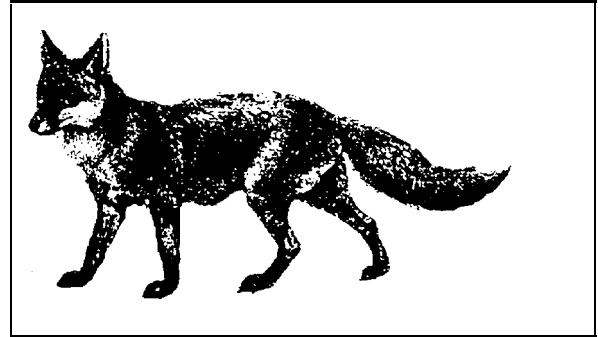


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**MOCK TRIAL:  
STATE OF MAINE VS.  
RICHARD FOX**

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# State of Maine Vs. Richard Fox

(Based on the Fable of the Fox and the Crow by Aesop)



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**Mock Trial Script**  
written by  
**Peter K. Sampson, Esquire**

and prepared by  
**The Public Affairs Committee of the Maine State Bar Association**

## THE FOX AND THE CROW

One summer day, a Fox saw a Crow land in the branch of a tree. This pleased the Fox because he saw that she was carrying a large piece of **cheese** in her beak.

"That cheese looks delicious. I am going to eat it," he whispered to himself. Then he walked to a spot beneath the branch where the **Crow** was perched.

"Good morning,, Ms. Crow," he smiled as he gazed up at the Crow on the branch. "You look so lovely today with your shiny black feathers and bright eyes! A bird as beautiful as you must also have a beautiful voice. If you would only sing for **me**, it would make me so happy."

Hearing the Fox's praise pleased the Crow so much that she fluffed up her feathers and threw back her head to sing. When she opened her beak to **caw**, however, she dropped the cheese, and it fell to the ground. The Fox **pounced** upon it and ate it. "That's enough cawing," he said to the Crow. "This cheese is all I wanted."

Don't trust anyone who flatters you too much.

Cast of Characters

Judge  
Baliff  
Camilla Crow, the alleged victim  
Richard , **Fox**, the Defendant  
Aesop  
Homer Hare  
Prosecutor  
Defense Attorney

Scene: A courtroom. Camilla Crow is seated beside the Prosecutor and Rick Fox is seated ~~with~~ the Defense Attorney. As the Judge enters, the Baliff stands up.

Baliff: All rise. The Superior court for \_\_\_\_\_  
County, Maine is now in session, Justice \_\_\_\_\_  
presiding.

Judge: (After taking his seat behind the bench) You may be seated. This case is the State of Maine vs. Richard . . . Fox. Attorneys appearing in this matter are \_\_\_\_\_ from the Prosecutor's office and \_\_\_\_\_ for the Defendant Richard .. Fox. Are **counsel** set to proceed?

Prosecutor and Defense Attorney: Yes, Your Honor.

Judge: (To Prosecutor) You **may** proceed.

Prosecutor: Thank you, Your Honor. Members of the jury, this is a **case** of theft--the' sort known under our **laws** as theft by deception. The Defendant took a piece of cheese from Camilla Crow by tricking her. **The** evidence will show that Mr. **Fox** approached Ms. Crow while she was carrying the cheese in her beak, that he flattered-her into believing that he thought she had **a** beautiful voice. He-asked her to sing for **him**, and when she opened her beak she dropped the cheese. Mr. Fox grabbed it and refused to return it. The evidence will further show that Mr. Fox intended for **her to drop** the cheese and that he intended to get it away from **her by** tricking her. **This**, members of the jury, is theft by deception, and the State is confident that when you have seen and **heard** all of the evidence you will find that the only possible verdict **in this** case is guilty.

Judge: (To Defense Attorney) Do you wish to make an opening statement, counsel?

Defense Attorney: **Yes**, Your Honor. Members of the jury, the trickery you will see in this case lies in what Camilla Crow did to my client, Richard Fox. Rick no more stole that cheese than the moon is made of it. The truth is that Ms. Crow and Mr. Fox struck a bargain which Mr. Fox was content to uphold and Ms. Crow was not. The evidence will show that Ms. Crow loves to sing, that when Ms. Crow sings she can be heard for a long way off, that she was afraid she would be heard **by a** farmer who has tried several times to shoot her to keep her away from his corn. She agreed to pay Mr. Fox to watch for the farmer whenever she wanted to sing, and the cheese in question was Rick's payment for these services one day. After a close brush with the farmer, Camilla Crow became angry and the story that she told about my client has brought us here today. I believe that when you have heard the evidence you will agree that Rick Fox is innocent. Thank you.

