

14066

No. _____

Supreme Court of Illinois

People

vs.

Milles Gibbons

71641  7

Pleas begun and held at the Court house in the town of Carrollton County of Greene, and also at the Court house in the town of Jacksonville County of Morgan and State of Illinois before the Honorable David Mc Woodson Judge of the First Judicial Circuit of said State on the ~~14th~~ day of November 1859

The People }
vs } Indictment for Murder
Miles Gibbons }

Be it remembered that on the 19th day of October 1859 the People by the State attorney filed in the office of the Clerk of the Circuit Court of Morgan County the papers in the Case of the People vs Miles Gibbons, Indictment for Murder, on Change of venue from Greene County, amongst which papers the following Bill of Indictment was filed, as follows, to wit,

"State of Illinois }
Greene County } Of the April Term
of the Green County
Circuit Court in the year of our Lord
1859.

The Grand Jurors chosen, selected

and sworn in and for the County of Greene
in the name and by the authority of the
People of the State of Illinois, upon their
oaths present that Miles Gibbons on the
Twenty third day of February in the year
of our Lord Eighteen hundred and fifty nine
at the County of Greene and State of
Illinois not having the fear of God
before his eyes did then and there in and upon
one William Swift in the peace of the people of the
state of Illinois, then and there being, feloniously, will-
fully and of his malice aforethought, did make an
assault, and that the said Miles Gibbons with a
stick of wood, which he the said Miles Gibbons in
his right hand, then and there had and held,
him the said William Swift, in and upon the left
side of the head of him the said William Swift
then and there feloniously, willfully, and of his malice
aforethought did strike, thrust, and penetrate, giving
to the said William Swift, then and there with the
stick of wood aforesaid, in and upon the left
side of the head of him the said William Swift
one mortal wound of the length of one inch of the
depth of one inch, of which said mortal wound
the said William Swift, in the County of Greene aforesaid,
on the day aforesaid, in the year aforesaid,
did instantly die - and so the jurors aforesaid
upon their oaths aforesaid, do say that the said

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Miles Gibbons, the said William Swift in manner
and form aforesaid, unlawfully, willfully and of his
malice aforethought did kill and murder, contrary
to the form of the statute in such case made and
provided, and against the peace and dignity of the
same people of the state of Illinois

Jas W English
 State attorney

And afterwards to-wit; on the said 19th day of
October 1859, the following copy of Record, was
filed with said papers in said cause on change
of venue from Green County, as follows, to-wit:

" At a Circuit Court, begun and held
for the county of Green state of Illinois, at the Court
House in the town of Carrollton on Monday the 4th
day of April A.D. 1859.

Present

The Hon David M. Woodson Judge

And afterwards, to-wit, on Saturday the 9th day of
April, the sixth day of said April Term, when among
other things, the following was made and entered
of Record —

The Grand Jury came into court &
presented the following Indictment, endorsed
"A true Bill"

The People of the State of Illinois
Against ^{vs} Indictment for Murder,
Miles Gibbons

And afterwards, to-wit:
On the 12th day of September A.D. 1859, it being
the 1st day of the September Term of our said Court,
when among other things the following order
was made and entered of Record,

The People
Against ^{vs} Indictment for Murder,
Miles Gibbons

Came as well the State attorney, as
the defendant in person and by his attorneys, and
the defendant enters his plea of Not Guilty, and
on affidavit filed, the venue in this cause is
changed to the County of Morgan, and the clerk
is ordered to send to the clerk of Circuit Court of
Morgan County, the papers on file, & a transcript
of the record herein.

Charles Batty in open Court
acknowledged himself to owe and be indebted to
The People of the State of Illinois in the sum of
Fifty Dollars, to be levied and made of his goods
and Chattels, Lands and Tenements, and to be ac-
-crued as the Law directs. Yet upon this condition,
that if he shall be and appear before the Morgan
County Circuit Court at the next term thereof, to
be holden at the Court House in Jacksonville,

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then and there to give evidence and the truth to speak in behalf of the People of the state of Illinois, on an Indictment against Miles Gibbons for Murder, and not depart thence without leave of the Court, then this recognizance to be void, otherwise to be and remain in full force and virtue,

