3. MENTAL WEAKNESS OF PROSECUTRIX — CONSENT.— The evidence showed that the prosecutrix, while mentally weak, was not insane, but was able to attend to her household duties. About dark defendant entered her house, dragged her out, despite her resistance and protests, placed her in a wagon, which was driven by another man, lay down with her and covered her and himself up with a tarpaulin. After driving for some time, they stopped at a saloon about two hours, prosecutrix remaining in the wagon in a state of apparent unconsciousness. Defendant then had intercourse with her. She appeared during all the time to be dazed, and was in an advanced state of pregnancy. After delivery she became insane, and hence unable to testify. *Held*, that though it did not appear that she resisted or that force was used when intercourse was effected, the evidence showed want of her consent; as resistance and force are only facts bearing on the question of consent, and, in case of mental weakness, less evidence of want of consent is necessary than where the female is of sound mind. *State v. Cunningham*, 669.

4. ASSAULT WITH INTENT — FORCE — INSTRUCTION.— Penal Code of Texas, article 529, having defined "force," for the purpose of a prosecution for rape, where the use of force is relied on for a conviction, as much as may reasonably be supposed sufficient to overcome resistance, taking into consideration the relative strength of the parties, and other circumstances of the case, an assault with intent to commit rape by force can only be committed where there was an intent to use the amount of force indicated by such statute, and in a prosecution for such an assault the failure of the court to so charge is error. *Brown v. State*, 677.

5. HUSBAND GUILTY WHO PROCURES ANOTHER TO COMMIT.— A husband who, by threats of death, constrains another to attempt to ravish his wife, is guilty of an assault with intent to commit rape. *State v. Dowell*, 681.

6. SAME — INDICTMENT.— On an indictment against a husband for assault with intent to ravish, it cannot be objected that there was no criminal intent where it appears that he, by threats, compelled another to attempt to ravish his wife. *Id.*

REASONABLE DOUBT.

A doubt that would cause one to pause and hesitate is, if fairly derived from the evidence, a reasonable one within the meaning of the criminal law, and an instruction to the jury that "it is such a doubt as would influence or control you in your actions in any of the important transactions of life" is erroneous. *Com. v. Miller*, 619.

See ASSAULT WITH DEADLY WEAPON.

RECEIVING STOLEN GOODS.

1. INDICTMENT — ACCESSORY.— A count in an indictment for larceny, which charges that defendant was an accessory before the fact,— that is, that he procured certain others to commit the larceny for his benefit,— is not prejudicial to defendant, as such charge is embraced in a count for larceny. *Sanderson v. Com.*, 687.

2. JOINDER OF OFFENSES.— In Kentucky a count for receiving stolen goods may be joined with a count for larceny. *Id.*

3. Where one partner, without his copartner's knowledge, receives stolen goods, knowing them to be stolen, and his copartner, afterwards learning of the theft, takes charge of the stolen goods, both are guilty of receiving stolen goods. *Id.*

4. INSTRUCTIONS AS TO KNOWLEDGE OF DEFENDANT.— An instruction that if the person who stole the property placed it in defendant's house