Judge: (To Prosecutor) You may call your first witness.

Prosecutor: Thank you,, Your. Honor. The State calls Ms. Camilla Crow.

(Ms. Crow walks to the witness stand.)

Baliff: (Rises and approaches Ms. Crow) Raise your right hand, please. Do you swear **that** the evidence you are about to give shall be the truth,, thd whole truth and nothing but the truth?

Crow: I do.

Baliff: You may be seated.

Judge: you may proceed.

Prosecutor: Thank you. Ms. **Crow**, will you state you'r full name and address?

Crow: My name is **Camilla Crow**, and I live in the forest near the cornfield.

Prosecutor: Are you employed?

**Crow**: **Yes**. I work as a scavenger. It's **my job** to clean up things that other people don't want. Personally,, I specialize in bits of **garbage** and things that are shiny.

Prosecutor: **How long have** you worked as .a scavenger?

Crow: Ever since I was old enough to fly. Scavenging is hard work, and there's hardly ever enough to go around. Flying helps **me** find enough to stay alive.

Prosecutor: What sorts of food do you **eat**, Ms. Crow?

Crow: **I am** a pretty typical crow. I'll eat just about anything.

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Page 3

Prosecutor: Including cheese?

Crow: Cheese is one of my favorites.

Prosecutor: Ms. Crow did you lose a piece of cheese last summer?

Crow: I certainly did. I was tricked out of it--out foxed, you might say----

Defense Attorney: Objection, Your Honor! The witness's words are inflammatory and prejudicial and should be stricken.

Judge: Sustained. The witness will refrain from expressions containing the word "fox." The jury will disregard the witness's answer after the words "I was tricked out of it." Proceed.

Prosecutor: Please tell the Court how you lost the cheese.

Crow: Well, I had been making my morning rounds checking out the cornfield, the sides of the road,, and the trash barrels at the State Park. I was on my way home with a piece of cheese I had found stuck to a pizza carton. It must have weighed a quarter of a pound, and I expected to get at least two good meals out of it. Back in the woods, I landed on a tree branch to rest and was sitting there holding the cheese in my beak when this Fox trots up to me.

Prosecutor: Had you ever seen the Fox before?

Crow: It's hard for me to remember because I don't ordinarily associate with Foxes.

Prosecutor: Did you know his name?

Crow: Not at that time. At least not until he introduced himself. He said his name was Rick.

Prosecutor: Would you recognize the Fox if you saw him again?

Crow: I certainly would.

Prosecutor: Is the Fox present in this Courtroom?

Crow: Yes.

Prosecutor: Would you point him out please?

Crow: (Pointing at Defendant) Yes, it's the Defendant,, sitting right there.

Prosecutor: Please tell the Court what happened.

Crow: Well, this Fox was real chatty. He said something like, "Good morning, Ms. Crow," and then starts sweet talking me. He says my feathers are black and shiny and my eyes are bright and says he wants me to sing him a song because I'm so beautiful. I

probably should have known he was Up to ~~something~~, but it was hot and dusty and I had worked about twelve trash barrels that were full of flies and didn't smell very good. I guess I was feeling a little sorry for myself. **Anyway**, I listened to the Fox go on and on about what hot stuff he thought I was, and before I knew what I was **doing**, I started to sing. When I opened my beak, I dropped the cheese. Now, the Fox grabs the cheese and says something like, "that's enough singing. This is all I wanted."

Prosecutor: Did the Fox keep the cheese?

Crow: Keep it? He popped it into his mouth and ate it. A whole morning's work **gone**, just like that (snaps fingers).

Prosecutor: What did you do?

Crow: I told him he had to replace the cheese because it was mine and he had no business taking it away from me and eating it. Then that farmer suddenly came crashing through the bushes. The Fox took off one way and I went the other.

Prosecutor: Did you see the Fox again before today?

Crow: No. For the next few days I stopped in the same tree and called to the **Fox**, but he never answered me. Finally I gave up and went to the Police.