Anthony Cunningham, Thomas Egan, Patrick Tarden and John B. Dodgson, in open Court, acknowledged themselves to owe and be indebted to the People of the state of Illinois in the sum of Fifty dollars each, to be levied of their Goods and Chattels, Lands and Tenements, and to be rendered as the law directs: Yet upon this condition, that if they shall be and appear before the Morgan County Circuit Court at the next term thereof to be holden at the Court House in Jacksonville. Then and there to give evidence and the truth to speak in behalf of the People of the state of Illinois, on an Indictment against Miles Gibbons for murder, and not depart thence without leave of the Court, then this recognizance to be void, otherwise to be and remain in full force and virtue,

State of Illinois
Greene County ^{Ill.} S. Abraham Spencer Clerk
of the Circuit Court within & for said County, do

certify that the foregoing is a full and complete Transcript of the Records, and that the papers herewith transmitted No from one to No four inclusive are all of the papers on file in the case of the People of the State of Illinois Against Miles Gibbons in my office

Witness my hand and official seal
at Carrollton in the County of
Greene and State of Illinois, this
14th day of October A.D. 1859.
A. Spencer Clerk.

Seal.

And afterwards to-wit, on the 26th day of October 1859, at the October Term 1859 of the Morgan Circuit Court, the following entry was made in said cause, and became a part of the Records of said Court, as follows, to-wit:

The People of the State of Illinois
vs. Miles Gibbons
Indictment for Murder
Change of Venue from Greene County
The Venue in the above
entitled cause having been changed from the County of Greene since the last Term of this Court, & said defendant being confined in the jail of this County upon the Indictment aforesaid, the Court orders that he be brought to the bar for trial during the present Term: And now this day came as well The

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People by James W. English States attorney, as the defendant in person, and the said defendant having been previously furnished with a copy of the indictment in this cause, and having also been furnished with a list of the regular Petit Jurors in attendance on this Court, together with a list of Witnesses. Whereupon the said defendant being here in Court is arraigned in due form of law, and upon such arraignment says that he is not guilty in manner & form as charged in the indictment and for his trial puts himself upon his country and the states attorney doth the like: Whereupon to try the issue joined in this cause, there came of the regular panel jurors to-wit: Robert A. Kennedy. Layman Joy. Thomas Wright. William A. Broadwell Isaac Serrin. Charles Henderson. James W. Gentry Nimrod B. M^cPherson. Jeremiah Pearson Humphrey J. Fitch. Thomas Davenport, & James Conlee the panel being complete, who being elected tried and sworn, well and truly to try the issue joined as aforesaid, after hearing the evidence in the cause, and the arguments of counsel, retired in charge of the proper sworn officer to consider of their verdict, and after being absent some time, come into Court, and upon their oaths do say that they find the defendant guilty of Manslaughter and that he be confined in the Penitentiary of the state of Illinois, for the term of Five years.

Whereupon the defendant enters his motion
for a new trial.

And afterwards to-wit on the 4th day of
November 1859. the following entry was made in
said cause, and became a part of the Records of
said Court, as follows, to-wit:

The People
vs
Miles Gibbons
Indictment for Murder,
"Change of Venue from Green County"

This day came as well the People by the
State's attorney as the defendant in proper person, the Court
having duly considered the motion heretofore entered by
the defendant in this cause for a new trial, orders that
said motion be overruled, the defendant being arraign-
ed before the Court for sentence to be passed upon
him, the Court doth order & adjudge that said defen-
dant be confined in the Penitentiary of the State
of Illinois for the term of Five years, in accordance
with the verdict of the jury in this cause, twenty-
four hours of said time to be in solitary confi-
nement, and the balance of the time at hard
labor, and that said defendant pay the costs of
this prosecution.

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And afterwards tried on the 5th day of
November 1859 at the October Term 1859 of the
Morgan Circuit Court the following Bill of Exceptions
was filed in said Cause as follows to wit

