not? A. Yes, sir, to save the life of the mother it is done.

Q. What are some of the reasons and some of the cases in which such an operation is resorted to in order to save the mother's life? A. It might be advanced heart disease, kidney disease, malformed pelvis, and several others.

Q. And in such cases as those you have mentioned it is regarded as perfectly professional to do the act? A. It is considered the proper thing to do.

Q. And the necessary thing to save the mother's life? A. Yes, sir.

Q. Have you got a medical work that has a drawing that will show the appearance of the foetus at three months? A. Yes, sir.