Prosecutor: Thank you,, Ms. Crow. (Turning toward Judge) I have no further questions of this witness.

Judge: (To Defense Attorney) Do you wish to cross-examine?

Defense Attorney: **Yes**, Your Honor. Ms. Crow, on the morning when you say you lost the cheese,, were you carrying anything else besides the cheese?

Crow: Of course npt! **I** was carrying the cheese in my beak. **That's** the only way I can carry anything when I **am** flying.

Defense Attorney: **You** had nothing else with you that morning to give to anyone?

Crow: I didn't want to **give** anything to anyone. I told you, that cheese was my lunch.

Defense Attorney: Ms. **Crow**, isn't it true that you have known Rick Fox for years?

Crow: No!

Defense Attorney: Would it 'change your mind that a **witness was** here today prepared to testify that he overheard **several** conversations between you and Rick Fox?

Crow: No, no! I told **you**, I don't think I ever saw that Fox before. He took my cheese.

Defense Attorney: Didn't you have a deal with Rick Fox? Wasn't he supposed to watch for the farmer while you sat on the tree branch and sang?

Crow: It's a lie! I never saw him before. I was robbed!

Defense Attorney: I have no further questions, Your Honor.

Prosecutor: Your Honor, I reserve the right to recall this witness at a later time.

Judge: Call your next witness.

Prosecutor: I call Aesop.

(Witness comes forward and is sworn in as above)

Prosecutor: Would you state your full name please?

Aesop: My name is Aesop.

Prosecutor: Are you employed?

Aesop: I work as a **free-lance** writer. I live **by myself** in a hut in the forest.

Prosecutor: Do you often walk through the forest?

Aesop: Almost every day. Very often I see things which give me ideas for the little stories I write which I call fables.

Prosecutor: Have you ever had occasion to see Camilla Crow or Rick Fox in the forest?

Aesop: Yes. As a matter of fact I once saw them together.

Prosecutor: Please describe what you saw.

Aesop: The Crow was perched on the branch of a tree and the Fox was on the ground beneath **her**, talking to her.

Prosecutor: Were you able to hear what was said?

Aesop: Yes. The **Crow's** voice carries a long **way**, and the **Fox** was howling loudly.

Prosecutor: Do you recall the substance of that conversation?

Aesop: Yes. I heard the Fox speak first. The Crow had a piece of cheese of in her beak, and so at first she didn't say anything. The Fox said good morning and then commented on how attractive he thought the Crow was and then he asked her to sing. The Crow threw her head back and opened her beak to **sing**, and when she did she dropped the cheese. Then I heard the **Fox say**, "that will do." After that both the Fox and Crow left quickly. I suppose. they heard the farmer coming.

Prosecutor: What happened to the cheese?

Aesop: The Fox ate it. Anyway, at about that time I left myself. I had an idea **for** a story and went home to write it down.

Prosecutor: Thank **you**, Mr. Aesop. (To Judge) I have no further questions of this witness,, Your Honor.

Judge: (To Defense Attorney) Cross?

Defense Attorney: Thank you,, Your Honor. Mr. Aesop, you have described yourself as a writer. Are you in fact a journalist?

Aesop: Why no. I said I write little fables.

Defense Attorney: Are **you** familiar with the work which journalists do?

Aesop: As a matter of fact I **am**. Some of my friends are reporters.

Defense Attorney: Well **then**, what do you understand to be the difference between a writer of fables and a journalist?

Prosecutor: Objection, Your Honor. What possible relevance can this have to the matters now before the Court?

Defense Attorney: Your **Honor**, the witness has described **himself** as a writer and has stated that he walks in the forest watching things in order to get ideas for his stories. I am trying to determine whether his testimony is based upon what he actually saw or upon what it might have become in his story.

Judge: Well then,, Counsel,, please come to the point. The objection is overruled.

Defense Attorney: (Places a copy of the Fox and the Crow in front of Aesop) Mr. Aesop,, I show you a document **entitled "The Fox and the Crow" and** ask if you recognize it.

Aesop: **Yes**, it's a copy of one of my stories.

Defense Attorney: Is this the story **you** wrote after the conversation you say you witnessed between Camilla Crow and Rick Fox?

Aesop: As a matter of fact,, it is.

Defense Attorney: Now Mr. **Aesop**, isn't it true that as a writer of fables, you don't put into a story exactly what you may have seen in real life?

