

The State of Alabama { Fall Term 1892.  
 Maddy Carpenter }

leaves the defendant by his attorney and moves  
 the court to set aside the verdict for  
 100 Accident and Surprise. On this, that on the preliminary  
 examination of this cause had before Justice W.R. White by  
 whom defendant was bound over, there was introduced by  
 the prosecution in evidence and filed with the papers in  
 this cause & sent up to this Court a certain letter of which  
 the following is a copy

" Brewton Dec. 2<sup>nd</sup> 1891.

Mr R. E. Corry

Dear Sir:

" I reported Cora that was killed between 157 and 158 on  
 " on about Sep. on boat First of Oct. was killed shortly  
 " after stolen charge of Dec. 20 and I had talk with  
 " Mosey Carpenter about this and he said it belonged  
 " to one of his aunts and to my best. I can remember  
 " I reported to Miss M. H. Carpenter though might have  
 " been mistake in reporting this. I don't think I did as  
 " you say you never have received report of this. I  
 " don't think I did the agent report at Bay Minette  
 " will show how I reported this Cora for I never re-  
 " ported but one Cora and nothing else outside of  
 " this Cora in Carpenters names and I think when  
 " you look at Agents report at Bay Minette you will see  
 " I am right in the same

+ + + +

(Signed) C. W. P. Price

That said letter was in C. W. P. Price's original hand  
 writing who in his testimony expressly denied that  
 defendant or any of his family had made a  
 claim for stock through him at any time  
 recently prior to December 1891.

That one of defendant's counsel who had attended  
 his preliminary examination as aforesaid, and had  
 made and kept a copy of such letter and  
 had given notice to the Solicitor at least a  
 day prior to defendant's trial in this Court  
 to produce said original letter, during  
 said trial applied to the latter Solicitor  
 for said original letter, whereupon there

There the Solicitor by mistake handed him  
 a letter of the same date addressed to the  
 same party and signed by the said Price  
 which was other than the letter asked for  
 and by such mistake the wrong letter was intro-  
 -duced in evidence and to the great surprise  
 of her said Counsel was not discovered until  
 reading the argument and too late to justify  
 Your Honor to allow said mistake corrected against  
 the objections then and there made by the  
 Solicitor when asked before the retirement of  
 the Jury to allow the same corrected.

That said letter or executed virtual fault of  
 Counsel but by mistake, was greatly prejudicial  
 to defendants Cause because it was a direct  
 contradiction of said Price witness whose testimony  
 defendants could not have been contradicted.

2<sup>nd</sup> Because the Court erred in refusing to  
 two charges numbered <sup>+</sup> as of file.

The Solicitor

Counsel

John R. Tappan

for motion

~~At~~ Dec 1<sup>st</sup> 1892

Overruled