

In the 7th District Court County of
Napa and State of California

The People

^{vs}
E. J. Maybidge

Dennis Spencer being
duly sworn on his oath says
that one George Wolfe a witness
subpoenaed to attend and testify on
this trial on the part of the prosecu-
tion has failed to appear and is
not in attendance, that a subpoena
was regularly served upon said witness
several days ago in the County of
Sonoma and near the boundary
line between said County and Napa
County, that affiant has been informed
by E. D. Broomall the officer by whom
said subpoena was served that at
the time of service the said witness
was sick in bed suffering with
measles, and affiant is informed
and believes that said witness has
been prevented from attending this trial
by said sickness and that he is
not able to come to Court such due

suggested to his health and safety.

That said George Wolfe is a necessary witness, and his testimony is material for the prosecution and without it affiant cannot with due regard to the rights of the people go to trial. That said witness was sworn and examined before the grand jury, and his name is endorsed upon the indictment in this case, that affiant has heard the said witness testify under oath before the grand jury and has also conversed with him as to his knowledge of matters involved in this case and affiant knows what the testimony of said witness would be and therefore says that the same is material. That there is no other witness by whom it is possible to prove the facts which said witness will testify to as the testimony of the witness relates to what took place when the defendant and witness were alone.

That the said witness is now within the jurisdiction of this Court and will be able to attend and testify within a few days and probably before the time limited for the term of this Court

shall have expired and certainly at
some later day to which the Court
may be adjourned or at the next
regular term of this Court.

That the testimony of said witness
if present would be as follows

My name is George Wolfe. I was
employed on the 17th day of October
1894 by a H. Connolly in his Mining
State at Calistoga. My age is about
twenty one. On the night of October
17th 1894 after the train had arrived
at Calistoga from Valley about
nine o'clock I was directed by Mr
Connolly to drive a gentleman from
Calistoga to the Yellow Jacket Mine.
The gentleman I did not then know
he is the defendant and my bridge on
trial in this case. I drove the
defendant from Calistoga to the
Yellow Jacket Mine to the residence
of W. A. Stuart in a vehicle drawn
by two horses that night, and arrived
there about half past ten o'clock.
On the journey I did not notice
any thing strange in the ^{his} manner or

appearance or conversation, there was
nothing in either which excited my
attention. I noticed no excitement or
nervousness and his conversation was
natural and rational so far as I
knew. On our way defendant said
to me that he would give me five dollars
if I would get to the Yellow jacket
mine before Mr Stuart. I told him
it was impossible as Mr Stuart had
a half hour the start of us. As
we were riding along defendant asked
me if there was any danger of being stopped
by Robbers. I told him no I had driven
there often and such a thing was not
thought of. He asked me after the
 lapse of ^{some} little time whether it would
bear the horses if he fired his pistol off.
I told him no and he discharged his
pistol. The defendant ^{asked} me what
Larkin was doing now. I told him I
believed he was making a snap of some
mines. He said that he would give
him ^{This was not said in a manner that implied any hostility to Larkin but in a quiet way and did not make me suspect anything.} an unexpected meeting. When
we reached Stuart's defendant got out
and left me in the vehicle and I
turned the horses round. It was then
that the shooting of Larkin took place

that indeed
to my mind

and immediately afterwards

the 24th Decr-
Carrington & Co
Co. Secs.

Offered for
Continuation by
Providence :-

Filed May 3rd 1875
C. H. Dickey
Clerk