Aesop: I suppose you **could** say that. My little fables aren't newspaper stories or' historical accounts.

Defense Attorney: **But** this story was based on what you saw happen between Camilla Crow and Rick Fox?

Aesop: Yes, that's right.

Defense Attorney: Doesn't that mean that you supplied some of the details of the story yourself?

Aesop: Naturally. That's what a writer does in shaping his material.

Defense Attorney: Well, Mr. Aesop I want to be very specific about this. Would you please read the first paragraph of the story?

Aesop: Certainly. It says "one summer day, a Fox saw a Crow land in the branch of a tree. This pleased the Fox because he saw that she was carrying a large piece of cheese in her beak."

Defense Attorney: Mr. **Aesop**, do you actually know if the Fox saw Camilla Crow land?

Aesop: **Well**, perhaps not. But I...

Defense Attorney: Were you close enough to see if Rick was pleased about anything?

Aesop: That may have been just a word that I chose for my story.

Defense Attorney: And **wasn't** Camilla Crow already on the tree branch by the time you arrived?

Aesop: **Well**, I **guess** I **can't** be sure of that.

Defense Attorney: **And** Mr. Aesop, did you personally know whether Rick Fox saw the cheese in **Camilla** Crow's beak?

Aesop: Well,, I don't know'...

Defense Attorney: That's right,, Mr. **Aesop**, you don't know. You don't **know**, do **you**, how **much of** this story came from what you saw in the forest and how much of it came from your own imagination later?

Aesop: Well,, let me think...

Defense Attorney: Has this story been published?

Aesop: Yes.

Defense Attorney: **By**: the Sugar-Blast Bubblegum Company?

Aesop: I believe so.

Defense Attorney: Didn't it appear on their silver gum wrappers?

Aesop: Yes. But what...?

Defense Attorney: Have you seen any of those silver gum wrappers around?

Aesop: I guess so.

Defense Attorney: In the forest where you and Camilla Crow live?

Aesop: Yes, I think so.

Defense Attorney: (Takes **back story** and approaches bench with it) Your honor, I offer what has been premarked Defendant's Exhibit No. 1 and ask that it be entered into evidence. (passes paper to Judge)

Judge: (To Prosecutor) Any objections?

Prosecutor: No objection, Your Honor.

Judge: This document now appears in evidence as Defendant's Exhibit No. 1.

Defense Attorney: I have **no** further questions of this witness, Your Honor.

Judge: **Mr./Mrs. \_\_\_\_\_**, do you have questions for **re-direct**?

Prosecutor: Yes, Your Honor, 'I do. Mr. Aesop, if I asked you to do it, would you be able to identify each detail of story that corresponds; to what you **saw** - in the **woods** and each detail which came from some other source?

Aesop: **Yes**, I believe I would.

Prosecutor: Has anyone ever asked you to do that sort of thing &fore with one of your stories?

Aesop: Not that I remember. I have testified to everything I remember about what I saw in the woods, nothing more and nothing less.

Prosecutor: **Thank you** Mr. Aesop. Your **Honor**, I have no further **questions**. -

Judge: (To Defense Attorney) Mr./Mrs. \_\_\_\_\_?

Defense Attorney: No further questions, Your Honor.

Judge: You may step down. (To Prosecutor) Do you have additional witnesses?

Prosecutor: I **re-call** Ms. Camilla Crow.

(Crow returns to witness stand)

Judge: Ms. Crow, I ask you to remember that you are still under oath. You may proceed.

Prosecutor: Thank you. Ms. Crow, do you know Mr. Aesop?

Crow: No, not personally. I have seen him wandering around in the woods 'before, but I never had anything to do with him.

Prosecutor: Did you know before today that he is a writer?

Crow: No.

Prosecutor: You've never read any of his stories?

Crow: That's right, never.

Prosecutor: No further questions.

Judge: (To Defense Attorney) Counsel?

Defense Attorney: Thank you, Your Honor. Ms. Crow, isn't it true that you sometimes pick **up** small objects that are 'shiny?

crow: Yes, that's a common habit of crows.

Defense Attorney: Things like bottle caps and bits of foil?

Crow: Yes, I suppose so.

Defense Attorney: Foil gum wrappers?

Crow: I suppose I might.

Defense Attorney: Don't you know that the fable of the Fox and the Crow was printed on a foil bubblegum wrapper last summer?