"The People of the State of Illinois

vs

Abies Gibbons

} Indictment for Murder

}
In this cause the prosecu-

-tion produced Antony Cunningham and wife
as witnesses. They proved that Gibbons the defendant
was at their shanty near where there was a railroad
being built, about the day mentioned in the
Indictment as the day the act therein charged
was done. While Gibbons the defendant was
there William Swift the deceased came into the
shanty and sat down in a chair. Immediately
the defendant without any provocation took
up a small chair and began to beat Swift
and witness Antony interfered and took the
chair from the defendant. Swift rose up from
the chair and asked Gibbons what he had
treated him so for & Gibbons replied, You damn
John Bull, you have been interfering
with my hands on the rail road, putting
them away. Whereupon the defendant pushed
Swift out of doors and followed him out and
began to beat him and the deceased run round

the house and the defendant followed him round
and when they had come nearly round the house
near the door, the defendant was striking him
deceased with a large piece of wood with which
he knocked him down and struck him once
after he was down, and in one or both of said blows
he cut his head and broke his skull by which —
wounds in two or three hours thereafter he Swift died
The witnesses testified that they saw a boy by the
name of Sweeney who had been holding Gibbons horse,
but who had come in, were standing in the door at the
time looking out, they further testified that after the
deceased was so wounded by the defendant, said
deceased was carried into the witnesses shanty by the
defendant, and the man he had there with him —
dressed his deceased wounds, and tried to do some
thing for him, and also sent his young man after
the doctor. But the deceased (Swift) never spoke
after he was struck, or seemed to know any thing
Witnesses Cunningham further testified that this
man Swift and another person by the name of Willson
stayed at their shanty the night before and left
there that morning going South one of them riding
a horse and the other riding a mule, after Swift
the deceased was wounded and carried into the
house the witness Antony said he went out and
put up the horse and mule that Swift came
there with they being the same horse and mule

that Swift and the man Wilson who was there with him Swift the night before took away with them that morning. Witness said he found the horse and mule not tied to any thing with the bridle reins over their necks. Finding round on the commons. These witnesses testified that they were both acquainted with defendant Gibbons and with the deceased Swift but they did not know that Gibbons and Swift were at all acquainted with each other.

These witnesses both testified upon Cross Examination that they had a difficulty with Gibbons, that said Gibbons was a contractor on the rail road, and Cunningham and wife kept whiskey for sale by the small and sold it to the hands, and Gibbons tried to prevent them from selling liquor and they persisted in selling notwithstanding his opposition, and Gibbons was at their shanty that day quarreling with them about their selling whiskey to the men Gibbons had before that time instituted some sort of proceeding before a Justice of the Peace against said witnesses for selling liquor but had not been able to prevent them from doing so. They further testified that there had been a Coroner's inquest held over the body of the deceased Swift one or two days after he was killed and both of said Cunningham and wife

were sworn as witnesses before the Coroners Jury and that they had both sworn there that neither of them knew anything about it as to how the deceased man Swift came by his death, but they there swore that defendant Gibbons and his man brought the deceased man into their shanty wounded and said that he had just been thrown from his mule and hurt, and that Gibbons and his man and the witnesses dressed his wounds and tried to do something for him and that was all they knew about it. -

Said Cunningham wife both testified that they did not swear before the Coroners Jury as they had just sworn upon this trial, that Gibbons the defendant done the act charged and killed said Swift; Upon the re-examination by the Peoples Attorney as to why they swore so differently now from what they did before the coroners jury as above stated Anthony Cunningham answered that the evening after Swift was killed he went down to Gibbons shanty and Gibbons shut the door and told him if he swore on the trial before the coroner that he had killed Swift he would kill him and he Cunningham swore before the Coroners Jury the way he did because he was afraid to swear as he now swears for fear Gibbons would kill him. In answer to this same enquiry the wife swore that she testified before the coroners

Jury as she did because she was afraid that Gibbons would kill her husband if she were any other way. All this was proven to have been done in Grand County Illinois.

And here the testimony on the part of the People closed

The defendant then produced a witness by the name of Mullens who made oath that he went to Cunningshams shanty with defendant Gibbons at the time referred to by Cunningsham and wife that he staid out near the door of the shanty holding Gibbons horse while Gibbons was in the house talking with the witness the Cunningshams about selling whiskey while Gibbons was standing in the house witness saw the horse and the mule before spoken of by the witness Cunningsham coming up towards the Shanty from the direction of the Rail Road with the bridles over their necks and the mule tied to the horses neck with a rope, and the mule had the saddle under its belly hanging by the girths Gibbons also saw them and said to witness here comes Willsons horses, something must be wrong, hitch my horse and come along with me, and Gibbons immediately started down in the direction the horses were coming from witness hitched the horse and started after Gibbons and found him near the rail road track

