

No. 14211

Supreme Court of Illinois

Miller

vs.

Jenkins

Supreme Court, State of Illinois.

FIRST GRAND DIVISION.

JUNE TERM, A. D., 1867.

MILLER,
vs.
JENKINS. } Appeal from Bond.

1st. There is nothing in the record to warrant the errors assigned. The supposed bill of exceptions has no seal, and is therefore incomplete and no part of the record. 2 Purp. Stat. 824, sec. 21. Jones vs. Sprague, 2 Scam. R., 55.

2d. The affidavit of the juror, Lemuel Adams, could not be received to impeach his verdict. 1 Graham & W. on N. T., 111, 113, 114. Forester vs. Girard, Beecher's Breese R., 74. Smith vs. Eames, 3 Scam. R., 81

3d. Under the monarchical regime jurors were suspected, starved and coerced like slaves into verdicts. In the United States the jurymen are the peers of the judges, and are allowed to separate, and, like him, eat at hotels while cases are pending before them. The modern doctrine is that the Courts regard a jury of freemen incorruptible, as themselves and verdicts will not be set aside for misconduct unless the Court is satisfied that they have been unduly influenced by external causes. 1 Graham & W. on N. T., 85. Smith vs. Thompson, 1 Cowen R., 221. Horton vs. Horton, 2 Id., 589. Harris vs. Brown, 4 Wash. C. C. R., 32. Rowe vs. The State, 11 Hump. R., 491. The power of Courts to grant new trials for mistake of law or fact where injustice is done, is ample security in such cases. Per Breese, C. J., in Smith vs. Eames, 3 Scam. R., 82.

4. It does not appear that the parties tampered with the jury or that the juror at supper was spoken to or that the conversation was in his hearing. Such impertinent remarks in a country where free speech is universal, would set aside all verdicts where the jury is allowed to separate.

5. The item of \$20 for tools, about which the officer spoke to the jury, "was not objected to at the trial" as appears by Miller's affidavit. The officer swore that the jury made up their verdict as to all the other items before they inquired of him as to that undisputed one.

6. The 2d instruction refused was fully embraced in the first instruction given in behalf of Miller. Courts are not required to give duplicate instructions, or additional instructions containing the same principle. Bland vs. People, 3 Scam. R., 364. May vs. Tolman, 20 Ill. R., 443. Prior vs. White, 12 Id., 261. Main vs. McCarty, 15 Id., 441. Montag vs. Linn, 23 Id., 551.

7. In this case justice has been done. The laborer was only allowed reasonable compensation for his services, and the judgment below ought to stand.

WM. H. UNDERWOOD,
Attorney for Defendant.

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Miller

vs,

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Deft. Brief

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Filed June 6th 1867
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R

Supreme Court, State of Illinois.
FIRST CHANCERY DIVISION.