Crow: **No**, I don't know what you are talking about.

Defense Attorney: Don't you know that half the kids in America chew that kind of bubblegum, and the wrappers are in trash cans everywhere?

Crow: I don't know anything about bubblegum.

Defense Attorney: Didn't you find that fable on a gum wrapper and read it?

Crow: **No**, of course not. Crows can't read!

Defense Attorney: Come on **now**, Ms. **Crow**, isn't that gum wrapper where **you** got the idea for **the** story **you** have told in Court today?

Crow: That's ridiculous. Gum wrappers have baseball cards in them. I **mean**, I don't know what **you** are talking about.

Defense Attorney: Baseball cards, Ms. Crow? I have no further questions.

Prosecutor: Your Honor,, the Prosecution rests.

Judge: You are excused, Ms. Crow.

Defense Attorney: Your Honor,, at this time the Defense moves for acquittal.

Judge: The motion is denied, Counsel. You may proceed with the case for the Defense.

Defense Attorney: Your Honor,, the Defense calls Mr. Richard \_\_\_ Fox. (Fox comes forward and is sworn in as above)

Defense Attorney: Mr. **Fox**, please state your name and address.

Fox: My name is Richard ... Fox. I have a den under the hollow log in the beech grove.

Defense Attorney: Mr. **Fox**, what sort of work do you do?

**Fox**: I am a hunter. I like to think of it as game management? conservation work.

Defense Attorney: What else do you do?

Fox: Whatever comes along. You have to be versatile ~~to live in~~ the woods.

Defense Attorney: Do you ever make deals with other animals?

Fox: I hate to because it's so hard to know who you can trust. But sometimes I do.

Defense Attorney: Did you ever ~~make a deal~~ with Camiila Crow?

Fox: Her? You. ~~bet.~~ She hatched the same year I was born. I caught her once when I was still a pup. I didn't know what I was doing in those ~~days, and~~ she got away. ~~But,~~ she's been making deals with me ever since--giving me food and such.

Defense Attorney: Was the cheese she has complained ~~about~~ part of the deal?

Fox: Sure. Look, she likes to sing, you know what I mean? She gets on a branch and starts letting ~~out~~ this horrible "~~caw, caw, caw.~~" It ~~sounds like somebody going~~ nuts with a party horn. You can hear it for miles, so everybody ~~knows~~ where she is---including the farmer ~~who~~ owns the cornfield. ~~Now,~~ you got a farmer, you got somebody who hates crows. You also got somebody who owns a shotgun. I guess ~~Camilla put~~ that together after a couple of close calls. Anyway,, we had a deal.

Defense Attorney: Please tells us what the deal was.

Fox: It was simple. **Camilla** wanted to sing, and I wanted to eat. **She** knows that **I've** got good ears and can hear that farmer a mile away. She proposed that I listen for the farmer when she sang and said she'd make **sure** I got something to eat every time I did it. The day she brought the cheese was typical. We met at our usual spot. She dropped, what she had down to me---which in this case was a piece of cheese---and then started in with the serenade. Understand, **I'm** not crazy about cheese, but I figured it was good enough **and would do as** pay just this **once**, and I told her so. But it was hot that **day**, and I was sleepy. Maybe I wasn't as sharp as usual. **Anyway**, by the time I heard the farmer coming he was right on, top of **us**. We both got **away**, but it was close. After that, Camilla was real sore. The next day when I showed up at the **tree**, she said she didn't want me anymore, wouldn't give me **anything**, **and** so on. Then she demanded that I give her back the cheese. **Well**, the cheese was long **gone**, and I figured I'd earned it anyway---even if it was a close call **with a farmer**. So I said to her something like, "give back the cheese? No deal. Find yourself a new chump."

Defense Attorney: Thank you, Mr. Fox. I have no further questions.

Judge: (To prosecutor) Do wish to cross-examine?

Prosecutor: Thank **you**, Your Honor. Mr. **Fox**, have you always resided in the forest?

Fox: Yes.

Prosecutor: And have you gotten to know any of the other animals who live there?

Fox: Sure. Lots of them are my friends.

Prosecutor: And do they know you as Richard?

Fox: What do you mean?

Prosecutor: Don't they all call you "Tricky **Ricky**?"

Fox: (Angrily) Not to my face they don't!

Defense Attorney: Objection, the question is unfairly prejudicial and also beyond the proper scope of cross-examination!