with the man Swift holding him up in a sitting position on the ground. Swift was hurt and cut upon the head and was insensible and was bleeding very much the blood was on the ground all about there. Gibbons and the Witness carried Swift up to and onto the Cunningham Shanty and Gibbons and witness (and Cunningham's wife aiding therein) washed and dressed the wounds, Gibbons sent witness after a doctor and he went some seven or eight miles for a doctor Trout and when he got back Swift was dead. Before he went for the Doctor Witness saw Cunningham take the mule and horse to put them away. They were running loose as stated by Cunningham and the saddle was then under the mule's belly as stated and he saw Cunningham turn up the saddle and take it off. Witness was well acquainted with Gibbons but was not acquainted with Swift the deceased, and did not think that Gibbons was at all acquainted with Swift. Witness saw a broken bottle in Swift's pocket it seemed to have been broken by the fall from the mule and that it had some liquor in it when broken but witness could not say certain how it was broken. Witness was present before the Coroners Jury as a witness, testified there as he has done here Cunningham's wife were also

witnesses before said jury they both there testified that they did not know how Swift came to his death but told the story about Gibbons and this witness carrying the wounded man into their shanty as this witness has here stated it, which is true. Said witness says he was standing near the door of the shanty all the time Gibbons was in the shanty and the deceased Swift was not there until carried in wounded as stated by him witness and ^{there} was no fight or beating by Gibbons of Swift there at all. The defendant produced another witness who proved that on the day deceased was hurt and died said witness (late in the afternoon, saw deceased riding a mule which mule was tied to a horse's neck with a rope which horse Swift seemed to be leading. He was going towards Cunningham's shanty and was pretty near to and on right of the shanty when witness saw him said Swift riding in his saddle as he went along and seemed to be very much intoxicated. In crossing the embankment of the rail road the horse went ahead of the mule and Swift seemed to be in some trouble to manage the two and as they went down over the bank the said Swift pitched forward and fell from the mule and presently he saw the mule and the horse going up towards the shanty of Cunningham without Swift. The place where Swift fell from ^{his} mule was among-

witnesses before said jury they both there testified that they did not know how Swift came to his death but told the story about Gibbons and this witness carrying the wounded man into their shanty as this witness has here stated it, which is true. Said witness says he was standing near the door of the shanty all the time Gibbons was in the shanty and the deceased Swift was not there until carried in wounded as stated by him witness and ^{there} was no fight or beating by Gibbons of Swift there at all. The defendant produced another witness who proved that on the day deceased was hurt and died said witness (late in the afternoon, saw deceased riding a mule which mule was tied to a horse's neck with a rope which horse Swift seemed to be leading. He was going towards Cunningham's shanty and was pretty near to and on right of the shanty when witness saw him said Swift riding in his saddle as he went along and seemed to be very much intoxicated. In crossing the embankment of the rail road the horse went ahead of the mule and Swift seemed to be in some trouble to manage the two and as they went down over the bank ~~the~~ Swift pitched forward and fall from the mule and presently he saw the mule and the horse going up towards the shanty of Cunningham without Swift. The place where Swift fell from ^{his} mule was among-

stumps where young timber had been cut down to clear the track for the Rail Road there being built witness was acquainted with Swift enough to know him when he saw him.

Here the defendant closed his testimony in the case.

The Prosecution then produced a witness who testified that he with other witnesses went the day after Swift was killed to the place where the witness understood said Swift had been thrown from the mule and searched all about there and found no blood, ^{but} it being soft and muddy they saw the tracks of the horses crossing the rail road - and going straight up to the shanty saw no signs of a struggle or a deviation of the horses, on the day following which was the day the coroner inquest was held they saw blood on stump which was not seen by them on it the day before, the stump was a small stump with a chip rising up near one edge several inches which was easily removed by the foot being pressed against it. The Prosecution also produced another witness who also proved that on the day of the coroner inquest he had been at the place where Swift was said to have been thrown from the mule and saw some blood on a stump but said witness saw a part of a newly killed beef in a wagon up at Cunninghamham shanty and he

did not know but the blood he found on the stump down at the rail road came from that beef but witness did not know where the beef was butchered whether at Cunninghams Shanty or some where else in the Country.

