

No. 14031

# Supreme Court of Illinois

People

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vs.

Todd

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State of Illinois }  
Drewitt County }<sup>00</sup>

Of the October term of  
the Drewitt Circuit Court - in the year  
of our Lord Eighteen Hundred and  
fifty nine

The People of the State of Illinois

vs

William Todd =

An Indictment for  
an assault with the intent to com-  
mit a bodily injury -

Be it remembered that at the October  
Term of the Drewitt <sup>County</sup> Circuit Court in  
the year of our Lord Eighteen hun-  
-dred and fifty nine the Honorable  
David Davis presiding the follow-  
ing proceedings were had and  
held

On the seventh day of October one of the  
regular days of said Term the Grand Jury  
of said County returned into open Court  
a Bill of Indictment against William  
Todd which indictment is in words and  
figures following to wit

Of the October Term of the Circuit Court  
 Court in the year of our Lord Eighteen  
 Hundred and fifty nine

State of Illinois Circuit Court, { 88

The Grand Jurors chosen selected and  
 sworn in and for the County of DeWitt  
 in the name and by the Authority of the people  
 of the State of Illinois upon their oaths pre-  
 sent that on the first day of October in  
 the year of our Lord Eighteen Hundred and  
 fifty nine at the County of DeWitt and  
 State of Illinois of said William L. Todd  
 then and there did unlawfully make  
 an assault in and upon the person of  
 one Marion Canady with a deadly  
 weapon to wit with a ~~piece~~ piece of metal  
 of the weight of five pounds which  
 piece of metal was commonly called  
 "knuckles" which he the said William  
 L. Todd in his right hand then and  
 there had and held with intent then and  
 there and thereby to reflect upon the  
 person of the said Marion Canady  
 a deadly injury when the circumstan-  
 ces of the assault show an abandoned  
 and malignant heart contrary to  
 the form of the Statute in such cases  
 made and provided and against

the peace and dignity of the same  
people of the same people of the  
State of Illinois

2nd And the Grand Jurors aforesaid, in the name and by the authority aforesaid upon their oaths do further present that on the second day of October and year last aforesaid at the County and State aforesaid William L. Todd then and there did unlawfully make and assault on and upon the person of one Marion Canady with a deadly weapon to wit with a piece of heavy metal of the length of five inches and of the width of three inches and of the weight of three pounds which piece of heavy metal was commonly called "knuckles" which he the said William L. Todd in his hand then and there had and held with intent thereby then and there to inflict a bodily <sup>injury</sup> upon the person of the said Marion Canady when no considerable provocation appears contrary to the form of the Statute in such cases made and provided and against the peace and dignity of the same people of State of Illinois

Wm L. Samson  
State Attorney  
St. Jo.

Be it further remembered that on Tuesday  
the second day of the second week of said  
Court being one of the regular days of said  
Court after the finding of said indictment  
the said cause was called for trial and  
the defendant presented an affidavit  
for a continuance on account of the  
absence of certain witnesses then named  
upon a consideration of said affidavit  
the Court continued the cause until  
the next day of the term and the  
prosecuting <sup>Attorney</sup> stated in open Court that  
the witnesses named in said affidavit  
should be produced in Court by said  
next day. The Counsel for said <sup>Defendant</sup>, also  
stated that he would not stipulate  
that he would try said cause pro-  
vided witnesses were produced pro-  
vided any legal cause for not try-  
ing said cause <sup>should</sup> then existed. On  
the evening of the same day the Honora-  
ble David Davis the judge of said Court  
then presiding before the adjournment  
of said Court called the Honorable  
<sup>the member of the bar of said Court and not a judge of said Court or any other Court of</sup>  
Abraham Lincoln <sup>the State</sup> to preside as judge  
in his absence and left the County  
of said on account of sickness in

Be it further remembered that the defendant Todd at large upon said case, summons  
to the time in this case was then time called and come not

in his family. No member of the bar objected to the said Senealm's holding court in the absence of said Judge although no <sup>particular</sup> agreement or understanding was had in reference to the the case of the People against Todd aforesaid