Judge: The objection is sustained! The Prosecutor's last question and the Witness's response to it will be stricken from the record! Members of the jury, you are instructed to disregard that question and the response **to** it. Neither the question nor the answer will have any bearing on your deliberations at the close of this case.

Prosecutor: Your Honor, I withdraw the question,, and I have no further questions.

Judge: (To Defense Attorney) Counsel?

Defense Attorney: I have no further questions,, Your Honor.

Judge: The witness may step down.

Defense Attorney: I call Homer Hare. (Witness comes forward and is sworn in as above)

Defense Attorney: Mr. **Hare**, please state your full name and address for the record.

Hare: My name is Homer **Hare**, and I live in a burrow in the forest.

Defense Attorney: Mr. **Hare**, do you know the Defendant Richard Fox?

Hare: I certainly do.. I make it my business to know him and to know where he is as much of the time as possible.

Defense Attorney: Do you also know Camilla Crow?

Hare: It's hard not to. You can hear that cawing all over the forest.

Defense Attorney: Have you ever seen them together?

Hare: Yes.

Defense Attorney: More than once?

Hare: I think so. I clearly remember them together one day last summer when I was afraid the farmer was going to get all of us.

Defense Attorney: Please tell us what happened.

Hare: **Well**, I was hiding in the underbrush near the tree where the Crow usually perches and **caws**. I saw **Tr---er**, the **Fox** come up to the trunk and wait. When he gets that close to me I freeze in my tracks and hope I'm down wind from him. That day the wind was right, so I didn't move a muscle. Before long the Crow came and landed on her usual branch. She had something in her mouth. The Fox said something I couldn't make **out**, and then the Crow started cawing. She dropped whatever it was she had and the Fox grabbed it. He said something about "don't eat" and then something like "**it's** enough" or "that's enough." It was hard to tell with all that cawing going on.

Defense Attorney: Could it have been something like "this cheese is good enough"?

Hare: Possibly. It all happened so fast.

Defense Attorney: What happened next?

Hare: The Fox ate whatever the Crow had dropped. Then I heard footsteps. I moved just a little and saw old man Aesop on the other side of the clearing. Then there were more footsteps, and the farmer came crashing in. When I looked back at the tree,, the Fox and the Crow were both gone. So was Aesop.

Defense Attorney: Do you also know Aesop?

Hare: Yes.

Defense Attorney: Didn't he write one of his stories about you?

Hare: **Yes**, he did,, and he **lied** through his teeth in it. He said I had a **race** with the old tortoise and that the tortoise **beat me!** Look, the tortoise **and** I **just** happened to end up in' **the same** place that **day**. I was having a nice lazy day and not doing much of anything. Old Aesop **claimed** we had been **racing**. That's the way the story got around, and I have **been** embarrassed by it ever since.

Defense Attorney: You **are** certain it was Aesop you saw at the tree?

Hare:' Absolutely.

Defense Attorney: 'Did. Aesop arrive before or after the Crow dropped the cheese to **the Fox?**

Hare: I think after.

Defense Attorney: Did you see Aesop looking **in** the direction of - the Fox and the Crow?

Hare: **No**. He got in an argument with the farmer. The farmer kept yelling "trespasser, trespasser." Aesop finally ran off into the bushes and I **laid** low until the farmer had gone too.

Defense Attorney: **Thank you**, Mr. **Hare**, I have no further questions.

Judge: (To Prosecutor) Cross-examine?

Prosecutor: Thank **you**, Your Honor. Mr. **Hare**, you weren't paying much attention to **Camilla** Crow that day were **you?**

Hare: **Well**, I don't know,

Prosecutor: And aren't you afraid of the Fox?

Hare: Let's say that I'm really careful of him.

Prosecutor: Aren't you even more afraid of the farmer?

Hare: Well, I certainly don't like the farmer.

Prosecutor: But don't you dislike Aesop more than anyone else?

Hare: What do you mean?.

Prosecutor: Mr. Hare, **you** came here today mostly to try to discredit Aesop, didn't you?

Hare: No, I mean I ---

Prosecutor: You wanted to get even for the story of the Tortoise and the Hare didn't you?

Hare: Well, it wasn't **true**, and I...

Prosecutor: No further questions.

Defense Attorney: Your **Honor**, I wish to thank Mr. Hare for his willingness to come forward to testify today. The Defense rests.