The Prosecution also produced a witness who proved that he was a member of the Coroners Jury aforesaid and who heard Cunningham and wife testify before said jury who there swore that they knew nothing as to how Swift came by his death but told the story as to his being brought into their shanty by Gibbons and his man as above stated. The verdict of the Coroners Jury was that said Swift came to his death by being thrown from a mule as then proven by the said witnesses. The prosecution also proved by a witness that he was sent for by Cunningham witness then working for him a short distance from the shanty who went immediately to Cunninghams shanty and he found Gibbons and others engaged dressing Swifts wounds and he himself & another boy went after Dr Stout. He did not see Mullens there at all.

This was all the evidence in the case the attorney for the People then asked and the Court gave the following instructions
"1st That under the indictment in

did not know but the blood he found on the stump down at the rail road came from that beef but witness did not know where the beef was butchered whether at Cunninghams Shanty or some where else in the Country.

The Prosecution also produced a witness who proved that he was a member of the Coroners Jury aforesaid and who heard Cunningham and wife testify before said jury who there swore that they knew nothing as to how Swift came by his death but told the story as to his being brought into their shanty by Gibbons and his man as above stated. The verdict of the Coroners Jury was that said Swift came to his death by being thrown from a mule as then proven by the said witnesses. The prosecution also proved by a witness that he was sent for by Cunningham witness then working for him a short distance from the shanty who went immediately to Cunninghams shanty and he found Gibbons and others engaged dressing Swifts wounds and he himself & another boy went after Dr Stout. He did not see Mullens there at all.

This was all the evidence in the case the attorney for the People then asked and the Court gave the following instructions
"1st That under the indictment in

this cause the Jury have the right to find the defendant guilty of either Murder or Manslaughter. - that in case they find defendant Guilty of Murder the form of their Verdict will be " We the jury find the defendant guilty in manner and form as charged in the Indictment, if of Manslaughter they will say so and fix the time of his confinement in the State Prison, if not guilty they will say. " We find defendant Not Guilty

The defendant then asked and the Court gave the following instructions to wit

" 1st " The Court instructs the Jury that in order to convict the defendant they must believe from the evidence that he is Guilty beyond a reasonable doubt and that if they have reasonable doubts of his Guilt the defendant is entitled to the benefit of those doubts, and they should find the defendant not Guilty

2^d That if they believe from the evidence that Cunningham and his wife have been upon an investigation of the facts of this case before the coroner's inquest made other and different statements of the facts of the case the Jury would be justified in

disregarding their testimony altogether
 3rd To base a Verdict of Guilty upon the
 testimony of Cunningham and wife the
 jury must believe beyond a reasonable
 doubt that they spoke the truth before them
 herein -

During the progress of this trial
 the jury went in a body under the charge
 of a constable who was in attendance
 upon the Court, as an officer thereof some
 two or three squares from the Court House to
 get their meals. This Officer was not sworn
well and truly to keep the jury and not speak
to them himself or suffer any other person to
speak to them touching any matter relative to
the trial to try which they were there sworn
 Before the jury retired to consider their
 verdict an officer was sworn to accompany
 them & take charge of them in the form laid
 down in the statute

The jury rendered a Verdict in the following
 form

We the jury find the defendant Guilty
 of manslaughter and sentence him to the
 penitentiary five years

The defendant there-
 upon moved the Court to set aside said
 verdict and grant a new trial herein for

the following causes

1st The Verdict was unauthorized by and was contrary to the evidence in the cause

2^d The finding of the Verdict upon the testimony of said Cunningham and wife was contrary to law and the instruction of the Court said witnesses showing themselves to be unworthy of belief ^{god}

3rd The Jury found the Defendant guilty of Manslaughter upon the Indictment for murder and did not acquit him — upon the charge of murder or make any other disposition of the only charge in the Indictment —

4th Formerly discredited testimony after the trial as shown in the affidavits filed in said cause

5th Because said Jury was permitted to leave the Court during the trial not being under the charge of a sworn officer as — provided by the rules of the Common Law and the Statute of Illinois

The Defendant in support of his motion to set aside the said Verdict and grant a new trial in said case files the following affidavits to wit