Be it further remembered that on the day following said Tuesday it being one of the regular days of said court when the said Senealm was presiding as Judge and when the said <sup>Darby</sup> Davis, Judge of the Court aforesaid was absent from the County and when the said defendant was also absent the aforesaid case of the People against William Todd was called for trial. The counsel for said defendant was notified that the witnesses named in the affidavit filed the day before were present. The counsel for said Todd refused to go into trial, stating that he should insist upon all the rights of his Client. A jury was thereupon empaneled in the absence of the Judge aforesaid and the prosecuting attorney proceeded to try said case the defendant being absent and no counsel appearing for him. Upon said trial evidence was

offered tending to prove the guilt of  
 said defendant as charged in said  
 Indictment and after hearing said  
 Evidence and the argument of the  
 said Prosecuting attorney the jury  
 returned the following verdict  
 "The Jury find the said William Todd  
 "guilty in manner and form as charged  
 "in the indictment which verdict was  
 signed by all the jury Upon the an-  
 notation of said verdict said Lincoln made  
 the following entry upon the Record  
 of the Judge as though made in  
 fact by said judge although said  
 judge was still absent "Trial by  
 "jury an application of States attorney  
 "in the absence of defendant and no  
 "counsel appearing for him" Verdict  
 "of guilty" The counsel for the de-  
 fendant in the absence of said defendant  
 then motioned for a new trial which  
 was overruled by said Lincoln and ex-  
 cepted to by the said Counsel The  
 said Counsel for defendant also in  
 his absence moved an arrest of  
 Judgment which was also overruled  
 and excepted to <sup>and judgment</sup> "The following order <sup>was then</sup> entered Grant  
 "The defendant ~~was~~

" ~~less than~~ fined one hundred dollars  
" and ordered to stand committed until  
" till fine was paid <sup>and</sup> costs paid or re-  
" plivied" Thereupon the defendant be-  
" ing called and not appearing his  
" bail was called and not appearing his  
" recognizance was declared forfeited  
" All of the aforesaid orders, <sup>and motions</sup> were entered  
" as the orders of the Court and motions  
" made therein and the entire record ap-  
" pears as the record of the Court  
" Be it also remembered that at no time  
" after said Cause was called for trial  
" or during the same or the making of  
" any orders or motions therein was  
" the judge of said Court present - nor  
" was the defendant present. Also  
" from the finding of said indictment  
" at no time was the defendant or  
" recognized nor did he by himself or  
" counsel plead to said indictment  
" The said defendant, <sup>by his counsel</sup> therefore presents this  
" his bill of exceptions and prays that  
" the same may be signed

The foregoing is a true statement of the facts  
and record of the above case

A. Lincoln  
Ward & James  
Scales & Co.  
& The L. B. Co.

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State of Illinois  
De Witt County }  
} ss

I Robert Lewis Clerk of the Circuit Court of the County of De Witt  
County, <sup>of the State of Illinois</sup> hereby certify that this is  
a true, <sup>full & complete</sup> copy of the Record and  
proceedings in the foregoing  
case

In witness whereof I  
have hereunto set my hand  
and seal this twentieth day  
of October in the year of  
our Lord Eighteen hundred  
and fifty nine

Robert Lewis Clerk  
By G. H. Demmitt Deputy

Supreme Court of the State  
of Illinois  
2d Grand Division  
Springfield March Term 1860

People of the State of Illinois  
vs  
William Ladd

Indictment for an assault  
with a deadly weapon  
with intent to inflict a  
bodily injury

bodily injury

The errors assigned in the foregoing case are as follows

1st The indictment avers that the defendant unlawfully committed an assault upon Murren Canady but does not set forth the specific acts which constituted the assault

2 The indictment does not aver that the intent to inflict the bodily injury was an unlawful, culpable or malicious intent and from all that appears upon the face of said indictment the intent to inflict the injury was a lawful & proper one

3 The indictment does not name or specify any act which the defendant did with the deadly weapon named which act in law constitutes an assault

4 That the defendant was wrongfully tried in his absence and did not consent to said trial

5 That the defendant was not

tried by any Judge of any Circuit Court in this State nor by the Judge presiding at said Court but was tried by a member of the bar in the absence of said defendant & he did not consent to said trial

Wherefore the said William Todd by said ~~Att~~ & Orme his attorneys prays a Supplicatus may issue and that said judgment may be reversed annulled and void for nothing & that he may be restored to all the rights he has lost thereby

Mutt & Orme  
Attys for Plaintiff  
in error

Let a Supplicatus issue upon the foregoing record

J. D. H. Bates

State of Illinois  
Supreme Court  
Second Grand Division  
200  
January Term thereof A.D. 1860

The People ads William L Todd.  
Error from Dr. White.

The said People the said Defendants in  
error come and defend the wrong and  
say that no error appears either in said  
Record or in the said P'f in errors assign-  
ments of Error herein made and this they  
are ready to verify.

Wherefore  
J. B. White  
State attorney at Dr. White  
in error

The Record in the Case  
of The People  
vs

William L. Todd

vs  
Error to Delinute

See see 14031  
14031

Filed Oct 28<sup>th</sup> 59  
H. J. Sturmy

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