

A student introduced himself to me after class, remarking that he was from California but that I was not like the "Mexicans" he had known there. Ha, I thought, I (my mask) fooled you.

But perhaps my memory has played tricks with me. I decide to look for the casebook and reread the case. I'm surprised, after years of thinking about this case, to learn that her name was Josephine and not Josefina. My memory has distorted her name exaggerating, for me, her ethnicity, her differences.

The facts in the opinion are even more tragic than I remembered:

The defendant was an unmarried woman about 21 years of age. She has previously had an illegitimate child, and at about 12:30 A.M. on March 31, 1946, she gave birth to the child here in question. She lived with her mother and sisters in a small house having two bedrooms, with a bath room off the kitchen porch. On this night the mother slept in the back bedroom, and the defendant occupied the front bedroom with her two sisters. She had attempted to conceal the fact of her pregnancy from her family by wearing a girdle and loose sweaters.

The circumstances surrounding the birth of this baby are disclosed by the testimony of the defendant alone, as there were no other eyewitnesses. After going to bed on the evening of March 30, she had several attacks of what she called "cramps". Apparently, she mistook her labor pains for cramps. Twice she arose and went through the kitchen and back porch to the bath room, and then returned to her bed. She make a third trip about 12:30 A.M., the other member of her family being asleep. She left the doors open and no lights were turned on. As she was sitting on the toilet she "felt a little pressure on the lower bones. Then I knew the baby was going to be born." She had not expected it to be born until the latter part of April. She did not call for help and, so far as she knew, no one was awake. She testified that "It came out rather slow. Next, the head was out, and it sort of dropped out real fast." She knew from her previous experience that the placenta had to be removed and so, after the baby was in the toilet "a little while", she expelled the placenta by putting pressure on her stomach. She did not notice whether the baby's head was under water, because the afterbirth fell over its head. It took two to three minutes for the placenta