Judge: The witness is **excused**. The evidence is now closed. Are Counsel prepared for final argument?

Prosecutor and Defense Attorney: **Yes**, Your Honor.

Judge: Proceed.

Prosecutor: Your Honor, members of the jury, you have now seen **and** heard the evidence. Camilla Crow has told you how she was deceived, cheated and robbed of a piece of cheese which she worked hard to acquire and which was rightfully hers. It may be **true**, members of the **jury**, that Camilla should have known that the Fox did not really want to hear her sing. It may be true that there was vanity in her believing him. It may even be **that** Camilla was foolish to believe the Fox. But even if all these things are **true**, members of the **jury**, under our laws the Defendant had no right to trick **her**, in order to take her property away from her. Even if Camilla Crow is less than perfect, the law will not condone her being robbed on account of it. Indeed, 'as you have heard, many people understand and sympathize with what happened to her -- even the writer Aesop, who based a fable on it.

Now, the Defendant claims that he is in fact the victim, that he has been brought here on a trumped up charge, and that Camilla has falsely accused him because he refused to agree to her unreasonable demands. And yet, members of the jury, the only witness offered in corroboration of this preposterous claim is Homer Hare, a witness who appears to have seen little or nothing and who, **you** may fairly suppose, appeared in Court mostly to attempt to discredit Aesop.

Members of the jury, a verdict of not guilty will only mean that the Defendant has deceived you in the same way he deceived Camilla **Crow**. Your verdict must be guilty.

Defense Attorney: Your Honor, ladies and gentlemen of the jury, in your deliberations you will have the opportunity to review the story of the Fox and the Crow which Aesop published. You realize I am **sure**, that only Camilla Crow tells the story exactly as it appears in Aesop's published version. Even Aesop himself admits that there were variations. You will recall that I questioned Aesop very closely on the details of his published story. My purpose in doing this, members of the jury, was not to cast doubt upon Aesop (whom I submit was telling the truth, although he actually recalls very little). My purpose was to unmask Camilla Crow. Camilla **Crow**, Richard Fox, Aesop, and Homer Hare all witnessed the events which took place that day. Aesop testified that his published story without doubt contained details and events which he did not actually witness. And in fact the published story contains many details which neither Aesop nor Richard Fox nor Homer Hare would testify or **admit** to having seen or heard. Only Camilla Crow insists that the story happened exactly as Aesop published it.

The Crow says she picks up shiny things **in the forest**. Aesop says his story was printed on foil gum wrappers and that he has seen these wrappers in the forest. Isn't it likely that the Crow has seen them, **too**? And read the story? And told it here today as if it really happened to her? Your verdict, members of the jury, must be not guilty. Would it not be a particularly unkind injustice for Mr. Fox to be convicted 'of deception' on the basis of lies?

(At this **time**, the actual Judge instructs the jury on the law of the case and their duties as jurors. The **jury** retires, deliberates, and returns.)

Judge: Have you reached a verdict?

Foreperson of the jury: Yes, Your Honor.

Judge: What is the verdict'?

Foreperson of the **jury**: **We, the jury**, find the Defendant Richard Fox guilty/not guilty..

§ 354. Theft by deception

1. A person is guilty of theft if he obtains or exercises control over property of another as a result of deception and with an intention to deprive him thereof.

2. For purposes of this section, deception occurs when a person intentionally:

A. Creates or reinforces an impression which is false and which that person does not believe to be true, including false impressions as to law, value, knowledge, opinion, intention or other state of mind. Provided, however, that an intention not to perform a promise, or knowledge that a promise will not be performed, shall not be inferred from the fact alone that the promise was not performed;

B. Fails to correct an impression which is false and which he does not believe to be true, and which:

(1) He had previously created or reinforced; or which

(2) He knows to be influencing another whose property is involved and to whom he stands in a fiduciary or confidential relationship;

C. Prevents another from acquiring information which is relevant to the disposition of the property involved; or

D. Fails to disclose a known lien, adverse claim or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether, such impediment is or is not valid, or is or is not a matter of official record.

There is no defense to a prosecution under this section that the deception related to a matter that was of no pecuniary significance, or that the person deceived acted unreasonably in relying on the deception.

1976, c. 499, § 1, eff. May 1, 1976; 1977, c. 510, § 47.