The People of the State of Illinois
vs
Niles Gibbons } Indictment for Murder -

The Defendant upon the motion for new trial in the above entitled cause makes oath and says that since the trial in this cause he has discovered new and material testimony therein not known to him before the trial. He is now informed and believes that he can prove by two witnesses Thomas Odonor James Monahan not sworn upon said trial that the deceased - Mrs Swift with whom he is charged with killing was seen very much intoxicated traveling towards the shanty of Antony Cunningham late in the evening of the day of the day he was killed. He was riding a mule and leading a horse. one of said witnesses saw the deceased fall from his horse and saw the horses go away without him, this was but a short distance from Cunningham's shanty. Both of said witnesses also saw two men carrying a person from the direction where said deceased was thrown towards Cunningham's shanty; said defendant can also prove the facts stated in the affidavit of John B. Dodson herewith presented. He can also prove by competent testimony that the Cunningham and wife the two prosecuting

witnesses are persons of bad character for truth and veracity and not to be believed when under oath, none of which facts was known ~~known~~ to him at the time of the trial in this case but have come to his knowledge since: He further says that he has been to Europe and back since said occurrence and that he did not know until he returned a few weeks since that there was any such charge against him, and - immediately upon his return he was arrested and put in prison. When he went to the trial he was not advised of the nature of the testimony and he was taken by surprise at the false and unfounded testimony of said Cunningham and wife. Owing to the absence and imprisonment and the nature of the evidence against said he has been totally unable to prepare his case for trial, as he now finds it was necessary. Wherefore because of said facts he said defendant prays that said verdict may be set aside and a new trial granted. Signed to and subscribed }
by the said Gibbons in open court } Miles ^{his} Gibbons
this 27th day of October 1859 } mark
Charles Hardin Clerk }

The Court overruled

People
vs
Ailes Gibbons

Personally came John. Rodgson
in open Court and made oath that he
resides in the immediate neighborhood
where the offence charged in the foregoing
case was committed (if any offence was
committed) on the next morning early
after said deceased was dead, was at the
house of the witness Anthony Cunningham
and then had a conversation with said
Cunningham and wife as to how said
person came to his death and both said
Cunningham and wife stated to him that
said deceased was killed by being thrown
from a mule, and they went on to detail
the circumstances of his being killed and
neither of them said or intimated that the
defendant Ailes Gibbons had any connexion
with the death of said deceased said Rodgson
did not give evidence upon the trial of said
case.

Sworn to and Subscribed by
the said Rodgson this 27th
of Oct 1859

Charles Hardin Clerk

John. B. Rodgson

The Court overruled

In Testimony whereof I have
hereto set my hand and
affixed the Seal of said Court
at Jacksonville this the 9th
day of November A.D. 1859
Charles Hardin Clerk

Fee for Record \$8.00 pd by M. Howard
for pt in error

Assignment of Errors upon the foregoing record

Miles Gibbons the Plaintiff in Error in the case in
the foregoing record set forth says that there is manifest
error in the decisions and rulings of the court below
in said cause and fully appearing in the record of
said cause as apposed and as for special errors
therein appearing the said Plaintiff in Error here now
sets down and assigns the following Error

1st The court below erred in overruling the
motion of said Gibbons to set aside the verdict returned by
the Jury in said cause for the reasons there assigned.

2nd The court erred in permitting said Jury
during the progress of the trial to leave the court and
not remain under the charge of a sworn officer of the
court which is shown by said record

3rd The court Erred in refusing to correct the
Judgment in said case because the Jury did not pass upon
the charge of murder by finding the defendant guilty or in-
guilty thereof and for finding a verdict of manslaughter under
circumstances shown in said record wherefore all Counsel for pt in error

Filed Nov 12
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Wm. T. ...
Ch

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The People
vs
Indict. for Murder
Niles Gibbons
Copy of Record

The clerk of the supreme court will cause the writ of Error to be issued in this case to be made to operate as a supersedeas therein to stay the execution of the sentence and judgment entered by the court below until the Error assigned upon this record can be heard and finally determined by said court sitting hereafter at Springfield in the State of Illinois

Witness my hand and seal this 10th day of Nov 1860
J. H. Walker Justice of the Peace

State of Illinois }
Supreme Court } do
Second Grand }
Division }

After Jury sworn & before the Court
A. D. 1860.

Niles Gibbons }
vs } Error from Morgan
The People } on Indictment for murder
The said People the said Defendants in
Error come and defend in and say that no
Error appears in said Record and that they are
ready to ~~prove~~ ^{prove} on in said several assign-
ments of error by this Plaintiff Error made and
that they are ready to ~~prove~~ ^{prove} when for
J. B. White
States atty for Dfnd in Error